

August 17, 2021

Ms. Elaine McSpadden, Director
Butte County Division of Environmental Health
202 Mira Loma Drive
Oroville, California 95965-3500

Dear Ms. McSpadden:

From March through June, 2021, CalEPA and the state program agencies (State Evaluation Team) conducted a performance evaluation of the Butte County Division of Environmental Health Certified Unified Program Agency (Butte County CUPA). The Butte County CUPA evaluation included the remote review and assessment of administrative documentation, 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 an example 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 unsatisfactory. However, CalEPA would be remiss in not acknowledging and contextualizing the contributing factors which have inhibited the ability of the Butte County CUPA to implement the Unified Program, resulting in this rating.

It is the determination of the State Evaluation Team that the majority of the findings resulting from this performance evaluation are not due to negligence of the Butte County CUPA in Unified Program implementation, but rather are more so the effects of the near-continuous response and recovery efforts to external emergencies that have occurred within and near the jurisdiction of the Butte County CUPA absorbing staffing and resources. The 2011, 2014, and 2017 performance evaluations reflect a satisfactory rating of Unified Program implementation. In addition, the Butte County CUPA successfully corrected all but two deficiencies identified in the three most recent evaluations prior to the subsequent performance evaluation.

The Butte County CUPA has faced an unprecedented series of county-wide emergencies over the past six years, inhibiting the ability to adequately implement the Unified Program. Examples of such emergencies consuming significant resources and staff of the Butte County CUPA during the period assessed for this evaluation include:

- Response and recovery efforts of the 2018 Camp Fire, which destroyed over 18,000 structures within the jurisdiction of the Butte County CUPA;
- Response and recovery efforts of the 2020 North Complex Fire, which burned over 315,000 acres and threatened a major city within the jurisdiction of the Butte County CUPA; and
- Ongoing response and regulatory efforts as a result of the COVID-19 pandemic, commencing in March 2020, including restrictions limiting Unified Program implementation.

CalEPA and the State Evaluation Team are confident that the Butte County CUPA will devote the time and attention necessary to successfully address each of the deficiencies and incidental findings identified in the final Summary of Findings report as a result of the 2021 performance evaluation.

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings report, the Butte County CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (October 18, 2021), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to Tim Brandt at Timothy.Brandt@calepa.ca.gov.

Failure to adequately correct each of the deficiencies and resolve each of the incidental findings identified in the final Summary of Findings report in a timely manner may result in the establishment of a Program Improvement Agreement between CalEPA and the governing body of the CUPA.

CalEPA and the State Evaluation Team would like to recognize the Butte County CUPA for the 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.

If you have any questions or need further assistance, please contact Melinda Blum at Melinda.Blum@calepa.ca.gov.

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Ms. Elaine McSpadden
Page 3

Enclosures

cc sent via email:

Mr. Tom Parker
Program Manager
Butte County Division of Environmental Health
202 Mira Loma Drive
Oroville, California 95965-3500

Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Ms. Laura Fisher
Senior Environmental Scientist, Supervisor
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Ms. Maria Soria
Program Manager
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Ms. Diana Peebler
Senior Environmental Scientist, Supervisor
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. James Hosler, Chief
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Ms. Jennifer Lorenzo
Senior Environmental Scientist (Supervisor)
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Ms. Elaine McSpadden
Page 4

cc sent via email:

Mr. Jack Harrah
Senior Emergency Services Coordinator
California Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655-4203

Mr. Sean Farrow
Environmental Scientist
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Ms. Jessica Botsford
Environmental Scientist
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Mr. Matt McCarron
Senior Environmental Scientist, Specialist
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. Glenn Warner
Senior Environmental Scientist, Specialist
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Fred Mehr
Environmental Scientist
California Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655-4203

Mr. Garrett Chan
Environmental Scientist
California Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655-4203

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Ms. Elaine McSpadden
Page 5

cc sent via email:

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

Ms. Melinda Blum
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Butte County Division of Environmental Health

Evaluation Period: March 2021 to June 2021

Evaluation Team Members:

- **CalEPA Team Lead:** Tim Brandt
- **DTSC:** Matthew McCarron
- **Cal OES:** Jack Harrah, Garrett Chan
- **State Water Board:** Sean Farrow, Wesley Franks, Jessica Botsford
- **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 **unsatisfactory**. However, it is the determination of the State Evaluation Team that the majority of the findings resulting from this performance evaluation are not due to negligence of the Butte County CUPA in Unified Program implementation, but rather are more so the effects of the near-continuous response and recovery efforts to external emergencies that have occurred within and near the jurisdiction of the Butte County CUPA absorbing staffing and resources.

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

Tim Brandt
CalEPA Unified Program
Phone: (916) 323-2204
E-mail: timothy.brandt@calepa.ca.gov

The CUPA is required to submit an Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report, and every 90 days thereafter, until all deficiencies and incidental findings have been acknowledged as corrected or resolved.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead and must include a narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report.

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

1st Progress Report: October 18, 2021
3rd Progress Report: April 18, 2022

2nd Progress Report: January 18, 2022
4th Progress Report: July 18, 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.

1. DEFICIENCY:

The CUPA is not consistently inspecting all Underground Storage Tank (UST) facilities at least once every 12 months.

Review of the Semi-Annual Report (Report 6) data for each Fiscal Years (FYs) finds the following UST facilities were not inspected:

- FY 2018/2019
 - 24 of 99 (24%)
- FY 2019/2020
 - 17 of 99 (17%)

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the Inspection and Enforcement (I&E) Plan to incorporate steps to ensure UST inspection staff inspect all UST facilities at least once every 12 months. The CUPA will provide the revised I&E Plan to CalEPA.

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure each UST is inspected at least once every 12 months. The action plan will include, at a minimum:

- An analysis and explanation as to why the annual compliance inspection requirement for the UST program is not being met. Factors to consider include existing inspection staff resources and how many UST inspections or UST facility inspections each inspector is scheduled to conduct each year.
- A spreadsheet exported from the California Environmental Reporting System (CERS), identifying each UST facility that has not been inspected within the last 12 months. For each UST facility listed, the spreadsheet will include, at a minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last UST compliance inspection.
- A schedule to inspect each identified UST facility, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan and amend the revised I&E Plan, based on feedback from the State Water Board. The CUPA will provide the revised action plan and amended I&E Plan to CalEPA. If no revisions to the action plan or

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

amendments to the I&E Plan are necessary, until considered corrected, the CUPA will provide CalEPA with UST compliance inspection reports until all UST facilities have been inspected within the last 12 months.

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

By the 3rd Progress Report and with each subsequent Progress Report, until considered corrected, the CUPA will provide CalEPA with UST compliance inspection reports until all UST facilities have been inspected within the last 12 months.

2. DEFICIENCY:

The CUPA is not consistently ensuring return to compliance (RTC) is obtained within 60 days or is not consistently following up and documenting RTC information in CERS for UST violations.

Review of CERS compliance, monitoring, and enforcement (CME) information for each FY finds the following testing and leak detection violations did not obtain RTC within 60 days:

- FY 2017/2018
 - 55 of 221 (25%)
- FY 2018/2019
 - 64 of 153 (42%)
- FY 2019/2020
 - 57 of 189 (30%)

Below are examples of the testing and leak detection violations that did not obtain RTC within 60 days:

- CERS ID 10276312: Violation dated October 24, 2019, indicates failure to maintain the interstitial space monitoring such that a breach in the primary or secondary containment is detected before the liquid or vapor phase of the hazardous substance stored in the UST tank is released into the environment.
- CERS ID 10276102: Violation dated August 15, 2019, indicates failure to maintain secondary containment (e.g., failure of secondary containment testing).
- CERS ID 10276180: Violation dated May 4, 2020, indicate failure of a UST system installed on or after July 1, 2003, and before July 1, 2004, to be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment and capable of detecting water intrusion into the secondary containment.

Note: The examples provided above may not represent all instances of this deficiency and only include testing and leak detection violations.

Note: This deficiency was identified and corrected during the 2018 CUPA Performance Evaluation process

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure, to ensure establishment of a process for UST inspection staff to document follow-up actions taken by the CUPA with UST facilities cited with violations return to compliance within 60 days and for applying appropriate enforcement. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records for five UST facilities, as selected by the State Water Board, that include RTC or documentation of an applied appropriate enforcement.

3. DEFICIENCY:

The local ordinance, Chapter 37, Underground Hazardous Substances Storage Facilities, is less stringent and inconsistent with California Code of Regulations, Title 23, Division 3, Chapter 16, (UST Regulations) and Health and Safety Code, Chapter 6.7 (HSC).

Review of the local ordinance finds the following less stringent provisions and inconsistencies:

- Sections 37-2, 37-3, and 37-5 reference HSC, Sections 476 and 510, which were repealed. The applicable regulations for UST operating permits are within UST Regulations, Sections 2610 through 2728 and HSC, Sections 25280 through 25299.
- Section 37-4 states "It is the purpose of this chapter to adopt the regulations for the construction and monitoring of facilities used for the underground storage of hazardous substances," however the CUPA's local ordinance only references authority to HSC, Section 25287, which is not applicable to construction and monitoring requirements.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

- Section 37-8 states “a permit to operate shall not be issued for any underground storage tank or facility shall be installed after January 1, 1986, unless the tank or facility meets the requirements identified in section 25291 of the Health and Safety Code,” which is inconsistent with HSC, Sections 25290.1 and 25290.2.
- Section 37-9 is inconsistent with the provisions of HSC, Section 25292, providing provisions for USTs installed on or before January 1, 1984.
- Section 37-10 states “an application for a permit to operate shall be filed with the health department on a form prescribed by the health officer” while CUPA permit applications are submitted through CERS. The provision needs to be updated to reflect the CERS submittal process.
- Section 37-11 states “the health officer shall act upon the application not later than ninety (90) days after the date it is accepted as complete.” State Water Board suggests this be updated to be consistent with guidance published on November 29, 2016, which states UST testing and maintenance records be reviewed no later than 30 days after submittal date, and all other records reviewed no later than 60 days after submittal date (see Note below).
- Section 37-13(A) references an “enterprise”, while the regulatory definition under HSC is “facility”.
- Section 37-13(A) states “a copy of the permit shall be kept on the premises and shall be made available to the health officer upon demand” which is inconsistent with the provisions of UST Regulations, Section 2712, stating that records shall be made available, upon request within 36 hours, to the local agency or the State Water Board.
- Section 37-13(B) states “as a condition of any permit to operate, the permittee shall complete and file with the health officer an annual report which details any changes in the usage of any underground storage tanks...” while this requirement is no longer required by the CUPA.
- Section 37-13(B) states “As a condition of any permit to operate, the permittee shall complete and file with the health officer an annual report which details any changes in the usage of any underground storage tanks, including the storage of new hazardous substances, changes in monitoring procedures, and unauthorized release occurrences” which is inconsistent with the requirements of UST Regulations, Section 2631(I), stating that “on and after October 1, 2018, owners or operators shall demonstrate compatibility, 30 days before beginning to store or changing the hazardous substance...”
- Section 37-17 states “in accordance with sections 25288 and 25289 of the Health and Safety Code, the health officer shall inspect every underground storage tank or facility at least once every three (3) years,” while the regulatory requirement of HSC, Section 25288, is to inspect every UST within its jurisdiction at least once every twelve months.
- Section 37-19 references HSC, Section 25297, which pertains to the cleanup of leaking USTs. Starting on July 1, 2013, only a State Water Board certified Local Oversight Programs (LOPs) can implement corrective actions for the cleanup of leaking USTs. The CUPA is not a State Water Board certified LOP and, therefore, does not have the authority to implement corrective actions for the cleanup of leaking USTs.
- Section 37-21 is missing provisions of and is inconsistent with HSC, Sections 25285.1(a)(2) and (a)(3). Section 37-21(B) states “the revocation becomes effective fifteen (15) days after the date of service” which implies that a UST may operate

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

without a UST operating permit for fifteen days after a permit revocation and is therefore less stringent than HSC.

Note: State Water Board correspondence dated November 29, 2016 “When to Review Underground Storage Tanks (UST) Records.” may be referenced.

CITATION:

HSC, Chapter 6.7 Section 25299.2, 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 inconsistent with UST Regulations and HSC including, but not limited to, those listed above.

By the 2nd Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt the revised local ordinance to be consistent with UST Regulations and HSC. The plan will at a minimum will include:

- a timeline for revising, drafting, and adopting the local ordinance; and
- provisions for the CUPA to provide the revised local ordinance to CalEPA and the State Water Board for analysis to ensure consistency with UST Regulations and HSC.

By the 3rd Progress Report, the CUPA will, if necessary, revise the plan for revision and adoption of the revised local ordinance, based on feedback from the State Water Board.

Considering the length of time required to draft, revise, and adopt local ordinances, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided an acceptable plan for the revision and adoption of the revised local ordinance as outlined above. During implementation of the plan, the State Water Board must have an opportunity to review the revised draft of the local ordinance, which will allow the State Water Board to work with the CUPA to ensure the revised draft of the local ordinance is consistent with UST Regulations and HSC, the CUPA certification approval, and meets all other requirements.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinances were adopted, and timely compliance was achieved for those UST facilities identified as not meeting UST Regulations or HSC as a result of the initial ordinance.

4. DEFICIENCY:

UST compliance inspection information and facility inventory in the Semi-Annual Report (Report 6) is inconsistent with CUPA Self-Audit Reports and CERS CME information.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

Review of Report 6, CUPA Self-Audit Reports and CERS CME UST facility inspection frequency information for each Fiscal Year (FY) finds the following UST facilities were inspected:

- FY 2017/2018
 - Report 6 – 99 of 99 (100%)
 - CUPA Self-Audit Report – 96 of 100 (96%)
 - CERS CME information – 97 of 101 (96%)
- FY 2018/2019
 - Report 6 – 78 of 99 (79%)
 - CUPA Self-Audit Report – 76 of 100 (76%)
 - CERS CME information – 77 of 101 (76%)
- FY 2019/2020
 - Report 6 – 82 of 99 (83%)
 - CUPA Self-Audit Report – 82 of 100 (82%)
 - CERS CME information – 75 of 101 (74%)

CITATION:

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

CORRECTIVE ACTION:

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

- A thorough analysis and explanation as to how Report 6, CUPA Self-Audit Reports and CERS CME information have inconsistent UST compliance inspection information; and
- A strategy to ensure UST compliance inspection information in Report 6, CUPA Self-Audit Reports and CERS will be accurately reported.

By the 1st Progress Report, the CUPA will revise and provide the Data Management Procedure, or other applicable procedure, to ensure establishment of a process, which at a minimum will address how UST compliance inspection information is accurately reported in Report 6, CUPA Self-Audit Reports, and CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised Data Management Procedure, 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised Data Management Procedure, or other applicable procedure.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

By the 3rd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended Data Management Procedure, 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended Data Management Procedure, or other applicable procedure.

By the 4th Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will accurately report UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

5. DEFICIENCY:

The UST operating permit, which is required to be issued under the Unified Program Facility Permit (UPFP), is inconsistent with UST Regulations and HSC.

Review of the UST operating permit finds the following inconsistencies with UST Regulations and HSC:

- The UST operating permit includes the provision that “Title 23, CCR, Section 2712(i) states that ‘a copy of the operating permit and all conditions and all attachments, including the monitoring plans, shall be retained at the facility’” which is out-of-date with the current requirement of UST Regulations, section 2717(i), stating that “a paper or electronic copy of the permit and all conditions and attachments, including monitoring plans, shall be readily accessible at the facility.
- Permit conditions reference HSC, chapter 6.75, however, the CUPA does not have regulatory authority under HSC, chapter 6.75.

Note: State Water Board correspondence dated April 7, 2017 “Amended Requirements for Unified Program Facility Permits Effective January 1, 2017.” may be referenced.

Note: This deficiency was identified and corrected during the 2018 CUPA Performance Evaluation process.

CITATION:

HSC, Chapter 6.7
CCR, Title 23, Sections 2712(c) and (i)
CCR, Title 27, Section 15190(h)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised UST operating permit template, issued under the UPFP, consistent with UST Regulations and HSC.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST operating permit template, based on feedback from the State Water Board, and will provide the amended

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

UST operating permit template to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST operating permit issued under the UFPF.

As a result of the CUPA's five year permitting cycle, the State Water Board will consider this deficiency corrected upon completion and acceptance of the revised or amended UST operating permit template. Issuance of the revised or amended UST operating permit template will be verified during the next CUPA Performance Evaluation.

6. DEFICIENCY:

The CUPA is not consistently inspecting abandoned USTs and/or applying appropriate enforcement to ensure the proper closure of abandoned USTs in accordance with UST Regulations and HSC.

The State Water Board and Report 6 identify abandoned USTs at the following UST facilities:

- CERS ID 10734502 (Tanks 001 – 003), and
- CERS ID 10276135 (Tanks 001 – 003), and
- CERS ID 10276408 (Tanks 001 – 005).

Review of CERS CME information finds the CUPA did not consistently inspect the following abandoned UST facilities in accordance with UST Regulations and HSC:

- CERS ID 10734502 (Tanks 001 – 003): No inspection in CERS for FYs 2017/2018, 2018/2019, and 2019/2020.
- CERS ID 10276135 (Tanks 001 – 003): No inspection in CERS for FYs 2017/2018, 2018/2019, and 2019/2020.
- CERS ID 10276408 (Tanks 001 – 005): No inspection in CERS for FYs 2017/2018, 2018/2019, and 2019/2020.

While the CUPA has received a workplan for removal of CERS ID 10734502 (Tanks 001 – 003), the CUPA is not consistently applying appropriate enforcement to ensure the proper closure of the following abandoned USTs in accordance with UST Regulations and HSC:

- CERS ID 10276135 (Tanks 001 – 003)
- CERS ID 10276408 (Tanks 001 – 005)

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

Note: State Water Board correspondence dated April 27, 2017 "Conclusion of the Abandoned Underground Storage Tank Initiative, and Unified Program Agency Inspection and Reporting Requirements." may be referenced.

CERS FAQ: "Reporting Abandoned USTs." may be referenced.

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**

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

With respect to the identified abandoned USTs above, the CUPA will follow up and ensure proper closure is completed in accordance with UST Regulations and HSC. Any UST installed on or after January 1, 1984, which is operational, or temporarily closed, or abandoned and previously regulated by the CUPA, shall be:

- reported to CERS, or to a local reporting portal; and
- inspected annually, applying appropriate enforcement to obtain compliance if needed, and;
- reported in Report 6 with Technical Compliance Rate (TCR) information

By the 1st Progress Report, the CUPA will develop an action plan to properly inspect abandoned USTs at least once every 12 months and apply appropriate enforcement for the proper closure of abandoned USTs. The CUPA will provide CalEPA with the action plan.

By the 1st Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure, to ensure establishment of a process for proper closure of abandoned USTs, including how the CUPA inspects and enforces proper closure of abandoned USTs. The process, at a minimum, will address:

- Conducting UST compliance inspections;
- Applying appropriate enforcement; and
- Providing TCR information in Report 6.

The CUPA will provide CalEPA with the revised I&E Plan or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, for each remaining abandoned UST, the CUPA will provide CalEPA with UST compliance inspections, TCR information in Report 6, UST closure records (if applicable), or the applied appropriate enforcement.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

7. DEFICIENCY:

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

Review of facility files finds the following examples are “no further action letters” and does not document in sufficient detail that the owner or operator has demonstrated proper closure to the satisfaction of the CUPA and in accordance with UST Regulations and HSC:

- CERS ID 10129501
- CERS ID 10276228

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

Note: 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) may be referenced.

CITATION:

HSC, Chapter 6.7, Section 25298(c)
CCR, Title 23, Section 2672(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the UST closure procedure or other applicable procedure ensuring the establishment of 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 and/or groundwater sampling complies with UST Regulations and HSC

The CUPA will provide the developed or revised UST closure procedure, or other applicable procedure to CalEPA.

By the 1st Progress Report, the CUPA will develop or review and revise a UST closure letter template for sites with and without contamination if separate letters are issued for those scenarios. The CUPA may consider including the following language in the UST closure letter template: “the Butte County Environmental Health Department has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with HSC Section 25298, subdivision (c) and UST Regulations, Section 2672.”

By the 2nd Progress Report, if amendments to the revised UST closure procedure or other applicable procedure and/or UST closure letter template are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST closure procedure or other applicable procedure and/or UST closure letter template. If no amendments to the revised UST closure procedure or other applicable procedure and/or UST closure letter template are necessary, the CUPA will train UST inspection staff on the revised UST closure procedure and/or UST closure letter template. The CUPA will provide training documentation to CalEPA,

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

which at a minimum, will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised UST closure procedure and/or UST closure letter template.

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, for the next two UST closures, the CUPA will provide CalEPA with the UST closure records, including sampling results, that demonstrates to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC. If no UST closures have occurred by the 4th Progress Update, the State Water Board will consider this Deficiency closed but not corrected upon completion of training, and implementation of the revised or amended I&E Plan or other applicable procedure and or UST closure letter template. The State Water Board will verify proper sampling and analysis of soil and/or groundwater during or immediately after UST closure activities during the next CUPA performance evaluation.

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

8. DEFICIENCY:

The CUPA is not requiring proper sampling and analysis of soil and/or groundwater as part of UST closure activities.

The CUPA is not requiring groundwater analysis if groundwater is present in the excavation pit.

Review of UST facility files for CERS ID 10276228 (Tanks 001 – 003) finds the UST Removal and Station Decommissioning Report, dated July 23, 2019, states that groundwater was found at the time of the excavation. No groundwater samples were taken and no groundwater analysis was provided with the closure documentation.

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

CITATION:

CCR, Title 23, Section 2672(d)
[State Water Board]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure establishment of a process for requiring UST closure activities, which will at a minimum address:

- Taking soil samples immediately beneath the removed portions of the UST, a minimum of two feet into native material at each end of the UST and/or groundwater samples if groundwater is found in the excavation pit;
- Proper analysis of soil and/or groundwater samples;
- Taking separate samples for each 20 linear-feet of trench for piping;
- Provide documentation of proper disposal of the removed USTs or documentation that the USTs were filled with an inert solid;
- Provide chain of custody for all samples taken; and
- Permanent closure where UST) are closed in place including taking a minimum of one boring sample as close as possible to the midpoint beneath the UST using a slant boring or other appropriate method.

By the 2nd Progress Report, if amendments to the revised I&E Plan or other procedure are necessary based on feedback from State Water Board, the CUPA will provide CalEPA with a copy of the amended I&E Plan or other procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other procedure.

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

By the 4th Progress Report, or until considered corrected, the CUPA will provide the State Water Board with up to two UST closure records, including sampling results, for the next two UST closures. If no UST closures have occurred by the 4th Progress Update, the State Water Board will consider this Deficiency closed but not corrected upon completion, training, and implementation of the revised I&E Plan or procedure. The State Water Board will verify proper sampling and analysis of soil and/or groundwater during or immediately after UST closure activities during the next triennial CUPA performance evaluation.

9. DEFICIENCY:

The CUPA is not correctly implementing proper UST temporary closure requirements.

Review of Report 6, CERS information and UST temporary closure documentation in UST facility files finds there are five UST facilities in temporary closure.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

On April 7, 2021, the CUPA verified the following UST facilities had been placed into temporary closure due to the damage caused by the 2018 Camp Fire:

- CERS ID 10129501 (Tanks 001 – 003)
 - Placed into temporary closure on September 20, 2020.
- CERS ID 10276510 (Tanks 001 – 003)
 - Placed into temporary closure on November 5, 2019, which is beyond 12 months without conducting a site assessment and has not been brought into compliance by the end of temporary closure duration.
- CERS ID 10276174 (Tanks 001 – 004)
 - Placed into temporary closure on January 7, 2019, which is beyond 12 months without conducting a site assessment and has not been brought into compliance by the end of temporary closure duration.
- CERS ID 10276147 (Tanks 001 – 005)
 - Placed into temporary closure on January 7, 2019, which is beyond 12 months without conducting a site assessment and has not been brought into compliance by the end of temporary closure duration.
- CERS ID 10276219 (Tanks 001 – 003)
 - Placed into temporary closure on August 12, 2019, which is beyond 12 months without conducting a site assessment and has not been brought into compliance by the end of temporary closure duration.

Note: The above listed UST facilities were placed into temporary closure due to the November 2018 Camp Fire. The CUPA's resources have consequently been redirected to the associated cleanup activities.

CITATION:

HSC, Chapter 6.7, Section 25293
CCR, Title 23, Sections 2670 (b), 2671(c) and 2672 (d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure establishment of a process to correctly implement UST temporary closure requirements, which will include, at a minimum, the following:

- Issuing a temporary closure permit that does not extend beyond 12 months;
- Reviewing and approving a site assessment conducted prior to granting a temporary closure extension of no more than an additional 12 months;
- Requiring documentation from the owner or operator to show inspections were conducted at least once every three months while the UST is in temporary closure;
- Reviewing quarterly inspections during the UST compliance inspection to ensure the owner or operator is complying with the temporary closure permit requirements; and
- Putting only those USTs into temporary closure that are intended to be brought back into operation.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan, or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure were necessary, the CUPA will train UST inspection staff 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

Note: To comply with the December 31, 2025, single-walled UST closure regulatory deadline, the CUPA may not issue temporary closure permits for USTs or UST systems with single-walled components on or after December 31, 2024. Temporary closure permits may only be issued to USTs or UST systems that will be brought back into operation. The State Water Board strongly recommends CUPAs not issue temporary closure permits to USTs or UST systems with single-walled components on or after December 31, 2023, to help mitigate the potential of UST abandonment.

10. DEFICIENCY:

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

Review of the UST Facility/Tank Data Download report obtained from CERS on March 18, 2021, finds UST monitoring and construction data are incorrect as follows:

- 6 of 10 (60%) single-walled steel USTs incorrectly show unlined primary construction.
- 3 of 32 (9%) UST systems with VPH monitoring installed on, or after, July 1, 2004, are listed with secondary containment testing.
- 3 of 32 (9%) UST systems with VPH monitoring show periodic enhanced leak detection testing.
- 17 of 228 (6%) UST systems with double walled piping show no piping/turbine containment sump.
- 12 of 220 (6%) UST systems with double walled piping installed between January 1, 1984, and June 30, 2004, show no continuous interstitial monitoring.

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

Note: The following CERS FAQs may be referenced:

- 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: State Water Board correspondence dated November 29, 2016, "When to Review Underground Storage Tank Records." may be referenced.

Note: This deficiency was identified as an incidental finding and resolved during the 2018 CUPA Performance Evaluation process.

CITATION:

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

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to review CERS UST submittal information for accuracy and completeness. The revised procedure will, at a minimum, delineate the CUPA's process for reviewing UST CERS submittals for accuracy and completeness regarding monitoring and construction requirements as follows:

- Based on the UST installation date, the CUPA will review UST CERS submittals for correct monitoring and construction requirements; and
- When UST CERS submittal information is identified as incorrect, the CUPA will either:
 - accept UST CERS submittals with minor errors utilizing a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;
 - not accept UST CERS submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When the UST CERS submittal is not corrected within the time specified by the CUPA, the CUPA will apply appropriate enforcement per the I&E Plan.

The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised Data Management Procedure, 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised Data Management Procedure, or other applicable procedure.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

By the 4th Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended Data Management Procedure, 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended Data Management Procedure, or other applicable procedure.

By the 5th Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review five UST submittals accepted by the CUPA in CERS, subsequent to UST inspection staff receiving training.

11. DEFICIENCY:

The CUPA is not inspecting each Aboveground Petroleum Storage Act (APSA) tank facility that stores 10,000 gallons or more of petroleum for compliance with the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements of the APSA at least once every three years.

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

- 21 of 46 (46%) tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years, including three tank facilities that have never been inspected.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each APSA tank facility that stores 10,000 gallons or more of petroleum is inspected at least once every three years for compliance with the SPCC Plan requirements of APSA. The action plan will include at 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 local data management system or CERS, identifying each APSA tank facility storing 10,000 gallons or more of petroleum that was not inspected in the last three years. For each tank facility listed, the spreadsheet will include, at a minimum:
 - Facility name,
 - CERS ID,
 - Category of tank facility (such as 10,000 gallons or more) and
 - Date of the last routine inspection.
- A proposed schedule to inspect those tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA inspection based on a risk analysis of

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

all tank facilities with 10,000 gallons or more of petroleum (i.e., large volumes of petroleum, proximity to navigable water).

- Future steps to ensure each tank facility that stores 10,000 gallons or more of petroleum will be inspected at least once every three years.

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

By the 7th Progress Report, the CUPA will have inspected each APSA tank facility identified on the 1st Progress Report spreadsheet at least once every three years.

12. DEFICIENCY:

The CUPA is not consistently 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.

Review of HMBP submittals to CERS in lieu of tank facility statement submittals indicates:

- 59 of 185 (32%) tank facilities have not submitted a chemical inventory and site map within the past 12 months.
- 62 of 185 (34%) tank facilities have not submitted an emergency response and employee training plans within the past 12 months.

CITATION:

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

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure that HMBPs provided in lieu of a tank facility statement are annually submitted to CERS.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the local data management system or CERS, that includes at a minimum the following information for each APSA tank facility that did not comply with the annual HMBP submittal when an HMBP is provided in lieu of a tank facility statement to CERS:

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

By the 4th 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.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

13. DEFICIENCY:

The CUPA is not certifying to Cal OES every three years that a complete review of the area plan has been conducted and any necessary revisions have been made.

- The last update of the area plan was January, 2017.
- The last certification to Cal OES was January, 2017.

CITATION:

HSC, Chapter 6.95, Section 25503(d)(2)
[Cal OES]

CORRECTIVE ACTION:

By the 6th Progress Report, the CUPA will certify to Cal OES that a complete review of the area plan has been conducted and any necessary revisions have been made. The CUPA will provide CalEPA with a copy of the reviewed and revised area plan.

14. DEFICIENCY:

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

Review of facility files, inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA indicates:

- 554 of 948 (58%) Business Plan (HMBP) facilities were not inspected within the last three years.

Note: From March 2018 through March 2019, the CUPA performed 311 business plan inspections, which put them on track to have 98% of their inspections done over three years. The disastrous Camp Fire started in November of 2018, heavily impacting Butte County from that time to the present. From March 2019 through March 2020, the CUPA performed 66 business plan inspections, in spite of the heavy cost of the Camp Fire. By March 2020, the COVID pandemic was in full swing, in addition to the recovery effort from the Camp Fire. Because of these double disasters, the CUPA was only able to perform 17 business plan inspections between March 2020 and March 2021.

CITATION:

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

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each facility subject to HMBP requirements is inspected at least once every three years. The action plan will include, at minimum:

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

- A spreadsheet exported from the CUPA's data management system or CERS, containing only HMBP facilities that have not been inspected within the last three years. For each facility listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID;
 - date of the last inspection
- A proposed schedule to inspect those HMBP facilities based on risk, prioritizing the most delinquent inspections.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet demonstrating the number of HMBP facility inspections that have been conducted during the previous three months.

By the 8th Progress Report, the CUPA will have inspected each HMBP facility at least once in the last three years.

15. DEFICIENCY:

The CUPA is not inspecting each facility subject to the California Accidental Release Prevention (CalARP) Program requirements at least once every three years.

Review of facility files, inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA indicates:

- 2 of 9 (22%) CalARP facilities were not inspected within the last three years.

Note: All of the current CalARP inspections were performed in 2018. Due to the Camp Fire and the COVID pandemic, no inspections were performed since 2018.

CITATION:

HSC, Chapter 6.95, Section 25537(a), CCR, Title 19, Section 2775.3
[Cal OES]

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each facility subject to CalARP requirements is inspected at least once every three years. The action plan will include, at minimum:

- A spreadsheet exported from the CUPA's data management system or CERS, containing only CalARP facilities that have not been inspected within the last three years. For each facility listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID;
 - date of the last inspection

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

- A proposed schedule to inspect those CalARP facilities based on risk, prioritizing the most delinquent inspections.
- Future steps to ensure that all CalARP facilities will be inspected at least once every three years.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet demonstrating the number of CalARP facility inspections that have been conducted during the previous three months.

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

16. DEFICIENCY:

The CUPA is not ensuring that each facility subject to the California Accidental Release Prevention (CalARP) Program requirements is updating its Risk Management Plan (RMP) every five years.

Review of facility files, information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA indicates:

- 6 of 9 (67%) CalARP facilities have not updated their RMP in the past five years.

CITATION:

CCR, Title 19, section 2745.10(a)(1)
[Cal OES]

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each facility subject to CalARP requirements reviews and updates its RMP every five years. The action plan will include, at minimum:

- A spreadsheet exported from the CUPA's data management system or CERS, containing only CalARP facilities that have not updated their RMP within the last five years. For each facility listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID;
 - date of the last RMP update

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet demonstrating the number of updated RMPs received all during the previous three months.

By the 7th Progress Report, all of the CUPAs CalARP facilities will have current RMPs.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

17. DEFICIENCY:

The CUPA is not ensuring that all businesses subject to the business plan program maintain a business plan in the statewide information management system (CERS).

Review of facility files, information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA indicates:

- 278 of 948 (29%) business plan facilities have not submitted inventories or no-change certifications within the past year.
- 287 of 948 (30%) business plan facilities have not submitted emergency response and training plans or no-change certifications within the past year.

CITATION:

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

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that all handlers have annually submitted a complete hazardous materials business plan.

By the 4th Progress Report, the CUPA will follow-up with each handler identified in the action plan, to ensure the handler submits a complete hazardous materials business plan or the CUPA will initiate appropriate enforcement actions.

18. DEFICIENCY:

The CUPA is not properly classifying Hazardous Waste Program violations.

Review of facility files and inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) for the period of January 1, 2018 to December 31, 2020, indicates the CUPA is classifying Class I or Class II Hazardous Waste Program violations as minor violations in the following instances:

- Violation for exceedance of authorized accumulation time (CCR, Title 22, Section 66262.34) 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 described in Health and Safety Code, Section 25404(a)(3).
 - CERS ID 10276339: November 5, 2019
 - CERS ID 10277326: June 12, 2018
 - CERS ID 10600192: June 4, 2018
 - CERS data indicates 24 of 32 (75%) violations cited between January 2018 through December 2020, for exceedance of accumulation timeframe were classified as minor.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

Note: This deficiency was identified in the 2017 evaluation and corrected for that evaluation period.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
HSC, Chapter 6.11, Sections 25404(a)(3)
CCR, Title 22, Section 66260.10
CCR, Title 27, Section 15200(a) and (e)
[DTSC]

CORRECTIVE ACTION:

The CUPA will ensure that future citations of Unified Program violations are classified correctly.

By the 1st Progress Report, the CUPA will train inspection staff on the definitions of minor, Class I, and Class II violations, as defined in:

- HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
- HSC Chapter 6.11, Section 25404(a)(3)
- CCR, Title 22, Section 66260.10

The CUPA will train inspection staff on how to properly classify Hazardous Waste Program violations during inspections and ensure inspection staff review the following:

- Violation Classification Training Video 2014
<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-Documents-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 inspection staff in attendance.

By the 2nd Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with three inspection reports citing at least two Hazardous Waste Program violations, 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 Hazardous Waste Program violation.

Note: The following additional HWG inspection, accumulation and generator requirement training resources are available to assist in training CUPA inspectors:

- [Advanced Hazardous Waste Inspector Training Video 2016 \(1 of 2\)](https://www.youtube.com/watch?v=Ign3TJftSUM)
<https://www.youtube.com/watch?v=Ign3TJftSUM>
- [Advanced Hazardous Waste Inspector Training Video 2012 \(5 of 7\): Tanks and Sumps](https://www.youtube.com/watch?v=oCrI3MvTd8M)
<https://www.youtube.com/watch?v=oCrI3MvTd8M>

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

- [Generator Requirements Fact Sheet](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf
- [Accumulation Time Fact Sheet](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf
- [Universal Waste](https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf
- [Managing Used Oil Filters for Generators](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf
- [Management of Spent Lead Acid Batteries](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf
- Generator Summary Chart
<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf> and
https://www.acgov.org/forms/aceh/Generator_Requirements_Summary_Chart.pdf

19. DEFICIENCY:

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

Review of facility files, inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA finds for the period of January 1, 2018 to December 31, 2020:

- 453 of 738 (61%) HWG facilities were not inspected once every three years.
 - All 4 HHW facilities are overdue for inspection.
 - 11 of 15 RCRA Large Quantity Generators are overdue for inspection.

Note: This deficiency was carried over from the 2017 evaluation period.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each HWG facility is inspected 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. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

- 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 for each HWG facility listed, the spreadsheet will include, at a minimum:
 - Facility name,
 - CERS ID,
 - 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.
- Future steps to ensure that all HWG facilities will be inspected once every three years.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan and amend the revised I&E Plan, based on feedback from DTSC. The CUPA will provide the revised action plan and amended I&E Plan to CalEPA.

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

By the 8th Progress Report, the CUPA will have inspected each HWG facility once every three years.

20. DEFICIENCY:

The CUPA is not inspecting each Tiered Permit (TP) facility within the first two years of operations and every three years thereafter.

Review of facility files, inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA indicates:

- 4 of 4 (100%) TP facilities were not inspected every three years after the initial inspection.
 - CERS ID 10276564 last inspected July, 20, 2017
 - CERS ID 10276528 last inspected June 7, 2017
 - CERS ID 10277020 last inspected May 31, 2017
 - CERS ID 10277773 last inspected May 23, 2017

CITATION:

HSC, Chapter 6.5, Section 25201.4(b)(2)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each TP facility is inspected at least once within the first two years of operation and every three years thereafter. The action plan will include, at a minimum:

- An analysis and explanation as to why the inspection frequency for the TP program is not being met.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

- A spreadsheet exported from the CUPA's data management system or CERS, identifying each TP facility that has not been inspected at least once within the first two years of operation and every three years thereafter. For each TP 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 TP facilities, prioritizing the most delinquent inspections to be completed prior to any other TP inspection based on risk.
- Future steps to ensure that all TP facilities will be inspected at least once within the first two years of operation and every three years thereafter.

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

By the 4th Progress Report, the CUPA will have inspected each of the four TP facilities at least once within the first two years of operation and every three years thereafter. The CUPA will also provide CalEPA with up to four TP program compliance inspection reports.

21. DEFICIENCY:

The CUPA is not properly reviewing, processing, and authorizing each annual Onsite Hazardous Waste Treatment Notification for Permit By Rule (PBR) facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.

During the 45-day review process the CUPA must:

- Authorize operation of the FTU; or
- Deny authorization of the FTU in accordance with PBR laws and regulations; or,
- Notify the owner/operator that the notification submittal is inaccurate or incomplete.

CERS data finds that 2 of 8 (25%) PBR Onsite Hazardous Waste Treatment Notifications were not reviewed, processed or authorized by the CUPA within 45 days of receipt. Examples include:

- CERS ID 10276564: notification submitted December 21, 2018, and accepted April 21, 2020, and notification submitted February 20, 2020, and accepted April 21, 2020.

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

CITATION:

CCR, Title 22, Section 67450.3(c)(1) and (d)
[DTSC]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 3rd Progress Report, the CUPA will provide inspectors with Tiered Permit (TP) program training regarding how to accurately review, process and authorize Onsite Hazardous Waste Treatment Notifications within the 45-day review process by either:

- Authorizing operation of the FTU; or,
- Denying authorization of the FTU in accordance with PBR laws and regulations; or,
- Notifying the owner/operator that the notification submittal is inaccurate or incomplete.

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 inspection staff attending the training.

Note: A TP Program training video is available on the California Certified Unified Program Agency Forum Board website at: <https://www.youtube.com/user/orangetreeweb/videos>. Additional TP program training assistance may also be requested from DTSC.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an update to CalEPA on the status of the progress made toward accurately reviewing, processing and authorizing each Onsite Hazardous Waste Treatment Notification to ensure annual notification submittals are accurate, correct and represent the actual waste treatment systems used at the notifying facility.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

Required components of the I&E Plan are missing, inaccurate, inconsistent, or incomplete.

The following components are missing:

- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, chapter 6.5, section 25198.
 - Note: Sample capabilities are discussed extensively; however, a state certified laboratory is never mentioned either indirectly or by name.

The following components are inconsistent:

- Pages 44 and 65, red tag authority. The provisions of 25292.3 were amended and became effective January 1, 2019. As written, the I&E Plan is not consistent with the provisions of 25292.3 thus, the I&E Plan requires amendment to be consistent with HSC.

Note: This deficiency was identified as an incidental finding and corrected during the 2018 CUPA Performance Evaluation process.

CITATION:

HSC, Chapter 6.7, Sections 25292.3 and 25299.3
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC, State Water Board]

RESOLUTION:

By the 2nd Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that adequately incorporates and correctly addresses all required components.

By the 3rd Progress Report, if amendments to the revised I&E Plan necessary based on feedback from CalEPA, DTSC, or the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel and UST inspection staff on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan

By the 4th Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel and UST inspection staff on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

2. INCIDENTAL FINDING:

The Unified Program Facility Permit (UPFP) does not contain the following required components:

- An addendum documenting permit conditions for each applicable program element.
- The provided CUPA permits do not reflect issuance under a consolidated UPFP template.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised UPFP template that includes all required components. Each permitted program element will reflect permit issuance under a consolidated UPFP template.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UPFP template, based on feedback from CalEPA, and will provide the amended template to CalEPA. If no amendments are necessary, the CUPA will provide CalEPA with three UPFPs issued to facilities using the revised UPFP template.

By the 3rd Progress Report, if amendments to the revised UPFP template were necessary

3. INCIDENTAL FINDING:

The CUPA is not utilizing the current Surcharge Transmittal Report template when submitting Quarterly Surcharge Transmittal Reports 30 days after the end of each fiscal quarter.

CITATION:

CCR, Title 27, Section 15250(b)(1) and (2)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA the 2nd quarterly Surcharge Transmittal Report for Fiscal Year 2021/2022 by the required due date using the current template. Thereafter, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter using the required template.

The current quarterly [Surcharge Transmittal Report](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf) template can be found at:
https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

Review of CERS finds the following USTs or UST systems as having single-walled components which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10276363 (Tank IDs 1 – 3);
- CERS ID 10276504 (Tank IDs 1 – 3); and
- CERS ID 10276135 (Tank IDs 1 – 4).

RECOMMENDATION:

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

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

2. OBSERVATION:

The I&E Plan contains information that is inaccurate or may benefit from improvement.

- On page 17, the minimum inspection frequency for APSA is discussed. The program should be referenced as APSA, not AST.
- On page 31, referral to APSA program violations is inaccurately referenced as AST.
- The APSA Initial Penalty Matrix sentence A on page 54 inaccurately references HSC 25270.4.5 through 25270.9 for violations of the APSA program. The appropriate reference is HSC Chapter 6.67 commencing with Section 25270.

RECOMMENDATION:

Update the I&E Plan as indicated above.

3. OBSERVATION:

The CERS reporting requirement is currently set as APSA Applicable for 186 tank facilities. The CUPA's local data management system identifies 174 APSA facilities.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- 168 APSA tank facilities are identified in both CERS and the CUPA's local data management system.
- Six APSA facilities identified in the CUPA's local data management system are currently identified in CERS as "APSA Not Applicable". These facilities should be evaluated by the CUPA to determine if they should not be designated as APSA facilities in the CUPA's local data management system. Facilities the CUPA determines to be APSA regulated should have their APSA CERS reporting requirement set to "Applicable".
- 18 tank facilities are reported as APSA Applicable in CERS, but are not identified as APSA facilities in the CUPA's local data management system. These facilities should be evaluated by the CUPA to determine if they should be designated as APSA facilities in the CUPA's local data management system. Facilities the CUPA determines to not be APSA regulated should have their APSA CERS reporting requirement set to "Not-Applicable".

The CUPA should investigate four additional facilities to determine if any are actual APSA tank facilities. Facilities the CUPA determines to be APSA regulated should have their APSA CERS reporting requirement set to "Applicable", and should be designated as an APSA tank facility in the CUPA's local data management system.

RECOMMENDATION:

Complete the reconciliation of the APSA Program information in the CUPA's local data management system with CERS to ensure all APSA tank facilities are included in both systems.

4. OBSERVATION:

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

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template as part of the HMBP submittal, in lieu of the tank facility statement, to use the current 2017 template. The 2017 template contains the current OSFM phone number and is available in CERS.

5. OBSERVATION:

The webpage <http://www.buttecounty.net/ph/Environmental-Health/Hazmat-CUPA/AbovegroundStorageTanks> contains the following APSA program information that is outdated, incorrect or may benefit from improvement.

- The APSA applicability information should be updated to reflect facilities with tanks in underground areas (TIUGA) regardless of the 1,320-gallon petroleum storage capacity of the facility.
- The California State Fire Marshal link is broken.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

Update the APSA information on the website. Consider updating the link to the OSFM APSA webpage at: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/> for information on the APSA program.

6. OBSERVATION:

The CUPA's 2017 Area Plan contains the following outdated information (this is not an exhaustive list):

- Pages 8, 12, 135, and probably others, the citation 19 CCR 2720-2728 should be 19 CCR 2640-2648.
- Page 12, the citation 19 CCR 2720 should be 19 CCR 2640.
- Page 14, the citation 19 CCR 2722 should be 19 CCR 2642.
- Page 27, the citation 19 CCR 2723 should be 19 CCR 2643.
- Page 47, the citation 19 CCR 2724 should be 19 CCR 2644.
- Page 66, the Department of Fish and Game should be Department of Fish and Wildlife.
- Page 86, the citation 19 CCR 2725 should be 19 CCR 2645.
- Page 97, the citation 19 CCR 2726 should be 19 CCR 2646.
- Page 119, the citation 19 CCR 2727 should be 19 CCR 2647.
- Page 124, the citation 19 CCR 2728 should be 19 CCR 2648.
- Pages 128 and B-7, HSC 25503(e) refers to the I&E Plan. You probably mean HSC 25505(a).
- Pages A-1 and B-1 through B-6, all of the Title 19 citations are obsolete.

RECOMMENDATION:

With the upcoming revision of the area plan, correct these obsolete and outdated items.

7. OBSERVATION:

Review of overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, information provided by the CUPA and Self-Audit Reports for January 1, 2018 through December 31, 2020, is summarized below:

- There are 738 regulated HWG facilities, 19 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, and four Tiered Permitted facilities.
- The CUPA uses a three year inspection frequency. (See Deficiency #19)
- The CUPA inspected 356 HWG facilities, of which 171 (48%) had no violations cited and 185 (52%) had at least one violation cited.
 - In the 185 HWG inspections performed with at least one violation, 387 total violations were issued, consisting of:
 - zero Class I violations,
 - 46 Class II violations, and
 - 341 minor violations.
 - The CUPA has ensured return to compliance for 178 of 185 (96%) inspections with violations.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

- The CUPA did not have any formal enforcement for hazardous waste during the evaluation period.
- Inspection reports contain detailed comments that note the factual basis of cited violations, however inspection reports were inconsistent on whether consent to inspect was requested prior to starting the inspection.
- Violations cited for training often did not have any description of the violation. As a result, it was hard to discern whether the inspector did not have documentation available or if the training was ever conducted.

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

RECOMMENDATION:

Please ensure that detailed comments and descriptions of violations are documented to ensure proper elements of a violation are described and classified correctly. Revise the HWG inspection checklist to ensure consent is obtained and documented prior to conducting a HWG inspection.

8. OBSERVATION:

The inspection frequency table on pages 17 and 18 of the provided CUPA I&E Plan indicates that the inspection frequency for HWG facilities is once every five years. The listing for HWG facilities in that table also has a footnote included that indicates HWG facilities will be initially inspected within two years and then every three years thereafter, as is the requirement for TP facilities.

RECOMMENDATION:

Remove the footnote from the HWG portion of the inspection frequency table on pages 17 and 18 to accurately reflect the inspection frequency for HWG facilities.

9. OBSERVATION:

The information below is a comparison of the total number of regulated facilities within each Unified Program element upon certification of the CUPA with present-day circumstance and the degree to which the number of regulated facilities has increased or decreased. The information is sourced from the following:

- Butte County Public Health Department, Division of Environmental Health CUPA Application
 - Data from September 1, 2004 resubmittal of CUPA Application
- CERS "Summary Regulated Facilities by Unified Program Element Report," generated April 20, 2021
- CERS "UST Inspection Summary Report (Report 6)," generated April 20, 2021
- Butte CUPA Fiscal Year 2019/2020 Annual Self-Audit Report
- Total Number of Regulated Businesses and Facilities:
 - In 2004: 760
 - Current CUPA Evaluation: 1,096
 - An increase of **336** facilities
 - Comments: The 2004 figure is listed as an estimate in the CUPA application.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Program Regulated Businesses and Facilities:
 - In 2004: 472
 - Current CUPA Evaluation: 952
 - An increase of **480** facilities
- Total Number of Regulated Underground Storage Tank (UST) Facilities:
 - In 2004: 117
 - Current CUPA Evaluation: 100
 - A decrease of **17** facilities
- Total Number of Regulated USTs:
 - In 2004: 324
 - Current CUPA Evaluation: 292
 - A decrease of **32** USTs
- Total Number of Regulated Hazardous Waste Generator (HWG) Facilities:
 - In 2004: 500
 - Current CUPA Evaluation: 646
 - An increase of **146** facilities
 - Comments: The 2004 figure is listed as an estimate in the CUPA application
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
 - In 2004: Not specified
 - Current CUPA Evaluation: 4
 - Comments: The difference between the current and historic number of facilities cannot be determined at this time.
- Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
 - In 2004: 10
 - Current CUPA Evaluation: 7
 - A decrease of **3** facilities
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
 - In 2004: Not specified
 - Current CUPA Evaluation: 19
 - Comments: The difference between the current and historic number of facilities cannot be determined at this time.
- Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:
 - In 2004: 9
 - Current CUPA Evaluation: 9

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- A change of **0** facilities
- Comments: The 2004 CUPA application indicates there is uncertainty as to whether or not 7 or 9 facilities met the requirements of the CalARP program.
- Total Number of Regulated APSA Tank Facilities
 - In 2004: 38
 - Current CUPA Evaluation: 174
 - An increase of **136** facilities

Since the receipt of the amended CUPA application in 2004, an expansion of responsibilities in the APSA and HWG programs has occurred, increasing the total regulated facility count and attributing to an increased workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. The number of regulated facilities for some program elements have notably decreased, including UST facilities (a decrease of 17 facilities, or 15%) and TP Facilities (a decrease of 3 facilities, or 30%). Conversely, the majority of program elements have expanded, some quite significantly, during the same timeframe, including those facilities subject to business plan reporting requirements (an increase of 480 facilities, or 102%), the HWG program (an increase of 146 facilities, or 29%), and the APSA program (an increase of 136 facilities, or 358%). The overall trend shows the number of regulated facilities managed by the CUPA as of FY 2020/2021 is almost 44% greater than it was at the time the amended CUPA application was received in 2004.

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the Butte County Public Health Department, Division of Environmental Health CUPA Application (2004 Resubmittal) and recent information provided by the CUPA.

Staffing Resources (Inspection and Supervisory Staff Only):

- In 2004:
 - 1 Manager and 3 Inspection Staff, each at 1 FTE = 4 FTE positions
 - Note: The original CUPA application does not provide a complete FTE analysis and only provides FTE information for positions that are less than full time.
- Currently:
 - 1 Program Supervisor, at 1 FTE = 1 FTE position
 - 4 Inspection Staff, each at 1 FTE = 4 FTE positions
 - Note: One staff member left the CUPA during the evaluation process. There are 5 FTE positions budgeted for the CUPA.

Additional program element responsibilities have been incorporated into the implementation of the Unified Program and the number of facilities regulated by the CUPA has changed since the CUPA first applied for certification. The full time equivalent of inspection and supervisory personnel has increased by two FTE positions since the CUPA was first certified.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

CalEPA recognizes that a number of the findings within this report stem from CUPA response to external emergencies that have occurred in and around Butte County during the last evaluation cycle, rather than recalcitrance of CUPA staff towards program implementation. The 2018 Camp Fire, which destroyed over 18,000 structures in the CUPA's jurisdiction, the 2020 North Complex Fire, which burned over 315,000 acres and threatened a major city in the CUPA's jurisdiction, and CUPA response to COVID-19 throughout 2020 and 2021 all drew significant resources away from the CUPA program. Given this unprecedented series of emergency response efforts and the complexity of the issues surrounding CUPA program implementation, it is difficult to draw any finite conclusions about the state of CUPA performance solely from comparing the information provided in the original CUPA application to similar present-day statistics and findings contained within this report. Once effects due to external parameters have been addressed, the CUPA should continue efforts towards compliance in all Unified Program elements, making adjustments for staffing resources and assignments as deficient areas are uncovered.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

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

1. THOROUGH ANNUAL SELF-AUDITS:

It was observed during the CUPA assessment that the provided annual Self-Audit reports were exceptionally thorough and well-written, going above and beyond the Title 27 requirements to provide a clear and concise reflection of CUPA operations and Unified Program implementation during the preceding fiscal year. The State Evaluation Team commends the efforts of the CUPA and recognizes the CUPA excels in this area.
