

August 3, 2021

Mr. Robert B. Kostlivi
Director of Environmental Health
Tuolumne County Division of Environmental Health
2 South Green Street
Sonora, California 95370-4618

Dear Mr. Kostlivi:

During January through April, 2021, CalEPA and the state program agencies conducted a performance evaluation of the Tuolumne County Division of Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, and review of regulated facility file documentation and California Environmental Reporting System data.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. Enclosed, please find the final Summary of Findings report.

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as unsatisfactory.

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (October 2, 2021), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to Tim Brandt at Timothy.Brandt@calepa.ca.gov, or mail.

Failure to adequately correct each of the deficiencies and resolve each of the incidental findings identified in the final Summary of Findings in a timely manner may result in the establishment of a Program Improvement Agreement between CalEPA and the governing body of the CUPA.

Thank you for your continued commitment to the protection of public health and the environment through the implementation of the Unified Program.

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To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned to Melinda Blum within 30 days. If you would like to have specific comments remain anonymous, please indicate so on the survey.

If you have any questions or need further assistance, please contact Melinda Blum at Melinda.Blum@calepa.ca.gov.

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosures

cc sent via email:

Ms. Nadine Martelli
EHS Trainee
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Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board
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Ms. Laura Fisher
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Ms. Maria Soria
Program Manager
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700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

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cc sent via email:

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Mr. James Hosler, Chief
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Ms. Jennifer Lorenzo
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cc sent via email:

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

Ms. Melinda Blum
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Tuolumne County Division of Environmental Health

Evaluation Period: January 2021 to April 2021

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron
- **Cal OES:** Jack Harrah, Garrett Chan
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered: **Unsatisfactory**

Questions or comments regarding this evaluation should be directed to the CalEPA Team Lead:

Tim Brandt

CalEPA Unified Program

Phone: (916) 323-2204

E-mail: timothy.brandt@calepa.ca.gov

The CUPA is required to submit an Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report, and every 90 days thereafter, until all deficiencies and incidental findings have been acknowledged as corrected or resolved.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead and must include a narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report.

Evaluation Progress Report submittal dates for the first year following the evaluation are:

1st Progress Report: October 5, 2021

3rd Progress Report: April 14, 2021

2nd Progress Report: January 12, 2021

4th Progress Report: July 18, 2021

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

Program deficiencies identify specific aspects regarding inadequate implementation of the Unified Program. The CUPA must complete the corrective action indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute.

1. DEFICIENCY:

The CUPA is not submitting quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter when state surcharge revenues are remitted.

The CUPA is not utilizing the current quarterly Surcharge Transmittal Report template.

The following quarterly Surcharge Transmittal Reports were not submitted by the required due date:

- Fiscal Year (FY) 2017/2018
 - The 4th Fiscal Quarter report was due on July 31, 2018, and submitted on September 18, 2018.
- FY 2018/2019
 - The 4th Fiscal Quarter report was due on July 31, 2019, and submitted on January 13, 2021.
- FY 2019/2020
 - The 4th Fiscal Quarter report was due on July 31, 2020, and submitted on January 13, 2021.

Note: The CUPA did not submit a quarterly Surcharge Transmittal Report for the 1st, 2nd, and 3rd quarters of FY 2017/2018, 2018/2019, and 2019/2020 as remittance of collected state surcharge revenues were transmitted after the end of the 4th Fiscal Quarter.

CITATION:

CCR, Title 27, Section 15250(b)(1) and (2)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA the 4th quarterly Surcharge Transmittal Report for Fiscal Year 2020/2021 by July 31, 2021, using the current template.

By the 3rd Progress Report, the CUPA will have submitted to CalEPA the 1st quarterly Surcharge Transmittal Report for Fiscal Year 2021/2022 by October 31, 2021. Thereafter, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter.

The current quarterly [Surcharge Transmittal Report](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT_1819.pdf) template can be found at:
https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT_1819.pdf

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

2. DEFICIENCY:

The CUPA is not ensuring all personnel involved with Unified Program implementation meet applicable training requirements.

There are insufficient training records to indicate that CUPA personnel involved in oversight of the local Unified Program meet the following minimum training requirements:

- Hazardous materials and hazardous waste permitting, inspection and enforcement duties, and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;
- Inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;
- Administration practices within a hazardous materials and hazardous waste program;
- Monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis; and
- The CUPA did not provide sufficient documentation to indicate that staff issuing enforcement orders have completed health and safety training as specified in CCR Title 8, §5192(e) (HAZWOPER or equivalent)

CITATION:

CCR, Title 27, Section 15260
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will establish and implement an education and training plan to ensure all CUPA personnel involved with Unified Program implementation meet the applicable education, training, or experience requirements. At a minimum, the plan will include:

- Hiring criteria that establishes a minimum applicable education, training, and experience requirement for CUPA personnel
- A list of positions currently filled by CUPA personnel that have not met the education, training, and experience requirements and identification of the corresponding education, training, and experience requirements that need to be met
- The timeline for existing CUPA personnel to fulfill the applicable education, training, or experience requirements

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with documentation of completion of education, training, and experience to demonstrate that identified CUPA personnel have met the education, training, and experience requirements. Training documentation will include at a minimum, an outline of the training conducted, a list of CUPA personnel in attendance, and certificates of completion.

3. DEFICIENCY:

The CUPA is not ensuring all regulated businesses subject to the Business Plan reporting requirements annually submit a Hazardous Materials Business Plan (HMBP) or a no-change certification to CERS.

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**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

DEFICIENCIES REQUIRING CORRECTION

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 122 of 352 (35%) regulated businesses have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 130 of 352 (37%) regulated businesses have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

CITATION:

HSC, Chapter 6.95, Sections 25505(a) and 25508(a)
[Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that all regulated businesses subject to Business Plan reporting requirements have annually submitted a HMBP or a no-change certification, and that each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's local data management system or CERS, that includes at a minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted a HMBP containing all required components within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance and rejection of HMBPs
 - For those businesses that have not complied, the appropriate enforcement taken by the CUPA to ensure a complete HMBP is annually submitted to CERS

By the 4th Progress Report, the CUPA will ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP or a no-change certification to CERS, or the CUPA will apply appropriate enforcement.

4. DEFICIENCY:

The CUPA is not inspecting each facility subject to Business Plan requirements at least once every three years.

Review of inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), finds:

- 274 of 352 (78%) facilities subject to Business Plan requirements were not inspected within the last three years

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

HSC, Chapter 6.95, Section 25511(b)
[Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to Business Plan requirements is inspected at least once every three years. The action plan will include, at a minimum:

- An analysis and explanation as to why the triennial compliance inspection requirement is not being met for Business Plan facilities. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's local data management system or CERS, identifying each Business Plan facility that has not been inspected within the last three years. For each Business Plan facility listed, the spreadsheet will include, at a minimum:
 - Facility name;
 - CERS ID; and
 - date of the last routine inspection
- A schedule to inspect those Business Plan facilities, prioritizing the most delinquent inspections to be completed prior to any other Business Plan inspection based on risk.
- Future steps to ensure that all Business Plan facilities will be inspected at least once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to demonstrate the number of Business Plan facility inspections that have been conducted during the previous three months.

By the 5th Progress Report, the CUPA will have inspected each Business Plan facility at least once in the last three years.

5. DEFICIENCY:

The Underground Storage Tank (UST) operating permit and permit conditions, which are required to be issued under the Unified Program Facility Permit (UPFP), is inconsistent with UST Regulations and Health and Safety Code (HSC) requirements and is missing required components.

Review of the UPFP finds the following component is missing:

- An addendum to document permit conditions for each applicable program element of the Unified Program.

Review of UST operating permits (Permits to Operate), issued under the consolidated UPFP, finds the following is inconsistent with UST Regulations and HSC:

- The CUPA Permit to Operate does not reflect issuance under a consolidated Unified Program Facility Permit (UPFP) template.

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DEFICIENCIES REQUIRING CORRECTION

- The CUPA Permit to Operate does not reflect monitoring requirements of permitted USTs.
- The CUPA Permit to Operate states “This form must be displayed conspicuously on the premises”, which is more stringent than UST Regulations and HSC, and where no local ordinance authority exists.

Review of Permits to Operate, issued under the UPFP, finds the following required information is missing:

- CERS ID
- UST identification number

Note: State Water Board correspondence dated April 7, 2017, “Amended Requirements for Unified Program Facility Permits Effective January 1, 2017,” may be referenced.

CITATION:

CCR, Title 23, Section 2712(c) and (i)
CCR, Title 27, Section 15190(h)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised UPFP template, which will include an addendum to document permit conditions for each applicable program element of the Unified Program and which will address the missing and inconsistent elements identified above. The CUPA will provide CalEPA with a revised Permit to Operate template, consistent with UST Regulations and HSC requirements.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UPFP template and/or the revised Permit to Operate template, based on feedback from CalEPA and/or the State Water Board. The CUPA will provide the amended UPFP template and/or the amended Permit to Operate template to CalEPA. If no amendments to the UPFP template and/or Permit to Operate template are necessary, the CUPA will provide CalEPA with a copy of five UPFPs, issued to UST facilities, using the revised UPFP template and the revised Permit to Operate template.

By the 3rd Progress Report, if amendments to the revised UPFP template and/or the Permit to Operate template were necessary, the CUPA will provide CalEPA with five UPFPs issued to UST facilities, using the amended UPFP template and the amended Permit to Operate template.

6. DEFICIENCY:

The CUPA is not inspecting all UST facilities at least once every 12 months.

Review of the Semi-Annual Report (Report 6) for each Fiscal Years (FYs) finds the following facilities were not inspected:

- FY 2019/2020
 - 8 of 34 (24%)

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DEFICIENCIES REQUIRING CORRECTION

- FY 2018/2019
 - 14 of 34 (41%)
- FY 2017/2018
 - 4 of 36 (11%)

CITATION:

HSC, Chapter 6.7, Section 25288(a)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure each UST facility is inspected at least once every 12 months. The action plan will include, at a minimum:

- A spreadsheet exported from CERS, identifying each UST facility that has not been inspected within the last 12 months. For each UST facility listed, the spreadsheet will include, at a minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last UST compliance inspection.

A schedule to inspect each identified facility, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from the State Water Board. The CUPA will provide the revised action plan to CalEPA.

By the 3rd Progress Report and each subsequent Progress Report, until considered corrected, the CUPA will provide CalEPA with UST compliance inspection reports until all UST facilities have been inspected within the last 12 months.

7. DEFICIENCY:

The CUPA is not following up and documenting actions associated with return to compliance (RTC) within 60 days of UST testing or leak detection failures.

Review of CERS compliance, monitoring and enforcement information (CME) and testing and leak detection documents finds the following:

- FY 2019/2020
 - 11 of 23 (48%) of testing and leak detection failures have no documented RTC in CERS
- FY 2018/2019
 - 14 of 28 (50%) of testing and leak detection failures have no documented RTC in CERS
- FY 2017/2018
 - 17 of 52 (33%) of testing and leak detection failures did not obtain RTC within 60 days in CERS

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DEFICIENCIES REQUIRING CORRECTION

Below are examples of testing and leak detection failures that did not obtain RTC within 60 days:

- CERS ID 10421890: inspection dated September 17, 2019, indicates failure of 91 spill containers.
- CERS ID 10422550: inspection dated July 14, 2019, indicates failure to inspect overflow prevention equipment.
- CERS ID 10502518: inspection dated June 23, 2020, indicates failure to conduct secondary containment testing every 36 months.
- CERS ID 10420858: inspection dated August 5, 2019, indicates failure to install or maintain a liquid-tight spill container.

Note: The examples provided above may not represent all instances of this deficiency and do not include RTC actions for administrative or minor violations.

CITATION:

HSC, Chapter 6.7, Section 25288(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the Inspection and Enforcement (I&E) Plan, or other applicable procedure, to ensure establishment of a process for UST inspection staff to document follow-up actions taken by the CUPA with UST facilities that have UST testing or leak detection failures and require RTC within 60 days and for applying appropriate enforcement. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan, or other applicable procedure. If no amendments are necessary, the CUPA will train UST Inspection staff on the revised I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at a minimum will include an outline of the training conducted and a list of UST Inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan, or other applicable procedure.

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST Inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at a minimum, will include an outline of the training conducted and a list of UST Inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 4th Progress Report, and in each subsequent Progress Report until considered corrected, if not available in CERS, the CUPA will provide CalEPA with UST facility records for five UST facilities, as selected by the State Water Board, that include RTC or documentation of an applied appropriate enforcement.

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DEFICIENCIES REQUIRING CORRECTION

8. DEFICIENCY:

The CUPA is not consistently issuing closure documentation to the UST owner or operator upon completion of UST closure activities.

Review of UST facility files finds the CUPA did not provide UST closure documentation to the owner or operator upon completion of UST closure activities for the following:

- CERS ID 10709584; and
- CERS ID 10452283.

Note: The examples provided above may not represent all instances of this deficiency.

Note: State Water Board UST Program Leak Prevention [Frequently Asked Question 15](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) (https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) may be referenced.

CITATION:

HSC, Chapter 6.7, Section 25298(c)
CCR, Title 23, Section 2672(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the UST closure procedure, or other applicable procedure, ensuring the establishment of a process, which will include, at a minimum how the CUPA will:

- Provide UST closure documentation to the UST owner or operator which demonstrates to the satisfaction of the CUPA that UST closure, removal, and soil and/or water sampling complies with UST Regulations and HSC.

The CUPA will provide the revised UST closure procedure, or other applicable procedure to CalEPA.

By the 1st Progress Report, the CUPA will develop a UST closure letter template. The CUPA may consider including the following language in the UST closure letter template: “the Tuolumne CUPA has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with HSC, Chapter 6.7, Section 25298 (c), and CCR, Title 23,, Section 2672,” to include reference to specific UST code citations. The CUPA will provide the developed UST closure letter template to CalEPA.

By the 2nd Progress Report, if amendments to the revised UST closure procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST closure procedure or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised UST closure procedure or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST

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DEFICIENCIES REQUIRING CORRECTION

inspection staff in attendance. Once training is complete, the CUPA will implement the revised UST closure procedure or other applicable procedure.

By the 2nd Progress Report, if revisions to the UST closure letter template are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised UST closure letter template. If no revisions are necessary, the CUPA will train UST inspection staff on the use of the UST closure letter template. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will issue the UST closure letter template.

By the 3rd Progress Report, if amendments to the revised UST closure procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended UST closure procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended UST closure procedure or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised UST closure letter template were necessary, the CUPA will train UST inspection staff on the use of the amended UST closure letter template. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will issue the amended UST closure letter template.

With respect to facilities which have not been provided UST closure documentation, the CUPA will use the UST closure letter template and will provide the requested documentation upon request or in the event of a public records request.

Opportunities to conduct UST closure activities are limited in the CUPA's jurisdiction, therefore, this deficiency may unnecessarily remain open while waiting for USTs to undergo closure. The State Water Board will consider this deficiency corrected upon completion of the revised UST closure procedure and UST closure letter template. State Water Board will verify the CUPA is utilizing the revised UST closure procedure and issuing the UST closure letter template during the next CUPA Performance Evaluation.

9. DEFICIENCY:

The CUPA is not reporting or inspecting improperly abandoned USTs and/or enforcing the proper closure of abandoned USTs and/or applying appropriate enforcement.

Review of Report 6 and CERS information identifies the following facility has improperly abandoned USTs:

- CERS ID 10463485

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DEFICIENCIES REQUIRING CORRECTION

For the identified abandoned USTs at the facility above, the CUPA is not:

- conducting UST compliance inspections;
- implementing appropriate enforcement; and
- reporting Technical Compliance Rate (TCR) information.

Note: This deficiency was identified as an incidental finding and not corrected during the 2018 CUPA Performance Evaluation process.

Note: State Water Board correspondence dated April 27, 2017, "[Conclusion of the Abandoned Underground Storage Tank Initiative, and Unified Program Agency Inspection and Reporting Requirements.](#)"

(https://www.waterboards.ca.gov/ust/docs/abandoned_storage/2017/abust_closeout_letter.pdf) may be referenced.

Note: CERS FAQ: "[Reporting Abandoned USTs.](#)"

(https://www.waterboards.ca.gov/water_issues/programs/ust/cers/tutorials/bu07_abandoned_usts.html) may be referenced.

CITATION:

HSC, Chapter 6.7, Section 25298 and 25299(a)(5) or (b)(3)

[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop an action plan to properly inspect abandoned USTs at least once every 12 months and/or apply appropriate enforcement for the proper closure of abandoned USTs. The CUPA will provide CalEPA with the action plan.

By the 2nd Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure), to ensure establishment of a process for proper closure of abandoned UST(s), including how the CUPA inspects and enforces proper closure of abandoned USTs. The process at a minimum will address:

- Conducting UST compliance inspections.
- Applying appropriate enforcement, and
- Providing TCR information to the State Water Board.

The CUPA will provide CalEPA with the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST Inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at a minimum, will include an outline of the training conducted and a list of UST Inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

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By the 4th Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at a minimum, will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 5th Progress Report, and with each subsequent Progress Report until considered corrected, for each remaining abandoned UST, the CUPA will provide CalEPA with UST compliance inspections, TCR information in Report 6, UST closure records (if applicable), or the applied appropriate enforcement.

With respect to the identified abandoned UST(s), the CUPA will follow up and ensure proper closure is completed. Any UST installed on or after January 1, 1984, which is operational, or temporarily closed or abandoned, and previously regulated by the CUPA, shall be:

- reported to CERS,
- inspected at least once every 12 months, applying appropriate enforcement to obtain compliance if needed, and
- reported in Report 6 with TCR information.

10. DEFICIENCY:

The CUPA is not consistently ensuring International Code Counsel (ICC) California UST Inspector certified personnel conduct UST compliance inspections and/or accept CERS UST submittals.

Review of facility files and the CERS tank data download report finds the following:

- CERS ID 10422547: UST compliance inspection conducted on March 21, 2019, was not signed by an ICC California UST Inspector certified personnel.
- CERS ID 10422274: UST compliance inspection conducted on May 1, 2019, was not signed by an ICC California UST Inspector certified personnel.
- CERS ID 10458409: CUPA personnel without an ICC California UST Inspector certification accepted the CERS UST submittal on December 17, 2018.

Note: The examples provided above may not represent all instances of this deficiency.

CITATION:

CCR, Title 23, Section 2715(g)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure establishment of a process which identifies only UST inspection staff with ICC California UST Inspector certification may accept UST submittals in CERS. The CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure only UST inspection staff with ICC California UST Inspector certification may conduct UST

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compliance inspections. The CUPA will provide CalEPA with the revised Data Management Procedure, the revised I&E Plan, or other applicable procedures.

By the 1st Progress Report, the CUPA will identify and review all CERS UST submittals previously approved by non-certified ICC California UST Inspectors. The CUPA will ensure each CERS UST submittal is accepted by certified ICC California UST Inspectors.

By the 2nd Progress Report, if amendments to the revised Data Management Procedure, I&E Plan, or other applicable procedure, are necessary based on feedback from State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, I&E Plan, or other applicable procedure. If no amendments are necessary, the CUPA will train certified ICC California UST Inspectors on the revised Data Management Procedure, I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of certified ICC California UST Inspectors in attendance. Once training is complete, the CUPA will implement the revised Data Management Procedure, I&E Plan, or other applicable procedure.

By the 3rd Progress Report, if amendments to the Data Management Procedure, I&E Plan, or other applicable procedure were necessary, the CUPA will train certified ICC California UST Inspectors on the amended Data Management Procedure, I&E Plan, or other applicable procedures. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of certified ICC California UST Inspectors in attendance. Once training is complete, the CUPA will implement the amended Data Management Procedure, I&E Plan, or other applicable procedure.

11. DEFICIENCY:

The CUPA is not requiring UST facilities with single-walled UST component(s) within a 1,000-foot radius of a public drinking water well to implement triennial Enhanced Leak Detection (ELD) testing.

State Water Board and UST facility file records indicate the State Water Board was not notified by the CUPA that the following facilities were within a 1,000-foot radius of a public drinking water well in 2003, therefore, the State Water Board could not notify the facilities of required triennial ELD testing requirements and, consequently, triennial ELD testing was not conducted:

- CERS ID 10463485
- CERS ID 10422547

Note: State Water Board has distributed the following Local Guidance Letters (LGs) to CUPAs regarding the requirement for UST facilities to implement triennial or complete one-time ELD testing:

- LG 161: distributed September 18, 2001, to provide notification of Senate Bill 989 requirements
- LG 161-2: distributed May 15, 2003, to provide an update on ELD testing requirements and responses to questions

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- LG 161-3: distributed October 23, 2006, to provide an update on ELD testing requirements and responses to questions
- LG 161-4: distributed June 12, 2007, to provide an update on ELD testing requirements and responses to questions
- LG-161-5: distributed March 25, 2008, to provide an update on ELD testing requirements and responses to questions.

CITATION:

HSC, Chapter 6.7, Section 25292.4
CCR, Title 23, Section 2640(e) and 2644.1
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities having single-walled UST components within 1,000 feet of a public drinking water well that have not implemented ELD testing.

By the 1st Progress Report, the CUPA will draft written correspondence addressed to UST facility owners or operators with single-walled UST components within a 1,000-foot radius of a public drinking water well, to inform the UST owner or operator of the requirement to implement ELD testing within 60 days, and every 36 months thereafter. The draft written correspondence shall include language stating failure to implement ELD testing within 60 days, and every 36 months thereafter, will lead to appropriate enforcement, including but not limited to UST operating permit revocation. The CUPA will provide CalEPA with the draft written correspondence to be provided to UST facility owners or operators with single-walled UST components within a 1,000-foot radius of a public drinking water well.

By the 2nd Progress Report, the CUPA will, if necessary, revise the draft written correspondence, based on feedback from the State Water Board and will provide the revised written correspondence to CalEPA. If no further revision to the draft written correspondence is necessary, the State Water Board will consider the written correspondence as adequate.

By the 3rd Progress Report, the CUPA will issue the written correspondence (considered adequate by the State Water Board) to the owner or operator of each UST facility identified by the CUPA as not having implemented ELD testing. The CUPA will include both CalEPA and the State Water Board on the correspondence.

By the 4th Progress Report, if ELD testing has not been conducted within 60 days, and every 36 months thereafter, the CUPA will apply appropriate enforcement.

By the 4th Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process to notify UST facility owners or operators of the requirement to implement ELD testing within 60 days, and every 36 months thereafter at UST facilities with UST component(s) within a 1,000-foot radius of a public drinking water well. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

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By the 5th Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 6th Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

The State Water Board will consider this deficiency corrected if ELD testing has been completed, and the CUPA provides CalEPA with a copy of the ELD testing results.

The State Water Board will consider this deficiency closed, but not corrected, and will verify that ELD testing was conducted during the next CUPA Performance Evaluation if the UST owner or operator does not conduct ELD testing or does not submit a request for reconsideration (RFR) to the State Water Board and the CUPA has applied appropriate enforcement.

12. DEFICIENCY:

The CUPA is not consistently maintaining annual UST compliance inspection and testing and/or leak detection records.

Review of UST facility files finds the CUPA has not maintained annual UST compliance inspection records for the following:

- CERS ID 10412815
- CERS ID 10441597
- CERS ID 10424092
- CERS ID 10134451

Review of UST facility files finds the CUPA has not maintained UST testing and/or leak detection records for the following:

- CERS ID 10461541
- CERS ID 10435378
- CERS ID 10412815
- CERS ID 10441597

Note: The examples provided above may not represent all instances of this deficiency.

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CITATION:

Title 27, Section 15185(a) and (b)(1)
HSC, Chapter 6.7, Section 25288
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised I&E Plan, or other applicable procedure, ensures the establishment of a process for UST inspection staff to maintain records of annual UST compliance inspection reports and testing and/or leak detection records for all UST facilities. The process will include, at a minimum:

- How the CUPA will maintain copies of annual UST compliance inspection reports and testing and/or leak detection records.

By the 3rd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train UST Inspection staff on the revised I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at minimum, will include an outline of the training conducted and a list of UST Inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 4th Progress Report, if amendments to the revised I&E Plan, or other applicable procedure were necessary, the CUPA will train UST Inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at a minimum, will include an outline of the training conducted and a list of UST Inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

13. DEFICIENCY:

The CUPA is not consistently following up and documenting RTC information in CERS for Aboveground Petroleum Storage Act (APSA) tank facilities cited with violations.

Review of CERS CME information indicates there is no documented RTC for the following APSA Program violations:

FY 2018/2019

- 21 of 38 (55%) APSA violations

FY 2017/2018

- 9 of 20 (45%) APSA violations

FY 2014/2015

- One violation for not having a Spill Prevention, Control, and Countermeasure (SPCC) Plan

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CITATION:

HSC, Chapter 6.67, Section 25270.4.5(a)
HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's local data management system or CERS, that includes at a minimum the following information for each APSA facility with open violations (no RTC):

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the appropriate enforcement taken by the CUPA to ensure RTC.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM, that includes documentation of RTC or the appropriate enforcement.

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the 1st Progress Report for not having an SPCC Plan has achieved compliance, or the CUPA will have applied appropriate enforcement.

14. DEFICIENCY:

The CUPA is not inspecting all APSA tank facilities at least once every three years in accordance with the I&E Plan.

Review of facility files, CERS CME information, and additional information provided by the CUPA indicates:

- 2 of 7 (29%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.
- 49 of 73 (67%) other APSA tank facilities have not been inspected in the last three years.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a) and (b)
[OSFM]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all APSA tank facilities are inspected at least once every three years. The action plan will include at a minimum:

- An analysis and explanation as to why the inspection frequency for APSA tank facilities is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS, listing each APSA tank facility that has not been inspected in the last three years. For each APSA tank facility listed, the spreadsheet will include, at a minimum:
 - Facility name
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities (i.e., large volumes of petroleum or proximity to navigable water).
- Future steps to ensure that all APSA tank facilities will be inspected at least once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to identify the APSA tank facility inspections that have been conducted during the previous three months.

By the 4th Progress Report, the CUPA will have inspected each APSA tank facility at least once within the last three years.

15. DEFICIENCY:

The CUPA is not ensuring APSA tank facilities annually submit an HMBP to CERS when an HMBP is provided in lieu of a tank facility statement.

Review of HMBPs submitted to CERS by APSA tank facilities in lieu of a tank facility statement indicates:

- 23 of 80 (29%) have not submitted a chemical inventory and site map within the last 12 months.
- 22 of 80 (27%) have not submitted emergency response and employee training plans within the last 12 months.

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)
[OSFM]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure that HMBPs provided in lieu of a tank facility statement are annually submitted to CERS.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at a minimum the following information for each APSA tank facility that has not annually submitted an HMBP when an HMBP is provided in lieu of a tank facility statement to CERS:

- Facility name;
- CERS ID; and
- A narrative of the appropriate enforcement taken by the CUPA.

By the 4th Progress Report, the CUPA will ensure each APSA tank facility has annually submitted an HMBP to CERS when an HMBP is provided in lieu of a tank facility statement, or the CUPA will apply appropriate enforcement.

16. DEFICIENCY:

The CUPA is not ensuring that each inspector completes the APSA training program and passes the exam prior to conducting inspections at tank facilities for compliance with the SPCC Plan requirements of APSA.

The following inspections were conducted prior to the CUPA inspector completing the APSA training program and passing the exam:

- CERS ID 10408765: inspection dated June 18, 2020
- CERS ID 10445971: inspection dated August 25, 2020
- CERS ID 10628410: inspection dated October 23, 2020
- CERS ID 10628398: inspection dated October 23, 2020

Note: The examples provided above may not represent all instances of this deficiency.

CITATION:

HSC, Chapter 6.67, Section 25270.5(c)
[OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will identify all inspections at APSA tank facilities for compliance with the SPCC Plan requirements of APSA conducted by inspectors who did not complete and pass the initial APSA inspector training program. The CUPA will propose a schedule for the facilities to be re-inspected by an APSA trained inspector.

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By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an update on the progress toward conducting all APSA tank facility compliance inspections per the proposed schedule.

17. DEFICIENCY:

The CUPA is not inspecting each Hazardous Waste Generator (HWG) facility once every three years, per the inspection frequency established in the I&E Plan.

Review of facility files, inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA finds:

- 146 of 199 (73%) HWG facilities were not inspected once every three years.

CITATION:

CCR, Title 27, Section 15200(a)(3)(A)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to incorporate steps to ensure HWG inspection staff inspect all HWG facilities at least once every three years. The CUPA will provide the revised I&E Plan to CalEPA.

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility is inspected at least once every three years. The action plan will include, at a minimum:

- An analysis and explanation as to why the inspection frequency for the HWG program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that has not been inspected once every three years. For each HWG facility listed, the spreadsheet will include, at a minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those HWG facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.
- Future steps to ensure that all HWG facilities will be inspected once every three years.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan and amend the revised I&E Plan, based on feedback from DTSC. The CUPA will provide the revised action plan and amended I&E Plan to CalEPA.

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By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to demonstrate the number of HWG facility inspections that have been conducted during the previous three months.

By the 4th Progress Report, the CUPA will have inspected each HWG facility once every three years.

18. DEFICIENCY:

The CUPA is not properly classifying Hazardous Waste Generator (HWG) Program violations.

Review of facility files and CERS CME information finds the CUPA is classifying Class I or Class II HWG Program violations as minor violations in the following instances:

- Violation for exceedance of authorized accumulation time (CCR Title 22, Section 66262.34) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in Health and Safety Code, Section 25404(a)(3).
 - CERS data indicates 5 of 7 (71%) violations cited between January 1, 2018 through December 31, 2020, for exceedance of authorized accumulation time were cited as a minor violation. Specific examples are as follows:
 - CERS ID 10418299: inspection dated March 6, 2018
 - CERS ID 10422550: inspection dated June 7, 2018
 - CERS ID 10460926: inspection dated September 4, 2020
 - CERS ID 10463485: inspection dated August 28, 2020
 - CERS ID 10488322: inspection dated June 4, 2018.

Note: This deficiency was cited in the 2018 CUPA Performance Evaluation. Training was provided to CUPA inspectors on two occasions, as recent as July 20, 2020. Violations for exceedance of authorized accumulation time continue to be classified as minor, subsequent to the training.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
CCR, Title 22, Sections 66260.10
[DTSC]

CORRECTIVE ACTION:

Beginning immediately, the CUPA will ensure violations are correctly classified and appropriate enforcement actions are pursued for non-minor (Class I and Class II) violations.

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By the 1st Progress Report, the CUPA will train inspection staff on the classification of minor, Class I, and Class II violations, as defined in:

- HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
- HSC Chapter 6.11, Section 25404(a)(3)
- CCR, Title 22, Section 66260.10

The CUPA will train inspection staff on how to properly classify HWG Program violations during inspections and ensure inspection staff review the following:

- Violation Classification Training Video 2014
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
- 2020 Violation Classification Guidance for Unified Program Agencies
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>

The CUPA will provide CalEPA with training documentation, which at a minimum will include, an outline of the training conducted and a list of CUPA inspection staff in attendance.

By the 2nd Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with an inspection report citing at least one (class I or II) HWG program violation or two (any violation class) HWG Program violations, for three HWG Program facilities, as requested by DTSC, that have been inspected after training has been completed and within the last three months. Each inspection report will contain observations, factual basis, and corrective actions to correctly identify and classify each observed HWG Program violation.

Note: The following additional HWG inspection, accumulation, and generator requirement training resources are available to assist in training CUPA inspectors:

- [Advanced Hazardous Waste Inspector Training Video 2016 \(1 of 2\)](https://www.youtube.com/watch?v=Iqn3TJftSUM)
<https://www.youtube.com/watch?v=Iqn3TJftSUM>
- [Advanced Hazardous Waste Inspector Training Video 2012 \(5 of 7\): Tanks and Sumps](https://www.youtube.com/watch?v=oCrI3MvTd8M)
<https://www.youtube.com/watch?v=oCrI3MvTd8M>
- [Generator Requirements Fact Sheet](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf
- [Accumulation Time Fact Sheet](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf
- [Universal Waste](https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf
- [Managing Used Oil Filters for Generators](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf
- Management of Spent Lead Acid Batteries

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https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf

- Generator Summary Chart

<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf>
and https://www.acgov.org/forms/aceh/Generator_Requirements_Summary_Chart.pdf

19. DEFICIENCY:

The CUPA is not consistently ensuring return to compliance (RTC) is obtained within 60 days, or is not consistently following up and documenting RTC information in CERS for HWG Program facilities cited with violations.

Review of CERS CME information from January 1, 2018 through December 31, 2020, indicates there is no documented RTC for the following violations:

- 23 of 47 (49%) violations have no documented RTC
 - 16 of 23 are minor violations
 - 13 of 16 minor violations date back to at least 2018
 - 6 of 23 are class II violations
 - 1 of 23 is a Class I violation, cited March 21, 2019, that has not returned to compliance. No enforcement action was taken for this violation.

CITATION:

HSC, Chapter 6.5, Sections 25187.8(g)
CCR, Title 27, Sections 15185(a) and (c), and 15200(a)
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the I&E Plan, which includes a delineated process to:

- ensure facilities with cited violations return to compliance through applied appropriate enforcement, and
- address following up with facilities and documenting RTC.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at a minimum the following information for each HWG facility with open violations (no RTC):

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and

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- In the absence of obtained RTC, a narrative of the applied appropriate enforcement taken by the CUPA to ensure the facility returns to compliance. The CUPA will prioritize follow-up actions with each facility based on the level of hazard violations present to public health and the environment.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments to the I&E Plan are necessary, the CUPA will train CUPA personnel inspection staff on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3rd Progress Report, if amendments to the I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended I&E Plan.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with five HWG facility records, as requested by DTSC, that include documentation of RTC or the applied appropriate enforcement. In the event enforcement documentation is confidential, a copy of the enforcement documentation with redacted confidential information can be provided. Any information that can be obtained from CERS is not considered confidential.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

Incidental findings identify specific incidents or activities regarding implementation of the Unified Program. Though incidental findings do not rise to the level of program deficiencies or inadequate implementation of the Unified Program, the CUPA must complete the resolution indicated as required by regulation or statute.

1. INCIDENTAL FINDING:

Required components of the I&E Plan are missing.

The following components are missing:

- Provisions to ensure that the I&E Plan is being reviewed at least annually by the CUPA.
 - The provided I&E Plan has no revision date listed on the cover page.
- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.

CITATION:

CCR, Title 27, Section 15200(a)
[CalEPA, DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that incorporates the missing components.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA or DTSC, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3rd Progress Report, if amendments were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan.

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OBSERVATIONS AND RECOMMENDATIONS

Observations and recommendations identify areas of Unified Program implementation that could be improved and provide suggestions for improvement. Though the CUPA is not required by regulation or statute to apply the recommendations provided, the CUPA would benefit in applying the recommendations provided to improve the overall implementation of the Unified Program.

1. OBSERVATION:

The I&E Plan has several minor errors:

- Page 6 and numerous other places, the term “Hazardous Materials Release Response Plans” is used. The title of HSC, Chapter 6.95 is “Hazardous Materials Release Response Plans and Inventory.” The title of CCR, Title 19, Chapter 4 is “Hazardous Materials Release Reporting, Inventory and Response Plans.” It would be more accurate to use “Hazardous Materials Business Plan” or “HMBP” facilities in place of “Hazardous Materials Release Response Plans” as is currently used in the I&E Plan, to more accurately reference hazardous materials business plan (HMBP) facilities, as the reference does incorporate area plans or release reporting.
- Page 11, the APSA RTC timeframe discussion could be improved. There are no established RTC timeframes under the APSA Program; however, Unified Program regulated facilities cited with a minor violation have 30 days from the date of the notice to comply to RTC, per HSC, Section 25404.1.2(c)(1).
- Page 18, “A. HAZARDOUS MATERIALS RELEASE RESPONSE PLANS,” the only applicable citations listed are 25515 and 25515.1. Additional correct citations to incorporate are 25515.2, 25525.3, 25515.4, 25515.5, and, 25515.6 for including injunctions.
- Page 19, in the APSA section related to Program Specific Enforcement Authorities, only HSC, Section 25270.12 is referenced; additional APSA enforcement/penalty-related sections to reference are HSC, Sections 25270.12.1, 25270.12.5, and 25270.13.
- The APSA program is inaccurately referred to as AST as follows:
 - Page 4, as item 6 in the list of environmental programs,
 - Page 18, in the Enforcement Option matrix
- The APSA program is inaccurately referred to as SPCC as follows:
 - Page 19, relative to the HSC 25270.12 reference, and
 - Page 19, within the statements related to APSA facility storage capacities. These statements can be removed since they are not directly associated with enforcement authority

RECOMMENDATION:

With the next review of the I&E Plan, revise the above minor errors.

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2. OBSERVATION:

The California Accidental Release Prevention (CalARP) Program Dispute Resolution procedure is lacking detail concerning what must be included with the appeal to the Director of Cal OES (CCR, Title 19, Section 2780.1(b)); and does not explain that enforcement may proceed during the appeal process (CCR, Title 19, Section 2780.1(e)).

RECOMMENDATION:

Amend the CalARP Program Dispute Resolution procedure to more clearly detail what must be included with the appeal to the Director of Cal OES and explain enforcement that may proceed during the appeal process.

3. OBSERVATION:

The draft area plan has several minor errors and omissions:

- Page 4, the correct references to use in the matrix instead of 2722 through 2727 is 2642-2647. This form was modified from the sample reporting form in CCR, Title 19, Section 2640. Chapter 4, Article 3 of CCR, Title 19 is outdated. The matrix provided does not address Section 2648, Incident Critique and Follow up, though the Table of Contents does point to this information.
- Page 5, the correct reference to use instead of “2720 et seq” is “2640 et seq”.
- Page 28, the sections on Recognition and Evaluation do not mention the Cal OES-sponsored Type II hazmat rigs (HM-41 and HM-42) available for mutual aid purposes. HM-41 is headquartered at Modesto Fire and HM-42 is headquartered at South County Fire.
- Page 60, the correct Health & Safety Code Section is 25510.3 rather than 25507.10.

RECOMMENDATION:

Address the minor errors and omissions before finalizing the draft area plan. Contact Cal OES Assistant Chief Charles Tobias by phone at (916) 845-8830 for more information on HM-41 and HM-42.

4. OBSERVATION:

The CUPA uses version 1.0 CUPA Forum Board APSA inspection checklists, which are outdated relative to the violations in the most current versions of the CUPA Forum Board APSA inspection checklists.

RECOMMENDATION:

Utilize the latest version of the CUPA Forum Board APSA inspection checklists when conducting APSA tank facility inspections, and ensure the APSA inspection checklist being utilized is applicable to the APSA tank facility being inspected.

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5. OBSERVATION:

The website (<https://www.tuolumnecounty.ca.gov/247/Hazardous-Materials>) contains general information for the public and regulated community; however, it contains the following APSA program information that is outdated, incorrect, or may benefit from improvement.

- The APSA applicability information in both the “Above Ground Storage Tank” and “Spill Prevention” sections should be updated to reflect other tank facilities subject to APSA, such as tank facilities that are subject to the Federal SPCC Rule and tank facilities with tanks in underground areas (TIUGA) regardless of the 1,320-gallon storage capacity of the facility.
- The “Above Ground Storage Tank” and “Spill Prevention” sections could be consolidated and renamed “Aboveground Petroleum Storage Act.”

RECOMMENDATION:

Update the APSA program information on the website. Consider providing a link to the new OSFM webpage at: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/> for information on the APSA program, and a link to the U.S. Environmental Protection Agency website at: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations> for information on SPCC requirements.

6. OBSERVATION:

Multiple APSA tank facilities submitted an HMBP in lieu of the APSA tank facility statement using the 2011 emergency response and training plans template with an obsolete phone number for OSFM.

The 2017 version of the consolidated emergency response and training plans template contains the current OSFM phone number.

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template to use the current 2017 version, when an HMBP submittal is provided in lieu of the tank facility statement. The current template is available in CERS.

7. OBSERVATION:

Review of overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, information provided by the CUPA, and Self-Audit Reports for January 1, 2018 through December 31, 2020, is summarized below:

- There are 199 regulated HWG facilities, 4 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQG), and no Tiered Permitted facilities.
- The three-year inspection frequency for all HWG facilities is not being met.
- The CUPA conducted a total of 61 HWG inspections, consisting of 55 routine inspections and 6 other inspections.
 - 25 of 61 (39%) inspected HWG facilities had at least one cited violation.

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- There were a total of 47 violations issued, consisting of:
 - 2 (4%) Class I violations,
 - 7 (15%) Class II violations,
 - and 38 (81%) minor violations.
- The CUPA has ensured RTC for 24 of 47 (51%) violations.
 - 23 of 38 (61%) minor violations took longer than 30 days to RTC.
 - 16 of 38 (42%) of the open minor violations were cited in 2018.
- The CUPA has not initiated any formal enforcement actions since the last CUPA Performance Evaluation.
- Inspection reports that note the factual basis of cited violations is inconsistent. As an example, no inspection report was available for CERS ID 10422547, however CERS shows a Class I violation cited on March 21, 2019.
- The CUPA's website has no information for HWG facilities or how to inform the CUPA that they may be subject to the HWG program.

DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

RECOMMENDATION:

Follow the I&E Plan that delineates a three-year HWG inspection frequency and apply all appropriate enforcement in order to gain compliance with violations cited. Consistently provide all factual basis of the violation and properly cite violations with information on corrective actions needed to return to compliance in all inspection reports.

Revise the HWG inspection checklist to ensure consent is obtained and documented prior to conducting a HWG inspection. Making an appointment to conduct an inspection does not constitute consent.

8. OBSERVATION:

Review of CERS finds the following USTs or UST systems as having single-walled components which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10422547 (Tank IDs 01 - 02);
- CERS ID 10442131 (Tank ID 01); and
- CERS ID 10463485 (Tank IDs 01 - 03).

Note: The examples provided above may not represent all instances of this observation.

RECOMMENDATION:

Continue to provide verbal reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Consider providing written notification of the requirement to all applicable UST facility owners or operators. The written notification should inform facility owners or operators that in order to remain in compliance, owners or operators must replace or remove single-walled USTs by

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December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: http://waterboards.ca.gov/water_issues/programs/ust/single_walled/.

Notify facility owners or operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project USTs. More information on funding sources may be found at: https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html.

9. OBSERVATION:

At the Exit Briefing, the CUPA requested guidance regarding the current CalEPA & State Evaluation Team stance on CUPAs conducting virtual inspections.

RECOMMENDATION:

The U.S. EPA has provided interim guidance and expectations regarding off-site methods of compliance monitoring at CUPA facilities (i.e. off-site record review, desk audits, and other methods of virtual compliance monitoring). CalEPA and the BDOs have interpreted this guidance to mean that inspections are only to be counted as a complete “Compliance Evaluation Inspection,” otherwise known as a “Routine” inspection, if an inspector was on-site. In order to be consistent with U.S. EPA, CalEPA and the BDOs are requesting that CUPAs conducting off-site compliance monitoring activities code these activities as “Other” inspections in CERS and note in the inspection comments that a virtual inspection was conducted without an on-site inspection component.

10. OBSERVATION:

The information below is a comparison of the total number of regulated facilities within each Unified Program element upon certification of the CUPA with present-day circumstance and the degree to which the number of regulated facilities has increased or decreased. The information is sourced from the following:

- Tuolumne County Health Department CUPA Application, May 3rd, 1996
 - Note: Data quality from the original 1996 CUPA Application appears to be inconsistent with respect to facility counts and breakdowns across program elements. These data have not been adjusted and are presented in the original form which was approved by the Secretary.
- CERS “Summary Regulated Facilities by Unified Program Element Report,” generated February 24, 2021
- CERS “UST Inspection Summary Report (Report 6),” generated February 24, 2021
- Tuolumne CUPA Fiscal Year 19-20 Self-Audit Report

- Total Number of Regulated Businesses and Facilities:
 - In 1996: 598
 - Current CUPA Evaluation: 359
 - A decrease of **239** facilities

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- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Program Regulated Businesses and Facilities:
 - In 1996: 303
 - Current CUPA Evaluation: 350
 - An increase of **47** facilities

- Total Number of Regulated Underground Storage Tank (UST) Facilities:
 - In 1996: 89
 - Current CUPA Evaluation: 33
 - A decrease of **56** facilities

- Total Number of Regulated USTs:
 - In 1996: 226
 - Current CUPA Evaluation: 85
 - A decrease of **141** USTs

- Total Number of Regulated Hazardous Waste Generator (HWG) Facilities:
 - In 1996: 114
 - Current CUPA Evaluation: 196
 - An increase of **82** facilities

- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
 - In 1996: 4
 - Current CUPA Evaluation: 3
 - An decrease of **1** facility

- Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
 - In 1996: 4
 - Current CUPA Evaluation: 0
 - A decrease of **4** facilities
 - Comments: It is possible that these 4 facilities were incorrectly identified as TP facilities when they are actually HHW facilities.

- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
 - In 1996: 0
 - Current CUPA Evaluation: 4
 - An increase of **4** facilities

- Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:
 - In 1996: 20
 - Current CUPA Evaluation: 2
 - A decrease of **18** facilities

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- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities
 - In 1996: N/A
 - Current CUPA Evaluation: 81
 - An increase of **81** facilities

Since the CUPA applied for certification in 1996, an expansion of responsibilities in the APSA and Hazardous Waste Generator programs has occurred, increasing workload undertaken by the CUPA to further implement regulatory oversight of each of these programs even though the total number of regulated facilities has decreased. Notably, the UST Program decreased by 56 facilities (or 63%), and the CalARP program decreased by 18 facilities (or 90%). Additionally, the total number of regulated USTs decreased by 141 (or 62%). Programs which increased in the number of regulated facilities include the APSA program (81 more facilities or a 100% increase), HMRRP facilities (47 more facilities or a 16% increase), and the HWG program (82 facilities or a 72% increase). The CUPA now also oversees 4 RCRA LQG facilities and 3 HHW facilities that were potentially not identified in 1996. The overall trend shows the number of regulated facilities managed by the CUPA as of FY 2020/2021 decreasing by almost 40% than at the time of certification in 1996.

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the Tuolumne County Health Department CUPA Application, May 3, 1996, and recent information provided by the CUPA.

Inspection and Other Staff:

- In 1996:
 - 3 Staff totaling 1.6 Full-Time Equivalent (FTE)
- Currently:
 - 1 Staff at 0.529 FTE
 - Note: Information provided indicates that the CUPA has 1.5 FTE budgeted for inspector positions and 1 vacant inspector position on the organizational chart.

Supervisory and Management Staff

- In 1996:
 - 1 Staff at 1 FTE
 - Note: Position covers entire Environmental Health Division, not just the CUPA Program. An FTE breakdown for the CUPA program was not provided for this position in the original application.
- Currently:
 - 1 Staff at 0.049 FTE

While additional program element responsibilities have been incorporated into the implementation of the Unified Program and the number of facilities regulated by the CUPA has changed since the CUPA applied for certification in 1996, the full-time equivalent of inspection

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and supervisory personnel has notably decreased by approximately 1 FTE (excluding vacant positions).

RECOMMENDATION:

The comparison of the implementation of the program upon certification with present-day circumstance reveals that, at present, CUPA performance appears to be hindered by staffing resources as related to the total number of regulated facilities and/or the implementation of Unified Program elements. This evaluation revealed that the CUPA is deficient in maintaining inspection frequency and obtaining RTC for most program elements. In addition, a number of findings related to the administrative implementation of the CUPA program were assessed.

Recent evaluations of similarly-sized rural CUPAs, both in the vicinity of Tuolumne County and elsewhere within the state, have revealed comparable findings with respect to staffing resources as they relate to program implementation. Likewise, there is a noticeable implementation gap between those rural CUPAs which receive Rural Reimbursement Grant (RRG) funding from the State versus those that do not. In general, though, Tuolumne CUPA's current staffing resources align more closely with those of a CUPA that oversees about 100-150 fewer facilities within their jurisdiction. As such, filling the vacant inspector position will assist in ensuring there is enough staffing bandwidth as a resource to address the identified deficiencies and incidental findings, while improving the overall implementation of the six Unified Program elements.
