



Gavin Newsom  
Governor

Jared Blumenfeld  
Secretary for Environmental Protection

November 17, 2021

Mr. Greg Plucker  
Community Development Director  
Colusa County Environmental Health  
146 7<sup>th</sup> Street  
Colusa, California 95932-2112

Dear Mr. Plucker:

During March 2019 through July 2019, CalEPA and the state program agencies conducted a performance evaluation of the Colusa County Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, 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. The report also includes examples of outstanding Unified Program implementation. 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 satisfactory with improvement needed.

CalEPA recognizes the delay with issuing the final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in April 2022, there is sufficient time for submittal and review of two Evaluation Progress Reports, although the timeframe for completion of corrective actions and resolutions outlined in the Summary of Findings report may extend beyond the remaining time period available for the Evaluation Progress Report process before the subsequent CUPA Performance Evaluation begins.

The CUPA is required to submit the first Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings report. The Evaluation Progress Report must be submitted to the CalEPA Team Lead, Timothy Brandt, at [Timothy.Brandt@calepa.ca.gov](mailto:Timothy.Brandt@calepa.ca.gov).

The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in anticipated subsequent Progress Reports have

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been completed and addressed at present, or in advance. Any deficiencies that remain uncorrected, and any incidental findings that remain unresolved will be incorporated into the next CUPA Performance Evaluation.

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

If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov).

Sincerely,



Jason Boetzer  
Assistant Secretary  
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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Mr. Timothy Brandt  
Environmental Scientist  
California Environmental Protection Agency

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

**CUPA: Colusa County Environmental Health**

**Evaluation Period: March 2019 – July 2019**

### **Evaluation Team Members:**

- **CalEPA Team Lead:** Timothy Brandt, Christopher Moon
- **DTSC:** Asha Arora, Matthew McCarron
- **Cal OES\*:** Denise Gibson
- **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
- Examples of outstanding program implementation

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the CUPA's Unified Program implementation and performance is considered satisfactory with improvement needed.

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

**Tim Brandt**

Phone: (916) 323-2204

E-mail: [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov)

CalEPA recognizes the delayed issuance of this final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in **April 2022**, there is sufficient time for submittal and review of two Evaluation Progress Reports, although the timeframe for completion of corrective actions may extend beyond submittal of the first and second Evaluation Progress Reports.

The CUPA is required to submit the first Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report, no later than **January 23, 2022**, and the second Evaluation Progress Report 90 days thereafter, no later than **April 25, 2022**. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead at [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov).

The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in anticipated subsequent Progress Reports have been completed and addressed at present, or in advance. Any deficiencies that remain uncorrected or incidental findings that remain unresolved will be incorporated into the next CUPA Performance Evaluation.

\*Effective July 1, 2021, oversight of the Hazardous Materials Release Response Plans and Inventory and the California Accidental Response Prevention Program transitioned from Cal OES to CalEPA.

# 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.

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#### 1. DEFICIENCY:

The CUPA is not properly classifying Hazardous Waste Generator (HWG) Program and Aboveground Petroleum Storage Act (APSA) Program violations.

Review of facility files and inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, from the California Environmental Reporting System (CERS) indicates the CUPA is classifying Class I or Class II HWG Program and APSA Program violations as minor violations in the following instances:

HWG Program examples include, but are not limited to:

- Violation for exceedance of authorized accumulation time 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 (HSC), Section 25404(a)(3).
  - CERS ID 10191703: a small quantity generator (SQG), inspection dated March 3, 2017
  - CERS ID 10191175: an SQG facility, inspection dated June 6, 2018
  - CERS ID 10191361: an SQG facility, inspection dated June 13, 2018
  - CERS ID 10191745: an SQG facility, inspection dated August 28, 2018
  - CERS ID 10191385: an SQG facility, inspection dated September 6, 2018
  - CERS ID 10191694: inspection dated April 4, 2019
  - CERS ID 10191637: inspection dated April 9, 2019
- Violation for failure to conduct daily inspections of tanks and retain records was incorrectly cited as a minor violation. Failure to conduct daily tank inspections is a deviation from the requirements that is significant enough that it could result in a failure to assure early detection of releases of hazardous waste or constituents and meets the criteria for a Class I violation as provided in CCR, Title 22, Section 66260.10. In addition, not retaining records of daily inspections of tanks hinders the CUPA's ability to determine compliance, and therefore does not meet the definition of a minor violation as defined in HSC, Section 25404(a)(3). Violation for failure to conduct daily inspections of tanks and retain records should therefore not be cited as a minor violation.
  - CERS ID 10191442: a large quantity generator (LQG) facility, inspection dated July 19, 2018

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

#### DEFICIENCIES REQUIRING CORRECTION

- Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. Since no training had been provided, employees are not familiar with hazardous waste management and handling, including how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3).
  - CERS ID 10152587: a LQG facility, inspection dated May 19, 2016

APSA Program examples include, but are not limited to:

- Not having or failure to prepare a Spill Prevention, Control, and Countermeasure (SPCC) Plan was cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment, and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of minor violation as defined in HSC Section 25404(a)(3). Classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (EPA).
- Fiscal Year (FY) 2015/2016 through FY 2017/2018
  - 6 of 8 (75%) violations for not having, or failure to prepare, an SPCC Plan were classified as minor.

Note: The Federal SPCC Rule is not delegated to any state. However, the APSA Program requires consistency and compliance with the Federal SPCC Rule for SPCC Plan preparation and implementation, as well as consistency with Federal enforcement guidance.

#### **CITATION:**

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6  
HSC, Chapter 6.11, Sections 25404(a)(3) and 25404.2(a)(3-4)  
HSC, Chapter 6.67, Sections 25270.4.1(c) and 25270.4.5(a)  
CCR, Title 22, Sections, 66260.10  
CCR, Title 27, Section 15200(a) and (e)  
[DTSC, OSFM]

#### **CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will train inspection staff on violation classification, including review of the following:

- the definition of minor, Class I, and Class II violations
  - HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6;
  - HSC, Chapter 6.11, Section 25404(a)(3); and
  - CCR, Title 22, Section 66260.10

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

- how to properly classify HWG Program and APSA Program violations during inspections
  - [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)  
<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)  
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
  - [U.S. EPA Civil Penalty Policy for Section 311\(b\)\(3\) and Section 311\(j\) of the Clean Water Act, August 1998](https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html) for SPCC violations  
[https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998\\_.html](https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html)

The CUPA will provide training documentation to CalEPA that will include, but is not limited to, an outline of the training conducted and a list of CUPA personnel in attendance.

Once training of staff is complete, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with the inspection report for three HWG Program facilities inspected after training occurred, citing at least one HWG violation. If possible, an inspection report with a violation cited for exceedance of authorized accumulation time and/or failure to conduct daily inspections of tanks and retain records will be provided.

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## 2. DEFICIENCY:

The CUPA is not consistently including adequate observations, factual basis, and corrective actions for each violation cited on HWG Program inspection reports and Notices to Comply.

Review of facility file information finds inspection report documentation for the following inspections was inadequate or improper for the following facilities:

- CERS ID 10191703: Inspection report dated March 3, 2017, lists the following violations:
  - “Keep containers closed when not in use,”
  - “Waste needs to be picked up every 180 days from start date of accumulation,” and
  - “Label universal waste (batteries and fluorescent tubes).”

The following information for each violation is missing:

- the number of open containers;
- the type of hazardous wastes in each of the containers;
- what types of wastes were stored beyond the accumulation date;
- how long the waste had been held beyond allowable timeframes; and
- the number of universal waste containers were not labeled.



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**DEFICIENCIES REQUIRING CORRECTION**

- CERS ID 10191157: Inspection report dated February 2, 2017, lists seven violations, however only the following four violations identified on the inspection report were entered into CERS:
  - EPA ID number re-activation;
  - failure to provide manifests for used oil;
  - container labelling; and
  - open used oil containers.

Additional violations identified in the inspection report include:

- containers not in good condition (GC01);
- waste accumulation beyond allowed timeframes (GA01);
- no manifest for used oil filters (GA05);
- used oil filters not marked correctly (GL04);
- “used oil” not marked on used oil containers (GL06); and
- waste not sent with authorized transport (GT02).

There is insufficient information in the inspection report to document observations, factual basis, and corrective actions for the violations, such as:

- the number of containers open or where labels were illegible;
- how long used oil and filters were accumulated past acceptable timeframes;
- the number of containers of used oil and drained used oil filters that were incorrectly marked; and
- what wastes were illegally transported (GT02).

A reinspection conducted on March 17, 2017, indicates the same seven violations that were cited during the February 2, 2017, inspection, however the violations were not upgraded to Class II violations.

- CERS ID 10191745: Inspection report dated November 17, 2016, cites one violation for container labeling (GL01) and states, “Used oil needs to be its own waste stream” and “Contact Safety Kleen for parts cleaner.” In CERS, the same inspection notes a violation issued for Hazardous Waste Determination with the comment, “Used absorbent needs to be managed properly.” The CUPA did not document the observations, factual basis, and corrective actions for the violation on the inspection report, therefore, there is insufficient information to determine if the correct violation is reflected on the inspection report, or in CERS

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- CERS ID 10191280: Inspection report dated April 3, 2017, lists the following four violations:
  - Inactive EPA ID #;
  - Containers not properly labelled;
  - “Used oil” marked on all used oil tanks/containers; and
  - Tank marked with “hazardous waste”, contents, start date.

Two of four (50%) violations were entered into CERS (Inactive EPA ID # and Containers not properly labeled). The container violation in the inspection report states, “Properly label hazardous waste drums. All drums in hazardous waste oil containment area are missing labels.” There is no information in the inspection report or a violation in CERS identifying a tank. There is insufficient information regarding how many containers and/or tanks were unlabeled.

This deficiency was identified during the 2016 CUPA Performance Evaluation and was considered corrected during the Progress Report process.

**CITATION:**

HSC, Chapter 6.5, Section 25185(c)(2)(A)  
[DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide inspection report writing training to each CUPA inspector to ensure that all violations cited in HWG inspection reports and Notices to Comply include consistent and adequate observations, factual bases, and corrective actions. The “Inspection Report Writing Guidance For Unified Program Agencies” may be used to conduct the training (<http://www.calepa.ca.gov/CUPA/Documents/Inspection/InspectionRpt.pdf>.) The CUPA will provide CalEPA with training documentation that will include, at minimum, an outline of the training conducted and a list of CUPA personnel in attendance.

By the 2<sup>nd</sup> Progress Report, the CUPA will provide CalEPA with five HWG inspection reports, citing at least one HWG violation, for inspections conducted after training occurred and within the last three months. The inspection reports provided will contain consistent and adequate observations, factual basis, and corrective actions for each violation cited.

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**3. DEFICIENCY:**

The CUPA has not fully developed and implemented the HWG Program. Failure to properly implement the HWG Program could affect California’s ability to maintain Resource Conservation and Recovery Act (RCRA) authorization.

The HWG program requirements have not been implemented as follows:

- The CUPA is not regulating all facilities subject to the HWG Program.

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**DEFICIENCIES REQUIRING CORRECTION**

- The CUPA has not identified all HWG facilities operating within the CUPA's jurisdiction.
  - Review of the DTSC Hazardous Waste Tracking System (HWTS) and Transporter Quarterly Reports (TQRs) finds the following facilities are generating waste within the CUPA's jurisdiction with an EPA ID# and are not in CERS:
    - EPA ID# CAL000157522: TQRs indicate large amounts of oil shipped from this facility with an inactive EPA ID#. Note: This facility is in CERS and is being regulated by the Glenn County CUPA.
    - EPA ID# CAL000357264: this facility is shipping used oil with an inactive EPA ID#. Note: This facility is in CERS and is being regulated by the Glenn County CUPA.
    - EPA ID# CAL000416038: this facility is shipping large amounts of used oil with an inactive EPA ID#.
    - EPA ID# CAL000226235: this facility is shipping used oil with an inactive EPA ID#.

This deficiency was identified during the 2016 CUPA Performance Evaluation and was considered corrected during the Progress Report process.

**CITATION:**

CCR, Title 27, Sections 15100 (b)(3), and 15200(a)(3)(A)  
[DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to fully implement the HWG program. The action plan will require the CUPA to review active EPA ID#s in the HWTS, the TQRs, and facilities in CERS that report being HWGs.

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**4. DEFICIENCY:**

The Underground Storage Tank (UST) Operating Permit, issued under the Unified Program Facility Permit (UPFP), does not contain all required elements.

Review of UST Operating Permits, issued under the UPFP, finds the following required elements are missing:

- Monitoring requirements
- Permit conditions for the UST system
- Tank Identification
- CERS Identification

Review of the UST Operating Permit, issued under the UPFP, finds it requires the UST operating permit to be displayed on the facility premises.

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**DEFICIENCIES REQUIRING CORRECTION**

Note: Effective January 1, 2017, Title 23 includes revisions for permit conditions in Section 2712(c). Specifically, Section 2712(c) now allows permits to be retained electronically or physically at the facility and requires permits to include the CERS identification number.

Note: Reference State Water Board correspondence dated April 7, 2017, "Amended Requirements for Unified Program Facility Permits Effective January 1, 2017."

**CITATION:**

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

**CORRECTIVE ACTION:**

During the evaluation, the CUPA provided five revised UST Operating Permits, each issued under a UPFP. The revised UST Operating Permit template, issued under the UPFP template, still needs revision. The State Water Board will work with the CUPA to address the remaining errors needing correction in the UST Operating Permit template during the 1<sup>st</sup> Progress Report.

By the 2<sup>nd</sup> Progress Report, the CUPA will amend the UST Operating Permit template, issued under the UPFP template, based on feedback from the State Water Board, and will provide the amended UST Operating Permit template to CalEPA.

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**5. DEFICIENCY:**

The CUPA is not consistently requiring UST facilities to submit annual maintenance activities on the required Monitoring System Certification Form.

Review of facility file information finds the required UST Monitoring System Certification Form was not utilized and submitted to the CUPA by the following UST facilities:

- CERS ID 10191163
- CERS ID 10412950
- CERS ID 10191151

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

**CITATION:**

CCR, Title 23, Section 2638(c)  
[State Water Board]

**CORRECTIVE ACTION:**

During the evaluation, the CUPA provided three annual monitoring certifications and an updated Inspection & Enforcement (I&E) Plan. Review of the provided annual monitoring certifications finds the CUPA is now accepting the Annual Monitoring Certification on the proper format identified in Title 23, Section 2638(c). The State Water Board will review the updated I&E Plan to ensure it addresses use of the correct annual maintenance form and incorporates a procedure for

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**DEFICIENCIES REQUIRING CORRECTION**

rejecting any annual maintenance activity on an incorrect form. The State Water Board will work with the CUPA to address any need for further revision of the I&E Plan during the 1<sup>st</sup> Progress Report.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, revise the I&E Plan, based on feedback from the State Water Board and provide the revised I&E Plan to CalEPA.

By the 3<sup>rd</sup> Progress Report, the CUPA will train personnel on the revised I&E Plan and will provide training documentation to CalEPA. Training documentation will include, and not be limited to an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan and provide two annual monitoring certifications to CalEPA.

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**6. DEFICIENCY:**

The CUPA is not consistently conducting complete annual UST compliance inspections.

Review of facility files and CERS CME information finds:

- The CUPA is not consistently requiring a UST system to be visible during the annual inspection if the CUPA cannot be on site for the annual monitoring certification.

Note: Refer to Local Guidance letter 159, "Annual Underground Storage Tank Compliance Inspection," and State Water Board correspondence dated November 29, 2016, "When to Review Underground Storage Tank Records."

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

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised I&E Plan that incorporates a description of activities performed by CUPA personnel to ensure complete annual UST compliance inspections are conducted, including but not limited to:

- Having visible access to inspect all underground areas to perform a complete annual inspection;
- CUPA personnel requirements for review and follow-up of submitted UST testing reports as part of the inspection process;
- How to conduct an annual UST inspection in the instance when CUPA personnel is on-site to witness the annual UST monitoring certification and visually confirm all UST components are in compliance;
- How to conduct an annual UST inspection in the instance when CUPA personnel is not on-site and cannot witness the annual UST monitoring certification and still maintain the requirement to visually confirm all underground areas are in compliance; and

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**DEFICIENCIES REQUIRING CORRECTION**

- An annual UST inspection checklist

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the I&E Plan based on feedback from the State Water Board and will provide the amended I&E Plan to CalEPA.

By the 3<sup>rd</sup> Progress Report, the CUPA will train personnel on the revised I&E Plan and will provide training documentation to CalEPA. Training documentation will include, but is not limited to an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the new I&E Plan.

By the 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide five facility records, as selected by the State Water Board, including but not limited to: UST compliance inspection reports, monitoring certifications, testing and leak detection documents, and other associated compliance documentation.

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UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**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.

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**1. INCIDENTAL FINDING:**

The I&E Plan has inaccurate information and is missing a required component.

The following information is inaccurate:

- Page 2 - the inspection frequency for the “PBR Household Hazardous Waste Facilities” is listed as once every three years and incorrectly cites HSC 25201.4(b)(2). HSC 25201.4(b)(2) should not be cited as household hazardous waste facilities do not have a statutorily required inspection timeframe.

The following information is missing:

- Page 9 – the provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory are missing. The requirements of CCR, Title 27 are not met by requesting the facility to take samples. The CUPA must have its own capability to take samples and send the samples to a state certified lab for analysis in order to proceed with any successful enforcement actions.

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review, revise, and provide CalEPA with the I&E Plan. The CUPA will ensure that staff have the capability to obtain and send any samples taken to a state certified lab for analysis.

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**2. INCIDENTAL FINDING:**

The CUPA’s UST Closure Document does not document, in sufficient detail, whether the UST owner or operator has demonstrated to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

Review of facility files finds the CUPA did not document, in sufficient detail, to the satisfaction of the CUPA, that tank closure complied with statute and regulations and that closure records are maintained for the following facility:

- CERS ID 10128262

Note: The example provided above may not represent all instances of this incidental finding.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**CITATION:**

CCR, Title 23, Section 2672(d)

CCR, Title 27, Sections 15180(e)(2) and 15185(a) and (c)(3)

[State Water Board]

**RESOLUTION:**

During the evaluation, the CUPA provided an updated UST closure letter for review. The State Water Board will work with the CUPA to address the need for further revision of the UST closure letter during the 1<sup>st</sup> Progress Report.

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised UST Closure Document that describes how the CUPA will document, in sufficient detail, whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC. The procedure will also address how the CUPA will maintain closure records as required by statute and regulation.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the UST Closure Document, based on feedback from the State Water Board, and will provide the amended UST Closure Document to CalEPA.

By the 2<sup>nd</sup> Progress Report, the CUPA will revise the UST closure letter and provide the revised UST closure letter to CalEPA.

By the 3<sup>rd</sup> Progress Report, the CUPA will implement and train personnel on the revised or amended UST Closure Document and will provide training documentation to CalEPA. Training documentation will include, but not be limited to, an outline of the training conducted and a list of CUPA personnel in attendance.

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the revised or amended UST closure document and will provide the documentation upon request. To demonstrate correction of this deficiency, for the next two tank removals, or closures in place, all closure records (including documentation demonstrating the CUPA's satisfaction tank closure, removal, and soil sampling complies with statute and regulation) shall be provided to the State Water Board within 15 days of the completed closure.

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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.

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**1. OBSERVATION:**

The CUPA regulates some farms. Effective January 1, 2016, Senate Bill (SB) 612 aligned the applicability threshold for farms with that of the Federal SPCC rule, which has increased to 2,500 gallons of oil or 6,000 gallons of oil (with no reportable discharge history) per the Federal Water Resources Reform and Development Act (WRRDA) of 2014.

More information on farms under APSA may be found on the [OSFM APSA farms website](https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/) (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/>) and more information on farms under the Federal SPCC rule may be found on the [U.S. Environmental Protection Agency website](https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc) (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>).

**RECOMMENDATION:**

Review conditionally exempt tank facilities at farms, verify if the total oil storage capacity meets the WRRDA thresholds, and determine if the facilities are still regulated as conditionally exempt tank facilities under APSA.

Farms that are no longer regulated under APSA due to SB 612 oil applicability thresholds should be identified in CERS as “APSA Not Applicable.” The CUPA is encouraged to change the CERS APSA facility reporting requirement from “Applicable” to “Not Applicable” for such farms.

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**2. OBSERVATION:**

The CUPA’s Hazardous Materials & Waste (CUPA) webpage at:

<https://www.countyofcolusa.org/index.aspx?NID=426> contains inaccurate or outdated information, or may benefit from improvement.

- In the Aboveground Petroleum Storage Tank Program section, the information provided regarding APSA regulated facility petroleum storage thresholds needs to be updated to reflect recent tank in an underground area (TIUGA) related statute updates. Also, the APSA conditional exemption statements need clarification to properly associate the stated petroleum storage volume thresholds with the exemption from the APSA requirement to prepare an SPCC plan, while noting that the facility is still APSA regulated, and must meet

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the three conditions pertaining to the APSA conditional exemption as described in HSC 25270.4.5(b).

- The submittal of a Tank Facility Statement to CERS is required, unless a complete HMBP has been submitted to CERS. A complete HMBP includes the chemical inventory, site map, and emergency response and training plans.
- SPCC Plan preparation requirement thresholds need refinement to properly state the federal oil (not APSA petroleum) thresholds related to Tier I and Tier II qualified facility SPCC Plan template utilization.
- Tier II qualified facilities can self-certify using the OSFM Tier II qualified facility SPCC Plan template.

**RECOMMENDATION:**

Update the website, including adding information related to tank facilities with TIUGAs that are now regulated under APSA.

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**3. OBSERVATION:**

The CUPA does not utilize a comprehensive APSA inspection checklist, nor does the CUPA use specific checklists applicable to the APSA tank facility type being inspected. The CUPA uses a single APSA inspection checklist that contains 39 violations. The current APSA violation library in CERS contains many additional APSA violations.

The CUPA was provided the 2017 APSA TAG inspection checklists, consisting of a separate inspection checklist for use at Conditionally Exempt facilities, Tier I qualified facilities, Tier II qualified facilities, and professional engineer-certified SPCC plan facilities.

**RECOMMENDATION:**

Utilize the most recent comprehensive APSA inspection checklists, which are available from the calcupa.org website (<https://calcupa.org/inspection-checklist/index.html>) and ensure the checklist used is applicable to the APSA tank facility being inspected.

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**4. OBSERVATION:**

Review of the I&E Plan finds the CUPA has included the new statutory requirements for red tags, however the authority to empty UST(s) upon directive of the CUPA was not included.

**RECOMMENDATION:**

Consider revising the I&E Plan to include the red tag provision for emptying USTs, if the CUPA would like to use this option in the future.

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**5. OBSERVATION:**

Review of CERS finds the following UST systems within the jurisdiction of the CUPA may need to be permanently closed by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10412950 (Tank IDs 1 - 3)
- CERS ID 10420180 (Tank IDs 04 - 06)

Note: The examples above may not represent all UST systems which may need to be permanently closed by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05.

Note: U.S. EPA and the State Water Board now fund two full-time contractors to specifically assist single-walled tank owners/operators. By encouraging UST owners to remove and replace single-walled tanks and piping well in advance of the December 2025, deadline will help to prevent contractor shortages, unmanageable permitting workloads, and UST abandonment.

**RECOMMENDATION:**

Continue to provide verbal and written reminders to UST facility owners/operators and consider providing written notification of the December 31, 2025, requirements for permanent closure of single-walled USTs. The notification should inform the facility owners/operators that, in order to stay in compliance and avoid fines, owners/operators must replace or remove single-walled USTs by December 31, 2025. Additional information about the single-walled UST closure requirements may be found at: [https://waterboards.ca.gov/ust/single\\_walled.html](https://waterboards.ca.gov/ust/single_walled.html).

The facility owners/operators should be notified 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 tanks. More information on funding sources is available at:

[https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html).

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**6. OBSERVATION:**

The CUPA covers 30-40% of the cost to implement the Unified Program with revenue collected from surcharges, fees, and funding received from non-CUPA grants. Though the desire to raise fees in order to become less reliant on funding from non-CUPA grant sources has been expressed to the Board of Supervisors, it is not supported. Relying on funding generated from non-CUPA programs and services to implement the Unified Program is concerning. It is advisable that as much funding for the CUPA be generated by the CUPA ensuring higher self-sufficiency reliance.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**RECOMMENDATION:**

As CUPA fees have not been adjusted since 2008, continue to work with the Board of Supervisors to obtain support for increasing CUPA fees in order to significantly reflect an effective cost recovery mechanism and to ensure efficiency and self-reliance on funding to implement the program. It is also recommended that the CUPA conduct a comprehensive fee study to determine current and actual costs for implementing the Unified Program.

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**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

Examples of outstanding program implementation highlight efforts and activities of the CUPA that are considered above and beyond the standard expectations for implementation of the Unified Program.

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**1. CERS REVIEW PROCESS**

The CUPA has implemented a CERS HMBP submittal review process that supports the regulated business community in maintaining compliance with the annual requirement to provide HMBP submittals to CERS. The CUPA conducts a periodic CERS review to identify facilities with upcoming HMBP submittal reporting due dates. Facilities are then contacted by CUPA staff via phone or email and reminded of the upcoming HMBP submittal date. Facilities are provided the opportunity for CUPA staff to assist with preparing HMBP submittals via phone, or in the office.

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