

**Unified Program Newsletter
July 2015**

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California Environmental Protection Agency

CHMIA Sponsored Training Announcement

The California Hazardous Materials Investigators Association (CHMIA) has sponsored a free training to CHMIA and non-CHMIA members who are employed by a government agency. For further information, please see attached CHMIA announcement.

“Smart Negotiator” Training - San Jose, August 10 – 11, 8:00 a.m. – 5:00 p.m.

The Western States Project is hosting a *free* two day interactive workshop for employees of CalEPA Boards and Departments and local partner agencies to benefit environmental regulatory personnel and attorneys involved in enforcement and/or drafting of compliance schedules to produce more effective outcomes in negotiations. **Class space is limited to 48 students. Applications must be received by 4:00 p.m., Wednesday, July 8.** To apply, please send an email to Jessica Diedesch (Jessica.Diedesch@calepa.ca.gov) and include the following information:

- Your Name, Title, Agency/Department, Program you work in
- Your Email address, mailing address, phone number
- Your Supervisor’s name, email address, phone number
- Your enforcement duties

Please see the attached flyer for additional information.

Surcharge Transmittal Report (Report 1) and Annual Single Fee Summary Report (Report 2) DRAFT templates available on CalEPA website

The existing Report 1 and Report 2 templates adopted in Title 27, §15680, Appendix B, do not allow for the allocation of the applicable \$26.00 facility surcharge for the Aboveground Petroleum Storage Act (APSA), which became effective fiscal year 2014-2015. An official rulemaking will be required to remove or revise the templates adopted in Title 27. CalEPA will initiate the rulemaking process later this year to either remove or revise these Reports from Title 27. Therefore, until the Title 27 regulations are amended, CalEPA has developed and is providing CUPAs with draft templates for Report 1 and Report 2, which include provisions for reporting the APSA surcharge. These draft report templates will be distributed to all CUPAs and are available at <http://www.calepa.ca.gov/CUPA/Publications>. CUPAs are encouraged, but will not be required, to use these draft Report templates. If a CUPA does not wish to use these draft Report templates then the CUPA will need to somehow document the APSA surcharge amounts assessed, collected and remitted on the existing Report 1 and Report 2 templates currently in Title 27.

CERS 3.0- Workshop Held to Determine Supported Enhancements

Approximately 150 suggested CERS enhancements from state and local regulators, business users (including environmental and public interests), technical advisory groups, and data services vendors, were reviewed by the Data Steering Committee (DSC) at a 3-day workshop held on June 23 – 25 in Sacramento. Over the next few weeks, CalEPA will be tabulating the results of the workshop and will share those results with all Unified Program stakeholders. The DSC supported CERS 3.0 enhancements will be presented to the Unified Program Administrative and Advisory Group (UPAAG) in August 2015 and then, to Matthew Rodriguez, the Secretary for Environmental Protection, for final determination as to which CERS 3.0 enhancements will be approved for development and implementation. CERS 3.0 is expected to be deployed and available for use sometime in 2018.

On behalf of the statewide Unified Program, CalEPA would like to thank all participants in this process for your time, dedication and efforts you've put forth in the development and review of suggestions for enhancing the usability and electronic reporting capabilities of CERS.

Two Frequently Asked Questions (FAQ) added to CERS

Two FAQs regarding unstaffed, remote, exempt facilities have been posted at <https://cersregulator.calepa.ca.gov/Help> in the Business Section: "Are Remote Unstaffed Facilities Exempt from Reporting?" and in the Regulator Section: "Exempt Remote Unstaffed Facility Information in CERS," revised 6/22/15 in response to suggestions regarding the need for local agency tracking and for these facilities to be viewable in the Emergency Responder section of CERS.

State Water Resources Control Board

Remanufactured Underground Storage Tank Leak Detection Equipment

It has come to the State Water Resources Control Board's (State Water Board) attention that remanufactured underground storage tank (UST) leak detection equipment is being offered to California UST owners/operators, service technicians, and equipment suppliers. However, remanufactured leak detection equipment does not meet California UST regulatory requirements for the following reasons:

1. Performance certifications for leak detection equipment only can be obtained by the original equipment manufacturer. [California Code of Regulations (CCR), title 23, chapter 16, section 2643(f).] Remanufacturers are not the original equipment manufacturer of the leak detection equipment, and therefore are unable to comply with this requirement.
2. California compliant leak detection equipment must be evaluated by an independent third party testing laboratory. [California Code of Regulations, title 23, chapter 16, section 2643(f).] Modifications or changes to the equipment may produce parameters and data values that are significantly different than the original parameters and data values. Remanufactured leak detection equipment is therefore not covered by the original equipment manufacturer's evaluation and listing.

Leak detection equipment that has been remanufactured, rebuilt, or refurbished by an entity other than the original equipment manufacturer is not acceptable for use in California. Moreover, selling remanufactured leak detection equipment for use in California is an unfair business practice. [Business and Professions Code, section 17203.] The State Water Board has advised remanufacturers that by June 8, 2015, all remanufactured leak detection equipment sold in California must be labeled or otherwise marked as “not compliant for use in California with USTs.” When remanufactured leak detection equipment is discovered on an UST (for example by a service technician during inspection and maintenance activities), the owners/operators of the UST must replace the remanufactured leak detection equipment with appropriate leak detection equipment that is listed in the Local Guidance Letter 113 (LG-113). Below is a link to the LG-113 document. http://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lg113/index.shtml

A State Water Board letter regarding this issue was published on May 29, 2015 and is posted at the website below. http://waterboards.ca.gov/water_issues/programs/ust/tech_notices/remanufacturedld.pdf

June 2015 CERS UST Status Report

The State Water Board has recently published the latest quarterly status reports intended for tracking progress towards entering all UST related business and compliance, monitoring and enforcement (CME) data into the California Environmental Reporting System (CERS). The “June 2015 CERS UST Status Report” can be found at the website below. http://waterboards.ca.gov/water_issues/programs/ust/adm_notices/qtrly_cersrpt_2015jun.pdf

The report shows 93% of UST sites are now in CERS. Since the first report in May 2014, there has been an increase from 33% to 56% of UST facilities that now have an accepted UST submittal and an increase from 9% to 64% that now have CME data. The report includes a breakdown by Unified Program Agency (UPA). The next quarterly status report will be in September 2015.

Reporting Violations per UST

The State Water Board’s Office of Chief Counsel (OCC) recently created a legal analysis that determined all UST violations must be linked to specific USTs or UST systems, and not simply the facility. This determination was partially based on statutory requirements to ensure each tank system complies with applicable statute and regulations (section 25288) and penalties that are based on each tank for each day of violation (section 25299). Violations noted on inspection reports should clearly reference the UST system where the violation occurs. Violations are not required to be linked to a UST system in CERS since CERS is a reporting tool and is not intended to be used for enforcement purposes. The State Water Board issued a letter to the UPAs regarding this matter and it can be found at the website below. http://waterboards.ca.gov/water_issues/programs/ust/adm_notices/reporting_violations.pdf

Report 6

June 30 marks the end of the first 2015 UST reporting cycle. Report 6 submittals are due by September 1, 2015. It has become clear that deficiencies in CERS will not allow full electronic reporting of Report 6 data, and fixes won’t be available until CERS v3 (est. 2017). Please use the “paper” version of Report 6 until instructed otherwise.

CAL FIRE - Office of State Fire Marshal

Aboveground Petroleum Storage Act (APSA) Program Meetings

Group	Next Meeting Date
APSA Advisory Committee	July 20, 2015

Farms and the Federal Water Resources Reform and Development Act

The United States Environmental Protection Agency (U.S. EPA) has published a fact sheet explaining the impacts of the Water Resources Reform and Development Act (WRRDA) on the Spill Prevention,

Control, and Countermeasure (SPCC) rule and farms. WRRDA was signed into law by the President on June 10, 2014 and changes certain applicability provisions of the SPCC rule for farms as well as modifying the criteria under which a farmer may self-certify an SPCC Plan.

WRRDA also requires that U.S. EPA conduct a study, in conjunction with the United States Department of Agriculture, to determine the appropriate applicability threshold for farms based on the risk of discharge. The study is scheduled to be completed by June 2015, after which U.S. EPA will anticipate future amendments to the SPCC requirements with regard to the findings of the study. The fact sheet can be found on U.S. EPA's website at http://www.epa.gov/emergencies/docs/oil/spcc/spcc_wrrda.pdf. Questions or comments regarding the WRRDA fact sheet should be referred to the "For More Information" section of the fact sheet.

Please note that WRRDA does not change the Aboveground Petroleum Storage Act (APSA).

How to File a Complaint Against an Engineer

The California Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG) has the authority to investigate complaints of violations of the Professional Engineers Act, such as fraud, deceit, misrepresentation, negligence, incompetence, breach of contract, failure to use a written contract, violating the Codes of Professional Conduct, and practicing without a license. Enforcement actions include, but are not limited to, suspending licenses, revoking licenses, placing licenses on probation, issuing administrative citations, and referring the matter to the district attorney for criminal prosecution.

Unified Program Agencies and tank facility owners/operators are encouraged to utilize and follow the BPELSG complaint process when encountering professional engineer certified SPCC plans that contain gross errors or if no site visits have been made by the engineer or his/her agent. The BPELSG complaint process may be found on their website at http://www.bpelsg.ca.gov/consumers/complaint_licensee.shtml or on their consumer guide which may be found at http://www.bpelsg.ca.gov/pubs/consumer_guide.pdf.