

November 2, 2020

Ms. Heidi Kunstal, Director
County of Del Norte Environmental Health Division
981 H Street, Suite 110
Crescent City, California 95531-3415

Dear Ms. Kunstal:

During June through August, 2020, CalEPA and the state program agencies conducted a performance evaluation of the County of Del Norte Environmental Health Division 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. 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.

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 (January 8, 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.

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

Ms. Heidi Kunstal
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If you have any questions or need further assistance, please contact Melinda Blum at Melinda.Blum@calepa.ca.gov or John Paine, Unified Program Manager, at John.Paine@calepa.ca.gov.

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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cc sent via email:

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Mr. John Paine
Unified 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: County of Del Norte Environmental Health Department

Evaluation Period: June 2020 – August 2020

Evaluation Team Members:

- **CalEPA Team Lead:** Tim Brandt
- **DTSC:** Kevin Abriol
- **Cal OES:** Jack Harrah, Denise Gibson
- **State Water Board:** Jessica Botsford & Wesley Franks (Shadowing)
- **CAL FIRE-OSFM:** Joann Lai, 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 improvements needed.

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

Timothy Brandt
CalEPA Unified Program
P.O. Box 2815
Sacramento, CA 95812
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 each deficiency and 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: January 8, 2021
3rd Progress Report: July 8, 2021

2nd Progress Report: April 8, 2021
4th Progress Report: October 8, 2021

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
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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 consistently or correctly reporting complete and accurate compliance, monitoring and enforcement information, also known as CME information, to the California Environmental Reporting System (CERS) for the Hazardous Waste Generator (HWG) Program and Aboveground Petroleum Storage Act (APSA) Program.

The following are examples of HWG Program inspections not reported in CERS:

- CERS ID 10403836: Inspection dated September 17, 2017
- CERS ID 10445164: Inspection dated October 18, 2017
- CERS ID 10504711: Inspection dated September 26, 2018
- CERS ID 10504714: Inspection dated October 19, 2018
- CERS ID 10190620: Inspection dated March 6, 2019
- CERS ID 10324798: Inspection dated November 7, 2019
- CERS ID 10019728: Inspection dated May 27, 2020
- CERS ID 10458907: Inspection dated May 28, 2020

The CUPA is not properly using the correct HWG CERS violation type number or is combining multiple HWG violations into one HWG violation type number as indicated by the following HWG inspections:

- The CUPA cited the following facilities with violation type number 3030007 (Failure to properly label hazardous waste containers), when violation type number 3030004 (Failure to properly manage used oil and/or fuel filters in accordance with the requirements) should have also been cited:
 - CERS ID 10190469: Inspection dated March 22, 2017
 - CERS ID 10190479: Inspection dated November 20, 2018
 - CERS ID 10197523: Inspection dated July 16, 2018
 - CERS ID 10197340: Inspection dated November 8, 2017
- The CUPA cited violation type number 3030009 (Failure to dispose of acutely hazardous waste within 90 days), when violation type number 3030010 (Failure to dispose of hazardous waste within 180/270 days) or violation type number 3030007 (Failure to properly label hazardous waste containers) should have been cited:
 - CERS ID 10623301: Inspection dated December 13, 2018

The following are examples of APSA Program inspections and/or violations not reported in CERS:

- CERS ID 10592449: Reinspection dated July 27, 2018, documents one violation. CERS has no record of the reinspection nor the violation.

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- CERS ID 10197340: Inspection dated November 8, 2017, documents four violations. CERS has record of the inspection and one violation.
- CERS ID 10423456: Inspection dated November 13, 2017, documents five violations. CERS has no record of this inspection nor the violations.
- CERS ID 10469200: Inspection dated August 27, 2017, documents eight violations. CERS has record of the inspection and seven violations.
- CERS ID 10495939: Inspection dated July 23, 2018, documents 32 violations and three additional violations considered 'undetermined.' CERS has record of the inspection and 27 violations.
- CERS ID 10495987: Inspection dated July 23, 2018, documents 32 violations. CERS has record of the inspection and 28 violations.

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

Note: This deficiency was identified and corrected during the 2017 CUPA Performance Evaluation.

CITATION:

Health and Safety Code (HSC), Chapter 6.11, Section 25404(e)(4)
California Code of Regulations (CCR), Title 27, Sections 15187(c) and 15290(b)
[CalEPA, DTSC, OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan for reporting HWG Program and APSA Program CME information consistently and correctly to CERS. The action plan will include, at minimum, the following:

- Identification of the cause(s) for missing or incorrect HWG Program and APSA Program CME information reported to CERS;
- Revision to the existing CME component of the data management procedures to address the identified cause(s) of missing or incorrect HWG Program and APSA Program CME information reported to CERS and to ensure CUPA personnel consistently and correctly report CME information to CERS;
- Identification of HWG Program and APSA Program CME information not previously reported, or reported incorrectly, to CERS from July, 2017, through present;
- A process for reporting and correcting HWG Program and APSA Program CME information identified as not being reported, or reported incorrectly, to CERS, including any HWG Program or APSA Program CME information for any revised inspection reports; and
- Future steps to ensure all HWG Program and APSA Program CME information is reported consistently and correctly to CERS.

By the 2nd Progress Report, the CUPA will implement and train personnel on the revised CME component of the data management procedures. The CUPA will provide training documentation to CalEPA which will include, at minimum, an outline of the training conducted and a list of CUPA personnel in attendance.

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By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a copy of an inspection report for an inspection conducted during the previous three months or Return to Compliance (RTC) documentation obtained during the previous three months for up to three HWG Program facilities as requested by DTSC and for up to three APSA Program facilities as requested by OSFM.

By the 4th Progress Report, the CUPA will consistently and correctly report all current and previous HWG Program and APSA Program CME information to CERS.

2. DEFICIENCY:

The CUPA is not adequately implementing the California Accidental Release Prevention (CalARP) Program.

- The CUPA has only recently obtained a Risk Management Plan (RMP) from a long existing stationary source.
- The CUPA has not reviewed its stationary source's RMP pursuant to CCR, Title 19, Section 2745.2.
- The CUPA has not assigned a program level to its stationary source.
- The CUPA did not complete performance audits.
- The CUPA has not performed a CalARP inspection on its stationary source.

CITATION:

HSC, Chapter 6.95, Section 25533(d)

CCR, Title 19, Section 2780.2

[Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure the CalARP Program is adequately implemented. At minimum, the action plan will include:

- A timeline for review of its stationary source's RMP pursuant to CCR, Title 19, Section 2745.2;
- Assignment of a program level to its stationary source's process;
- An estimated date for conducting a CalARP inspection for its stationary source.
- A performance audit, pursuant to CCR, Title 19, Section 2780.5.

By the 2nd Progress Report, the CUPA will provide documentation to CalEPA that the implementation of the action plan has commenced.

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DEFICIENCIES REQUIRING CORRECTION

3. DEFICIENCY:

The CUPA is not inspecting each facility subject to Hazardous Materials Release Response Plan and Hazardous Materials Inventory reporting, also known as Hazardous Materials Business Plan (HMBP) requirements at least once every three years.

- CERS indicates 42 of 144 (29%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an action plan to ensure each facility subject to HMBP requirements is 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 the number of facilities subject to HMBP requirements that have been inspected during the previous quarter.

By the 5th Progress Report, the CUPA will have inspected each facility subject to HMBP requirements at least once in the last three years.

4. DEFICIENCY:

The CUPA is not ensuring that a complete HMBP has been submitted to CERS within the past year for each facility subject to HMBP requirements.

- CERS indicates 23 of 144 (16%) facilities subject to HMBP requirements have no chemical inventories submitted within the past year.
- CERS indicates 27 of 144 (19%) facilities subject to HMBP requirements have no emergency response and training plans submitted within the past year.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that a complete HMBP has been submitted to CERS within the past year for each facility subject to HMBP requirements.

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DEFICIENCIES REQUIRING CORRECTION

By the 4th Progress Report, the CUPA will ensure that a complete HMBP has been submitted to CERS within the past year for each facility subject to HMBP requirements, or the CUPA will initiate appropriate enforcement.

5. DEFICIENCY:

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

Review of HMBPs provided in lieu of a tank facility statement in CERS indicates:

- Nine of 31 (29%) have no chemical inventory and/or site map submitted within the past year.
- 11 of 31 (35%) have no emergency response and employee training plans submitted within the past year.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide a list to CalEPA of 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.

With each subsequent Progress Report, the CUPA will update the list with the status of facility compliance.

By the 2nd Progress Report, the CUPA will follow-up with each APSA tank facility identified on the list to ensure an HMBP is submitted when an HMBP is provided in lieu of a tank facility statement.

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

6. DEFICIENCY:

The Underground Storage Tank (UST) operating permit and permit conditions, issued under the consolidated Unified Program Permit (UPP) are inconsistent with CCR, Title 23, Division 3, Chapter 16 and HSC, Chapter 6.7.

Review of the UST operating permit and permit conditions finds the following information is inconsistent:

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- UST Operating Permit condition number 2 specifies testing and maintenance documentation is required to be maintained on-site, however, such documentation is allowed to be either maintained on-site or off-site at a readily available location.
- UST Operating Permit condition number 6 specifies the owner or operator is required to notify the CUPA within 30 days of any change in substance stored, however notification is required 30 days prior to a change in substance stored.
- UST Operating Permit condition number 8 specifies automatic tank gauging records are to be maintained for one year and made available to the CUPA upon request, however, no authority exists to require automatic tank gauging records.
- UST Operating Permit conditions numbers 11 and 12 reference the hazardous materials business plan program, and no authority exists to include those provisions on the UST operating permit.
- CERS Facility identification numbers are not included on the UST operating permit as required.

CITATION:

HSC, Chapter 6.7, Section 25284 and 25285

CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), 2641(g) and (h) and Section 2712(h) and (i)

CCR, Title 27, Section 15110(q)

[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised consolidated UPP template that addresses the identified UST Program statutory and regulatory inconsistencies of the UST operating permit and permit conditions.

By the 2nd Progress Report, the CUPA will, if necessary, amend the UST operating permit portion of the consolidated UPP template based on feedback from the State Water Board, and will submit the revised UPP to CalEPA.

As a result of the CUPA five-year permitting cycle, the State Water Board will consider this deficiency corrected upon completion and acceptance of the revised UPP template, which will include the revised UST operating permit and permit conditions. Issuance of the revised UST operating permit under the consolidated UPP will be verified during the next CUPA Performance Evaluation.

7. DEFICIENCY:

The local ordinance is inconsistent with UST Program statutory and regulatory requirements.

The inconsistencies include, but are not limited to, the following:

- Definitions outlined in section 7.25.020 are inconsistent with those found in UST regulations and statute.

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- Definitions outlined in section 7.25.020 (P) include exclusions not authorized in UST regulations and statute, and are, therefore, less stringent.
- The design standards and monitoring for new facilities outlined in section 7.52.030 (A)(7) includes elements that are inconsistent with provisions of UST regulations and statute, and are, therefore, less stringent.
- The monitoring for existing facilities outlined in section 7.52.040 (B) & (C), includes elements that are inconsistent with provisions of UST regulations and statute, and are, therefore, less stringent.
- The permit application provisions outlined in sections 7.52.070, 7.52.080, and 7.52.110 (A) include language that is inconsistent with provisions of UST regulations and statute.
- The contents of the permit provisions outlined in section 7.52.110 (B), includes references to a form, however, no such form is currently in use by the CUPA.

CITATION:

HSC, Chapter 6.7 Sections 25299.2 and 25299.3

CCR, Title 23, Section 2620(c)

CCR, Title 27, Sections 15100(b)(1)(C), 15160, 15330(a)(1) and (a)(2), 15280(c)(5) and 15150(c)(2)

[CalEPA, State Water Board]

CORRECTIVE ACTION:

Effective immediately, the CUPA will no longer implement provisions of the local ordinance that are less stringent or less consistent than UST regulations and statute.

By the 1st Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt the local ordinance to be consistent with UST regulations and statute. The plan shall include, at minimum, a timeline for drafting and adopting the ordinance, provisions for the CUPA to provide legal analysis of the ordinance to CalEPA and the State Water Board, and a draft of the revised local ordinance.

By the 2nd Progress Report, the CUPA will, if necessary, amend the plan for revision and adoption of the local ordinance, based on feedback from the State Water Board and CalEPA.

Considering the length of time required to draft and adopt local ordinances, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided the revised or amended plan as outlined above. During implementation of the plan, State Water Board and CalEPA must have an opportunity to review the CUPA's draft local ordinance. This opportunity allows the State Water Board and CalEPA to work with the CUPA to ensure the local ordinance is consistent with UST Program statutory and regulatory requirements, the CUPA certification approval, and meets all other legal requirements.

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DEFICIENCIES REQUIRING CORRECTION

8. DEFICIENCY:

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure, removal, and soil sampling complies with UST statutory and regulatory requirements.

- CERS ID 10720078: The letter provided by the CUPA to the UST owner or operator identifies that no further action is required in regard to cleanup, however, the letter does not identify whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure, removal, and soil sampling complies with UST statutory and regulatory requirements.

Refer to 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).

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 develop and provide CalEPA with a UST closure procedure or other applicable procedure, that establishes a process, which will include at minimum, how the CUPA will document in sufficient detail whether the owner or operator has demonstrated to the satisfaction of the CUPA that UST closure, removal, and soil sampling complies with UST statutory and regulatory requirements (i.e. correspondence, hardcopy, electronic media). In addition, the CUPA will provide CalEPA with a UST closure letter template. The CUPA may consider including the following language in the UST closure letter template: “the Del Norte County 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), subdivision (c) and CCR, Title 23, Section 2672(d).”

By the 2nd Progress Report, the CUPA will, if necessary, amend the UST closure procedure and/or UST closure letter template, based on feedback from State Water Board, and will submit the amended documents to CalEPA.

Currently, the CUPA only has one staff member who develops and implements the UST policies and program. Therefore, the corrective action will not include training or provision of training documentation. In the event the CUPA employs additional UST inspection staff, the CUPA will ensure the appropriate training occurs and document the training.

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

Opportunities to conduct UST closure activities are limited in the CUPA’s jurisdiction, therefore, the State Water Board will consider this deficiency corrected upon completion of the revised UST

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closure procedure and UST closure letter template. State Water Board will verify the CUPA is utilizing the revised UST closure procedure and issuing the revised UST closure letter template during the next CUPA Performance Evaluation.

9. DEFICIENCY:

The Unified Program administrative procedures have components which are incomplete or inconsistent.

The following components are incomplete:

- Public Participation procedures:
 - Page 25 of the administrative procedures document states, “Comments and complaints related to Unified Program performance may be relayed through the established Health and Social Services complaint process,” and is considered incomplete as there is no way to determine whether the established Health and Social Services complaint process includes provisions to ensure receipt and consideration of comments from regulated facilities and the public.
 - Page 24 of the administrative procedures document states, “Public hearings shall be conducted in a fashion consistent with established Del Norte County practice,” and is considered incomplete as there is no way to determine whether the established Del Norte County practice includes provisions to coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.
- Data management procedures:
 - The data management procedure does not indicate that Self-Audits will be retained for a minimum of five years.

The following components are inconsistent:

- Procedures for responding to requests for information from the public, from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.
 - The CUPA has two procedures:
 - Appendix 12B of the administrative procedures document, and
 - Page 8 of the Inspection and Enforcement (I&E) Plan under section 8. Data Management Procedure, subsection b) Public Request.
 - The procedure in Appendix 12B makes reference to the CUPA’s use of ENVISION software, which is inconsistent with information provided in the I&E Plan stating that all information is stored in a physical file and/or manually input into CERS.
- Procedures for forwarding HMRRP information dictate that the CUPA will provide access to the information collected in CERS, local information management systems, or local reporting portals to those agencies with shared responsibilities for protection of public health and the safety and the environment.
 - Though several local fire officials have access to CERS, the procedural document outlining how the CUPA forwards HMRRP information indicates local fire captains

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DEFICIENCIES REQUIRING CORRECTION

have been given access to the CalEPA Regulated Site Portal. Access should be given to CERS directly.

CITATION:

CCR, Title 27, Sections 15180(e), 15185(b) and 15185(f)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with a copy of the procedures that address the incomplete and inconsistent components identified in this deficiency.

By the 2nd Progress Report, the CUPA will, if necessary, revise the procedures based on feedback from CalEPA and will submit the revisions to CalEPA. If no revision is necessary, the CUPA will begin to implement the revised procedures.

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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:

The Inspection and Enforcement (I&E) Plan has missing, inconsistent or inaccurate information.

The following information is missing:

- 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.
 - The administrative procedures document has information of this nature included on Page 11; however, similar information is not found within the I&E Plan.

The following information is inconsistent or inaccurate:

- UST Reporting information outlined in Section 2(C) references Significant Operational Compliance, when Technical Compliance Rate is the current reporting format.
- UST record information in Section 3(H)(2) includes the code citation for CCR Title 23, section 2715(e), when the correct citation is CCR Title 23, section 2617(f).
- CERS information in Section 3(F)(6) references a CERS submittal period of January 1 to March 1 for all CUPA businesses, when the CERS submittal period is January 1 to December 31.
- Contents of the penalty matrix outlined in Section 6, Appendix A (2) specifies a penalty of less than \$500, when minimal penalties are no less than \$500.
- Page 47, the Hazardous Waste Penalty Matrix is outdated. HSC, Section 25189.2 and CCR, Title 22, Section 66272.62 were updated in 2018.
- Page 4, HSC Section 25537 should be added to the CalARP inspection authority. The HMRRP inspection authority listed as HSC Section 25508(a) should be HSC Sections 25511(a) and (b).
- Page 10, the minimum mandated inspection frequency time frame for the APSA program only references HSC Section 25270.5(a), although the CUPA also inspects APSA facilities with less than 10,000 gallons of petroleum. The APSA program minimum mandated triennial inspections of tank facilities applies to only 10,000 gallons or more of petroleum per HSC Section 25270.5(a). The CUPA inspects all APSA facilities including those that are less than 10,000 gallons of petroleum per HSC Section 25270.5(b).
- Page 10, the HMRRP inspection frequency given as HSC Section 25508(b) should be HSC Section 25511(b). Page 23, sub (4) HMRRP, HSC Section 25504(c) should be HSC Section 25505(a)(4). HSC Section 25505(e)(1) does not exist and should be replaced with HSC Section 25505(c).

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

- Page 38, HSC Sections 25514(a), 25514.3 and 25514.5(a) and (b) do not exist. For HMRRP enforcement, HSC Sections 25515.2, 25515.3, 25515.5 and 25515.6 should be included.
- Page 38, sub (2), CalARP, HSC Sections 25540.1, 25540.5 and 25541.3 should be included.
- Page 49, HSC Section 25514.5 does not exist and should be replaced with 25515.
- Page 50, HSC Section 25514.5 does not exist and should be replaced with 25515.3.

CITATION:

CCR, Title 23, Sections 2712(c) and 2713(c)
CCR, Title 27, Section 15200(a)
[CalEPA, Cal OES, DTSC, State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with a copy of the I&E Plan that addresses the missing, inconsistent, and inaccurate information identified in this deficiency.

By the 2nd Progress Report, the CUPA will, if necessary, amend the I&E Plan and provide it to CalEPA, based on feedback from CalEPA, Cal OES, DTSC, and the State Water Board.

2. INCIDENTAL FINDING:

The CUPA is not consistently ensuring UST related information in CERS is accurate and complete.

Review of the UST Facility/Tank Data Download report obtained from CERS on May 11, 2020, indicates:

- Four of 37 (11%) USTs identified with double-wall pressurized product pipe, incorrectly show having no mechanical or electronic line leak detector
- Four of 37 (11%) USTs identified with double walled pressurized product pipe, incorrectly show having no continuous interstitial monitoring
- Eight of 37 (22%) USTs show as having no striker plate/bottom protectors

Note: The inaccuracies identified above include the same site-specific inaccuracies provided in Observation #3 of the 2017 CUPA Performance Evaluation, as well as inaccuracies identified during this CUPA Performance Evaluation.

Review of CERS ID 10720078 finds on December 20, 2016, the CUPA, on behalf of the owner, made a CERS submittal to place the USTs in temporary closure. The submittal made by the CUPA was incorrect in that the UST had been permanently closed and should have been reflected as such, along with including a closure date. The CUPA then accepted the submittal on August 14, 2017, which subsequently placed the facility and UST status as active and applicable. This resulted in inaccurate CUPA UST reporting and UST inventory.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

CITATION:

CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), 2641(g) and (h) and 2711(d)
[CalEPA, State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide to CalEPA the Data Management Procedure, or other applicable procedure, to consistently ensure UST related information in CERS is accurate and complete. The CUPA will include a policy or procedure in the Standard Operating Procedure (SOP) or other applicable procedure to ensure UST inspection staff accurately submit CERS submittals on behalf of an owner or operator when needed. If the CUPA decides to decline making CERS submittals on behalf of the owner or operator, then recognition of such policy will be included in the SOP. The revised Data Management Procedure or other applicable procedure must be included or referenced in the I&E Plan.

With respect to submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete submittals when the next submittal is made, but no later than the next annual UST facility compliance inspection.

By the 2nd Progress Report, the CUPA will, if necessary, amend the Data Management Procedure or other applicable procedure, based on feedback from the State Water Board and CalEPA, and will submit the revised document to CalEPA.

3. INCIDENTAL FINDING:

The SOP is inconsistent with UST Program statutory and regulatory requirements.

Review of the SOP indicates the following inconsistencies:

- The SOP indicates there is no online database, however, CERS is the required online database to be utilized by the CUPA.
- The information regarding the transfer of permits indicates the transfer of permits is not allowed, however, the local ordinance indicates transfer is allowed.
- Permit tracking information contained in Appendix 7(B) references a facilities database to record permit information, when there is no such database.
- Information contained in the appendices indicates the CUPA issues permits via email, however, the SOP does not.

CITATION:

HSC, Chapter 6.7
CCR, Title 23, Sections 2712(c) and 2713(c)
CCR, Title 27, Section 15200(a)
[State Water Board]

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RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with a copy of the SOP. The revised SOP will address the inconsistencies identified above.

By the 2nd Progress Report, the CUPA will, if necessary, amend the SOP, based on feedback from the State Water Board, and will submit the amended document to CalEPA.

4. INCIDENTAL FINDING:

The CUPA is not consistently following-up and documenting return to compliance (RTC) information in CERS and facility files for APSA tank facilities cited with violations in inspection reports.

Review of facility file information and CERS CME data indicates:

- CERS ID 10592449: Inspection dated August 23, 2017, documents 34 violations. CERS has observed RTC on August 20, 2018; however, there is no RTC documentation in the facility file.
- CERS ID 10197340: Inspection dated November 8, 2017, documents four violations. CERS has record of the inspection, one violation, and observed RTC on August 22, 2018; however, there is no RTC documentation in the facility file.
- CERS ID 10495939: Inspection dated July 23, 2018, documents 32 violations and three additional violations considered 'undetermined.' CERS has record of the inspection, violations, and observed RTC on July 26, 2019; however, there is no RTC documentation in the facility file.
- CERS ID 10495987: Inspection dated July 23, 2018, documents 32 violations. CERS has record of inspection, violations, and observed RTC on July 26, 2019; however, there is no RTC documentation in the facility file.

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

CITATION:

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

RESOLUTION:

Effective immediately, the CUPA will implement its Inspection and Enforcement (I&E) Plan to ensure consistent documentation of RTC information in CERS and facility files.

By the 1st Progress Report, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of the total number of facilities that have open APSA Program violations. The CUPA will follow-up with the facilities listed in the provided spreadsheet and prioritize follow-up actions based on the level of hazard presented to human health and the environment. At minimum, the spreadsheet will include:

- Facility name and address;

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- CERS ID;
- Facility ID (if applicable);
- Inspection date and violations cited;
- Scheduled RTC date;
- Actual RTC date;
- RTC qualifier; and
- Follow-up actions taken by the CUPA and the associated timeframe to obtain facility compliance.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated version of the spreadsheet.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with RTC documentation obtained during the previous three months for up to three APSA tank facilities as requested by OSFM.

5. INCIDENTAL FINDING:

The CUPA is not submitting Surcharge Transmittal Reports to CalEPA by the required due date for each fiscal quarter.

- Fiscal Year (FY) 2016/2017 – One quarterly Surcharge Transmittal Report was submitted to report surcharges collected during the full FY. The quarterly Surcharge Transmittal Report was submitted approximately 45 days after the required due date.
- FY 2017/2018 – One quarterly Surcharge Transmittal Report was submitted to report surcharges collected during the full FY.

A quarterly Surcharge Transmittal Report should have been submitted at the end of each quarter for each FY to reflect the surcharges collected during each quarter.

NOTE: Surcharge Transmittal Reports were submitted quarterly to CalEPA during FY 2018/2019 to report surcharges collected during the applicable fiscal quarter.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA the first quarterly Surcharge Transmittal Report for FY 2020/2021. Thereafter, for each FY, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter when surcharge fees are collected.

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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:

Review of overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, data provided by the CUPA and Self-Audit Reports for January 1, 2017 - December 31, 2019, is summarized below:

- The CUPA identified 59 HWGs, one of which is a Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG). However, 64 HWGs have self-identified as HWGs and two have self-identified as RCRA LQGs.
- CUPA data provided during the evaluation indicates that 52 of 59 HWG inspections were conducted between January 1, 2017, and December 31, 2020, for an inspection frequency rate of 88%. CERS indicates 51 HWG inspections were conducted.
 - Of the 51 HWG facility inspections in CERS, 21 HWG facilities were cited with one or more violations and 30 HWG facilities had no violations.
 - Of the 21 HWGs that were cited with violations:
 - 19 HWGs returned to compliance for a HWG facility return to compliance rate of 90%;
 - There were 86 total violations cited consisting of zero Class I violations, 30 Class II violations, and 56 minor violations.
 - Seventy-seven of the 86 violations returned to compliance for a violation return to compliance rate of 88%.
 - Forty-five of the 56 minor violations returned to compliance, of which, 27 returned to compliance within 35 days.
 - There are 11 of 56 minor violations that have yet to return to compliance.
- The CUPA is writing detailed inspection reports, which include observations, factual basis of violations, and corrective actions. However, some of the information is not accurately entered into CERS.
- The CUPA did not conduct any formal enforcement actions for the HWG Program during the past three years.
- During the evaluation kick-off meeting, the CUPA indicated that funds are available for sampling, however there is not a contract with a certified lab, sampling equipment is not kept on-hand, nor have samples been collected during the past three years.

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

RECOMMENDATION:

Ensure that complete and thorough inspections are conducted to identify all violations at facilities. Continue with the three-year inspection frequency effort as identified in the I&E Plan. Follow up

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with facilities that have not returned to compliance (RTC) by the scheduled RTC date and pursue a graduated series of enforcement for facilities that do not RTC, per the I&E Plan.

2. OBSERVATION:

The Area Plan has the following minor errors and references to obsolete terms:

- Page ii, in the “Master Introduction” document, “Cal EMA” should be “Cal OES”.
- Page iii, Title 19, CCR Sections 2722-2728 should be CCR Sections 2642-2648.
- Page 1, in Appendix D, “Fish and Game” should be “Fish and Wildlife” and “Cal EMA” should be “Cal OES.”
- Page 3, sub (3) in the “Master Body of Plan” document, HSC 25504 and HSC 25508 are not relative to area plans. Sub (5), CCR, Title 19, subchapter 3, article 3 should be Chapter 4, Article 3.
- Page 3, in Appendix J, “Fish and Game” should be “Fish and Wildlife”.
- Pages 3,5, 6, 22 and 31, in the “Master Body of Plan” document, “Cal EMA” should be “Cal OES”.
- Page 4, in Appendix B, “Fish and Game” should be “Fish and Wildlife.”
- Page 4, in Appendix G, “Fish and Game” should be “Fish and Wildlife” and “Cal EMA” should be “Cal OES.”
- Page 5, remove definition for “Cal EMA,” since “Cal OES” is above.
- Page 9, in the “Master Body of Plan” document, HSC 25505 should be HSC 25507(a).
- In Appendix F, “Fish and Game” should be “Fish and Wildlife.”
- Page 23, “Fish and Game” should be “Fish and Wildlife.”
- Appendix K, reference to the Cal OES sponsored Type 2 hazmat teams in Yuba City and Susanville should be mentioned as possible assets, even if the response time is large.
- Appendix R, “Fish and Game” should be “Fish and Wildlife” and “Cal EMA” should be “Cal OES.”
- Appendix R defines California State Fire Marshal as, “A division of the Department of Forestry and Fire Protection for the safety of all interstate and intrastate hazardous liquid pipelines in California.” OSFM oversees intrastate hazardous liquid pipelines only.

Note: The examples provided above may not represent all instances of error and references to obsolete terms in the Area Plan.

RECOMMENDATION:

With the next review and revision of the Area Plan, correct the identified errors and references to obsolete citations and terms.

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3. OBSERVATION:

The I&E Plan has the following minor errors and references to obsolete citations:

- Page 23, item 5, the reference to “40 CFR Part 112.3 - 112.7” when an APSA facility prepares an SPCC Plan, should be replaced with HSC 25270.4.5(a).
- Page 24, second paragraph, the phrase, “In 40 CFR 112.7, depending on the tier of the APSA facility,” should be removed. Also, in lieu of an APSA facility employee conducting ‘APSA inspections’ at the facility per the SPCC Plan, it would be more appropriate to state, “the facility conducts periodic inspections and testing as indicated in the SPCC Plan.” Federal SPCC rule requirements do not require facilities to conduct APSA inspections.
- Page 35, item e incorrectly states, “The CUPA may seek the UST Enforcement Unit at the OSFM for additional enforcement advice regarding UST and AST violations.”
- Page 37, Table 1 shows notice to comply is applicable only to the HWG program. Notice to comply is the means by which a Unified Program Agency (UPA) may cite a minor violation for Unified Program facilities, including APSA tank facilities, per HSC 25404.1.2(b).
- Page 38, item 4 references 40 CFR Part 112 (the Federal SPCC rule), which is not delegated to any state. UPAs have no authority to enforce the Federal SPCC rule; however, UPAs are required to implement and enforce the APSA Program and should cite the APSA statute first, and then reference the Federal SPCC rule where applicable.
- Page 38, item 4 states, “Facilities with a storage capacity of at least 1,320 gallons or more are subject to both the SPCC and AST tank inspection requirements.” This statement is outdated and incorrect as it does not incorporate other APSA requirements. A tank facility subject to the Federal SPCC rule, or a tank facility with a stationary 55-gallon petroleum tank in an underground area (regardless of the 1,320-gallon threshold, although there are exceptions), is subject to APSA. The statement also assumes all APSA tank facilities with 1,320 gallons of petroleum are required to have an SPCC Plan; however, tank facilities that meet certain conditions are exempt from having to prepare an SPCC Plan.
- Page 52, incorrectly references HSC 25270.5 for violations of the APSA program. HSC 25270.5 contains the mandated inspection frequency, alternative inspection and compliance plan, and UPA inspector training requirements. The citation should be replaced with “HSC Chapter 6.67 commencing with Section 25270.”

Note: The examples provided above may not represent all instances of error and reference to obsolete citations in the I&E Plan.

RECOMMENDATION:

Correct the identified errors and references to obsolete citations, review the I&E Plan to identify any additional needed corrections and revise the I&E Plan as necessary during the next year.

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4. OBSERVATION:

The CUPA Forum Board inspection checklists are utilized to conduct various types of inspections at APSA tank facilities. The inspection checklist utilized for conditionally exempt facilities includes a violation for proper closure of permanently closed tanks that is not applicable to conditionally exempt tank facilities.

RECOMMENDATION:

Update the inspection checklists as necessary to reflect changes made to the CERS violation library and review all applicable program violations listed in the current CERS violation library. Utilizing the latest version of the CUPA Forum Board APSA inspection checklists, updated in 2019, is encouraged.

5. OBSERVATION:

The CUPA accepted at least five HMBP submittals, provided by APSA tank facilities in lieu of an APSA tank facility statement, which used the outdated emergency response and training plans template (CERS IDs: 10423456, 10469179, 10469200, 10495939 and 10592449). The phone number listed for OSFM on the outdated template is no longer valid.

RECOMMENDATION:

Ensure all HMBP submittals provided by APSA tank facilities in lieu of an APSA tank facility statement utilize the current emergency response and training plans template before accepting subsequent submittals. The current emergency response and training plans template is available in CERS.

6. OBSERVATION:

The number of UST facilities inspected in CERS CME data is inconsistent with UST compliance inspection information provided by the CUPA for the Semi-Annual Report (Report 6) for the following FYs:

- FY 2018/2019:
 - Report 6 – 11 of 11 facilities inspected
 - CERS – 10 of 11 facilities inspected
- FY 2017/2018:
 - Report 6 – 12 of 11 facilities inspected
 - CERS – 11 of 11 facilities inspected

RECOMMENDATION:

Consistently collect, manage, and report the number of UST compliance inspections in each reporting format, including Report 6 and CERS CME data.

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7. OBSERVATION:

Prior to FY 2018/2019, the CUPA submitted Surcharge Transmittal Reports on an annual basis, rather than quarterly as required. In FY 2018/2019, the CUPA began submitting Surcharge Transmittal Reports as required within 30 days of the end of each fiscal quarter for quarters where State Surcharge Fees were collected.

RECOMMENDATION:

Submit a Surcharge Transmittal Report within 30 days of the end of each fiscal quarter regardless of whether or not State Surcharge Fees were collected during the quarter per CalEPA instructions for completing and submitting quarterly Surcharge Transmittal Reports (https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/InstructionsADA-Surcharge-Transmittal-Report_20200515.pdf).

8. OBSERVATION:

The CUPA’s ability to adequately implement each Unified Program element appears to be somewhat limited due to the level of CUPA staff that is currently used to administer the program. A comparison of the state of the CUPA at the time of certification with actual current implementation reveals the following:

Number of regulated facilities for each program element				
Program Element	# of Regulated Businesses/Facilities		Difference in Regulated Businesses/Facilities	Additional Comments
	Upon Certification in 1996	“Regulated Facility Report” generated for Del Norte County from CERS on July 7 th , 2020		
Total Regulated Facilities	207	139	-68	
HMRRP (Business Plan)	0	139	+139	
UST Facilities	53	11	-42	
Total USTs	124	40	-84	
Hazardous Waste Generators	2	59	+57	
Household Haz. Waste (HHW)		1	+1	
Tiered Permitting (PBR, CA, CE)	6	0	-6	

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RCRA LQG		2	+2	
RMPP/CalARP	12	1	-11	Note: CUPA self-audit report reflects no CalARP facilities
APSA		31	+31	

Number of inspectors and employment status:			
Data at Time of Original CUPA Application Submittal		Data as of 2019 CUPA Evaluation (FY18/19)	
Staff Count	Full/Part Time	Staff Count	Full/Part Time
3	FT	1*	FT
*CUPA is currently recruiting to fill one vacant FT staff position.			

Number of supervisors:			
Data at Time of Original CUPA Application Submittal		Data as of 2019 CUPA Evaluation (FY18/19)	
Supervisor Count	Full/Part Time	Supervisor Count	Full/Part Time
1*	FT	1	FT
*Based on the original certification org chart, it appears as though the primary supervisor was also one of the inspectors.			

These data above indicate that, since 1996, the CUPA has experienced an approximate 33% decrease in the number of facilities that are regulated under the Unified Program. During that same timeframe, CUPA staff responsible for administering Unified Program elements has decreased by 200%. As concluded with this evaluation, while the CUPA is adequately able to maintain the mandated inspection frequencies for most program elements with the current staffing levels, areas such as CME reporting, obtaining RTC for cited violations, and administrative document maintenance need improvement. During the Kickoff Meeting, the CUPA informed the

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State Evaluation Team that efforts were being made to fill a vacant position, which would provide a second inspector for the CUPA.

RECOMMENDATION:

Continue to make efforts for fulfilling the vacant inspector position. An additional staff member would provide extra support for existing CUPA staff in allowing more appropriate distribution of implementation workload duties while also providing the opportunity for additional Quality Assurance/Quality Control of all documents generated by the CUPA. Both of these factors would benefit the implementation of Unified Program and improve the overall performance of the CUPA and compliance of regulated facilities.

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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.

1. RECOGNITION OF PROGRAM IMPROVEMENT:

The State Evaluation Team recognizes the outstanding work that has been done by both the CUPA Manager and the County Director of Environmental Health to improve the effectiveness and overall implementation of the Unified Program. While there is need for improvement, the State Evaluation Team commends the CUPA on the overall significant enhancement and progression of CUPA performance that has occurred over the last two CUPA Performance Evaluations considering the staffing and resource challenges that have been experienced.
