



Gavin Newsom  
Governor

Jared Blumenfeld  
Secretary for Environmental Protection

June 9, 2021

Mr. James Ray  
Interim division Manager  
County of Kings Environmental Health Services  
330 Campus Drive  
Hanford, California 93230-4375

Dear Mr. Ray:

During April through November, 2020, CalEPA and the state program agencies conducted a performance evaluation of the County of Kings Environmental Health Services 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 (August 9, 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 Sam Porras at [Samuel.Porras@calepa.ca.gov](mailto: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.

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.

Mr. James Ray  
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If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov) or John Paine, Unified Program Manager, at [John.Paine@calepa.ca.gov](mailto:John.Paine@calepa.ca.gov).

Sincerely,



Jason Boetzer  
Assistant Secretary  
Local Program Coordination and Emergency Response

Enclosures

cc sent via email:

Mr. Troy Hommerding  
County of Kings Environmental Health Services  
330 Campus Drive  
Hanford, California 93230-4375

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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Ms. Diana Peebler  
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Mr. James Ray  
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cc sent via email:

Mr. James Hosler, Chief  
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Ms. Jennifer Lorenzo  
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Mr. Larry Collins, Chief  
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Mr. Jack Harrah  
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Mr. Sean Farrow  
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cc sent via email:

Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

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: County of Kings Environmental Health Services

**Evaluation Period:** April 2020 through November 2020

#### Evaluation Team Members:

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Kevin Abriol
- **Cal OES:** Jack Harrah
- **State Water Board:** Sean Farrow, Wesley Franks
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations
- Examples of outstanding program implementation

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA 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  
Phone: (916) 327-9557  
E-mail: [Samuel.Porras@calepa.ca.gov](mailto:Samuel.Porras@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:

- |  |   |
|--|---|
| <b>1<sup>st</sup> Progress Report:</b> August 9, 2021    | <b>2<sup>nd</sup> Progress Report:</b> November 9, 2021 |
| <b>3<sup>rd</sup> Progress Report:</b> February 14, 2021 | <b>4<sup>th</sup> Progress Report:</b> May 17, 2022     |

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

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

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**1. DEFICIENCY:**

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

The following component is missing:

- Records Retention Policy, located in the “Record Retention: Policy Number 1.18.1”:
  - Training records are not identified as being kept for a minimum of five years.

The following component is inaccurate:

- Data Management Procedures, located in the “Kings County CUPA Administrative Procedures”:
  - The Data Management Procedures state that data reported in Envision Connect is uploaded to the California Environmental Reporting System (CERS) on a monthly basis, however the CUPA confirmed at the Kick-Off Meeting that data is uploaded to CERS quarterly. Ensure current data management processes are being reported to the Data Management Procedure.

The following components are incomplete:

- Public Participation Procedures, located in the “Kings County CUPA Administrative Procedures”:
  - The procedures do not adequately address how and if the CUPA is receiving and considering comments from regulated businesses and the public. The coordination, consolidation, and effort to make public hearings consistent has been substituted with the public hearing procedures used by State and local officials, though public hearing procedures of State and local officials are not further defined nor has information to access the procedures been made available. In addition, the CUPA is not making public notices available to the public for public hearings.
- Procedures for Providing Hazardous Material Release Response Plan (HMRRP) information, located in the “Kings County CUPA Administrative Procedures”:
  - The CUPA has granted local fire department personnel access to HMRRP information through CERS. Procedures for providing access to HMRRP information through CERS to other “emergency response personnel and other appropriate government entities” are not included.

**CITATION:**

California Code of Regulations (CCR), Title 27, Section 15180(e)(1) and (e)(4)  
CCR, Title 27, Section 15185(b) and (f)  
[CalEPA]

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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA the revised Unified Program administrative procedures that address the missing, inaccurate and incomplete components.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised Unified Program administrative procedures.

By the 3<sup>rd</sup> Progress Report, if amendments were necessary, the CUPA will train CUPA personnel on the amended Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended Unified Program administrative procedures.

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**2. DEFICIENCY:**

The Underground Storage Tank (UST) operating permit template does not reflect issuance under a consolidated Unified Program Facility Permit (UPFP).

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised UST operating permit template that reflects issuance under a consolidated UPFP.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised UST operating permit 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 one UST operating permit, issued under the consolidated UPFP, that has been issued to one UST facility using the revised template.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST operating permit template were necessary, the CUPA will provide CalEPA with a copy of one UST operating permit, issued under the consolidated UPFP, that has been issued to one UST facility using the revised template.

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**3. DEFICIENCY:**

The Inspection and Enforcement (I&E) Plan has components that are incomplete.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

The following components are incomplete:

- The description of the graduated series of enforcement includes actions applied to bring a facility into compliance, however, it does not delineate a process for the CUPA to initiate a graduated series of enforcement.
- Provisions for ensuring sampling capability should also include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required at the time of certification. The ability to conduct sampling assists in proceeding with enforcement.

Note: The regulation citation on page 27 of the I&E Plan is incorrect and should be updated to reflect CCR, Title 27, Section 15200(a)(9).

**CITATION:**

CCR, Title 27, Section 15200(a)(9) and (a)(14)  
[CalEPA, DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that adequately addresses the incomplete components.

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

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

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**4. DEFICIENCY:**

The Self-Audit Reports for Fiscal Years (FYs) 2016/2017, 2017/2018, and 2018/2019 have inaccurate, incomplete and missing components.

The following component is inaccurate:

- The frequency of the review and update of the fee accountability program is inconsistent between each Self-Audit Report and the Single Fee Surcharge Implementation Plan. The Self-Audit Reports state the fee accountability program is reviewed every two years while the Single Fee Surcharge Implementation Plan states the fee accountability program is reviewed quarterly. The fee accountability program is required to be reviewed annually, at a minimum.



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**DEFICIENCIES REQUIRING CORRECTION**

The following component is incomplete:

- The narrative summary of the Enforcement Effectiveness and Efficiency includes a reference to the I&E Plan for enforcement procedures and enforcement guidance, but does not include a summary of actual enforcement activities for the fiscal year.

The following components are missing:

- A report of deficiencies with a plan of correction.
- An updated record of any changes in local ordinances, resolutions, and agreements affecting implementation of the Unified Program.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 2<sup>nd</sup> Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2020/2021 which will address the identified inaccurate, incomplete, and missing components. For each subsequent FY, the CUPA will complete a Self-Audit Report, which will include all required components, by September 30<sup>th</sup>.

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**5. DEFICIENCY:**

The CUPA is not consistently following-up and documenting return to compliance (RTC) information in CERS for Aboveground Petroleum Storage Act (APSA) tank facilities and Hazardous Waste Generator (HWG) Program facilities cited with violations.

Review of inspection, violation and enforcement information, also known as compliance, monitoring and enforcement (CME) information in CERS and the CUPA's local data management system indicates there is no RTC for the following:

FY 2019/2020

- 1 of 2 (50%) APSA violations

FY 2018/2019

- 12 of 18 (67%) APSA violations

FY 2017/2018

- 4 of 18 (22%) APSA violations

FYs 2017/2018, 2018/2019, and 2019/2020

- 26 of 65 (40%) HWG violations

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

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**DEFICIENCIES REQUIRING CORRECTION**

**CITATION:**

Health and Safety Code (HSC), Chapter 6.5, Section 25187.8(b) and (g)  
HSC, Chapter 6.11, Section 25404.1.2(c)  
CCR, Title 27, Section 15185(a) and (c) and 15200(a)  
[DTSC, OSFM]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> 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 enforcement, when necessary, as a result of facilities with cited violations not returning to compliance within issued timeframes. If revisions are made to a procedure outside of the I&E Plan, the I&E Plan must be revised to incorporate reference to the procedure.

By the 1<sup>st</sup> 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 APSA and HWG facility with open violations (no RTC):

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (included after the 1<sup>st</sup> spreadsheet is provided);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the applied appropriate enforcement taken by the CUPA.

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 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on feedback from OSFM and DTSC, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3<sup>rd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with examples of the applied appropriate enforcement issued during the previous three months, for three APSA tank facilities as requested by OSFM and for three HWG facilities as requested by DTSC.

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**6. DEFICIENCY:**

The CUPA is not ensuring APSA tank facilities annually submit a Hazardous Materials Business Plan (HMBP) to CERS when an HMBP is provided in lieu of a tank facility statement.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

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

- 64 of 208 (31%) have not submitted a chemical inventory and site map within the last 12 months.
- 76 of 208 (37%) have not submitted emergency response and employee training plans within the last 12 months.

**CITATION:**

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

**CORRECTIVE ACTION:**

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

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

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

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**7. DEFICIENCY:**

The CUPA is not inspecting each APSA tank facility once every three years, per the inspection frequency established in the I&E Plan.

Review of facility files, CERS CME information, and additional information indicates:

- 23 of 42 (55%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.
- 101 of 208 (49%) other APSA facilities have not been inspected within the last three years.

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

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure all APSA tank facilities that are not conditionally exempt are inspected at least once every three years.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

The action plan will include at a minimum:

- An analysis and explanation as to why the inspection frequency requirement for the APSA program is not being met. Existing inspection staff resources and how many facilities are scheduled to be inspected each year are factors to address in the explanation.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each APSA tank facility that has not been inspected once every three years. For each APSA facility listed, the spreadsheet will include, at minimum:
  - Facility name,
  - CERS ID, and
  - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA inspection based on a risk analysis of all APSA facilities with 10,000 gallons or more of petroleum (i.e., large volumes of petroleum, proximity to navigable water).
- Future steps to ensure that all APSA tank facilities that are not conditionally exempt will be inspected once every three years.

By the 2<sup>nd</sup> 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 APSA tank facility inspections that have been conducted during the previous three months.

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each APSA tank facility identified on the 1<sup>st</sup> Progress Report spreadsheet at least once every three years per the inspection frequency established in the I&E Plan.

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**8. DEFICIENCY:**

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

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

- 179 of 402 (45%) of HWG facilities were not inspected between July 1, 2017 – June 30, 2020.

Note: This deficiency was identified during the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. This deficiency was also identified during the 2011 and 2014 CUPA Performance Evaluations.

**CITATION:**

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

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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each HWG facility is inspected once every three years, per the inspection frequency established in the I&E Plan. The action plan will include, at a minimum:

- An analysis and explanation as to why the inspection frequency for the HWG Program is not being met. Existing inspection staff resources and how many facilities are scheduled to be inspected each year are factors to address in the explanation.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that has not been inspected once every three years per the inspection frequency established in the I&E Plan. For each HWG facility listed, the spreadsheet will include, at a minimum:
  - Facility name,
  - CERS ID, and
  - Date of the last routine inspection.
- A schedule to inspect those HWG facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection based on risk.
- Future steps to ensure that all HWG facilities will be inspected once every three years per the inspection frequency established in the I&E Plan.

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each of the HWG facility within the three year inspection frequency established in the I&E Plan.

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**9. DEFICIENCY:**

The CUPA is not properly classifying HWG Program violations.

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

- Violation for exceedance of authorized accumulation time 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 data indicates that between July 1, 2017 – June 30, 2020, 14 of 14 (100%) violations cited for exceedance of authorized accumulation time were incorrectly classified as a minor violation.

**CITATION:**

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6  
CCR, Title 22, Sections, 66260.10, 66262.34  
[DTSC]

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

##### **CORRECTIVE ACTION:**

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

By the 1<sup>st</sup> Progress Report, the CUPA will train CUPA personnel on the classification of minor, Class I, and Class II violations, as defined in:

- HSC, Chapter 6.5, Sections 25110.8.5, 25117.6 and
- CCR, Title 22, Section 66260.10.

The CUPA will train personnel on how to properly classify HWG Program violations during inspections and ensure CUPA 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 a minimum will include, an outline of the training conducted and a list of CUPA personnel attending the training, to demonstrate each inspector reviewed the Violation Classification Training Video and Violation Classification Guidance and received training on how to properly classify HWG Program violations.

By the 2<sup>nd</sup> Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with a copy of inspection reports citing at least one HWG Program violation, for three HWG Program facilities, as requested by DTSC, that have been inspected after training has been completed and within the last three months. Each inspection report will contain observations, factual basis and corrective actions to correctly identify and classify each observed HWG Program violation.

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##### **10. DEFICIENCY:**

The CUPA is not ensuring all regulated businesses subject to the Hazardous Materials Release Reporting, Inventory and Response Plans (Business Plan) reporting requirements submit a complete HMBP to CERS.

Review of HMBPs submitted to CERS by regulated businesses indicates:

- 214 of 707 (30%) of the handlers have not submitted a chemical inventory or have not submitted a no-change certification in CERS within the last 12 months.
- 240 of 697 (34%) of the handlers have not submitted emergency response and employee training plans or have not submitted a no-change certification in CERS within the last 12 months.

##### **CITATION:**

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

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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

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

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's local data management system or CERS, that includes at a minimum, the following information for each regulated business that has not submitted an HMBP containing all required components within the last 12 months:

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

By the 4<sup>th</sup> Progress Report, the CUPA will ensure each regulated business subject to Business Plan reporting requirements annually submits a complete HMBP to CERS. For regulated businesses that have not annually submitted a complete HMBP to CERS, the CUPA will have applied appropriate enforcement.

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**11. DEFICIENCY:**

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

Review of CERS CME information indicates 392 of 707 (55%) facilities subject to Business Plan requirements were not inspected within the last three years.

**CITATION:**

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

**CORRECTIVE ACTION:**

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

- An analysis and explanation as to why the annual compliance inspection requirement for Business Plan facilities is not being met. Existing inspection staff resources and how many facilities are scheduled to be inspected each year are factors to address in the explanation.

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**DEFICIENCIES REQUIRING CORRECTION**

- A spreadsheet exported from the CUPA's data management system or CERS, identifying each Business Plan facility that has not been inspected within the last three years. For each Business Plan facility listed, the spreadsheet will include, at a minimum:
  - Facility name;
  - CERS ID; and
  - date of the last routine inspection
- A schedule to inspect those Business Plan facilities, prioritizing the most delinquent inspections to be completed prior to any other Business Plan inspection based on risk.
- Future steps to ensure that all Business Plan facilities will be inspected at least once every three years.

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

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

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**12. DEFICIENCY:**

The CUPA local ordinance, *Code of Ordinances, Ordinance No. 694, Chapter 15, Article IX – Underground Storage of Hazardous Substances* is less stringent than the provisions of HSC and CCR, Title 23, Division 3, Chapter 16 and the provisions of the CUPA local ordinance are not being implemented as required. Provisions that are less stringent and not implemented include, but are not limited to the following:

- Section 15-191 – Design standards and monitoring systems for new and existing facilities. The provision of section 15-191 indicates Underground Storage Tanks (USTs) installed after January 1, 1984 shall meet the standards set forth in HSC, section 25291. Since the adoption of Article IX, new provisions of HSC have become effective resulting in design, construction, and monitoring requirements which better protect human health and the environment. For instance, USTs with an installation date of October 1, 2003, shall be designed, constructed, and monitored to meet the provisions of HSC, Section 25209.2 and USTs with an installation date of January 1, 2006 shall be designed, constructed, and monitored to meet the provisions of HSC, Section 25290.1.
- Section 15-190 – Annual Report. The CUPA is not implementing the provisions of section 15-190 that indicates the CUPA will prepare and provide an annual report form to permittees and as a condition of the permit, the permittee shall complete the annual report form which details any changes in the usage of any UST, monitoring procedures, and unauthorized release occurrences.

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



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**DEFICIENCIES REQUIRING CORRECTION**

**CITATION:**

HSC, Chapter 6.7, Sections 25290.1, 25290.2, 25299.2 and 25299.3  
CCR, Title 23, Section 2620(c)  
CCR, Title 27, Sections 15100(b)(1)(C), 15160, 15330(a)(1) and(a)(2), 15280(c)(5) and  
15150(c)(2)  
[State Water Board]

**CORRECTIVE ACTION:**

The CUPA will no longer implement provisions of the local ordinance that are less stringent or other provisions that may be inconsistent with HSC and CCR.

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt the local ordinance including, at a minimum, the less stringent provision identified in the deficiency, and provisions that are not being implemented as required. The plan shall include, at a minimum, a timeline for drafting and adopting the CUPA's local ordinance, provisions for the CUPA to provide legal analysis of the CUPA's local ordinance to CalEPA and the State Water Board, and a draft copy of the CUPA's local ordinance.

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

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

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**13. DEFICIENCY:**

The CUPA is not consistently citing violations for failure to conduct late overfill prevention equipment inspections. No later than October 13, 2018, all overfill prevention equipment must be inspected.

Review of UST compliance inspection reports, associated Overfill Prevention Equipment Inspection Report Forms, and CERS CME information indicates the following overfill prevention equipment inspections were conducted beyond the October 13, 2018, deadline and the CUPA did not consistently cite violations:

- CERS ID 10166765: Overfill Prevention Equipment Inspection Report Form dated March 19, 2019 - The CUPA did not 1) issue the correct violation during the UST compliance inspection dated June 19, 2019, and 2) provide accurate United States Environmental Protection Agency (U.S. EPA) technical compliance rate (TCR) 9b reporting.
- CERS ID 10407631: Overfill Prevention Equipment Inspection Report Form dated May 31, 2019 - The CUPA did not 1) issue the correct violation during the UST compliance inspection dated January 28, 2020, and 2) provide accurate U.S. EPA TCR 9b reporting.

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- CERS ID 10155559: Overfill Prevention Equipment Inspection Report Form dated August 29, 2019 – The CUPA did not 1) issue the correct violation during the UST compliance inspection dated August 29, 2019, and 2) provide accurate U.S. EPA TCR 9b reporting.

Note: The examples provided 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 1<sup>st</sup> Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure establishment of a process for CUPA personnel to consistently and correctly cite UST violations for failure to conduct an overfill prevention equipment inspection during UST compliance inspections and 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 2<sup>nd</sup> 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 train CUPA personnel on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum, will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

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

By the 4<sup>th</sup> 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, that have been inspected after training has been completed and within the last three months. For each UST that has not had a completed overfill prevention equipment inspection, the CUPA will provide CalEPA with a narrative of the applied appropriate enforcement.

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DEFICIENCIES REQUIRING CORRECTION

**14. DEFICIENCY:**

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with HSC, chapter 6.7, and CCR, title 23, chapter 16.

The following are examples:

- CERS ID 10419904: The UST closure letter does not identify whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure, and soil and/or groundwater sampling complies with HSC and CCR.

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

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]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop or review and revise and provide CalEPA with a UST closure procedure, or other applicable procedure, that establishes a process, which will include at a minimum, how the CUPA will:

- Document in sufficient detail the owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil sampling complies with HSC and CCR, chapter 6.7 and CCR, title 23, chapter 16.
- Issue a UST closure letter, for both UST closure sites with and without contamination, that identifies whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with HSC and CCR.

By the 1<sup>st</sup> Progress Report, the CUPA will draft and provide CalEPA with a revised UST closure letter template that identifies whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with HSC and CCR. The CUPA may consider including the following language in the UST closure letter template: “the Kings County Environmental Health CUPA has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with HSC, section 25298, subdivision (c) and CCR, section 2672.”

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

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and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised UST closure procedure or other applicable procedure.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised UST closure letter template are necessary based on feedback from the State Water Board, the CUPA will amend and provide CalEPA with a copy of the revised UST closure letter template. If no amendments are necessary, the CUPA will train CUPA personnel on the use of the revised UST closure letter template. The CUPA will provide training documentation to CalEPA, which will include, at a minimum, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will use the revised UST closure letter template for all UST closures.

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

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST closure letter template were necessary, the CUPA will train CUPA personnel on the use of the revised UST closure letter template. The CUPA will provide training documentation to CalEPA, which will include, at a minimum, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will use the revised UST closure letter template, for all UST closures.

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the revised UST closure letter template and provide the requested documentation upon request.

Upon the next UST closure, the CUPA will provide CalEPA a copy of the UST closure documentation demonstrating the CUPA's satisfaction that UST closure and soil and/or groundwater sampling complies with HSC, chapter 6.7 and CCR, title 23, chapter 16.

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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.

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**1. INCIDENTAL FINDING:**

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

Note: A copy of the current [Surcharge Transmittal Report](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT_1819.pdf) can be found at:  
[https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT\\_1819.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT_1819.pdf)

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will have submitted to CalEPA the 1<sup>st</sup> quarterly Surcharge Transmittal Report for FY 2021/2022 to CalEPA by the required due date using the current template. Thereafter, the CUPA will utilize the current template to prepare and submit each quarterly Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter.

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**2. INCIDENTAL FINDING:**

The CUPA is not inspecting all UST facilities annually.

Review of Semi-annual Compliance Report (Report 6) data for the following FY indicates:

- FY 2018/2019
  - 5 of 84 (6%) UST facilities were not inspected.

**CITATION:**

HSC, Chapter 6.7, Section 25288(a)  
CCR, Title 23, Section 2712(e)  
[State Water Board]

**RESOLUTION:**

The CUPA will conduct UST compliance inspections for those past due and maintain an annual inspection frequency of all USTs.

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**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**3. INCIDENTAL FINDING:**

The CUPA's UPFP, which includes the UST operating permit, indicates revisions are necessary as UPFP language and CUPA authority are inconsistent with HSC and CCR regulatory requirements. Inconsistencies include, but are not limited to, the following:

- UPFP maintenance requirement does not accurately reflect the provisions of CCR. The UPFP indicates it must be posted at the facility. The CUPA does not have the authority to require the UPFP to be posted unless the CUPA adopts the requirement into the Local Ordinance.
- General Condition (I)(A)(5) does not accurately reflect the provisions of CCR. The general condition language extends the retention period for monitoring and maintenance records during the course of any unresolved enforcement action. The CUPA does not have the authority to extend the retention period unless the CUPA adopts the requirement into the Local Ordinance.
- General Condition (I)(A)(5) reflects vague language regarding the retention period of monitoring and maintenance records. Clarification is necessary as it is not clear if the CUPA provides notice to an owner or operator of the requirement to extend the retention period and if the CUPA identifies what the retention period is.
- General Condition (II)(A)(2) does not accurately reflect the provisions of CCR. The general condition does not reflect that an owner or operator shall notify the CUPA at least 30-days before changing the substance stored in an UST.

**CITATION:**

CCR, Title 23, Section 2711(c) and (d), 2712(b)(1) and (i)  
[State Water Board]

**RESOLUTION:**

During the 2020 CUPA Performance Evaluation process, the CUPA revised the UPFP template, by removing language to post the UPFP at the facility. However, additional revisions are necessary to address UPFP language and CUPA authority requirements. Any further UPFP revisions during the evaluation process will be reviewed in Evaluation Progress Report #1.

By the 1<sup>st</sup> Progress Report, the CUPA will revise and provide CalEPA with a copy of the UPFP template addressing at a minimum, the inconsistencies identified above.

By the 2<sup>nd</sup> Progress Report, the CUPA will if necessary, amend the revised UPFP template, based on feedback from State Water Board and will provide the amended UPFP template to CalEPA. If no amendments to the UPFP template are necessary, the CUPA will begin using the revised UPFP template and will provide CalEPA with a copy of up to three UPFPs issued to UST facilities with the revised template.

By the 3<sup>rd</sup> Progress Report, the CUPA will begin using the amended UPFP template and will provide CalEPA with a copy of up to three UPFPs issued to UST facilities with the amended template.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**4. INCIDENTAL FINDING:**

The I&E Plan is inconsistent with the requirements of HSC regarding the provision of red tag enforcement for the UST Program.

The I&E Plan has not been updated to reflect the following provision of HSC that became effective January 1, 2019:

- No person shall input or withdraw from an UST that has a red tag affixed to its fill pipe, except to empty the UST pursuant to a directive from the CUPA or State Water Board.

**CITATION:**

HSC, Chapter 6.7, Sections 25292.3(a)(2)(A) and (c)(1)(C)  
CCR, Title 23, Sections 2712(c) and 2713(c)  
[State Water Board]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise and provide CalEPA with a copy of the I&E Plan that correctly reflects the provisions of red tag enforcement for the UST Program.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the I&E Plan, based on feedback from the State Water Board, and will provide the amended I&E Plan to CalEPA. If no amendments to the revised I&E Plan are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3<sup>rd</sup> Progress Report, the CUPA will train CUPA personnel on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan.

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# 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.

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#### 1. **OBSERVATION:**

The current Fee Schedule is not available on the CUPA's website.

#### **RECOMMENDATION:**

Make the current Fee Schedule available on the CUPA's website.

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#### 2. **OBSERVATION:**

Since the CUPA applied for certification in 1995, additional program elements have been incorporated into the implementation of the Unified Program, and the number of facilities regulated by the CUPA has changed. Though most program elements have seen a reduction in the number of regulated facilities, the number of Hazardous Waste Generators, CalARP Program facilities and Aboveground Petroleum Storage Act Tank facilities has significantly increased. The managerial and supervisory personnel for the CUPA has been reduced from one full-time position to one half-time position since the agency applied for certification. The information below is a comparison of 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 with present-day circumstance.

#### **Number of regulated facilities for each program element:**

- *Original Certification Source: County of Kings Environmental Health Services 1996 CUPA Application*
- *Current CUPA Evaluation Sources: CERS "Summary Regulated Facilities by Unified Program Element Report" & CERS "UST Inspection Summary Report (Report 6)", both generated on August 24, 2020*
- Total Number of Regulated Businesses and Facilities:
  - Upon Certification in 1996: **860**
  - Current CUPA Evaluation: **736**
  - A decrease of **124** facilities
- Total Number of Hazardous Material Release Reporting, Inventory and Response Plans (Business Plan) Regulated Businesses and Facilities:
  - Upon Certification in 1996: **853**
  - Current CUPA Evaluation: **703**
  - A decrease of **150** facilities
- Total Number of Regulated UST Facilities:
  - Upon Certification in 1996: **101**
  - Current CUPA Evaluation: **85**
  - A decrease of **16** UST facilities



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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### OBSERVATIONS AND RECOMMENDATIONS

- Total Number of Regulated USTs:
  - Upon Certification in 1996: **287**
  - Current CUPA Evaluation: **237**
  - A loss of **50** USTs
- Total Number of Regulated HWG Facilities:
  - Upon Certification in 1996: **68 (70)**
  - Current CUPA Evaluation: **399**
  - An addition of **329 (331)** facilities
  - Comments: The CUPA has two different facility counts for Hazardous Waste Generators in the Application for Certification.
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
  - Upon certification in 1996: none specified
  - Current CUPA Evaluation: **2**
  - Comments: HHW facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
  - Upon Certification in 1996: **9**
  - Current CUPA Evaluation: **1**
  - A decrease of **8** facilities
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
  - Upon certification in 1996: none specified
  - Current CUPA Evaluation: **15**
  - Comments: RCRA LQG Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- Total Number of Regulated RMPP or CalARP Program Facilities:
  - Upon Certification in 1996: **10**
  - Current CUPA Evaluation: **27**
  - An addition of **17** facilities
- Total Number of Regulated APSA Tank Facilities:
  - Upon Certification in 1996: N/A
  - Current CUPA Evaluation: **251**
  - An addition of **251** facilities

### CUPA Personnel:

- Inspection and other Staff
  - Upon Certification in 1996:
    - **5** Staff, each at a Full-Time Equivalent = **5** Full-Time positions
      - Comments: Staff positions are classified as environmental health officers.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

- Currently:
  - **7** Staff, each at a Full-Time Equivalent = **7** Full-Time positions
    - Comments: One staff member is still in training and will be conducting inspections within the next few months.
- Supervisory and Management Staff
  - Upon Certification in 1996:
    - **2** Staff at a Part-Time Equivalent = **1** Full-Time position
  - Currently:
    - **1** Staff at a Part-Time Equivalent = **0.5** Part-Time position
      - Note: The CUPA Director fulfills the supervisory role and is responsible for overseeing other environmental departments as well.
      - Comments: On May 29, 2020, the CUPA supervisor retired and supervisory job duties have been divided among supervisors of other County program areas. At the Kings CUPA Exit Briefing, the CUPA informed CalEPA that the CUPA supervisor position has been removed by decision of the Board of Supervisors.
      - Comments: As of August 21, 2020, the Division Manager retired and will not be filled, but will be replaced with a position to be determined by the Board of Supervisors or Public Health Director.

#### RECOMMENDATION:

Conduct a single fee assessment to determine the necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element and examine how CUPA resources are being allocated for program services. Reevaluating the current revenue sources and expenditures will support and justify any increase to single fees, additional staff, or other resources that may be necessary to ensure adequate implementation of each Unified Program element. Having adequate resources to obtain and maintain adequate staff may assist in addressing the cause and recurrence of identified deficiencies and findings, such as falling short of meeting mandated inspection frequency for various program elements and ensuring facilities cited with violations return to compliance by way of an applied graduated series of enforcement.

Ensure budgetary record keeping of revenues and expenditures clearly reflect and demonstrate application of resources to implement the Unified Program, such as full time equivalents for each staff and managerial position, conducting inspections, and applying enforcement for all Unified Program elements, as well as the exclusion of resources for supplemental efforts that may not be specifically required by or associated with the Unified Program, such as staff time allotted for the implementation of other County programs including, but not limited to solid and medical waste, public water systems, food safety, housing, body art, detention facilities, and schools.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

#### 3. OBSERVATION:

The I&E Plan contains obsolete citations and information that is missing, inaccurate, outdated or may benefit from improvement for the HMBP, CalARP, and APSA programs and fire code.

- Page 5: In the Required Frequency of Inspection table, the triennial statutory inspection frequency does not apply to all APSA tank facilities, it applies to APSA facilities storing 10,000 gallons or more of petroleum. To be consistent with the other program elements listed on the table, include HSC 25270.5(a) for APSA mandated inspections.
- Page 5: HSC, Section 25508(b) is incorrect. The correct HSC, Section is 25511(b). The authority for CalARP inspections is HSC, Section 25537 and would be good to include.
- Page 10: The APSA RTC timeframe discussion is incorrect. There are no established times under APSA; however, Unified Program regulated facilities cited with a minor violation have 30 days from the date of the notice to comply as allowed under HSC, Section 25404.1.2(c)(1).
- Page 10: HSC, Section 25505(a)(2) is relative to site maps, not RTC. HSC, Section 25508(a)(3) is relative to RTC, however, it only applies to submittal corrections, not RTC for inspection violations. HSC, Chapter 6.95 has no citations for RTC.
- Page 28: The Matrix of Enforcement Options table does not address the APSA program.
- Page 28: The enforcement note related to APSA facilities is outdated, including the referral reference to the Regional Water Quality Control Board. The CUPA is responsible for APSA implementation and enforcement.
- Page 28: The Uniform Fire Code reference is outdated. The current fire code adopted by the state is the California Fire Code (2019 edition).
- Page 28: HSC, Section 25514.5 does not exist, 25515 is correct.
- Page 29: HSC, Section 25514 is incorrect, 25515 is correct.
- Page 29: HSC, Section 25514.3 does not exist. An appropriate citation is 25515.1.
- Page 29: HSC, Section 25514.5 does not exist. An appropriate citation is 25515.2.
- Page 29: HSC, Section 25515 is incorrect, 25515.3 is correct.
- Page 29: HSC, Section 25515.1 is incorrect, 25515.4 is correct
- Page 32: in the discussion of Program Specific Enforcement Violations, it would be good to also reference HSC, Section 25270.12.1 (administrative penalties) and HSC, Section 25270.12.5 (misdemeanors).
- Multiple instances of referral to the APSA program as AST, or SPCC were observed, including but not limited to Pages 3, 4, 5, 6, and 10.

#### RECOMMENDATION:

Revise the I&E Plan as indicated above.

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#### 4. OBSERVATION:

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

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

The OSFM information on APSA and farms is available at:

<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/>.

More information on farms under the Federal SPCC rule may be found on the U.S. Environmental Protection Agency website at: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>.

#### **RECOMMENDATION:**

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

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

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#### **5. OBSERVATION:**

The CUPA has performed reconciliation of APSA tank facilities between CERS and the CUPA’s local data management system, but may not be regulating all APSA tank facilities.

The CERS reporting requirement is currently set as “APSA Applicable” for approximately 210 facilities. The CUPA’s local data management system identifies about 209 APSA tank facilities.

The CUPA’s local data management system designates a significant number of farm facilities and some oil production facilities as APSA regulated, including some facilities whose CERS reporting requirement is currently set as “APSA not applicable.”

The CERS reporting requirement is currently set as “APSA applicable” for many farm facilities, some of which are probably not APSA regulated, due to WRRDA exclusions.

The CERS reporting requirement is currently set as “APSA not applicable” for some farm facilities that are probably APSA regulated.

#### **RECOMMENDATION:**

Complete the reconciliation of the Envision Connect database to CERS for APSA program information to ensure all APSA regulated facilities are included in both the local data management system and CERS, including facilities that store 10,000 gallons or more of petroleum. Update the CERS reporting requirement to “Not Applicable” for facilities that are not APSA regulated, and update the CERS reporting requirement to “Applicable” for facilities that are APSA regulated.

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**6. OBSERVATION:**

The two links under the Above Ground Storage Tank on the CUPA's webpage at: <https://www.countyofkings.com/departments/health-welfare/environment-health-service/cupa-hazardous-material/cupa-program-2> transfer to an outdated OSFM APSA webpage that is no longer valid. The new OSFM APSA webpage is at: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>.

**RECOMMENDATION:**

Update and consolidate the two links into one for the Above Ground Storage Tank, and rename the section for consistency with the APSA program. Also, consider providing the following 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.

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**7. OBSERVATION:**

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

**RECOMMENDATION:**

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

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**8. OBSERVATION:**

Review of overall implementation of the HWG program, including CERS data, facility file information, and Self-Audit Reports for July 1, 2017 – June 30, 2020, is summarized below:

- CERS indicates 236 routine HWG inspections were conducted.
  - 45 of 236 (19%) HWG inspections resulted in one or more violations being cited,
  - 191 of 236 (81%) HWG inspections resulted in no violations.
- One of three Class I violations remains out of compliance. This violation was cited on July 7, 2018.
- Three of five Class II violations remain out of compliance.
- 22 of 57 (39%) minor violations remain out of compliance.
- The CUPA did not collect any samples or conduct any formal enforcement actions for the HWG program.
- DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

**RECOMMENDATION:**

Ensure that complete and thorough inspections are conducted to identify all violations at facilities. Adhere to the I&E Plan to follow up with facilities that have not returned to compliance (RTC) by the scheduled RTC date and pursue a graduated series of enforcement for facilities that do not RTC.

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**9. OBSERVATION:**

The CUPA's area plan contains minor errors and obsolete citations, including but not limited to:

- In the 2020 update:
  - Page 2, 19 CCR, section 2720 is incorrect, the correct section is 2640, and sections 2720-2728 are incorrect, the correct sections are 2640-2648.
  - Page 3, 19 CCR sections 2729-2729.7 are incorrect, the correct sections should be 2650-2657.
  - Page 4, 19 CCR section 2723 is incorrect, the correct section is 2643.
  - Page 12, 19 CCR section 2722 is incorrect, the correct section is 2642.
  - Page 14, 19 CCR section 2724 is incorrect, the correct section is 2644.  
The CHMIRS database is obsolete and no longer used.
  - Page 15, 19 CCR section 2725 is incorrect, the correct section is 2645.
  - Page 16, 19 CCR section 2726 is incorrect, the correct section is 2646.
  - Page 19, 19 CCR section 2727 is incorrect, the correct section is 2647, and section 2728 is incorrect, the correct section is 2648.
- Appendices B-3 and B-3b include proposed language from 2005. There is more current language.
- Appendix H, 19 CCR section 2703 is incorrect, the correct section is 2631, section 2705 is incorrect, the correct section is 2632, section 2724(d) is incorrect, the correct section is 2644(d), and section 2703(e) is incorrect, the correct section is 2631(e).
- Appendix I – Cal OES sponsored Type 2 hazmat rigs HM-52 (Fresno City Fire) and HM-51 (Kern County Fire) are additional resources that can be called upon in a hazardous materials incident.
- Appendix J – CHMIRS is obsolete and no longer used, DFG should be DFW, and MSDS should be SDS.
- Appendix K – Cal OES no longer supports (916) 262- phone numbers, and the 2020 version of the Emergency Response Guidebook is now available.

**RECOMMENDATION:**

Correct the minor errors and obsolete citations with the next review of the area plan.

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**10. OBSERVATION:**

The CUPA's "HMBP Info Forwarding Written Procedures" document has a couple of obsolete citation:

- HSC section 25506 is incorrect, the correct section is 25509.
- "Paragraph (5) of subdivision (a) of section 25509" is incorrect, the correct citation is "Paragraph (2) of subdivision (a) of section 25505."

**RECOMMENDATION:**

The document should be updated with current citations.

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**11. OBSERVATION:**

The UST Facility/Tank Data Download report obtained from CERS on July 15, 2020, finds there are limited instances where CERS monitoring and construction data are incorrect as follows:

- USTs identified as having single-wall construction incorrectly show having no installed tank lining.
- USTs identified as having double-wall pressurized pipe incorrectly show having no installed mechanical or electronic line leak detector.
- USTs identified as being installed between January 1, 1984, and June 30, 2004, incorrectly show triennial secondary containment testing is not required.
- USTs identified as being constructed post July 1, 2004, incorrectly show having to conduct triennial secondary containment testing.

Note: Reference the following CERS FAQs:

- *General Reporting Requirements for USTs;*
- *When to Issue a UST Operating Permit;*
- *Common CERS Reporting Errors;*
- *Setting Accepted Submittal Status;* and
- *Which Forms Require Uploading to CERS.*

Note: The examples provided above are intended to contextualize the observation.

**RECOMMENDATION:**

Provide refresher training to UST inspection staff who review CERS UST facility submittals for accuracy and continue to assist facility owners or operators with reporting accurate and complete CERS monitoring and construction data with the next CERS UST facility submittals, but no later than one year.

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**12. OBSERVATION:**

CERS indicates there are single-walled USTs/UST systems that require permanent closure by the December 31, 2025 requirement in accordance with HSC, Section 25292.05. Below are a few examples:

- CERS ID 10423525 (10423525-001, 002, 003)
- CERS ID 10451974 (10451974-001, 002, 003)
- CERS ID 10485304 (10485304-001, 002, 003)

Note: The examples provided above are intended to contextualize the observation.

Note: Prior to the CUPA 2020 Performance Evaluation exit briefing, State Water Board will provide the CUPA with a complete list of single-wall UST/UST systems identified in CERS that require permanent closure by December 31, 2025.

**RECOMMENDATION:**

Continue to provide verbal reminders to all applicable UST facility owners or operators as identified in CERS regarding the December 31, 2025, requirement for permanent closure of single-walled UST/UST systems. Consider providing written notification of the requirement to all

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applicable UST facility owners or operators as identified in CERS. 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 UST/UST systems by December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: [https://www.waterboards.ca.gov/ust/adm\\_notices/sw\\_ust\\_owner\\_operator\\_ltr.pdf](https://www.waterboards.ca.gov/ust/adm_notices/sw_ust_owner_operator_ltr.pdf).

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 tanks. More information on funding sources may be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust.shtml](http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml).

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**13. OBSERVATION:**

CUPA UPFPs indicate the CUPA identifies a full description of tank and pipe construction and 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 be inconsistent. Further, UPFPs are issued with a five year term, and any changes to installed components will require the CUPA to amend and reissue the UPFP so it accurately reflects the current UST system.

**RECOMMENDATION:**

Consider revising the UPFP content by tank number, the type of tank and pipe construction (such as double-walled fiberglass tank with double-walled fiberglass product pipe) as the UPFP conditions indicate the type of monitoring to be completed by owners and operators. Another consideration is for the UPFP to include incorporation by reference as a permit condition and indicate "UST 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)."



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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

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

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**1. ANNUAL CUPA ADVISORY COMMITTEE MEETING:**

For the past decade, the CUPA has hosted an annual CUPA Advisory Committee meeting, which is open to the public and includes representatives from all CUPA regulated facilities. This meeting is a well-attended event that allows the regulated community to meet with CUPA staff to discuss new regulations and learn about current compliance related issues in an open forum. The CUPA plans to continue to host these annual advisory committee meetings when possible.

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**2. CERS DATA ENTRY ASSISTANCE:**

The rural demographics of Kings County present technological challenges for the CUPA, relative to the use of electronic reporting and CERS compliance among the regulated community. In order to increase rates of CERS data entry compliance, the CUPA offers training and assistance to regulated businesses relative to the completion and submittal of CERS reporting for all Unified Program elements. A computer terminal is accessible and available in a quiet area of the County building where CUPA personnel assist owners and operators with simple, yet effective, one-on-one tutoring and guidance in the use of CERS. CUPA personnel assist owners and operators with creating CERS user profiles, making updates to facility files, and various other CERS required tasks. The CUPA has seen improved rates of CERS data entry as a direct result of this assistance. The CUPA's program continues to be a valuable tool for not only increasing rates of compliance with CERS reporting, but also for strengthening the bonds with the regulated community of Kings County.

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**3. HAZARDOUS MATERIALS SITE MAP ASSISTANCE:**

The CUPA has dedicated staff that assists the regulated community with the creation of facility site maps as part of HMBP submittals. The 2017 CUPA Performance Evaluation identified a deficiency for not consistently ensuring site maps were included as part of HMBP submittals and contained all required elements for APSA tank facilities. The CUPA developed a Hazardous Materials Site Map template that lists the required elements and encourages smaller, local businesses to use the template, allowing flexibility for those facilities for which all the required elements may not apply.

In the event that a facility site map submitted in CERS does not include all the required elements, the reviewing CUPA personnel will reject the HMBP submittal as "Not Accepted" and will provide guidance in the comment field as to what additional items are required. The reviewing CUPA personnel will provide their contact information should the submitter have additional questions or require additional assistance. If additional assistance is requested, and permission is granted, CUPA personnel will complete an acceptable site map on behalf of the regulated business. Once a site map is received and contains all required elements and/or appropriate indicated non-applicability, it will be accepted.

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