



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

May 21, 2021

Mr. Jerry Oser
Director of Environmental Health
Inyo County Department of Environmental Health
P.O. Box 427
Independence, California 93526-0427

Dear Mr. Oser:

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

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. 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 (July 28, 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.

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

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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

Enclosures

cc sent via email:

Ms. Debbie Larson, REHS
Hazardous Materials Manager
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Independence, California 93526-0427

Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
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Ms. Laura Fisher
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Ms. Maria Soria
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cc sent via email:

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

Mr. Garrett Chan
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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: Inyo County Department of Environmental Health

Evaluation Period: February 2020 – October 2020

Evaluation Team Members:

- **CalEPA Team Lead:** Tim Brandt
- **DTSC:** Matt McCarron
- **Cal OES:** Jack Harrah, Garrett Chan
- **State Water Board:** Jessica Botsford, Wesley Franks (Shadowing)
- **CAL FIRE-OSFM:** Glenn Warner

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 preliminary and are subject to change upon review by state agency and CUPA management.

Based upon review and completion of the evaluation, the CUPA's Unified Program implementation and performance is considered: **satisfactory with improvements needed/** unsatisfactory/ meets or exceeds Unified Program standards.

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

Tim 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 correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report.

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

1st Progress Report: July 28, 2021

2nd Progress Report: October 28, 2021

3rd Progress Report: January 28, 2022

4th Progress Report: April 28, 2022

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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 citing violations for failure to conduct an overfill prevention equipment inspection. No later than October 13, 2018, all overfill prevention equipment must be inspected.

Review of Underground Storage Tank (UST) compliance inspection reports, associated Overfill Prevention Equipment Inspection Report Forms, and the California Environmental Reporting System (CERS) compliance, monitoring, and enforcement information (also known as CME information), indicates the following overfill prevention equipment inspections were conducted beyond the October 13, 2018, deadline and the CUPA did not cite violations:

- CERS ID 10117084: Overfill Prevention Equipment Inspection Report Form dated July 30, 2019 - The CUPA did not 1) cite a violation during the UST compliance inspection on September 10, 2019, and 2) provide accurate United States Environmental Protection Agency (U.S. EPA) TCR 9b reporting.
- CERS ID 10117618: Overfill Prevention Equipment Inspection Report Form dated September 11, 2019 - The CUPA did not 1) cite a violation during the UST compliance inspection on September 11, 2019, and 2) provide accurate U.S. EPA TCR 9b reporting.
- CERS ID 10117840: Overfill Prevention Equipment Inspection Report Form dated July 16, 2019 - The CUPA did not 1) cite a violation during the UST compliance inspection on December 23, 2019, and 2) provide accurate U.S. EPA TCR 9b reporting.

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the Inspection and Enforcement Plan (I&E Plan), or other applicable procedure, that establishes a process for UST inspection staff to correctly cite and report all UST violations in CERS. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure. If revisions are made to a procedure other than the I&E Plan, the I&E Plan must be revised to incorporate reference to the revised procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the amended I&E Plan or other applicable procedure. If amendments are made to a revised procedure other than the I&E Plan, the I&E Plan must be revised to incorporate reference to the amended procedure. If no amendments are necessary, the CUPA will implement the revised I&E Plan, or other applicable procedure.

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By the 3rd Progress Report, if amendments were necessary to the I&E Plan or other applicable procedure, the CUPA will implement the amended I&E Plan, or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a copy of the annual UST compliance inspection report and Overfill Prevention Equipment Inspection Report Form (if not available in CERS), for up to five UST facilities, as requested by the State Water Board. If the required overfill inspection has not been completed, the CUPA will provide CalEPA with records for progressive enforcement.

Note: Currently, the CUPA has only one staff member who develops and implements the UST policies and program. Therefore, the corrective action does 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 will document the training.

2. DEFICIENCY:

UST CME information in Semi-Annual Report 6 (Report 6) is reported inconsistently with CUPA Self-Audit Reports and CERS CME information.

Review of Report 6, CUPA Self-Audit Reports and CERS CME information for the following Fiscal Years (FYs) indicates:

- FY 2017/2018:
 - Report 6: 10 of 25 (40%) UST facilities inspected
 - CUPA Self-Audit Report (FY 2018/2019): 10 of 26 (38%) UST facilities inspected
 - CERS CME data report dated July 10, 2020: 10 of 25 (40%) UST facilities inspected
- FY 2018/2019:
 - Report 6: 28 of 25 (112%) UST facilities inspected
 - CUPA Self-Audit Report: included information for FY 2017/2018
 - CERS CME data report dated July 10, 2020: 22 of 25 (88%) UST facilities inspected
- FY 2019/2020:
 - Report 6: 29 of 26 (111%) UST facilities inspected
 - CUPA Self-Audit Report: not applicable as it is not required to be completed at the time of this evaluation
 - CERS CME data report dated July 10, 2020: 21 of 26 (81%) UST facilities inspected

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 23, Section 2713(c)(3)
CCR, Title 27, Sections 15187(c) and 15290(b)
[State Water Board]

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan that, at minimum includes:

- Review and explanation as to how Report 6, CUPA Self-Audit Reports and CERS data have inconsistent UST inspection and CME information;
 - A strategy to ensure UST inspection and CME information in Report 6, CUPA Self-Audit Reports and CERS will be accurately reported, including: The revision of Data Management Procedures, or other applicable procedures, as necessary to ensure the following are addressed:
 - Collection, retention, management, and reporting of UST inspection and CME information among Report 6, CUPA Self-Audit Reports, and CERS; and
 - How CUPA personnel report UST inspection and CME information.
- The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure. If revisions are made to a procedure other than the Data Management Procedure, the I&E Plan must be revised to incorporate reference to the revised procedure.
- A timeline for ensuring UST inspection and CME information in Report 6, CUPA Self-Audit Reports and CERS is accurately and consistently reported; and
- A list of UST facilities that have not been inspected within the last 12 months. Information for each listed facility shall include, at minimum:
 - CERS ID
 - Facility name, and
 - Last inspection date.

With each subsequent Progress Report, until considered corrected, the CUPA will provide an updated list of the UST facilities that have not been inspected within the last 12 months.

By the 2nd Progress Report, if amendments to the revised Data Management Procedure or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the amended Data Management Procedure, or other applicable procedure. If amendments are made to a revised procedure other than the Data Management Procedure, the I&E Plan must be revised to incorporate reference to the amended procedure. If no amendments are necessary, the CUPA will implement the revised Data Management Procedure, or other applicable procedure.

By the 4th Progress Report, the CUPA will have consistently reported UST inspection and CME information in Report 6 and CERS for two consecutive Report 6 reporting periods.

Note: Currently, the CUPA has only one staff member who develops and implements the UST policies and program. Therefore, the corrective action does 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 will document the training.

3. DEFICIENCY:

The CUPA is not consistently preparing or completing annual UST compliance inspection reports and/or maintaining records for each annual UST inspection.

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DEFICIENCIES REQUIRING CORRECTION

Review of CERS inspection information and UST facility files indicates there is no annual UST compliance inspection report in the UST facility file for the following:

- CERS ID 10117084: Inspection dated July 18, 2017
- CERS ID 10117618: Inspection dated September 13, 2018
- CERS ID 10120243: Inspection dated April 20, 2020

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

Note: This deficiency was identified during the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, as necessary, to ensure the following are addressed regarding completion and maintenance of annual UST compliance inspection reports for each annual UST compliance inspection:

- Providing annual UST compliance inspection reports to the UST facility owner/operator and UST permit holder via email, mail, fax, etc.
- A timeline for preparation and completion of annual UST compliance inspection report(s).
- A process for how the CUPA will maintain copies of UST compliance inspection reports

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure. If revisions are made to a procedure other than the I&E Plan, the I&E Plan must be revised to incorporate reference to the revised procedure.

By the 2nd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the amended Data Management Procedure or other applicable procedure. If amendments are made to a revised procedure other than the Data Management Procedure, the I&E Plan must be revised to incorporate reference to the amended procedure. If no amendments are necessary, the CUPA will implement the revised Data Management Procedure or other applicable procedure.

By the 3rd Progress Report, if amendments were necessary, the CUPA will implement the amended Data Management Procedure or other applicable procedure.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a copy of the UST compliance inspection reports, for inspections that have been completed within the previous 90 days.

Note: Currently, the CUPA has only one staff member who develops and implements the UST policies and program. Therefore, the corrective action does not include training or provision of

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training documentation. In the event the CUPA employs additional UST inspection staff, the CUPA will ensure the appropriate training occurs and will document the training.

4. DEFICIENCY:

The CUPA is not ensuring all regulated businesses subject to Hazardous Material Release Reporting, Inventory and Response Plans (Business Plan) reporting requirements submit a complete Hazardous Materials Business Plan (HMBP) to CERS. A complete HMBP includes a chemical inventory, site map, and emergency response and employee training plans.

Review of HMBPs submitted to CERS by regulated businesses indicates:

- 61 of 230 (27%) of the handlers have not submitted a chemical inventory or a no-change certification within the last 12 months.
- 67 of 228 (29%) of the handlers have not submitted emergency response plans and/or employee training plans, or a no-change certification within the last 12 months.

CITATION:

HSC, Chapter 6.95, Sections 25505(a)(1) and (2) and 25508(a)(2) and (3)
[Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure that HMBPs are thoroughly reviewed and contain required elements before being accepted in CERS.

By the 3rd Progress Report, the CUPA will ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP to CERS. For regulated businesses that have not submitted a complete HMBP to CERS, the CUPA will have initiated enforcement.

5. DEFICIENCY:

The CUPA is not inspecting each facility subject to Hazardous Material Release Reporting, Inventory and Response Plans (Business Plan) reporting requirements at least once every three years.

Review of facility files, CERS CME information, and additional information provided by the CUPA indicates 94 of 230 (41%) facilities subject to Business Plan requirements (HMBP facilities) 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 develop, implement and provide CalEPA with an action plan to ensure each facility subject to Hazardous Material Release Reporting, Inventory and

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Response Plans (Business Plan) requirements is inspected at least once every three years. The action plan will include, at minimum:

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

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

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

6. DEFICIENCY:

The Unified Program administrative procedures have components that are incomplete or missing.

The following components are incomplete:

- Public Participation procedures must include provisions to coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.
 - The provided Public Participation and Dispute Resolution procedural document includes procedures for public notification as it pertains only to Risk Management Plans; however, there are no procedures for other program elements or a general procedure which could be applied to multiple program elements.
- Records Maintenance procedures must include an identification of the records maintained.
 - The provided draft Records Maintenance document does not specify that copies of Self-Audits and surcharge billing and collection records (following the closing of any billing period or completion of an audit) are maintained for a minimum of five years.
- Records Maintenance procedures must include a method for proper disposal.
 - The provided draft Records Maintenance document refers to the application of the Inyo County disposal policy when applicable; however, the Inyo County disposal policy is not included nor is reference made to where it is readily available.

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The following components are missing:

- 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.
- Procedures to resolve fee disputes that arise between the CUPA and PAs, between a regulated business and either the PA or the CUPA, or between a regulated business and the State regarding the State Surcharge.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a copy of the revised Unified Program administrative procedures that address the identified incomplete and missing components.

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with a copy of the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, the CUPA will implement the amended I&E Plan or other applicable procedure.

Note: Currently, the CUPA has only one staff member who develops and implements the UST policies and program. Therefore, the corrective action does 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 will document the training.

7. DEFICIENCY:

The Unified Program Facility Permit (UPFP) does not consolidate all permitted program elements.

- The UST Operating Permit issued to UST facilities does not reflect issuance under a consolidated UPFP.
- The UPFP does not include issuance of a permit for the Tiered Permitting (TP) or Household Hazardous Waste (HHW) Programs.

Review of CERS indicates there is one TP facility and two HHW facilities operating without a UPFP.

CITATION:

CCR Title 27, Section 15190(b)
[CalEPA]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised consolidated UPFP template that includes the UST program element to reflect permit issuance under the consolidated UPFP.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised consolidated UPFP template, based on feedback from CalEPA, and will provide the amended template to CalEPA. If no amendments are necessary, the CUPA will provide CalEPA with a copy of the consolidated UPFP issued to one UST facility, one TP facility and one HHW facility using the revised consolidated UPFP template.

By the 3rd Progress Report, if amendments to the consolidated UPFP template were necessary, the CUPA will provide CalEPA with a copy of the consolidated UPFP issued to one UST facility, one TP facility and one HHW facility using the revised consolidated UPFP template.

8. DEFICIENCY:

The CUPA is not submitting quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter.

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

- FY 2017/2018 – One quarterly Surcharge Transmittal Report was submitted for the entire fiscal year on November 14, 2018.
- FY 2018/2019 – No quarterly Surcharge Transmittal Reports were submitted.

Note: During the evaluation, the CUPA was able to complete and provide CalEPA with a cumulative Surcharge Transmittal Report for FY 2019/2020 and the 1st Quarter Surcharge Transmittal Report for FY 2020/2021.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA the 2nd quarterly Surcharge Transmittal Reports for FY 2020/2021 by the required due date. Thereafter, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter.

9. DEFICIENCY:

The CUPA is not remitting all collected state surcharges to CalEPA.

- FY 2018/2019 – According to accounting information provided by the CUPA, \$3,464.00 of collected state surcharges have not been remitted.

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Note: At the beginning of the evaluation, CalEPA also identified \$14,551.00 in State Surcharge Fees that had not yet been remitted to the State from FY 2019/2020. The CUPA was able to remit these fees during the evaluation.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will remit the remaining balance of the collected state surcharges to CalEPA for FYs 2018/2019.

10. DEFICIENCY:

The CUPA is not consistently ensuring HWG facilities cited with violations return to compliance (RTC) nor are they applying a graduated series of enforcement, initiating additional informal or formal enforcement, when facilities cited with violations do not RTC within the scheduled timeframe for the Hazardous Waste Generator (HWG) Program.

Review of inspection and CME information in CERS indicates the CUPA did not elevate the classification of violations without RTC, or obtain RTC for HWG Program facilities.

During July 2017 – June 2020, 25 of 69 (36%) cited HWG violations have no RTC. Examples include:

- CERS ID 10810504: One Class I violation was cited on April 1, 2019. The CUPA did not follow up with the business until a re-inspection was conducted on February 10, 2020, upon which the facility was cited with three additional Class II violations. The facility has not returned to compliance.
- CERS ID 10127533: Three Class II violations were cited on November 6, 2019, and five Class II violations were cited on November 25, 2019. No re-inspection has been conducted and the facility has not returned to compliance.

Note: This deficiency was identified during the 2017 and 2014 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process for either evaluation.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)
HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c), and 15200(a) and (e)
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise and provide CalEPA with the I&E Plan or other applicable procedure to ensure a delineated process for implementation of appropriate informal and formal graduated series of enforcement, when necessary, as a result of facilities with cited violations not returning to compliance within scheduled timeframes. If revisions are made to

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a procedure outside of the I&E Plan, the I&E Plan must be revised to incorporate reference to the procedure.

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

- Facility name and address;
- CERS ID;
- Facility ID (if applicable);
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (to be noted after the 1st spreadsheet is provided);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the applied informal or formal graduated series of enforcement taken by the CUPA to ensure the facility obtains compliance.

The CUPA will prioritize follow-up actions with each facility in the spreadsheet based on the level of hazard the open violations present to human health and the environment.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an example of the applied informal or formal graduated series of enforcement issued during the previous three months, for up to five HWG facilities, as requested by DTSC. In the event enforcement documentation is confidential, a template or copy with redacted information can be provided.

11. DEFICIENCY:

The I&E Plan has components that are inaccurate or incomplete.

The following components are inaccurate or incomplete:

- Several references are made to Appendix F(h) for following DTSC's enforcement policy. Appendix F(h) is not included in the I&E Plan. DTSC's current enforcement policy is located at: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/04/DTSC-Enforcement-Response-Policy-June-29-2017.pdf>
- Pages 7 and 8: An actual timeframe must be identified for the HWG inspection frequency. The word "likely" cannot be used to identify a triennial inspection frequency.
- Page 17: The CUPA adheres to the California CUPA Forum Board position on inspection frequency for Universal Waste handlers and Conditionally Exempt Small Quantity Generators (CESQGs). Title 27 clearly states that CUPAs must identify an inspection frequency for all generators. There are no exceptions for generators based on size or type.
- Pages 25 and 26: The I&E Plan has elements of an enforcement program, however there is no description of the application of a graduated series of enforcement based on the severity of the violation. For example, if a minor violation does not return to compliance

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the flow chart indicates that a minor violation that does not RTC always stays at an informal enforcement.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a copy of the revised I&E Plan that addresses the identified inaccurate and incomplete components.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with a copy of the amended I&E Plan. If no amendments are necessary, the CUPA will implement the revised I&E Plan.

By the 3rd Progress Report, If amendments were necessary, the CUPA will implement the amended I&E Plan.

NOTE: Currently, the CUPA has only one staff member who develops and implements the UST policies and program. Therefore, the corrective action does 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 will document the training.

12. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA did not complete an Annual Self-Audit Report for FY 2016/2017 and FY 2017/2018. A Self-Audit Report is required to be completed by September 30th of each year for the preceding FY.

CITATION:

CCR, Title 27, Section 15280(a)
[CalEPA]

CORRECTIVE ACTION: COMPLETED

The CUPA provided the 2019/2020 Annual Self-Audit Report to CalEPA during the evaluation. No further action is required.

13. DEFICIENCY: CORRECTED DURING EVALUATION

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

Review of inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, in CERS indicates the CUPA did not obtain RTC for the APSA Program violations during the following Fiscal Years (FYs):

FY 2019/2020

- 1 of 2 (50%) APSA violations

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DEFICIENCIES REQUIRING CORRECTION

FY 2018/2019

- 4 of 18 (22%) APSA violations, including two violations for not having a Spill Prevention, Control, and Countermeasure (SPCC) Plan (CERS violation library #4010001).

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, RTC was obtained for the one remaining APSA violation cited during FY 2019/2020. RTC was also obtained for more than 14 of the 18 APSA violations cited during FY 2018/2019.

14. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not inspecting each APSA tank facility once every three years, in accordance with the I&E Plan.

Review of CME information in CERS indicates:

- 10 of 46 (22%) APSA tank facilities have not been inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

Prior to the completion of the CUPA Performance Evaluation, the CUPA performed a sufficient number of inspections.

15. DEFICIENCY: CORRECTED DURING EVALUATION

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

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

- 11 of 45 (24%) have not submitted a chemical inventory and site map within the last 12 months.
- 15 of 45 (33%) have not submitted emergency response and employee training plans within the last 12 months.

CITATION:

Health and Safety Code (HSC), Chapter 6.67, Section 25270.6(a)
[OSFM]

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION: COMPLETED

The CUPA was able to address the facilities which had incomplete HMBP submittals for the APSA program such that the deficiency could be considered corrected during the evaluation. No further action is required at this time.

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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 UST operating permit, issued under the consolidated UPFP is inconsistent with UST Regulation and H&SC requirements.

Review of UST operating permits issued under the consolidated UPFP finds the following inconsistencies with UST Regulations and H&SC requirements:

- The UST operating permit includes a requirement to maintain monitoring, plot plans, and emergency response plans on-site at all times, which is more stringent than the regulatory requirement, and for which there is no local ordinance. The UST operating permit requires revision to reflect that “monitoring, plot plans, and emergency response plans must be readily accessible at the facility via a paper or electronic copy” in place of “maintained on site at all times.”
- UST operating permit condition number three requires revision to reflect the statement, “The owner or operator must comply with the approved monitoring plan and response plan which are associated with this permit.” in place of, “The owner or operator must comply with the approved routine monitoring procedures and response plan associated with this permit.”

CITATION:

CCR, Title 23, Section 2632(d)(1) & (2) and 2712(i)CCR, Title 27, Section 15190(h)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised consolidated UPFP template that addresses the UST Regulations and H&SC inconsistencies of the UST operating permit identified in this incidental finding.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST operating permit portion of the consolidated UPFP template, based on feedback from State Water Board, and will provide the amended template to CalEPA. If no amendments are necessary, the CUPA will begin using the revised UST operating permit of the UPFP and will provide CalEPA with a copy of five UST Operating Permits issued to UST facilities under the revised consolidated UPFP template.

By the 3rd Progress Report, if amendments to the UST operating permit issued under the UPFP template were necessary, the CUPA will begin using the amended UST operating permit of the UPFP, and will provide CalEPA with a copy of five UST operating permits issued to UST facilities under the amended consolidated UPFP template

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

2. INCIDENTAL FINDING:

The I&E Plan is not consistent with HSC, Chapter 6.7 in regard to the red tag authority.

The I&E Plan has not been updated to reflect the amendments that became effective January 1, 2019, as follows:

- The red tag authority enforcement option does not identify that a UST owner or operator may not withdraw fuel from an UST(s) when a red tag is affixed to fill pipe(s).

CITATION:

HSC, Chapter 6.7, Sections 25285(b) and 252952.3(a)(2)(A) and (c)(1)(C)
CCR, Title 23, Sections 2712(c) and 2713(c)
CCR, Title 27, Section 15200(a)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, and provide CalEPA with a copy of the revised I&E Plan to address, at minimum, the inconsistency identified above.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised I&E Plan, based on feedback from State Water Board, and will provide a copy of the amended I&E Plan to CalEPA.

3. INCIDENTAL FINDING:

The CUPA is not annually inspecting each UST facility.

Review of the Report 6 for the following Fiscal Year (FY) indicates:

- FY 2017/2018:
 - 15 of 25 (60%) UST facilities were not inspected

Note: This deficiency was identified during the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. The CUPA has made improvements since the 2017 CUPA Performance Evaluation to ensure all UST facilities are inspected annually, therefore, State Water Board has noted this as an Incidental Finding rather than a Deficiency.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each UST is inspected annually. The action plan will include, at minimum:

- An analysis and explanation as to why the annual compliance inspection requirement for the UST program is not being met. Existing inspection staff resources and how many

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

facilities each inspector is scheduled to conduct each year are factors to address in the explanation.

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each UST facility that has not been inspected within the last 12 months. For each UST listed, the spreadsheet will include, at minimum:
 - Facility name,
 - Facility address,
 - CERS ID,
 - Facility ID (if applicable), and
 - date of the last inspection,
- A proposed schedule to inspect those UST facilities, prioritizing the most delinquent inspections, facilities with single wall components, and proximity to drinking water wells, and
- Future steps to ensure that all UST facilities will be inspected annually.

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

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

By the 5th Progress Report, the CUPA will have inspected each UST facility annually and will have consistently reported the number of UST inspections conducted among Report 6, CUPA Self-Audit Reports and CERS for two consecutive Report 6 reporting periods.

4. INCIDENTAL FINDING:

CERS ID 10129144 has provided notification to the CUPA as a tiered permit Conditionally Exempt Small Wastestream (CESW) facility. This facility describes the treatment activity as a solvent recycler that is mixing resins. The CUPA facility file information indicates solvent and solvent recycling equipment is present at the facility. While solvent recycling is considered treatment, if the activity is being conducted according to HSC 25143.2(c), the activity is exempt from permitting requirements and should be identified as on-site recycling, with a recyclable materials report submitted to the CUPA every two years pursuant to HSC 25143.10 requirements. The facility submitted a tiered permitting notification identifying the treatment of resins to the CUPA on May 1 and June 19, 2019. Neither of the submittals have been accepted as of September 3, 2020.

CITATION:

HSC, Chapter 6.5, Sections 25143.2, 25142 .9, 25143.10 and 25201.5(c)(1)
[DTSC]

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

By the 1st Progress Report, the CUPA will re-inspect the facility to accurately determine the activities taking place at the facility regarding on-site solvent recycling and treatment of waste resins. The CUPA will ensure that the facility correctly submits the appropriate CERS documentation for onsite treatment and recyclable materials reports, as required.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

The I&E Plan contains CalARP, APSA program, or fire code hazardous materials management plan-hazardous materials inventory statement (HMMP-HMIS) information that is missing, inaccurate, outdated or may benefit from improvement.

APSA Program:

- In the Required Frequency of Inspection table on page 7, the mandated triennial inspection frequency for APSA tank facilities should be clarified with the addition of 'petroleum' since it applies to APSA facilities storing 10,000 gallons or more of petroleum. Consistent with the other program elements listed on the table, HSC 25270.5(a) should be added for APSA mandated inspections.
- On page 13, there is no discussion of return times to compliance for APSA. Although there are no established times under APSA, Unified Program regulated facilities cited with a minor violation have 30 days from the date of the notice to comply as allowed under HSC 25404.1.2(c)(1).
- The Matrix of Enforcement Options table on page 35 does not address the APSA program.
- On page 29, the APSA violation reference to HSC 25270.5 (mandated inspections, alternative inspection and compliance plan, and Unified Program Agency inspector training requirement) is incorrect. Consistent with the other program elements under the Administrative Enforcement Order section, this should be HSC Chapter 6.67 commencing with Section 25270. Enforcement options under the APSA statute are found in HSC 25270.12 (civil penalties), 25270.12.1 (administrative penalties), and 25270.12.5 (misdemeanor, or other applicable criminal or civil penalties).
- On page 40, the APSA violation reference to HSC 25270.12 is incorrect. Consistent with the other program elements under the Program Specific Enforcement Violations, this should be HSC Chapter 6.67 commencing with Section 25270.
- On page 48, the APSA penalty reference to HSC Section 25270.1(a) is incorrect.
- On page 53, the correct APSA statute related to CUPA enforcement authority for the program is HSC Sections 25270.2(c)(3), 25270.4, and 25404(a)(1)(C), rather than HSC Section 25270.5.

Also, multiple references to the APSA program as aboveground storage tank (AST) or SPCC were observed, including pages 2, 4, and 40.

CalARP and Hazardous Material Release Reporting, Inventory and Response Plans (Business Plan) Programs:

- The list of Unified Program elements implemented within Inyo County on page 2 is missing the HMMP-HMIS program, which is consolidated with the HMBP program.

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- The number of HMRRP facilities is given as 244 on page 6 and 224 on page 8. CERS reports, as near as can be determined, about 230 active HMRRP handlers.
- On page 12, the authority given for return to compliance for HMRRP inspection violations is Health & Safety Code (HSC) section 25508(a)(2). You probably meant 25508(a)(3). However, this citation is only for errors in business plan submittals, not inspection violations. Similarly, the authority for CalARP inspection violation return to compliance is given as 19 CCR 2775.2(h). This section only applies to audits, not inspections. Chapter 6.95 of the Health & Safety Code has no citation for return to compliance for inspection violations, nor does Title 19, CCR.
- On page 36, Bullet #4 should have started out as “Section 25515.2(b)”. “Notwithstanding Section 25515(b)” should be “Notwithstanding Section 25515”.
- On page 37, Bullet #2, the second part, subsection (b) is from section 25541, not 25540.

RECOMMENDATION:

Update the APSA, CalARP, and Business Plan program information and incorporate the HMMP-HMIS Program in the I&E Plan.

2. OBSERVATION:

The Area Plan contains several references to the outdated Uniform Fire Code (pages 14, 19, 36, 37, 38, 41, 78, A-2, A-17 and A-18). The current fire code adopted by the state is the California Fire Code, and the 2019 edition became effective January 1, 2020.

Multiple references to the APSA Program as AST were observed (pages 15, 41, 36 and C-2).

Note: The page numbers provided above may not represent all instances of the references to the outdated fire code or reference to the APSA Program as AST.

RECOMMENDATION:

Update the Area Plan to correctly reference the current fire code and APSA Program.

3. OBSERVATION:

The Above Ground Storage Tanks section of the CUPA’s webpage at <https://www.inyocounty.us/services/environmental-health/environmental-health-programs/hazardous-materials> inaccurately describes APSA program requirements related to SPCC Plan creation at regulated facilities, and should be updated relative to current APSA statute, reflecting tanks in underground areas (TIUGAs) and conditionally exempt facilities.

The Inyo County CUPA program list should refer to APSA, rather than Aboveground Storage Tanks (AST/SPCC), for consistency with the statute and since CUPAs have no authority to enforce the federal SPCC rule requirements. Also, not all APSA tank facilities are required to prepare and implement an SPCC Plan under APSA.

RECOMMENDATION:

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

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[unified-program-agency-cupa/aboveground-petroleum-storage-act/](#) for information on APSA program requirements.

4. OBSERVATION:

Review of CERS indicates the following USTs or UST systems have single-walled components which may require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05. Below are a few examples:

- CERS ID 10117840 (Tank IDs 1 – 3)
- CERS ID 10157333 (Tank IDs 001 – 003)
- CERS ID 10119853 (Tank IDs 001 – 005)

Note: Prior to the CUPA Performance Evaluation exit briefing meeting, State Water Board will provide the CUPA with a complete list of USTs/UST systems with single-walled components as identified in CERS which may require permanent closure by December 31, 2025.

RECOMMENDATION:

Continue to provide verbal reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Consider providing written notification of the requirement to all applicable UST facility owners or operators. The written notification should inform facility owners or operators that in order to remain in compliance, owners or operators must replace or remove single-walled USTs by December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: http://waterboards.ca.gov/water_issues/programs/ust/single_walled/.

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

5. OBSERVATION:

Review of facility files indicates annual UST monitoring certifications are not being consistently conducted during the anniversary month as required per UST Regulation, section 2620(e).

RECOMMENDATION:

Provide written correspondence to UST facility owners/operators in advance of upcoming annual monitoring certifications to help achieve compliance. The CUPA has made progress with reminders and possible enforcement options to ensure annual monitoring certifications are being conducted during the anniversary month as required.

6. OBSERVATION:

The UST operating permit, issued under the UPFP, indicates the CUPA identifies monitoring requirements and installed components, such as line leak detector and spill container model information. Information regarding installed components are subject to change if a failure is identified during testing or during continuous monitoring activities. When these installed components fail and are changed out, there is the potential for the UPFP to become inconsistent.

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RECOMMENDATION:

Revise the UST operating permit content to include tank ID number, the type of tank and pipe construction, such as double-walled fiberglass tank with double-walled fiberglass product pipe, as the UST operating permit conditions indicate the type of monitoring to be completed by UST facility owners and operators. Another consideration is for the UST operating permit to include incorporation by reference as a permit condition and indicate “UST facility owners and operators must adhere to the Monitoring and Response Plan approved by this agency. A copy of the Monitoring and Response Plan, including the Plot Plan shall be maintained on-site or accessible onsite via the California Environmental Reporting System (CERS).”

7. OBSERVATION:

Though the area plan is excellent, it does have the following minor errors and inconsistencies as follows:

- Pages 15 and 146: the California Emergency Planning and Response Commission (CEPRC), is now the State Emergency Response Commission (SERC), though not yet revised in Title 19.
- Page 18 and throughout the document, the term “Administering Agency” should be replaced with “Unified Program Agency”.
- Pages 18 and CCR, Title 19, Sections 2720-2728 have been renumbered to 2640-2648.
- Page 28: “Forrest Service” should be “Forest Service”.
- Page 101: “Sherrif’s” should be “Sheriff’s”.
- Page 132: CCR, Title 19, Section 2724(d) should be 2644(d).
- Page 142 (Appendix B), and on Pages D-2 and D-4 (Appendix D): Department of Fish & Game (DFG) should be Department of Fish & Wildlife (DFW).
- Page D-2 (Appendix D): CIWMB has become CalRecycle.

RECOMMENDATION:

Address the above minor errors and inconsistencies with the next triennial review of the Area Plan.

8. OBSERVATION:

A flowchart on page 26 of the I&E Plan depicts how the CUPA initiates enforcement and, if necessary, applies a graduated series of enforcement to Hazardous Waste Generator and Tiered Permitting Facilities with violations that do not return to compliance.

RECOMMENDATION:

Expand the flowchart to include initiation of enforcement and application of a graduated series of enforcement for all regulated facilities within each Unified Program element. In addition, include information regarding when Minor violations are escalated to Class II violations and when Class II violations are escalated to Class I violations to demonstrate how a graduated series of enforcement is taken with facilities that do not return to compliance.

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9. OBSERVATION:

Since the last evaluation, the CUPA has not had a formal enforcement case that has received a final judgement. A pending formal enforcement case will likely receive a final judgement during FY 2020/2021.

RECOMMENDATION:

Within 30 days of receiving a final judgement for any formal enforcement case, submit a Formal Enforcement Summary Report to CalEPA via email at: CUPA@calepa.ca.gov.

The Formal Enforcement Summary Report template is available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template.pdf>

A set of instructions for filling out the Formal Enforcement Summary Report are available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions.pdf>

10. OBSERVATION:

Annual Single Fee Summary Reports indicate the following disparities between the Single Fee amounts billed versus the amounts collected for the following Fiscal Years (FYs):

- FY 2016/2017: \$27,830 billed, the "Amount Collected" is blank
- FY 2017/2018: \$28,375 billed, \$24,048 collected (~15% not collected)
- FY 2018/2019: \$35,764 billed, \$26,905 collected (~25% not collected)

RECOMMENDATION:

Increase efforts to collect all single fees which are billed to ensure the CUPA has adequate revenue to implement the Unified Program.

11. OBSERVATION:

The CUPA uses a combined Inspection report, Notice to Comply and Notice of Violation summary sheet. No inspection checklist was provided. Regulatory citations were not noted for corresponding violations on the Notice of Violations issued. The inspector did not always include the factual basis for citing violations. Corrective actions were normally located in the Inspection report/NOV summary document.

RECOMMENDATION:

Utilize the CUPA Forum Board inspection checklists, which provide citations and correspond with the CERS violation library. Utilization of the CUPA Forum Board inspection checklists with violation citation references can assist facilities in reviewing and understanding regulatory requirements. If the CUPA conducts a formal enforcement in the future, clear violation information will be helpful in the enforcement process and may result in a more successful outcome.

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12. 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 July 1, 2017 through June 30, 2020, is summarized below:

- There are 97 regulated HWG facilities.
- The CUPA inspected 96 facilities for an inspection frequency of 99%. The CUPA conducted 29 additional inspections coded as “other,” totaling 125 inspections.
- Of the 125 HWG facility inspections conducted, violations were issued at 40 of the facilities, resulting in a total of 68 individually cited violations.
- Of the 40 facilities receiving violations, 25 facilities have returned to compliance.
- Of the 68 individually cited violations, 43 violations have returned to compliance.
- The CUPA issued two Class I violations, 48 Class II violations, and 18 minor violations.
- The CUPA has not completed any formal enforcement actions during the evaluation period.
- The CUPA has responded to complaints referred by the CalEPA complaint system for possible hazardous waste cases.
- The CUPA’s website provides direction to DTSC’s website for general hazardous waste management standards.
- DTSC was not able to do oversight inspections due to COVID-19 impacts.

RECOMMENDATION:

Ensure that complete and thorough inspections are conducted to identify all violations at facilities. Continue with the inspection frequency effort as identified in the I& E Plan. Follow the I&E Plan to follow up with facilities that have no RTC by the scheduled RTC date and pursue a graduated series of enforcement for facilities that do not RTC. If the local DA chooses not to pursue a criminal or civil action against a facility, the CUPA should proceed with an Administrative Enforcement Order.

13. OBSERVATION:

The CUPA’s ability to adequately implement each Unified Program element appears to be restricted by a combination of persistent inadequate staffing and insufficient resources when comparing the regulated community and the necessary and reasonable resources for implementation of the Unified Program upon certification with the current regulated community and the current resources available to the CUPA for implementation.

The information below reflects the degree to which both the total number of regulated facilities and total Unified Program elements have increased since the initial certification of the CUPA. While certain program elements, such as the total regulated UST facilities have decreased, the overall trend shows the number of regulated facilities as of FY 2019/2020 has increased by 38% compared to the time of certification in 2001. In addition, program elements for APSA and RCRA LQG facility monitoring have been added since the original CUPA certification, which increases both the total facility count and general workload undertaken by the CUPA. This expansion of program elements significantly increased the number of regulated facilities managed by the CUPA.

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Summarized below are the differences in the 177 regulated community upon certification in 2001:

- Total Number of Regulated Businesses and Facilities:
 - Upon Certification in 2001: 177
 - As of September 14, 2020*: 245
 - An addition of 68 regulated facilities
- Total Number of Regulated **Hazardous Material Release Reporting, Inventory and Response Plans (Business Plan) Facilities:**
 - Upon Certification in 2001: 177
 - As of September 14, 2020: 245
 - An addition of 68 regulated facilities
- Total Number of Regulated **Underground Storage Tank Facilities:**
 - Upon Certification in 2001: 34
 - As of September 14, 2020**: 27
 - A decrease of 7 regulated facilities
- Total Number of Regulated **Underground Storage Tanks:**
 - Upon Certification in 2001: 93
 - As of September 14, 2020**: 98
 - An addition of 5 regulated facilities
- Total Number of Regulated **Hazardous Waste Generators:**
 - Upon Certification in 2001: 49
 - As of September 14, 2020*: 97
 - An addition of 48 regulated facilities
- Total Number of Regulated **Household Hazardous Waste Facilities:**
 - Household Hazardous Waste Facilities were not regulated under the Unified Program upon certification in 2001
 - As of September 14, 2020*: 1
 - An addition of 1 regulated facility
- Total Number of Regulated **Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
 - Upon Certification in 2001: 0
 - As of September 14, 2020*: 2
 - An addition of 2 regulated facilities
- Total Number of Regulated **Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
 - Upon Certification in 2001: N/A
 - As of September 14, 2020*: 3
 - An addition of 3 regulated facilities
- Total Number of Regulated **Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:**
 - Upon Certification in 2001: 1
 - As of September 14, 2020*: 1
 - An addition of 1 regulated facility
 - Comments: The CUPA Self-Audit Report reflects no regulated CalARP facilities.

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- Total Number of Regulated **Aboveground Petroleum Storage Act Tank Facilities:**
 - Upon Certification in 2001: N/A
 - As of September 14, 2020*: 49
 - An addition of 49 regulated facilities

*Number was generated from the CERS “Summary Regulated Facility by Unified Program Element Report”

**Number was generated from the CERS “UST Inspection Summary Report by Regulator (Report 6)”

As indicated with the information below, despite the expansion of both the program elements and facilities managed by the CUPA, staffing levels as of FY 2019/2020 are the same or substantially less than when the program was first certified in 2001.

- Full Time Equivalent of CUPA Personnel:
 - Inspection and other Staff
 - Upon Certification in 2001:
 - 3 Staff, at a 80% Full Time Equivalent= 0.8 Full Time positions
 - Currently:
 - 1 Staff at a 60% Full Time Equivalent= 0.6 Full Time positions

The comparison of the implementation of the program upon certification with present-day circumstance reveals there may be several issues impeding the CUPAs ability to adequately implement the Unified Program within its jurisdiction. Between growth within the county and the expansion of the Unified Program elements since its inception, the number of regulated facilities for this CUPA have increased by roughly 38% over the last 19 years. As of the most recent evaluation, however, the CUPA has fewer personnel on staff dedicating fewer hours to the program than when the agency was first certified, which in and of itself is a factor that reduces the ability of the CUPA to implement all program elements effectively.

RECOMMENDATION:

Conduct a fee study to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. Based on the provided analysis, CalEPA recommends the CUPA reevaluate the allotted budget, single fee assessment for each entity, and funding allocation for program services so that the CUPA is able to justify the need to increase fees, staff levels, and other resources as necessary and reasonable to adequately implement each program element.

As part of this evaluation, CalEPA also recommends the CUPA examine how its current resources are being used to ensure that required program elements are prioritized first before any supplemental tasks that may not be specifically required are undertaken.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

The ability to apply each aspect of inspection, compliance, monitoring and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large. Once the CUPA has the necessary resources to obtain and maintain an adequate staff, it is likely the issues causing the identified and recurring deficiencies will be addressed.

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. RECOGNITION OF PROGRAM IMPROVEMENT:

The State Evaluation Team recognizes the outstanding work that has been done by the present CUPA staff to improve the effectiveness and overall implementation of the Unified Program in Inyo County. 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 since the last CUPA Performance Evaluation considering the continual staffing and resource challenges.
