

Unified Program Newsletter – May 2021

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CalEPA

CalEPA Unified Program State Surcharge Increase for FY 2021/2022

CalEPA publicly noticed a proposal to increase the “Oversight” portion of the Unified Program State Surcharge in the California Regulatory Notice Register on May 14, 2021, initiating a 30-day comment period. Following the 30-day comment period, CalEPA will review and consider all comments received, making changes as deemed necessary. After the consideration of comments, CalEPA will publish a final notice in the California Regulatory Notice Register, upon which the proposed Unified Program surcharge amounts will become effective immediately.

CalEPA proposal is to increase the “Oversight” portion of the annual State Surcharge from \$49 to \$84, with the increase allocated as follows:

- \$27 for the California Environmental Reporting System (CERS) NextGen project; and
- \$8 to address the structural deficit related to the State Certified Unified Program Account

CalEPA will assess the proposed surcharge for the CERS NextGen project for four years, beginning Fiscal Year 2021/2022. In Fiscal Year 2024/2025, CalEPA will adjust the Oversight Surcharge to only cover costs for the ongoing maintenance and operations of CERS NextGen.

This year's surcharge proposal includes two major elements:

- CERS NextGen Project
 - CalEPA is responsible for the implementation and overall maintenance of the CERS and has determined that the current CERS must be updated in order to continue providing an effective and stable service to all stakeholders. Therefore, CalEPA has, in collaboration with internal and external stakeholders, initiated the CERS NextGen project to plan and implement this crucial system update. It is estimated that the project will cost approximately 14.1 million dollars and is expected to be completed in Fiscal Year 2024/2025.
- Account Structural Deficit
 - Based on fiscal analysis performed by the CalEPA Deputy Secretary for Fiscal and Administrative Programs, Unified Program staff, and the California Air Resources Board accounting staff, it was determined that beginning in Fiscal Year 2021/2022, the budget appropriation for the State Certified Unified Program Account exceeds the projected revenues by over \$1,000,000.

No later than sixty days after the effective date of the new surcharge, Certified Unified Program Agencies (CUPAs) are responsible for collecting the new surcharge amount as part of their single fee system. CalEPA will be requesting that all CUPAs begin assessing the new surcharge in fiscal year 2021/2022, including those CUPAs that usual bill prior to the effective date of the new surcharge increase.

State Water Board

Retesting Policy for California International Code Council Examinations

The State Water Resources Control Board (State Water Board) is aware of International Code Council (ICC) examination results stating that individuals who have failed a California underground storage tank (UST) examination (*California UST System Operator*, *California UST Inspector*, or the *California UST Service Technician* examination) could retest up to six times within a six-month period. This is not correct. This error was due to a universal modification to the ICC retesting policy that incorrectly captured the California examinations and has now been corrected. Individuals that do not pass two consecutive California ICC examinations are prohibited from testing for six months from the date of the second failed examination.

For additional information regarding the California ICC examination retesting policy, contact:

Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov, or Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov.

Removal of UST Reports from the California Environmental Reporting System

The State Water Board is updating CERS UST Program Reports.
(<https://cersregulator2.calepa.ca.gov/Reports>)

Currently, several unused reports are scheduled for removal on May 24, 2021. The reports to be removed are:

- Inspection Summary Report by Regulator (Annual)
- Semi-Annual Report
- Statewide Leak Prevention Report
- Facility Summary by Owner Type
- Facility Summary by Construction/Monitoring Type
- Facility Summary by Financial Responsibility Mechanism

State Water Board staff will continue updating headers and instructions for the remaining reports. The remaining reports are the Inspection Summary Report by Regulator (Report 6), Red Tag Facility Details, BOE Facility/Owner Search Tool, Enforcement Summary Report by Regulator (Annual), UST Facility/Tank Data Download, and UST CME Data Download. The State Water Board will soon be including a new CERS report that allows the Unified Program Agencies (UPAs) to easily report the number of routine inspections performed within their jurisdiction to meet the annual reporting requirement.

For additional information regarding CERS UST reports, contact:

Ms. Jessica Botsford at (916) 341-7338 or Jessica.Botsford@waterboards.ca.gov, or Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

Reuse of Underground Storage Tanks

The State Water Board is aware of USTs being removed from one facility and reinstalled at another facility without prior review and approval by the UPA and certification by an independent testing organization. Further, UST owners are providing UST installation plans to UPAs noting new USTs, however, one or more of the USTs arriving for installation are reused from another facility. As UST manufacturers are struggling with the supply and demand of USTs, the State Water Board expects to see more facilities attempting to reuse USTs.

All USTs must indicate approval by an independent testing organization as required by California Code of Regulations, title 23, division 3, chapter 16, section 2631(b). Section 2631(b) requires the exterior surface of a UST to bear a marking, code stamp, or label (collectively referred to as "label") providing specified information, and including identification that the UST has been constructed to specific standards. USTs

may only be reinstalled if the UST has been recertified by the independent testing organization. Further, a new UST label must be affixed to the UST certifying that the UST has been tested and meets the current independent testing standards. In California, manufacturers alone cannot recertify used USTs. If an independent testing organization does recertify a used UST, the manufacturer of the UST may assist in the testing process and may install those components necessary to meet current construction standards, such as sump collars.

To avoid used USTs that have not been recertified by an independent testing organization from being delivered for new installation, UPAs should consider modifying their installation permits and plan check policy to address the reuse of USTs and to verify contractor, UST, and independent testing organization status. UST Inspectors are to ensure proper independent third-party testing organization labels are correctly affixed to the tank at installation. USTs without proper labeling cannot be installed as USTs and must be rejected for installation. The State Water Board will post additional information on this topic to our web page shortly.

For additional information regarding the reuse of USTs, contact:
Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov, or
Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov.

New UST Leak Prevention Staff

The UST Leak Prevention Unit is pleased to announce the hire of a Water Resources Control Engineer, Mr. Austin Lemire-Baeten. Austin graduated from University of California, Davis, in 2017 with a degree in Civil Engineering and a focus on water resources. Austin was previously a student intern for the State Water Board, Office of Enforcement, UST Enforcement Unit. He recently worked in Napa Valley developing erosion control infrastructure for vineyards. He also has experience in surveying, public sewer projects, and UST site remediation. Austin can be reached at (916) 327-5612 or Austin.Lemire-Baeten@waterboards.ca.gov.

Cal FIRE OSFM

Aboveground Petroleum Storage Act (APSA) Program Guidance Document

The [APSA Program Guidance Document](#) is now available on the CAL FIRE-OSFM website.

(<https://osfm.fire.ca.gov/media/z4zlg3pr/apsa-faq-12apr2021-final.pdf>)

You may also find it under the [FAQ section of the APSA website](#).

(<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>).

Tier II Qualified Facility Spill Prevention, Control, and Countermeasure (SPCC) Plan Template

The [Tier II Qualified Facility SPCC Plan template](#) has been revised to address errors. The revised template is now available on the CAL FIRE-OSFM website. You may also find it near the bottom of the APSA website.

(<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>)

Cal OES

Cal OES Welcomes Garrett Chan to the Special Operations & Haz Mat Section Staff

Cal OES Fire & Rescue is pleased to announce the recent addition of Garrett Chan as a new Environmental Scientist in the Special Operations & Haz Mat Section, concentrating on the California Accidental Release Prevention (CalARP) program, helping evaluate the effectiveness of Cal ARP implementation at the local government level by Unified Program Agencies (UPAs), and associated duties.



Figure 1: Garrett Chan

Garrett graduated from University of California, Riverside with a BS degree in Biology. From there he started his career in the State of California at the Division of the State Architect as an Office Technician in the Business Services Unit and as a Staff Services Analyst in the Performance Metrics Unit.

Garrett had been afforded the opportunity to join Cal OES in a temporary capacity to process reimbursements for the 2017 California Wildfires in the Cal OES Fire and Rescue branch (in the Administration/Reimbursement section). Subsequently, Garrett became a full-time hire in that section. From there, Garrett successfully tested for the Environmental Scientist position to which he was assigned effective April 1, 2021. He is a multi-talented employee who enjoys cooking, reading, listening to live acoustic music, and hopes to take a trip up and down the California coast.

Please join us in welcoming Garrett aboard in his new role at Cal OES.

Draft Release Reporting Regulations

The Governor's Office of Emergency Services (Cal OES) is proud to announce that amendments to the Hazardous Material Release Reporting regulations (California Code of Regulations, Title 19, Division 2, Article 2, sections 2630-2632) are proceeding. The draft language can be reviewed at:

https://www.caloes.ca.gov/FireRescueSite/Documents/Release_Reporting_Proposed_Regulations_04142021.pdf.

Since it has been such a long time since the last public presentation of these draft regulations, Cal OES is sponsoring two public workshops via Teams. These workshops will be held:

June 22, 2021: 2:00pm to 4:00pm

Link to MS Teams meeting: [Click here to join the meeting](#)

Phone number: +1 (514) 906-4037

Conference ID: 580 199 686#

(https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F_%23%2F%2Fmeetup-join%2F19%3Ameeting_ODMxZTI2ZmltYTl4MC00ODhiLWJmZQtZDIwZTYzYmM4ZjI2%40thread.v2%2F0%3Fcontent%3D%257b%2522Tid%2522%253a%2522ebf268ae-3036-4714-9f69-c9fd0e9dc6b9%2522%252c%2522Oid%2522%253a%2522dce04101-a308-49b8-a5e8-e9a3421841d9%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=175bf92d-47fb-4f8b-a858-ca35e755a36c&directDI=true&msLaunch=true&enableMobilePage=true&suppressPrompt=true)

June 24, 2021: 2:00pm to 4:00pm

Link to MS Teams meeting: [Click here to join the meeting](#)

Phone number: +1 (514) 906-4037

Conference ID: 190 229 733#

(https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F_%23%2F%2Fmeetup-join%2F19%3Ameeting_MDcwYzFiYzgtNGE0Zi00NDg2LTkwM2UtMmM1ZjExMzI2OGZi%40thread.v2%2F0%3Fcontent%3D%257b%2522Tid%2522%253a%2522ebf268ae-3036-4714-9f69-c9fd0e9dc6b9%2522%252c%2522Oid%2522%253a%2522dce04101-a308-49b8-a5e8-e9a3421841d9%2522%257d%26anon%3Dtrue&type=meetup-join&deeplinkId=4966e3f8-8cd0-40b4-9b3b-8a0ca6d65974&directDI=true&msLaunch=true&enableMobilePage=true&suppressPrompt=true)

Please review the draft language prior to the workshops. For reviewers who wish to respond, please be prepared to explain your comments and/or offer alternative language. Keep in mind that an earlier draft of these amendments was previously daylighted during a series of eight public workshops.

Your review comments may be emailed to: SpillReporting@caloes.ca.gov.

Thank you in advance for your constructive participation.

DTSC

California Oil Transfer (TSDF)

The Department of Toxic Substances Control (DTSC) has filed a [civil lawsuit](#) against a Central California hazardous waste storage facility because of multiple serious and repeated alleged violations of California's hazardous waste laws. California Oil Transfer

LLC, formerly known as Riverbank Oil Transfer, is a used oil transfer facility permitted to receive used oil, anti-freeze and oily wastewater from tank trucks operated by hazardous waste transporters. Activities at the facility include the transfer of hazardous waste used oil into rail cars for transportation to offsite hazardous waste treatment, storage, recycling, or disposal facilities.

(https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/03/Riverbank_CEI2016_Complaint_03012021.pdf)

Violations include improper storage of hazardous wastes, the unauthorized acceptance and comingling of hazardous waste, storing hazardous waste in areas without secondary containment, failure to maintain proper records, and exceeding authorized hazardous waste storage volumes.

The complaint was filed on March 1 in Alameda County Superior Court.

- **SA Recycling Los Angeles and Pomona (Metal Recyclers)**

DTSC has filed a civil complaint in Los Angeles County Superior Court, alleging that SA Recycling, LLC, violated hazardous waste laws at their facilities in Los Angeles and Pomona. These alleged violations include unlawfully storing, treating, releasing, and transporting hazardous waste, including lead.

Inspectors from DTSC and Los Angeles County Fire Department's Health Hazardous Materials Division found SA Recycling did not have a permit from DTSC to store and/or treat hazardous waste at the facilities. In Los Angeles, inspectors found elevated levels of lead and copper in metal piles, 144 55-gallon drums of used oil with perforated or unsealed lids, and shredded paper from oil filters in a waste pile.

In Pomona, inspectors discovered hazardous waste manifests did not account for 135 compressed gas cylinders shipped to a Chino company that did not have a permit to store hazardous waste, and that the company transporting cylinders was not properly registered. SA Recycling faces civil penalties of up to \$25,000 for each instance of the alleged violations. The link to the complaint can be found [here](#).

(<https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/03/SA-Recycling-Complaint-March-2021.pdf>).

Cease and Desist Letter – Kleen Blast Abrasives/Kleen Industrial Services

See letter on next page

References or links to information cited in this newsletter are subject to change. CalEPA is interested in your comments and suggestions regarding the Unified Program monthly newsletter. Please email your comments and suggestions to: cupa@calepa.ca.gov.

[CalEPA Unified Program Home Page](#)



Jared Blumenfeld
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D. Director
700 Heinz Avenue, Suite # 200
Berkeley, California 94710



Gavin Newsom
Governor

April 12, 2021

Sent Via Email to: fionn@kleenblast.com

Timothy Spurgeon/Fionn O'Neill
Kleen Blast Abrasives
30028 Industrial Parkway SW, Hayward, CA 94544
9871 East 8th Street, Rancho Cucamonga, CA 91730
676-B Moss Street, Chula Vista, CA 91911

Re: CEASE AND DESIST – KLEEN BLAST ABRASIVES

Dear Mr. Spurgeon and Mr. O'Neill,

The Department of Toxic Substances Control (Department) inspected all Kleen Blast Abrasives (KBA) facilities in California and informed the KBA Director of Operations, Fionn O'Neill that receiving, handling, mixing, and storing open piles of spent abrasives is unauthorized management of hazardous waste. KBA makes the claims that the spent abrasives are Excluded Recyclable Material (ERM). ERM is regulated under California Health and Safety Code, sections 25143.2 & 25143.9 and California Code of Regulations, title 22, division 4.5, section 66266.21. The provisions in the California Health and Safety Code prescribe how a hazardous waste may qualify as ERM. The ERM must be generated onsite and managed in accordance with the aforementioned sections of the Health and Safety Code. ERM must be placed in appropriate containers and properly labelled as ERM. The ERM cannot be managed in an interim location prior to being received at the recycling facility where it can be processed for its use or reuse. ERM that is recycled may not be placed on the land unless testing demonstrates that the hazardous constituents are bound in the product.

On December 7, 2020, the Department sent an Investigation Report to KBA detailing the results for the samples collected from different KBA sites and a Summary of Violations (SOV). The report explains how the spent abrasives managed at KBA facilities is illegally accepted, treated, stored, and disposed. The spent abrasives do not meet the requirements for the exclusion under Health and Safety Code section 25143.2, and therefore is a hazardous waste. KBA is not an authorized hazardous waste treatment, storage and disposal facility. KBA must stop receiving, handling and managing hazardous waste (spent abrasives) from offsite generators. The Department engaged in a meeting with KBA's consultant and attorney on December 15, 2020, to

discuss the violations and the management of hazardous waste. During the meeting, the Department indicated that KBA is illegally managing the spent abrasives and allowing hazardous waste to escape offsite. The Department has not received any confirmation of compliance, and KBA continues to manage hazardous waste without any permit or authorization from the Department.

On February 19, 2021, the Department received KBA's response to the Investigation Report. The Department has reviewed the response and determined it does not cure or rectify the violations cited in the Investigation Report.

The Department hereby determines KBA facilities remain in violation of the aforementioned provisions of the Hazardous Waste Control Act (Health and Safety Code section 25100 et seq.) and related requirements. The Department hereby directs KBA to immediately cease and desist any and all illegal management of hazardous waste (acceptance, treatment, storage, and disposal of hazardous waste) at all KBA facilities in California.

Within 7 days of receipt of this letter, please contact Dylan Clark at (916) 202-7288 or via email at dylan.clark@dtsc.ca.gov to confirm compliance.

Sincerely,



Dylan Clark
Senior Environmental Scientist (Supervisory)
Office of Criminal Investigations

CC:

Antonia Becker
Environmental Program Manager I
Office of Criminal Investigations
Antonia.Becker@dtsc.ca.gov

Ross Colburn
Senior Staff Counsel
Office of Legal Counsel
Ross.Colburn@dtsc.ca.gov

Jay Cross
Senior Staff Counsel
Office of Legal Counsel
Jay.Ross@dtsc.ca.gov