

Should New Construction Permitting Process Include CERS?

Should a UPA require a CERS submittal as part of new construction permitting and plan checking?

Answer: No. Electronic reporting (to CERS) is a requirement of California Health and Safety Code (HSC) Chapter 6.11 and applies only to the Unified Program. Local requirements for new construction permitting and plan checking are not included in the scope of HSC Chapter 6.11. Therefore, a UPA cannot require a CERS submittal as a condition of the application process for a permit to construct a building or portion thereof. If the permitting and plan checking process for an existing building requires the applicant to provide existing hazardous materials related information as part of the permit application and if the information is in CERS, the applicant may choose to download and print the required information to include in the permit application packet.

If the permit application process is for a new building or for a building where there has been no previous Unified Program related activity there is no requirement to report to CERS until a regulated activity, such as the storage of hazardous materials, begins. For example, California Health and Safety Code (HSC) section 25507 requires a business establish a hazardous materials business plan (HMBP) if the business handles hazardous materials above a threshold amount. HSC section 25508.1 specifies that the business update this information within 30 days if there is a significant change as defined. There is no requirement to report a proposed hazardous materials inventory in HSC 6.95 as part of a new construction/tenant improvement permit application process prior to the handling of hazardous materials at the facility.

When there are local requirements to provide hazardous materials information, such as to determine building construction type or occupancy, the applicant, at their discretion, may use CERS to prepare a draft hazardous materials inventory to download or print for the new construction tenant improvement permitting application process but this can be done without making a submission.