



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

Certified Mail: 7015 1660 0000 1619 0317

November 15, 2019

Ms. Elizabeth Morgan
Director of Environmental Health
Sierra County Human Services
Health Department
202 Front Street, P.O. Box 7
Loyalton, California 96118-0007

Dear Ms. Morgan:

From May through September, 2019, CalEPA and the state program agencies conducted a performance evaluation of the Sierra County Human Services Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System data.

Upon completion of the evaluation, a preliminary report was developed to identify various findings: program deficiencies and associated corrective actions with timeframes for correction. Enclosed, please find the final report.

Based upon review and completion of the evaluation, CalEPA has rated the CUPA's overall implementation and performance of the Unified Program as Meets Unified Program implementation and performance requirements.

To demonstrate progress towards the correction of any program deficiencies identified in the final report, the CUPA must submit a corrective action progress report every 90 days from the date of this letter. The first progress report is due January 15, 2020. Progress reports are required until all corrective actions are accepted by CalEPA. Each progress report should be emailed as a Microsoft Word document file to the CalEPA Supervisor, Melinda Blum, at Melinda.Blum@calepa.ca.gov.

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

Name
Page 2

If you have any questions or need further assistance, please contact Melinda Blum at (916) 327-9560 or John Paine, Unified Program Manager, at (916) 327-5092.

Sincerely,

Original signed by Jason Boetzer

Jason Boetzer
Acting Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Ms. Annalisa Kihara
Supervising Water Resource Control Engineer
State Water Resources Control Board
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Ms. Laura Fisher
Senior Environmental Scientist, Supervisor
State Water Resources Control Board
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Ms. Maria Soria
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Mr. James Hosler, Chief
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Name
Page 3

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Name
Page 4

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

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

CUPA: Sierra County Human Services Health Department

Evaluation Date: May 2019 through September 2019

Evaluation Team Members:

CalEPA Team Lead	DTSC	Cal OES	State Water Board	CAL FIRE - OSFM
Marc Lorentzen	Kevin Abriol	Fred Mehr	Sean Farrow	Joann Lai Carmen Zamora

This Final Summary of Findings includes:

- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the CUPA meets Unified Program implementation and performance requirements.

Questions or comments regarding this evaluation should be directed to Melinda Blum (Melinda.Blum@calepa.ca.gov).

The CUPA is required to submit a Deficiency 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 Deficiency Progress Report must include a narrative stating the status of all deficiencies and incidental findings identified in this Final Summary of Findings Report.

Deficiency Progress Report submittal dates for the first year following the receipt of this Final Summary of Findings Report are as follows:

- Update 1: January 15, 2020
- Update 2: April 15, 2020
- Update 3: July 15, 2020
- Update 4: October 15, 2020

Each Deficiency Progress Report must be submitted to Melinda Blum (Melinda.Blum@calepa.ca.gov).

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(s) indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute.

1. DEFICIENCY:

The CUPA's Unified Program administrative procedures are missing necessary components.

Procedures for responding to requests for information from the public, including methods to prevent the release of confidential information are missing.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15180(e)
[CalEPA]

CORRECTIVE ACTION:

By Update 1, the CUPA will revise and provide CalEPA with a copy of the procedures listed in this deficiency.

By Update 2, the CUPA will, if necessary, amend the procedures based on feedback from CalEPA and submit the revised procedures to CalEPA.

By Update 3, the CUPA will train staff on the procedures listed in this deficiency and provide training documentation to CalEPA, such as an outline of the training conducted and a list of CUPA personnel in attendance.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

Incidental findings identify specific incidents or activities regarding implementation of the Unified Program. Though incidental findings do not rise to the level of program deficiencies or inadequate implementation of the Unified Program, the CUPA must complete the resolution(s) indicated as required by regulation or statute.

1. INCIDENTAL FINDING:

The CUPA is not consistently citing correct hazardous waste generator (HWG) violations in accordance with hazardous waste control law and regulations.

The CUPA did not correctly cite HWG regulations during the following inspection:

- CERS ID 10400080: Inspection Report dated November 22, 2017, cites the small quantity generator (SQG) facility with a violation for failure to inspect all hazardous waste containers weekly, noting “inspection log not being kept” and a violation for failure to conduct weekly tank inspections, noting “inspection log not being kept.”

Hazardous waste container inspections at SQG facilities are not required to be documented and therefore do not require inspection logs. Weekly tank inspections at SQG facilities also do not require inspection logs.

CITATION:

CCR, Title 22, Section 66262.34(d)(2)
Federal Code of Regulations (CFR), Title 40, Section 262.16
[DTSC]

RESOLUTION:

By Update 1, the CUPA inspectors will review CCR, Title 22, Section 66262.34(d)(2), which cites CFR, Title 40 (now section 262.12) for SQG container and tank inspection requirements. The CUPA will provide CalEPA with a listing of personnel and the citations reviewed by each person to demonstrate that each inspector has reviewed the citations.

2. INCIDENTAL FINDING:

The CUPA did not consistently include all observations, factual basis, and corrective action documentation for each violation cited on the August 16, 2016, HWG inspection report.

CERS ID 10400080: The inspector cited the facility for failure to:

- properly label all containers or tanks. The inspector provided a corrective action of “label waste oil tank,” but did not specify labeling requirements or fully detail the factual basis for the violation, i.e., the tank was missing the words “Hazardous Waste” and an accumulation start date;
- ship waste off-site within 180 days. The inspector noted that the “last collection was >180 days,” but did not fully detail the factual basis for the violation, nor provide a corrective action, i.e., the date of the last manifest or receipt when the waste was picked up and a

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

corrective action that includes specifying that waste must be picked up every 180 days or less;

- accumulate hazardous waste in containers in good condition and noted the “plastic container by waste oil tank,” but did not fully detail the factual basis for the violation, nor provide a corrective action, i.e., how big the plastic container was, how it was in poor condition, what waste the container held, and a corrective action to transfer waste into a good container or over pack the poor container into a larger good container.

CITATION:

Health and Safety Code (HSC), Chapter 6.5, Section 25185(c)(2)(A)
[DTSC]

RESOLUTION:

By Update 1, the CUPA will provide report writing training to each CUPA inspector to ensure that all violations cited in HWG inspection reports and Notices to Comply include observations, factual basis, and corrective actions. The CUPA may include review of the “CalEPA Inspection Report Writing Guidance” (<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-InspectionRpt-accessible.pdf>) as part of the inspector training. The CUPA will provide CalEPA with documentation demonstrating that each inspector received report writing training, such as an outline of the training conducted and a list of personnel in attendance.

3. INCIDENTAL FINDING:

The CUPA is not ensuring abandoned Underground Storage Tanks (USTs) are properly closed.

State Water Board finds the following UST facility has abandoned USTs in place as identified during the Abandoned Tanks Initiative headed by the United States Environmental Protection Agency (U.S. EPA) and State Water Board:

- 103 Commercial Street, Downieville

The CUPA confirmed the abandoned USTs have not been used since the 1960’s as they reside underneath Highway 49 in the town of Downieville. The CUPA also confirmed it is unknown if the USTs contain any product.

Note: Please reference State Water Board correspondence dated April 27, 2017, “Conclusion of the Abandoned Underground Storage Tank Initiative,” and “Unified Program Agency Inspection and Reporting Requirements.”

Note: Please reference the following California Environmental Reporting System (CERS) Frequently Asked Questions (FAQ): “Reporting Abandoned USTs.”

CITATION:

HSC, Chapter 6.7, Sections 25298 and 25299 (a)(5) or (b)(3)
[State Water Board]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

By Update 2, the CUPA will revise and provide CalEPA with an Inspection and Enforcement (I&E) Plan or other applicable procedure to address abandoned USTs. The procedure will delineate the CUPA's process for regulating, enforcing, and ensuring abandoned USTs are properly closed, and at a minimum will include:

- Ensuring USTs are reported to CERS and remain in CERS until UST closure is completed;
- Completing annual UST compliance inspections;
- Identifying progressive enforcement options; and
- Providing SOC criteria information to State Water Board.

Further, by Update 2, the CUPA will train personnel on the revised I&E Plan or other applicable procedure addressing abandoned USTs and will provide training documentation to CalEPA. Training documentation, at a minimum, will include an outline of the training conducted and a list of CUPA personnel attending the training.

Once training is complete, the CUPA will implement the revised I and E Plan or other applicable procedure addressing abandoned USTs.

With respect to the identified abandoned USTs, the CUPA will follow up and ensure that proper closure is completed.

4. INCIDENTAL FINDING:

The CUPA's I&E Plan and Permitting Procedure of the Consolidated Permit Plan are not consistent with Statute as amendments that became effective January 1, 2019, are not reflected:

- I&E Plan – The red tag enforcement option does not address the recent amendments that an owner/operator is no longer able to withdraw gasoline when a red tag is affixed and that a CUPA has the ability to require an owner/operator to remove contents from USTs which have a red tag affixed.
- Consolidated Permit Plan – The permitting procedure does not reflect issuing a permit when USTs are not in full compliance. Not issuing a permit if red tags have been affixed or if enforcement is pending is also language that needs to be included.

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)
[State Water Board]

RESOLUTION:

By Update 2, the CUPA will review, revise, and provide CalEPA with a copy of the revised I&E Plan and the revised Consolidated Permit Plan addressing the recent amendments to Statute that became effective January 1, 2019.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

5. INCIDENTAL FINDING:

The CUPA's Ordinance conflicts with collecting and remitting state surcharge fees.

Review of Ordinance section 36.05.070 indicates the state surcharge fee is "payable every five years."

State surcharge fees are to be collected and remitted to CalEPA quarterly.

CITATION:

CCR, Title 27, Section 15250(b)
[CalEPA, State Water Board]

RESOLUTION:

No later than the next triennial CUPA evaluation, the CUPA will revise and provide CalEPA with a revised Ordinance which correctly identifies collecting and remitting the state surcharge fees.

6. INCIDENTAL FINDING:

The CUPA is not consistently following-up and documenting return to compliance (RTC) for Aboveground Petroleum Storage Act (APSA) tank facilities cited with violations in inspection reports.

Review of compliance, monitoring and enforcement (CME) data in CERS found the following:

- Fiscal Year 2016/2017 – One (1) of one (1) violation (100%) is without RTC.

CITATION:

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

RESOLUTION:

By Update 1, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of the total number of facilities that have open APSA program violations. The CUPA will follow-up with the facilities listed in the provided spreadsheet and prioritize follow-up actions based on the level of hazard. At minimum, the spreadsheet will include:

- Facility name and address;
- CERS ID number;
- Facility ID number (if applicable);
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date;
- RTC qualifier; and
- Follow-up actions.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

By Update 3, and with each subsequent Deficiency Progress Report until considered corrected, the CUPA will provide CalEPA with an updated version of the RTC tracking spreadsheet. The CUPA will also provide CalEPA with a copy of RTC documentation for two (2) to three (3) APSA facilities during the previous quarter.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

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

1. OBSERVATION:

Review of RTC information in CERS for the UST Program finds the following:

- Fiscal Years (FYs) 2015/2016, 2016/2017, and 2017/2018 – all UST violations have RTC
- FY 2018/2019 – 19 of 36 (53%) violations have RTC
- RTC for reported violations took longer than 90 days in the following limited instances:
 - FY 2015/2016 – 7 of 10 (90%) violations;
 - FY 2016/2017 – 12 of 14 (86%) violations; and
 - FY 2017/2018 – 9 of 17 (53%) violations

Note: Inspection information for the last quarter of FY 2018/2019 is not required to be reported to CERS until July 31, 2019, and therefore is not yet available.

RECOMMENDATION:

Review the CUPA's I&E Plan or other applicable procedure and ensure UST violations RTC within proper time periods and take appropriate enforcement when necessary.

2. OBSERVATION:

Review of the CUPA's inspection frequency for the UST Program finds the following for the five (5) regulated UST facilities:

- CERS ID 10400650 – No inspection in FY 2015/2016. Inspections conducted FY 2016/2017, 2017/2018, and 2018/2019
- CERS ID 10400623 – No inspection in FY 2016/2017. Inspections conducted FY 2015/2016, 2017/2018, and 2018/2019
- CERS ID 10400161 – Inspections conducted FY 2015/2016 – 2017/2018;
- CERS ID 10400365 – Inspections conducted FY 2015/2016 – 2017/2018; and
- CERS ID 10400689 – Inspections conducted FY 2015/2016 – 2017/2018;

Note: Inspection information for the last quarter of FY 2018/2019 is not required to be reported to CERS until July 31, 2019, and therefore is not yet available.

RECOMMENDATION:

Ensure each regulated UST facility is inspected annually.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

3. OBSERVATION:

Review of CERS finds that there are two (2), or more, UST systems which may need to be permanently closed by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05.

The following are examples of facilities that may require permanent closure:

- CERS ID 10400365 and
- CERS ID 10400623

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

RECOMMENDATION:

Continue to provide verbal reminders to UST facility owners/operators and consider providing written notification of the December 31, 2025, requirements for permanent closure of single-wall USTs. The notification should inform the facility owners/operators that, in order to stay in compliance with the law and avoid fines, owners/operators must replace or remove single-wall USTs by December 31, 2025. Additional information about single-wall UST closure requirements may be found at:

http://waterboards.ca.gov/water_issues/programs/ust/single_walled/

The facility owners/operators should be notified that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project tanks. Additional information about funding sources may be found at:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml

4. OBSERVATION:

Review of CERS UST facility information in the CERS Facility Listing (Details) report, finds facility latitude or longitude coordinates are either missing or inaccurate, which directly impacts a facility's location in CERS. Incorrect location of a facility impacts an emergency responder's ability to rely on CERS as a facility location tool in the event of a natural disaster or emergency. No latitude or longitude coordinates are in CERS for the following facilities:

- CERS ID 10400623;
- CERS ID 10400650;
- CERS ID 10400689; and
- CERS ID 10400365.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

Note: The examples provided above may not represent all instances of inaccurate UST facility locations.

Note: U.S. EPA expects the Facility Location Map data provided in CERS for each facility to accurately reflect the geographic location of the facility. The reference point for each facility should be located in the center of the parcel map, which may not be directly on top of the UST system.

RECOMMENDATION:

Ensure geolocation of facilities is correctly reflected in CERS. The CUPA or the facility owner/operator may do this by relocating the location drop pin in "Facility Location Map" in CERS.

5. OBSERVATION:

The CUPA's Area Plan contains outdated information. Appendix T included in the definition of the California State Fire Marshal on page T6 as, "The State Fire Marshal also has primary responsibility for the safety of all interstate and intrastate hazardous liquid pipelines in California." OSFM oversees intrastate hazardous liquid pipelines only.

Also, the outdated Uniform Fire Code is referenced on page 3.10. The 2016 edition of the California Fire Code is the current fire code adopted by the state. The 2019 edition of the fire code has been adopted and will become effective January 1, 2019.

Note: This was also an observation identified during the 2013 and 2016 evaluations.

RECOMMENDATION:

Review and update the Area Plan to incorporate appropriate OSFM information.

6. OBSERVATION:

The CUPA's website (<https://www.sierracounty.ca.gov/234/Hazardous-Materials-Management-CUPA>) contains the following incorrect statement: "The State Water Resources Control Board provides technical assistance and evaluation for the underground storage tank program, in addition to handling the oversight and enforcement for the above-ground storage tank program." All Unified Program Agencies were required by state law to fully implement and enforce the APSA program since January, 2008. The State Water Board and Regional Water Boards retained authority to oversee or cause cleanup or abatement efforts of a release from a tank at a facility. OSFM is responsible for ensuring the implementation of the California Fire Code Hazardous Materials Management Plan (HMMP)/Hazardous Materials Inventory Statement (HMIS) and the APSA program element.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

RECOMMENDATION:

The CUPA website should be updated to reflect current information.

7. OBSERVATION:

The CUPA's I&E Plan contains inaccurate information on the APSA program.

- HSC, Chapter 6.7, Section 25270.12 is referenced for the enforcement section of the APSA program on page 23. The correct citation is HSC, Chapter 6.67, Section 25270.12 for civil and administrative penalties.
- The inspection frequency table on page 31 incorrectly identifies a mandated inspection frequency of at least once every three (3) years for APSA regulated facilities with less than 10,000 gallons. There is no mandated inspection for facilities with less than 10,000 gallons of petroleum under HSC, Chapter 6.67.

RECOMMENDATION:

Review and update the APSA program information in the I&E Plan.

8. OBSERVATION:

The CUPA identified CERS ID 10441891 and CERS ID 10418302 as qualified facilities on the inspection reports when CERS information indicates that each facility stores more than 10,000 gallons of oil. APSA facilities that store more than 10,000 gallons of oil require a Professional Engineer (PE)-certified Spill Prevention Control and Countermeasure (SPCC) Plan.

RECOMMENDATION:

APSA facilities requiring a PE-certified SPCC Plan should be properly identified and inspected utilizing the appropriate APSA inspection checklist.