



Gavin Newsom  
Governor

Jared Blumenfeld  
Secretary for Environmental Protection

October 29, 2021

Ms. Christine Lane  
Director of Environmental Health  
Orange County Environmental Health  
1241 East Dyer Road, Suite 120  
Santa Ana, California 92705-5611

Dear Ms. Lane:

On October 28, 2021, CalEPA provided the Orange County Environmental Health Certified Unified Program Agency (CUPA) with an initial notification report letter for the 2019 CUPA performance evaluation and the final summary of findings report.

CalEPA would like to address an error made in the initial report letter, and the final summary of findings report, regarding the Evaluation Progress Report process. The letter and report erroneously stated there would be sufficient time for multiple progress reports. There is sufficient time for submittal and review of only one Evaluation Progress Report, although the timeframe for completion of corrective actions and resolutions may extend beyond submittal of the first Evaluation Progress Report.

The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in anticipated subsequent Progress Reports have been completed and addressed at present. Any deficiencies that remain uncorrected will be incorporated into the next performance evaluation.

Attached, please find a revised final summary of findings report that now correctly reflects the due date for the first Evaluation Progress Report 90 days from the receipt of this Final Summary of Findings report (February 8, 2022). The Evaluation Progress Report must be submitted to the CalEPA Team lead, Sam Porras, at [Samuel.Porras@calepa.ca.gov](mailto:Samuel.Porras@calepa.ca.gov). The initial report letter issued on October 28, 2021, is also attached.

Ms. Christine Lane  
Page 2

If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov).

Sincerely,



Jason Boetzer  
Assistant Secretary  
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Darwin Cheng  
Assistant Director of Environmental Health  
Orange County Environmental Health  
1241 East Dyer Road, Suite 120  
Santa Ana, California 92705-5611

Mr. Michael Palazzola  
Program Manager  
Orange County Environmental Health  
1241 East Dyer Road, Suite 120  
Santa Ana, California 92705-5611

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. Christine Lane  
Page 3

cc sent via email:

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

Mr. Ryan Miya  
Senior Environmental Scientist, Acting 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

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. Kevin Abriol  
Environmental Scientist  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 210  
Berkeley, California 94710-2721

Ms. Christine Lane  
Page 4

cc sent via email:

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

Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

Mr. John Elkins  
Environmental Program Manager  
California Environmental Protection Agency

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

Mr. Garrett Chan  
Environmental Scientist  
California Environmental Protection Agency

Mr. Sam Porras  
Environmental Scientist  
California Environmental Protection Agency

October 28, 2021

Ms. Christine Lane  
Director of Environmental Health  
Orange County Environmental Health  
1241 East Dyer Road, Suite 120  
Santa Ana, California 92705-5611

Dear Ms. Lane:

During January through June, 2019, CalEPA and the state program agencies conducted a performance evaluation of the Orange County Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System data, and oversight inspections.

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

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as satisfactory with improvement needed.

CalEPA recognizes the delay with issuing the final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in March 2022, there is sufficient time for submittal and review of Evaluation Progress Reports, although the timeframe for completion of corrective actions and resolutions outlined in the Summary of Findings report may extend beyond the remaining time period available for the Evaluation Progress Report process before the subsequent CUPA Performance Evaluation begins.

The CUPA is required to submit the first Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings report (January 4, 2022). The Evaluation Progress Report must be submitted to the CalEPA Team Lead, Sam Porras, at [Samuel.Porras@calepa.ca.gov](mailto:Samuel.Porras@calepa.ca.gov).

The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in anticipated subsequent Progress Reports have been completed and addressed at present, or in advance. Any deficiencies that remain

uncorrected, and any incidental findings that remain unresolved will be incorporated into the next CUPA Performance Evaluation.

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

If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov).

Sincerely,



Jason Boetzer  
Assistant Secretary  
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Darwin Cheng  
Assistant Director of Environmental Health  
Orange County Environmental Health  
1241 East Dyer Road, Suite 120  
Santa Ana, California 92705-5611

Mr. Michael Palazzola  
Program Manager  
Orange County Environmental Health  
1241 East Dyer Road, Suite 120  
Santa Ana, California 92705-5611

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. Christine Lane  
Page 3

cc sent via email:

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. Ryan Miya  
Senior Environmental Scientist, Acting 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

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

Ms. Christine Lane  
Page 4

cc sent via email:

Mr. Kevin Abriol  
Environmental Scientist  
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. John Paine  
Unified Program Manager  
California Environmental Protection Agency

Mr. John Elkins  
Environmental Program Manager  
California Environmental Protection Agency

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

Mr. Garrett Chan  
Environmental Scientist  
California Environmental Protection Agency

Mr. Sam Porras  
Environmental Scientist  
California Environmental Protection Agency



## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### CUPA: Orange County Environmental Health

**Evaluation Period:** January 2019 through June 2019

#### Evaluation Team Members:

- **CalEPA Team Lead:** Marc Lorentzen, Samuel Porras
- **DTSC:** Kevin Abriol, Elizabeth Brega
- **Cal OES\*:** Fred Mehr
- **State Water Board:** Jessica Botsford, Sean Farrow
- **CAL FIRE-OSFM:** Joann Lai, Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered satisfactory with improvements needed.

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

**Samuel Porras**

CalEPA Unified Program

Phone: (916) 327-9557

E-mail: [Samuel.Porras@calepa.ca.gov](mailto:Samuel.Porras@calepa.ca.gov)

CalEPA recognizes the delayed issuance of this final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in March 2022, there is sufficient time for submittal and review of one Evaluation Progress Report, although the timeframe for completion of corrective actions may extend beyond submittal of the first Evaluation Progress Report.

The CUPA is required to submit the Evaluation Progress Report 90 days from the receipt of this Final Summary of Findings Report. The Evaluation Progress Report must be submitted to the CalEPA Team Lead at [samuel.porras@calepa.ca.gov](mailto:samuel.porras@calepa.ca.gov) no later than **February 8, 2022**.

The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in anticipated subsequent Progress Reports have been completed and addressed at present, or in advance. Any deficiencies that remain uncorrected or incidental findings that remain unresolved will be incorporated into the next CUPA Performance Evaluation.

\*Effective July 1, 2021, oversight of the Hazardous Materials Release Response Plans and Inventory and the California Accidental Release Prevention Program transitioned from Cal OES to CalEPA.

**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 following up and documenting return to compliance (RTC) for Aboveground Petroleum Storage Act (APSA) tank facilities cited with violations in inspection reports.

Review of inspection, monitoring and enforcement information, also known as CME information, in the California Environmental Reporting System (CERS) indicates the following:

- Fiscal Year (FY) 2017/2018
  - 3 facilities are without RTC for not having a Spill Prevention, Control, and Countermeasure (SPCC) Plan.
- FY 2016/2017
  - 4 facilities are without RTC for not having an SPCC Plan.

**CITATION:**

Health and Safety Code (HSC), Chapter 6.11, Section 25404.1.2(c)

HSC Chapter 6.67, Section 25270.4.5(a)

California Code of Regulations (CCR), Title 27, Sections 15185(a) and (c); 15200(a)  
[OSFM]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of the total number of APSA facilities that have open violations (no RTC) for not preparing an SPCC Plan. The CUPA will follow up with the APSA facilities listed in the provided spreadsheet and prioritize follow-up actions based on the level of hazard. At minimum, the spreadsheet will include:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date;
- RTC qualifier; and
- Follow-up actions.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated version of the RTC tracking spreadsheet. The CUPA will have ensured each APSA tank facility identified in the 1<sup>st</sup> Progress Report with an open violation for no SPCC Plan has achieved compliance, or the CUPA will have applied appropriate enforcement.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

**2. DEFICIENCY:**

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

Review of CERS CME information finds the CUPA is citing the following Class I or Class II HWG violations as minor violations:

- Violation for exceedance of authorized accumulation time incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
  - 192 of 396 (48%) violations for exceedance of HW accumulation time were incorrectly cited as a minor violation.
- Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. With no training provided, employees are not familiar with hazardous waste issues and handling, nor how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
  - 41 of 103 (40%) violations for failure to adequately train employees were incorrectly cited as a minor violation.

Note: During the evaluation, the CUPA described issues with default violation classifications for HWG violations in the local data management system.

**CITATION:**

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6  
HSC, Chapter 6.11, Section 25404(a)(3)  
CCR, Title 22, Sections 66260.10 and 66262.34  
[DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a narrative description of the steps taken to correct the issues regarding the default violation classifications within the local data management system. The CUPA will provide HWG Violation Classification Training to inspectors, including review of the [Violation Classification Guidance for Unified Program Agencies](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf) (<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 will include, but not be limited to, an outline of the training conducted and a list of CUPA personnel attending training.

By the 2<sup>nd</sup> Progress Report, or after the CUPA has provided the above training to inspection staff, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with HWG facility inspection reports citing at least one hazardous waste violation for three HWG facilities that have been inspected within the last three months.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

**3. 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 receipt.

Within 45 calendar days of receipt, the CUPA must either:

- Authorize operation of the FTU;
- 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.

Review of CERS PBR submittals between July 1, 2015, through June 30, 2018, indicates 268 of 350 (77%) Treatment Notifications were not reviewed by the CUPA within 45 days of receipt.

Examples include the following:

- CERS ID 10539883: Treatment Notification submitted on February 28, 2017, marked “Accepted” by the CUPA on September 13, 2017 (197 days)
- CERS ID 10537606: Treatment Notification submitted on March 26, 2018, marked “Accepted” by the CUPA on June 27, 2018 (93 days)
- CERS ID 10522669: Treatment Notification submitted on February 26, 2018, marked “Accepted” by the CUPA on July 12, 2018 (136 days)

Note: During the evaluation, the CUPA acknowledged some PBR Treatment Notification submittals were not being reviewed within the 45-day timeframe. Effective the first quarter of 2019, the CUPA began implementing business practices to ensure timely review of PBR submittals. However, during the first quarter of 2019, one PBR submittal for CERS ID 10538935 exceeded the 45-day review timeframe.

**CITATION:**

CCR, Title 22, Sections 67450.2(b)(4) and 67450.3(c)(1)  
[DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each PBR treatment submittal is reviewed within 45 calendar days of receipt.

By the 2<sup>nd</sup> Progress Report, the CUPA will have reviewed and processed all pending Onsite Hazardous Waste Treatment Notifications in CERS and will have notified CalEPA of the progress.

---

**4. DEFICIENCY:**

The CUPA is not consistently and thoroughly evaluating Participating Agencies (PAs) with UST program responsibilities on an annual basis.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

Review of onsite PA evaluations finds the CUPA is not sufficiently evaluating each PA to ensure the UST program is being implemented in accordance with UST Regulations and HSC as follows:

- The CUPA is not including all criteria contained in HSC, Chapter 6.7 and CCR, Title 23, Chapter 16 to conduct onsite PA evaluations. A summary checklist containing all criteria to be evaluated is identified as “UST Program Evaluation Checklist with Annotation” dated December 6, 2017, and is available at:  
[https://www.waterboards.ca.gov/ust/adm\\_notices/cupa\\_evaluation\\_checklist\\_cover.pdf](https://www.waterboards.ca.gov/ust/adm_notices/cupa_evaluation_checklist_cover.pdf).
  - During the 2018 onsite evaluations for the City of Fullerton Fire Department PA and the City of Orange Fire Department PA, the CUPA reviewed the following:
    - *CERS Summary Regulated Facilities by Unified Program Element Report*
    - *CERS Summary Regulated Facility Inspection Report*
    - policies and procedures
    - Inspection and Enforcement Plan
    - *2017 CERS Annual Certification Report*
    - staff training
    - list of inspections conducted, and
    - a blank UST inspection correction notice.
- The CUPA not reviewing a sufficient number of UST facilities regulated under each PA.
  - The City of Fullerton Fire Department regulates 43 UST facilities.
    - During the 2018 onsite PA evaluation, the CUPA only reviewed one UST facility, CERS ID 10566445.
  - The City of Orange Fire Department PA regulates 70 UST facilities.
    - During the 2018 onsite PA evaluation, the CUPA only reviewed one UST facility, CERS ID 10403788.

Review of CUPA procedures, self-audit reports, and the onsite PA evaluations, finds the CUPA is conducting PA evaluations once every three years as follows:

- *Standard Operating Procedure – Participating Agency Evaluation Procedure (CUPA – 03 – PA Evaluation)* – Page 2, item 4 states, “the CUPA will conduct a thorough review of the Evaluation Report prior to the triennial PA onsite evaluation...”
- *CUPA Audit of PA 16-19* finds no information showing the CUPA annually evaluating PAs with UST program responsibilities.
- Onsite PA evaluation for the City of Fullerton Fire Department, dated May 11, 2018, indicates an evaluation period of three years (FYs 2016/2017, 2017/2018, and 2018/2019).
- Onsite PA evaluation for the City of Orange Fire Department, dated May 25, 2018, indicates an evaluation period of three years (FYs 2016/2017, 2017/2018, and 2018/2019).

Note: A summary checklist identified as [UST Program Evaluation Checklist with Annotation](https://www.waterboards.ca.gov/ust/adm_notices/cupa_evaluation_checklist_cover.pdf) dated December 6, 2017, is available on the State Water Board web page.  
([https://www.waterboards.ca.gov/ust/adm\\_notices/cupa\\_evaluation\\_checklist\\_cover.pdf](https://www.waterboards.ca.gov/ust/adm_notices/cupa_evaluation_checklist_cover.pdf))

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

**CITATION:**

CCR, Title 27, Section 15330(d)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise the procedures for evaluating PAs with UST program responsibilities. Revisions should include, and not be limited to, ensuring:

- PAs with UST responsibilities are evaluated annually,
- PA evaluations include all criteria for UST program implementation in UST Regulations and HSC, and
- Review of a sufficient number of UST facilities regulated under each PA.

The CUPA will provide CalEPA with the revised procedures.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised procedures, based on feedback from the State Water Board and will provide the amended procedures to CalEPA.

By the 3<sup>rd</sup> Progress Report, the CUPA will begin implementation of the revised or amended procedures.

By the 4<sup>th</sup> Progress Report, or upon completion of the next annual review of the PAs with UST Program responsibilities, the CUPA will provide CalEPA with the onsite PA evaluation for each PA.

---

**5. DEFICIENCY:**

The CUPA is not documenting whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, that tank closure, removal, and soil and/or ground water sampling complies with UST Regulations and HSC.

Review of UST facility files finds the following examples:

- Garden Grove Property Group, LLC, located at 10621 Garden Grove Blvd.
- CERS ID 10568584

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

**CITATION:**

CCR, Title 23, Section 2672(d)  
CCR, Title 27, Sections 15180(e)(2), 15185(a) and (c)(3)  
[State Water Board]

**CORRECTIVE ACTION:**

During the evaluation the CUPA provided the requested closure documentation.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

By the 1<sup>st</sup> Progress Report, the CUPA will revise the UST Facility Inspection Procedure to:

- describe how the CUPA will document in sufficient detail whether the UST owner/operator has demonstrated to the satisfaction of the CUPA that tank closure, removal, and soil and/or ground water sampling complies with UST Regulations and HSC, and
- address how the CUPA will maintain closure records as required by statute and regulation (i.e. correspondence, hardcopy, electronic media).

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised UST Facility Inspection Procedure based on feedback from the State Water Board, and will provide the amended UST Facility Inspection Procedure to CalEPA.

By the 3<sup>rd</sup> Progress Report, the CUPA will train personnel on the revised or amended UST Facility Inspection Procedure and will provide training documentation to CalEPA. Training documentation will include, but not be limited to, an outline of the training conducted and a list of CUPA personnel attending training. Once training is complete, the CUPA will implement the revised or amended UST Facility Inspection Procedure.

With respect to facilities which have not been provided UST closure documentation, in the event of a request for closure documentation, the CUPA will provide the requested documentation. Closure documentation will demonstrate the CUPA's satisfaction regarding UST closure, removal, and soil and/or ground water sampling complies with UST Regulations and HSC.

---

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

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

---

**1. INCIDENTAL FINDING:**

The Inspection and Enforcement (I&E) Plan contains incorrect information.

The following information is incorrect:

- Page 4 of the AEO Penalty Calculation Standard Operating Procedure (SOP) contains outdated Hazardous Waste Penalty Matrix information.

**CITATION:**

CCR, Title 22, Section 66272.62(d)  
CCR, Title 27, Section 15200(a)  
[DTSC]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the AEO Penalty Calculation SOP in the I&E Plan. The CUPA will provide CalEPA with the revised AEO Penalty Calculation SOP.

---

**2. INCIDENTAL FINDING:**

The CUPA is not consistently citing violations for failure to conduct an overfill prevention equipment inspection no later than October 13, 2018, and after repairs as required by CCR, Title 23, Sections 2637.2(a) and 2665(b).

Review of facility files, annual UST compliance inspection reports, associated overfill prevention inspection reports, and CERS CME information finds the following:

- CERS ID 10483006
  - Overfill Prevention Inspection dated November 6, 2018, was conducted beyond the October 13, 2018, deadline. The CUPA did not cite a violation and no violation was reported in CERS, therefore, U.S. EPA Technical Compliance Rate (TCR) 9b reporting is inaccurate.
- CERS ID 10563319
  - Overfill Prevention Inspection dated February 28, 2019, was conducted beyond the October 13, 2018, deadline. The CUPA did not cite a violation and no violation was reported in CERS, therefore, U.S. EPA TCR 9b reporting is inaccurate.
- CERS ID 10401199
  - Overfill Prevention Inspection dated November 5, 2018, was conducted beyond the October 13, 2018, deadline. The CUPA did not cite a violation and no violation was reported in CERS, therefore, U.S. EPA TCR 9b reporting is inaccurate.

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



**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise and provide CalEPA with the I&E Plan, or other applicable procedure, to ensure personnel consistently and correctly report all violations during the annual compliance inspection and in CERS.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised I&E Plan, or other applicable procedure, based on feedback from the State Water Board. The CUPA will provide the amended I&E Plan, or other applicable procedure to CalEPA.

By the 3<sup>rd</sup> Progress Report, the CUPA will train UST inspection personnel on the revised I&E Plan, or other applicable procedure, and provide training documentation to CalEPA. Training documentation will include, but not be limited to, an outline of the training conducted and a list of UST inspection personnel in attendance. Once training is complete, the CUPA will implement the revised or amended I&E Plan, or other applicable procedure.

---

**3. INCIDENTAL FINDING:**

On May 31, 2019, DTSC observed a HWG inspection conducted by two CUPA inspectors at CERS ID 10722862. Refer to Observation #7 for more information.

During the inspection, the CUPA inspectors requested from the facility a copy of the SPCC Plan, which the CUPA inspector(s) presumed would contain hazardous waste tank assessments pursuant to CCR, Title 22, Section 66265.192 for the two used oil tanks, however, it did not. The inspectors did not cite a violation for the facility failing to meet the tank assessment requirements of CCR, Title 22, Section 66265.192.

**CITATION:**

CCR, Title 22, Sections 66262.34 and  
66265.192  
[DTSC]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide training on the hazardous waste tank requirements as outlined in CCR, Title 22, Article 10, including sections 66265.191 and 66265.192 to all staff conducting HWG inspections. The training will include a review of the ["Requirements for Hazardous Waste Tank Systems"](https://calcupa.org/CMS15/dropbox/Haz%20Waste/cfb-guidance-on-hazardous-waste-tank-systems.pdf) (<https://calcupa.org/CMS15/dropbox/Haz%20Waste/cfb-guidance-on-hazardous-waste-tank-systems.pdf>).

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

The CUPA will provide CalEPA with a narrative stating all staff conducting HWG inspections received training and reviewed the "Requirements for Hazardous Waste Tank Systems." The narrative will include the name of each inspector and the date the training was completed.

---

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

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

---

**1. OBSERVATION:**

The Aboveground Petroleum Storage Tank/SPCC Verification and Inspection Standard Operating Procedure (SOP), last revised in March 2010, contains outdated information. In the Procedure section, prior to inspection, the SOP states, "Complete the 24-hour Aboveground Petroleum Storage Act (APSA) Training Course mandated by Cal-EPA, and pass an examination." The current APSA training program, which includes an exam, is now administered by OSFM.

**RECOMMENDATION:**

Update the Aboveground Petroleum Storage Tank/SPCC Verification and Inspection SOP.

---

**2. OBSERVATION:**

The webpage at <http://www.occupainfo.com/programs/apstforms> contains the following outdated APSA program documents:

- The link "Cal-CUPA Forum APST FAQs" provided an APSA Fact Sheet, dated November 2009.
- The link "Cal-EPA APST Fact Sheet" provided an SPCC Fact Sheet, dated December 2007.
- The "Orange County CUPA APST Fact Sheet," dated December 2008.
- The Tier II Qualified Facility SPCC Plan template.

The webpage at <http://www.occupainfo.com/programs/apst> contains various information for the regulated community. However, the statement, "APSA applies to business with a total storage capacity, at any one site of more than 1,320-gallons of petroleum products in tanks or containers larger than 55-gallons" is outdated. Tank facilities subject to the Federal SPCC rule and tank facilities with one or more tanks in underground areas (TIUGAs), regardless of the 1,320-gallon petroleum storage capacity, are also applicable to the APSA program.

**RECOMMENDATION:**

Remove or revise the outdated APSA documents on the website. Current APSA guidance documents and forms can be found on the OSFM webpage at:

<http://osfm.fire.ca.gov/cupa/apsa>.

---

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

**3. OBSERVATION:**

The I&E Plan contains the following outdated APSA program information:

- Page 32, Section 11 – Referral to State Agency states that the CUPA may refer AST violations to the UST Enforcement Unit at the State Water Board. Effective January 2008, CUPAs have the authority to inspect and enforce the requirements of APSA. The State Water Board and Regional Water Boards retained the authority to oversee or cause cleanup or abatement efforts of a release from an APSA tank facility.
- Page 33, Table 1 – Possible Enforcement Tools Available under Health and Safety Code shows that Notice to Comply (NTC) is only applicable to the Hazardous Waste Generator program. NTC is the only means that CUPAs may cite a minor violation on a Unified Program regulated facility, including one that is regulated under the APSA program, per HSC 25404.1.2(b).
- Page 35, Program Specific Enforcement Authorities for Section 4 – AST [APSA] states, ‘facilities that have the storage capacity of at least 1,320 gallons and less than 10,000 gallons of petroleum are only subject to the SPCC requirements.’ This statement does not reflect the current requirements of APSA; for example, certain TIUGAs subject to APSA with at least 55 gallons in shell capacity have an SPCC Plan regardless of total storage capacity of the facility, and conditionally exempt tank facilities are not subject to SPCC Plan requirements of APSA.
- Page 39 - there is a reference to the aboveground storage tank training program and examination being established by the CalEPA secretary. The current APSA training program, including the exam, is now administered by OSFM.

**RECOMMENDATION:**

Update the I&E Plan.

---

**4. OBSERVATION:**

The checklist/questionnaire the CUPA provides to PAs with UST program responsibilities for the annual self-audit report is incomplete or inaccurate as follows:

- Section 4.1.2 – This section does not require the permit to contain an issuance date or the CERS identification number.
- Section 4.1.5 – This section does not reflect the January 1, 2019, amendments for permit issuance.
- Section 4.2.6 – For new installations and permit renewals, CERS is required to be utilized for UST permitting, construction, and monitoring information. Unified Program Consolidated Forms (UPCFs) are no longer used.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

- Section 4.3.1 – This section does not capture the maintenance of reporting unauthorized releases to the State Water Board and the Regional Water Quality Control Board in either in the facility file or in CERS.
- Requirements for reporting CME information to CERS is not reflected.
- Requirements for ICC UST certified inspectors to review, and accept or reject CERS UST submittals.

**RECOMMENDATION:**

Review and revise the checklist/questionnaire that is provided to PAs with UST program responsibilities and ensure it completely and accurately reflects all UST program requirements, including amendments to UST Regulations and HSC, to ensure an accurate annual self-audit report, as required by CCR, Title 27, Section 15280.

---

**5. OBSERVATION:**

Section B 2 of the UST Facility Inspection procedure describes the UST removal process and states the Local Oversight Program (LOP) staff conducts the removal and sampling.

**RECOMMENDATION:**

Update the UST Facility Inspection procedure regarding the roles and responsibilities of CUPA and LOP staff in the UST removal process and the process for maintaining UST closure records.

---

**6. OBSERVATION:**

Review of CERS finds the following UST systems may need to be permanently closed by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10514650 (Tank IDs 1 - 3)
- CERS ID 10513219 (Tank IDs 1 - 3)
- CERS ID 10512367 (Tank IDs T2 – T5)

Note: The examples above may not represent all UST systems which may need to be permanently closed by December 31, 2025.

Note: U.S. EPA and the State Water Board fund two full-time contractors to specifically assist single-walled tank owner/operators. Encouraging UST owners to remove and replace single-walled tanks and piping well in advance of the December 2025, deadline will help prevent contractor shortages, unmanageable permitting workloads, and UST abandonment.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

**RECOMMENDATION:**

Continue working with PAs to provide verbal and written reminders to UST facility owners/operators and consider providing written notification of the December 31, 2025, requirements for permanent closure of single-walled USTs. The written notification should inform the facility owners/operators that, in order to stay in compliance and avoid fines, owners/operators must replace or remove single-walled USTs by December 31, 2025. Additional information regarding the single-walled UST closure requirements may be found at: [http://waterboards.ca.gov/water\\_issues/programs/ust/single\\_walled/](http://waterboards.ca.gov/water_issues/programs/ust/single_walled/).

Notify UST owners/operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project tanks. Additional information regarding funding sources may be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust.shtml](http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml).

---

**7. OBSERVATION:**

On May 30, 2019, DTSC observed a HWG inspection conducted by two CUPA inspectors. The inspection occurred at CERS ID 10151961, which is a large quantity generator that conducts electroplating activities and onsite treatment of hazardous waste. The lead inspector prepared for the inspection by reviewing previous inspection reports, the facility file, and CERS. The lead inspector stated the Hazardous Waste Tracking System (HWTS) is only reviewed for the first site visit or if issues are noted. During the inspection, the inspectors established rapport with the facility operators, toured the entire site, and communicated information well to the facility operators. The inspectors requested and reviewed all required documents. The inspectors correctly identified and cited all violations observed at the facility. The inspectors did not ask for consent to conduct the inspection.

On May 31, 2019, DTSC observed a HWG inspection conducted by two CUPA inspectors. The inspection occurred at CERS ID 10722862, which is a non-RCRA large quantity generator. The lead inspector prepared for the inspection by reviewing previous inspection reports, the facility file, CERS, and the HWTS. During the inspection, the inspectors established rapport with the facility operators, toured the entire site, and communicated information well to the facility operators. The inspectors requested and reviewed all required documents. The inspectors identified and cited violations observed and noted all issues except for citing a violation for the facility to meet the tank assessment requirements of CCR, Title 22, Section 66265.192 for two used oil tanks. Refer to Incidental Finding 3 for more information.

**RECOMMENDATION:**

Continue to conduct thorough inspections. Always obtain verbal consent to conduct the inspection while on-site prior to the start of the inspection. Although the CUPA utilizes an in-

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**OBSERVATIONS AND RECOMMENDATIONS**

house waste inventory system for all facilities, the HWTS should always be reviewed prior to an inspection to inform the inspector of the types and quantities of waste that the facility has been manifesting in the past and what can be expected to be observed during the inspection.