



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

August 11, 2020

Mr. Sergio Martinez
Fire Marshal
City of Oxnard Fire Department
360 West Second Street
Oxnard, California 93030-5650

Dear Mr. Martinez:

During February through July, 2020, CalEPA and the state program agencies conducted a performance evaluation of the City of Oxnard Fire Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System data, and verification inspections.

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 90 days from the date of this letter (November 13, 2020), 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 Sam Porras at Samuel.Porras@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.

Mr. Sergio Martinez
Page 2

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:

Mr. Darwin Base
Fire Chief
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Mr. Nathan West
CUPA Manager
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Ms. Annalisa Kihara
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Ms. Laura Fisher
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Ms. Maria Soria
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700 Heinz Avenue, Suite 210
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Mr. Sergio Martinez
Page 3

cc sent via email:

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Mr. James Hosler, Chief
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Mr. Sergio Martinez
Page 4

cc sent via email:

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Mr. Fred Mehr
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Mr. John Paine
Unified Program Manager
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Ms. Melinda Blum
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Mr. Sam Porras
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: City of Oxnard Fire Department

Evaluation Period: February 2020 through July 2020

Evaluation Team Members:

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Matthew McCarron
- **Cal OES:** Fred Mehr
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Carmen Zamora

This Final Summary of Findings includes:

- Program deficiencies
- Incidental findings requiring resolution
- Program 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:

Samuel Porras

CalEPA Unified Program
P.O. Box 2815
Sacramento, CA 95812
Phone: (916) 327-9557
E-mail: Samuel.Porras@calepa.ca.gov

The CUPA is required to submit an Evaluation Progress Report 90 days from the receipt of the 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 the Final Summary of Findings Report.

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

1st Progress Report: November 13, 2020
3rd Progress Report: May 19, 2021

2nd Progress Report: February 19, 2021
4th Progress Report: August 23, 2021

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The Inspection and Enforcement (I&E) Plan has not been annually reviewed or revised as necessary. The I&E Plan reflects a revision date of September 2019, however, it has inaccurate, incomplete, and missing information.

The following information is inaccurate:

- Page 3 – In the Statutory Authority section, Health and Safety Code (HSC), Section 25508(b) is incorrectly referenced to address annual certification of Hazardous Materials Business Plans. The correct citation is HSC Section 25511(b).
- Page 34 – In item 2 under the Procedures to Access Administrative Law Judge section, HSC Section 25270.5 is referenced to resolve AEOs. The correct citation is HSC Chapter 6.67, commencing with Section 25270.

The following information is incomplete:

- Procedures for addressing complaints, referred to in “9017-09-10 Complaint and spill response data management” do not include provisions for closing complaints.
- The statutory inspection frequency for Permit by Rule (PBR), Conditionally Authorized (CA), and Conditionally Exempt (CE) facilities must be referenced in addition to the established CUPA inspection frequency for PBR, CA, and CE facilities. The statutory inspection frequency requirement for PBR, CA, and CE facilities is “initial inspection within two years of notification and every years thereafter.”
- Enforcement notification procedures that ensure:
 - Appropriate confidentiality – Specific procedures that address how the CUPA ensures there is a level of confidentiality between the CUPA and other parties from the public.
 - Timely notification of appropriate prosecuting agency(ies) – Procedures for how the CUPA addresses providing timely notification with the prosecuting agency(ies).

The following information is missing:

- A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.
- Provisions for ensuring sampling capability performed by a state certified laboratory.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15200(a) and (b)
[CalEPA, DTSC]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

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

2. DEFICIENCY:

The CUPA is not consistently citing violations for failure to conduct an Overfill Prevention Equipment Inspection. No later than October 13, 2018, all initial overfill prevention equipment inspections must be completed.

Review of annual underground storage tank (UST) compliance inspection reports, associated Overfill Prevention Equipment Inspection Report Forms, and compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) indicates the following Overfill Prevention Equipment Inspections were conducted beyond the October 13, 2018, deadline and the CUPA did not cite violations:

- CERS ID 10200208: Overfill Prevention Equipment Inspection Report Form dated January 24, 2019. The CUPA did not 1) issue the appropriate violation, or 2) provide accurate United States Environmental Protection Agency (U.S. EPA) Technical Compliance Rate (TCR) 9c reporting.
- CERS ID 10200712: Overfill Prevention Equipment Inspection Report Form dated September 9, 2019. The CUPA did not 1) issue the appropriate violation, or 2) provide accurate U.S. EPA TCR 9c reporting.
- CERS ID 10200610: Overfill Prevention Equipment Inspection Report Form dated February 2, 2019. The CUPA did not 1) issue the appropriate violation, or 2) provide accurate U.S. EPA TCR 9c reporting.

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

CITATION:

CCR, Title 23, Section 2637.2(a) and 2665(b)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with the inspection checklist, or inspection procedure, to ensure inspection personnel consistently and correctly cite all violations during the annual compliance inspection on inspection reports and in CERS.

By the 2nd Progress Report, the CUPA will, if necessary, amend the inspection checklist, or inspection procedure, based on feedback from State Water Board and will submit the revisions to CalEPA.

By the 3rd Progress Report, the CUPA will train inspection personnel on the inspection checklist, or inspection procedure, and will provide training documentation to CalEPA, which will include at minimum, an outline of the training conducted and a list of CUPA personnel attending training.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

Once training is complete, the CUPA will implement the revised I&E Plan or inspection procedure.

By the 4th Progress Report, the CUPA will provide up to five UST facility records, if not available in CERS, as selected by State Water Board, including annual UST compliance inspection reports and Overfill Prevention Equipment Inspection Report Forms.

3. DEFICIENCY:

The Unified Program Facility Permit (UPFP), which includes the UST operating permit and permit conditions, does not accurately reflect all required UST elements.

The UST operating permit and permit conditions are not consistent with UST statutes and regulations as follows:

- Pages 2 and 4, item 3: must indicate the owner or operator is required to notify the CUPA 30 days prior to a change in substance stored.
- Page 4, item 2:
 - Indicates the permit must be maintained onsite, however a UST operating permit shall be readily accessible at the facility as either a hard copy or electronic copy.
 - References an attachment that does not exist.
 - Must indicate all copies of required documentation is required to be submitted through the “UST Tank Information/Monitoring Plan” submittal element in CERS, or through a local reporting portal.
- Page 4, items 4 and 6 contradict each other:
 - Item 4 states records must be maintained on site and should be revised to reflect the language in Item 6, which states records shall be maintained on site or off site at a readily available location, if approved by the local agency.

CITATION:

Health and Safety Code (HSC), Chapter 6.7, 25404.2(a)
CCR, Title 23, Sections 2712 and 2632(2)(d)(1)
CCR, Title 27, Section 15190(b)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the UPFP relative to the UST operating permit to reflect current UST statutes and regulations, including the inconsistencies identified above, and provide CalEPA with a copy of the revised UPFP.

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

By the 3rd Progress Report, the CUPA will provide CalEPA with a copy of five UPFPs that have been issued to facilities generated from the revised UST operating permit of the UPFP.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

4. DEFICIENCY:

The CUPA is not properly classifying hazardous waste generator (HWG) violations.

In some cases, the CUPA is classifying Class I or Class II HWG violations as minor violations. Review of The following 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 HSC, Section 25404(a)(3).
 - CERS ID 10201123: inspection report dated October 3, 2017
 - CERS ID 10201246: inspection report dated August 6, 2018
 - CERS ID 10152315: inspection report dated March 15, 2017
 - CERS ID 10201810: inspection report dated April 25, 2017
 - CERS ID 10201312: inspection report dated November 8, 2017
- Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. Since no training was provided, employees are not familiar with hazardous waste management and handling nor 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 10140153: inspection report dated November 7, 2019
 - CERS ID 10201846: inspection reports dated October 29, 2018, and September 30, 2019
 - CERS ID 10201216: inspection report dated: December 5, 2017
 - CERS ID 10202167: inspection report dated April 11, 2018
- Violation for failure to prepare a written estimate of the cost of closing each treatment unit, which includes the cost that would be incurred using the owner/operator or generator's own staff and/or personal equipment, taking into account any salvage value that may be realized from the sale of wastes, facility structure or equipment, land or other facility assets. There may have been an economic benefit to the facility by not providing cost estimates for closure or the guarantee that appropriate funding will meet closure needs. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3).
 - CERS ID 10201228: inspection report dated February 7, 2018

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

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

CCR, Title 22, Sections 66260.10 and 66262.34

[DTSC]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will train personnel on the classification of minor, Class I, and Class II violations, as described in HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, Chapter 6.11, Section 25404(a)(3), and CCR, Title 22, Section 66260.10. The CUPA will train personnel on how to properly classify HWG violations during inspections and ensure personnel review the following:

- [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>

The CUPA will provide CalEPA with training documentation, which at minimum will include, an outline of the training conducted and a list of CUPA personnel attending the training, to demonstrate that each inspector received training on how to properly classify violations for each program element and has reviewed the Violation Classification Training Video and Guidance Document.

By the 2nd Progress Report, the CUPA will provide CalEPA with a copy of inspection reports citing at least one HWG violation, for three HWG facilities as requested by DTSC, that have been inspected after training has been completed and within the last six months. Each inspection report will correctly identify and classify any observed HWG violations.

5. DEFICIENCY:

The CUPA is not inspecting all hazardous waste generator (HWG) facilities and Tiered Permitting (TP) facilities with the inspection frequency specified in the I&E Plan for the HWG program.

The I&E plan states HWG facilities and TP facilities will be inspected at least once every two years.

HWG inspection information in CERS for years 2016 to 2019 was reviewed to evaluate the two year inspection frequency. The CUPA did not meet the HWG and TP inspection frequencies identified in the I&E plan as follows:

- 2016 through 2017 inspection cycle:
 - 310 of 529 (59%) HWG inspections were not conducted.
 - four of 11 (36%) TP inspections were not conducted.
- 2018 through 2019 inspection cycle:
 - two of 529 (less than 1%) HWG inspections were not conducted.
 - two of 11 (18%) TP inspections were not conducted.

Note: Reviewing current inspection frequency data for the last two years, the CUPA's HWG inspection frequency goals were achieved.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CITATION:

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

CORRECTIVE ACTION:

No corrective action is necessary for the HWG portion of this deficiency.

By the 1st Progress Report all Tiered Permitting facilities shall be inspected. The CUPA will provide an update regarding the status for completing the outstanding TP facility inspections.

6. DEFICIENCY:

The Area Plan is missing the following required elements:

- Area Plan Reporting Form
- Pesticide Drift Protocols

CITATION:

CCR, Title 19, Section 2720(c)(d)
[Cal OES]

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will provide CalEPA with a revised Area Plan that includes the required elements identified above.

7. DEFICIENCY:

The Financial Management procedures do not adequately address required components.

The Single Fee System contains the following information that is incomplete or inaccurate:

- Information pertaining to the fee schedules and state surcharge provided in each Self-Audit Report would be better addressed in the Summary of the Single Fee System report.
 - Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.
 - The Single Fee System shall include mechanisms for the billing, collection, and transmittal of the state surcharge.
- The Authority citation should be updated to address the full scope of requirements under Title 27, Section 15210.

The Fee Accountability Program has not been reviewed annually or updated as necessary to accurately reflect the following inaccurate or incomplete information:

- An accounting for the fee schedule, the actual amount billed, and the revenue collected.
- The number of regulated businesses in each program element to demonstrate how fees collected cover the implementation costs of the Unified Program.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CITATION:

CCR, Title 27, Sections 15180(e)(5), 15210 and 15220
[CalEPA]

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will revise and provide CalEPA with a copy of the Financial Management procedures that address:

- the incomplete and inaccurate information of the Single Fee System identified in this deficiency;
- the incomplete and inaccurate information of the Fee Accountability Program identified in this deficiency; and
- annual review of the Fee Accountability Program.

By the 3rd Progress Report, the CUPA will, if necessary, amend the Financial Management procedures, based on feedback from CalEPA and will submit the revised procedures to CalEPA.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**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.

1. INCIDENTAL FINDING:

The Unified Program Permitting Procedures are incomplete.

The following required components are missing:

- A Permit cycle that discusses the procedures that are taken by the CUPA to issue a consolidated permit to a regulated business facility from beginning to end;
- Permitting requirements for CalARP regulated businesses, if any;
- Permitting requirements for Aboveground Petroleum Storage Act (APSA) regulated tank facilities, if any;
- CCR, Title 27, Section 15190 citation.

CITATION:

CCR, Title 27, Section 15190
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a copy of the revised Permitting Procedures that incorporate the components identified above.

By the 2nd Progress Report, the CUPA will, if necessary, amend the Permitting Procedures, based on feedback from CalEPA and submit the revisions to CalEPA.

By the 3rd Progress Report, the CUPA will implement and train personnel on the revised Permitting Procedures and provide training documentation to CalEPA, which will include at minimum, an outline of the training conducted and a list of CUPA personnel in attendance.

2. INCIDENTAL FINDING:

The 2016/2017, 2017/2018, and 2018/2019 annual Self-Audit Reports do not contain the required components accurately or completely.

The following sections of each Self-Audit are inaccurate or incomplete.

- Section 2, "Permitting," describes how permitting is implemented, however it should be a narrative summary addressing the effectiveness of activities in regards to permitting, such as any challenges or updates that may have occurred over the past fiscal year.
- Section 5, "Discrepancies in Annual Reporting," reflects a summary of the required reporting, however it should be a summary of any inconsistencies and plan of correction regarding the information in the annual and quarterly reports pursuant to section 15290.

CITATION:

CCR, Title 27, Section 15280

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

[CalEPA]

RESOLUTION:

By the 2nd Progress Report, the CUPA will have completed the 2019/2020 annual Self-Audit Report, addressing the inaccurate, incomplete, and missing information identified above, and provide CalEPA with a copy of the completed 2019/2020 Self-Audit Report. Each subsequent annual Self-Audit Report will be completed by September 30 and will include all required components.

3. INCIDENTAL FINDING:

The CUPA is not submitting Surcharge Transmittal Reports by the required due date for each fiscal quarter. The following Surcharge Transmittal Reports were not received by the required due date:

- Fiscal Year (FY) 2016/2017
 - 3rd Quarter: submitted September 4, 2017, due April 30, 2017
 - 4th Quarter: submitted September 30, 2017, due July 30, 2017

- FY 2018/2019
 - 3rd Quarter: submitted May 29, 2019, due April 30, 2019
 - 4th Quarter: submitted September 24, 2019, due July 30, 2019

CITATION:

CCR, Title 27, Section 15250(b)

[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will have prepared and submitted to CalEPA the 1st quarterly Surcharge Transmittal Report for FY 2020/2021 no later than October 30, 2020. Thereafter, the CUPA will submit each Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter.

4. INCIDENTAL FINDING:

The CUPA is not consistently and adequately documenting in sufficient detail whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, tank closure, removal, and soil sampling complies with statute and regulation.

The following are examples:

- CERS ID 10200613: closure letter not provided.
- CERS ID 10146215: The letter provided identifies that no further action is required with regards to cleanup, however, the letter does not identify whether the UST owner or

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

operator has demonstrated to the satisfaction of the CUPA, tank closure, removal, and soil sampling complies with statute and regulation.

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

Please 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]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with a template UST closure letter containing language indicating the UST owner/operator has demonstrated to the satisfaction of the CUPA that tank closure, removal, and soil sampling complies with statute and regulation. The CUPA may consider including the following, “the City of Oxnard Fire Department has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with Health and Safety Code section 25298, subdivision (c) and UST Regulations, section 2672.” The CUPA will begin utilizing the revised template UST closure letter for future UST closures.

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

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

5. INCIDENTAL FINDING:

State Water Board review of annual UST compliance inspection reports finds the CUPA incorrectly citing violations for which it has no authority regarding pre-2004 UST systems for liquid or debris in turbine sumps and/or under dispenser containments (UDC). The violation cited only applies to Vacuum, Pressure, or Hydrostatic (VPH) UST systems constructed post-2004 pursuant to HSC, Chapter 6.7, Section 25290.1.

The following are examples where the CUPA cites violations for pre-2004 UST systems for turbine sumps and UDCs not free of liquid and debris:

- CERS ID 10200442: inspection report dated January 1, 2018
- CERS ID 10200610: inspection report dated February 18, 2019
- CERS ID 10200712: inspection report dated September 9, 2019

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

CITATION:

HSC, Chapter 6.7, Section 25299.2(a)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide to CalEPA the inspection checklist, or inspection procedure. The revised inspection checklist, or inspection procedure, will include at minimum, language for UST inspection personnel to correctly cite UST violations in UST compliance inspection reports.

By the 2nd Progress Report the CUPA will, if necessary, amend the inspection checklist or inspection procedure, based on feedback from the State Water Board and submit the revised inspection checklist or inspection procedure to CalEPA. The CUPA will train UST inspection personnel on the revised inspection checklist, or inspection procedure, to ensure violations are cited correctly.

6. INCIDENTAL FINDING:

The CUPA is not consistently or correctly reporting all APSA Program inspection, violation, and enforcement information, also known as compliance, monitoring and enforcement (CME) information, to CERS.

The following are examples:

- CERS ID 10190515: A follow-up inspection report dated June 19, 2018, documents an APSA violation. Return to compliance (RTC) was achieved on July 17, 2018. The RTC information is not reported in CERS.
- CERS ID 10201312: An inspection report dated November 8, 2017, documents an APSA violation. RTC was achieved on November 30, 2017. CERS indicates RTC for the violation on March 5, 2018.
- CERS ID 10201342: An inspection report dated February 20, 2018, documents four APSA violations. RTC was achieved on April 30, 2018. CERS indicates RTC for three of four APSA violations on April 30, 2018, and RTC for the fourth APSA violation on June 19, 2018. Facility file information does not include RTC documentation for the fourth APSA violation.
- CERS ID 10201606: An inspection report dated July 18, 2018, documents an APSA violation. A follow-up inspection report dated November 4, 2018, is not in CERS. CERS indicates RTC for the violation on July 18, 2018, was achieved on December 5, 2018.

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

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Section 15290(b)
[CalEPA, OSFM]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

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

- Revision to the existing CME component of the data management procedures to address the root causes of missing or incorrect APSA Program CME information in CERS, if needed;
- Identification of APSA Program CME information that was not reported, or reported incorrectly, to CERS as required dating back to January, 2017, through present;
- A process for reporting and correcting APSA Program CME information identified as not being reported to CERS as required; and
- Future steps to ensure that all APSA Program CME information is reported correctly to CERS as required.

By the 2nd Progress Report, and with each subsequent Progress Report until considered resolved, the CUPA will provide CalEPA with a copy of an APSA Program inspection report and any RTC documentation for up to three APSA tank facilities as requested by OSFM.

By the 5th Progress Report, the CUPA will have consistently and correctly reported all APSA Program CME information to CERS that was not previously reported as required.

7. INCIDENTAL FINDING:

The CUPA is not consistently classifying APSA Program violations properly.

Not having a Spill Prevention, Control, and Countermeasure (SPCC) Plan was cited as a minor violation. Not having an SPCC Plan is not considered a minor violation as defined in HSC Section 25404(a)(3), since a minor violation does not include the following: (1) a violation that presents a significant threat to human health or the environment; or (2) a violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.” In addition, issuing a minor violation for not having an SPCC Plan is inconsistent with, and less stringent than, the U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act.

Review of facility files and CERS violation data indicates violation #4010001 (not having a SPCC Plan) was incorrectly classified as a minor violation in the following instances:

- FY 2018/2019 – two of seven (29%)
- FY 2017/2018 – one of five (20%)
- FY 2016/2017 – two of two (100%)

All five facilities cited with violation #4010001 as a minor violation have returned to compliance.

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

Note: This incidental finding was identified as a deficiency and considered corrected during the 2017 CUPA Performance Evaluation process.

CITATION:

HSC, Chapter 6.67, Sections 25270.4, 25270.4.1(c), 25270.4.5, 25270.12, 25270.12.1 and 25270.12.5

HSC, Chapter 6.11, Sections 25404(a)(3), 25404.2(a)(3) and 25404.2(a)(4)

CCR, Title 27, Section 15200(a) and (e)

[CalEPA, OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA will train its inspectors on how to properly classify violations during compliance inspections as minor, Class I, and Class II, as defined in HSC, Chapter 6.11, Section 25404(a)(3) and consistent with the U.S. EPA Civil Penalty Policy for Section 311 of the Clean Water Act, emphasizing that the violation for an APSA tank facility with no SPCC Plan should be classified as a Class I or Class II violation.

Training should include, at minimum, review of:

- [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)

The CUPA will provide CalEPA with training documentation, which will include at minimum, an outline of the training conducted and a list of CUPA personnel attending the training.

8. INCIDENTAL FINDING: RESOLVED

The CUPA did not submit a Formal Enforcement Summary Report for each case that has received a final judgement.

- CERS ID 10201006:
 - A Formal Enforcement Summary Report was not submitted to CalEPA.

CITATION:

CCR, Title 27, Section 15290(a)(5)

[CalEPA]

RESOLUTION: COMPLETED

The incidental finding is considered resolved during the evaluation. The CUPA provided the Formal Enforcement Summary Report for CERS ID 10201006 to CalEPA.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

The CUPA will ensure going forward that a Formal Enforcement Summary Report will be submitted to CalEPA within 30 days of final judgment for any formal enforcement case.

- The [Formal Enforcement Summary Report template](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template.pdf) is available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template.pdf>
 - Instructions for filling out a [Formal Enforcement Summary Report template](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions.pdf) are available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions.pdf>
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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

The following Unified Program Administrative procedures would benefit by including additional details for clarification relative to the required components:

- Public Participation procedures,
- Public Records Request procedures, and
- Forwarding Hazardous Materials Release Response Plan (HMRRP) procedures.

RECOMMENDATION:

Incorporate the additional details to the required components of the Administrative procedures as specified below:

Public Participation Procedures, titled “Public Hearings”:

- Provide the following web link for direction to the most recent [Oxnard City Council Procedures Manual](https://www.oxnard.org/city-department/city-council/) (<https://www.oxnard.org/city-department/city-council/>) to access instructions on how to access the Oxnard City Council Procedures for Public Hearing and Procedures.
- Provide a description as to how the CUPA ensures locally required public hearings related to any Unified Program element are coordinated, consolidated, and consistent through Oxnard City Council public meetings.
- Remove part (B) from the Authority citation so it addresses the full scope of Title 27 Section 15180 (e)(1).
- If the Oxnard City Council Procedures Manual does not address how public notices related to any Unified Program element are made available, incorporate a description as to how the CUPA will do so.
- Revise the title of the section from “Public Hearings” to “Public Participation Procedures.”

Public Records Request Procedure, titled “Public Records Request Procedure”

- Include “CCR, Title 27, Section 15180 (e)(3)” under the Authority citation.

Forwarding HMRRP, titled “Access of Business Plan Information to First Responders”

- Revise the Authority citation to read as “CCR, Title 27, Section 15180(e)(4),” remove the HSC references and insert “Section 25504(c).”
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2. OBSERVATION:

The Unified Program Permitting Procedures are found in two different documents titled “Application for Unified Program Permit Procedures” and “Issuance of CUPA Program Permits and CUPA Fees.” In addition, elements of the permitting process are found in other documents.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

Combine the Unified Program Permitting Procedure documents into a single document to strengthen the coordination, consolidation, and consistency of the Unified Program facility permit process.

3. OBSERVATION:

The Unified Program Data Management Procedures, titled “9021-0-17 Data Management” would benefit by including additional details for clarification relative to the required components.

RECOMMENDATION:

Incorporate the additional details to the required components of the Data Management procedures as specified below:

- Include Section 15185(d) and Section 15187 under the Authority citation;
 - A specific description of how the CUPA uses staff and various databases to collect, retain, and manage electronic data and documents;
 - A specific description of how the CUPA is able to “transfer and exchange of electronic data through an applicable local information management system or local reporting portal;”
 - A specific description of how inspection, violation, and enforcement information is transferred to CERS using the Unified Program Data Dictionary data elements; and
 - A statement to confirm that inspection, violation, and enforcement information for each program element is submitted to CalEPA through a local information database, a local reporting portal, or CERS on at least a quarterly basis as required by CCR, Title 27, Section 15290(a)(3).
-

4. OBSERVATION:

The CUPA waived the CUPA Oversight surcharge in FYs 2016/2017 and 2018/2019.

RECOMMENDATION:

The CUPA must make a reasonable, good faith effort to protect the state’s interests in waving any state surcharge under established criteria. Any state surcharge may not be waived so long as a fee under the local single fee system is assessed.

5. OBSERVATION:

Closure cost estimates for PBR and CA facilities were identified as “exempt.” While CA facilities do not require a written closure plan, the facility operations would likely cost more than \$10,000 in the event treatment unit(s) are dismantled and closed. If so, then that cost estimate would compel the facility to have a Financial Assurance mechanism in place. PBR facilities require closure plans, corresponding cost estimates, and financial assurance mechanisms. Not all PBR facilities identified in CERS had closure plans, thus detailed information required to specify how units would be closed was not available. The PBR facilities reviewed did not have the closure plan uploaded to CERS, therefore, it is difficult to determine whether the “exempt” closure cost estimate was legitimate.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

Conduct thorough reviews of PBR and CA facility closure cost estimates and closure plans for adequacy and to determine whether or not the estimate is sufficient to provide the necessary funds to adequately close the treatment unit(s). All actions to close a treatment unit must provide enough detailed information to warrant the closure cost estimate. For example, documentation should be available that demonstrates the estimated cost to close, clean, and remove a treatment tank. Also, if a facility specifies a specific salvage value of a tank, that estimate must be based on a realistic commercial value of the tank.

Review the below presentations from previous annual CUPA training conference sessions:

- [https://www.sandiegocounty.gov/content/dam/sdc/deh/hmd/pdf/hm-9224%20\(02-14\).pdf](https://www.sandiegocounty.gov/content/dam/sdc/deh/hmd/pdf/hm-9224%20(02-14).pdf)
- https://www.sandiegocounty.gov/content/dam/sdc/deh/hmd/hmd_Tiered%20Permitting%20Reference%20Chart%202015.pdf

6. OBSERVATION:

Review of overall implementation of the HWG program, including CERS data, facility file information, and Self-Audit Reports between January 1, 2016 – December 31, 2019, is summarized below:

- There are 522 HWG facilities, 17 Resource Conservation and Recovery Act Large Quantity Generators, and 10 TP facilities.
- The two-year inspection frequency for all facilities is currently being met.
- 978 inspections were performed, of which 566 had at least one cited violation. Of the 566 inspections with violations, the CUPA has ensured return to compliance for 487 facilities (86%).
- In the 566 inspections performed, one Class I violation was issued, 642 Class II violations were issued, and 710 minor violations were issued.
- Three formal enforcement actions were completed at three different facilities resulting in a total penalty amount of \$30,598.81.
- Inspection reports contain detailed comments that note the factual basis of cited violations, however inspection reports do not indicate whether consent to inspect was requested prior to the inspection.
- The CUPA's website has adequate information for hazardous waste generators to find regulatory assistance.

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

RECOMMENDATION:

Conducting inspections frequently leads to better compliance rates and helps to ensure that hazardous waste is adequately being managed in the jurisdiction. Continuing with the two-year inspection frequency and enforcement efforts in addition to the quality of inspection reports, however, ensure consent to conducting an inspection is obtained and documented prior to beginning the inspection. The efforts of the CUPA to conduct hazardous waste inspections on a two-year frequency are applauded.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

7. OBSERVATION:

The phone number for the Cal OES warning center is incorrect in the Emergency Response Phone list and in the Area Plan Emergency Response Phone List.

RECOMMENDATION:

The correct phone numbers are 1 (800) 852-7550 or (916) 845-8911.

8. OBSERVATION:

The CUPA's websites contain various resources for the regulated community and the public.

However, this website <https://www.oxnard.org/certified-unified-program-agency-cupa/> contains APSA Program or fire code information that is outdated, incorrect, missing or could benefit from improvement:

- The website references the APSA program as the "Aboveground Storage Tank Spill Prevention Control and Countermeasure Plan (SPCC) Program." The APSA Program regulates aboveground *petroleum* storage in tanks, containers, and equipment. Additionally, not all APSA tank facilities are required to prepare and implement an SPCC Plan.
- The link to the Office of the State Fire Marshal is no longer valid.
- The hazardous materials business plan (HMBP) site map links to the CUPA's guidance on liquefied carbon dioxide.
- The liquefied carbon dioxide guidance references the threshold (500 pounds of solid, 55 gallons of liquid, and 200 cubic feet for compressed gas) based on HSC 6.95, and states that bulk liquefied carbon dioxide for the carbonation of beverages is subject to the requirements of HSC and the California Fire Code (CFC). However, the CFC requires an operational permit for carbon dioxide systems used in beverage dispensing applications having more than 100 pounds (approximately 874 cubic feet) of carbon dioxide.
- All CFC citations on the carbon dioxide inspection checklist are outdated.
- The document under the link "CUPA Hazardous Materials Program" is missing the fire code hazardous materials management plan and hazardous materials inventory statement (HMMP-HMIS) program. Although consolidated with the HMBP program, the HMMP-HMIS program is one of the six program elements implemented by the CUPA in its jurisdiction.
- The link to the "Frequently Asked Business Plan Questions" is no longer valid.

This website <https://www.oxnard.org/cupa-forms-handouts-fire-department/> contains outdated information:

- The Article 79 AST Guidance document is outdated.
- The APSA tank facility statement is outdated.

RECOMMENDATION:

Update the CUPA websites and ensure information on the APSA Program, HMMP-HMIS Program, and CFC are current and accurate.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

9. OBSERVATION:

The following APSA inspection reports incorrectly cited violations or contained incorrect recommendations to APSA tank facilities:

- CERS ID 10190515: Inspection report dated June 19, 2018, cites a violation for lack of training documentation. Per U.S. EPA and the federal SPCC rule, training documentation is not explicitly required as proof of training [40 CFR 112.7(f)]. However, if the tank facility's SPCC Plan requires training to be documented, then the CUPA may cite a violation for not implementing the SPCC Plan.
- CERS ID 10200220: The CUPA referenced American Petroleum Institute (API) standards 650 and 651 for integrity testing on inspection reports dated March 20, 2018, and April 10, 2018. However, API 650 is the standard for construction of field constructed tanks, while API 651 is the standard for cathodic protection of aboveground storage tanks. The appropriate reference is API 653 for integrity testing of field-constructed aboveground storage tanks.
- CERS ID 10200601: Inspection report dated December 3, 2018, cites a violation for not having prepared an SPCC Plan. However, the inspection report stated the facility had a 2011 SPCC Plan that was not being implemented. The appropriate citation is CERS violation ID 4030038 (not implementing an SPCC Plan) instead of not having an SPCC Plan (4010001).

RECOMMENDATION:

Ensure the APSA violation cited and recommendations provided are correct and appropriate.

10. OBSERVATION:

The CUPA stated APSA inspection forms are written longhand as a running narrative and each staff generally use the federal SPCC rule and HSC Chapter 6.67 directly in lieu of a checklist when conducting APSA compliance inspections.

The CUPA's facility files consolidated inspection report contains one APSA item – SPCC Plan established for a tank facility with tank capacity or cumulative capacity greater than 1,320 gallons with a reference to HSC 25270.3. This information and citation are outdated and incorrect.

In two of the 10 facility files reviewed, the inspector included a note to specify the APSA checklist utilized to conduct the inspection, although a date and/or version of the checklist was not specified. The referenced checklists were not included with the facility files; however, one of the 10 facility files included an "example checklist scratch sheet."

RECOMMENDATION:

The use of consolidated and comprehensive checklists is recommended to ensure each inspector is consistent in conducting compliance inspections. Ensure each checklist utilized is applicable to the facility being inspected, current, references the appropriate citation using HSC Chapter 6.67 first, and references the applicable federal SPCC rule as necessary.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

11. OBSERVATION:

Review of the CUPAs Local Ordinance finds that Chapter 19 of the Oxnard municipal code no longer governs the Oxnard Fire Department CUPA. Chapter 19 was provided by the CUPA during the evaluation in the interest of completeness, however upon further review, State Water Board was made aware that this chapter is out of date and needs to be removed. The CUPA does not have the authority to cite or enforce Chapter 19.

RECOMMENDATION:

Remove Chapter 19 of the Oxnard municipal code from the Oxnard Fire Department's Local Ordinance. The CUPA will notify the City of Public Works of the State Water Board finding during the evaluation of the Oxnard Fire Department and the need to remove this chapter.

12. OBSERVATION:

There is no date of completion on each annual Self-Audit report.

RECOMMENDATION:

Incorporate a date of completion on the annual Self-Audit report to demonstrate completion by September 30 of each year.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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. STANDARDS FOR UNIFIED PROGRAM IMPLEMENTATION:** Prior to and during the 2020 triennial CUPA Performance Evaluation, the CUPA immediately identified potential issues in satisfactorily meeting implementation requirements and rectified such issues. The CUPA's high standard for implementation of the Unified Program, the relationships the CUPA personnel have developed with the regulated community, and the devotion to the integrity of the program and environment are attributes to success in correcting and resolving the few deficiencies and incidental findings identified during past performance evaluations.
-