

September 16, 2022

Mr. Jeffrey Warren  
Interim Director, Environmental Management Department  
El Dorado County Environmental Management Department  
2850 Fairlane Court, Bldg. C  
Placerville, California 95667-4100

Dear Mr. Warren:

During July 2019 through November 2019, CalEPA and the state program agencies conducted a performance evaluation of the El Dorado County Environmental Management Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System information.

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

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

CalEPA recognizes the delay with issuing the final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in September 2022, there is sufficient time for submittal and review of 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 required to submit the Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report. Please provide the Evaluation Progress Report to the CalEPA Team Lead at [Timothy.Brandt@calepa.ca.gov](mailto:Timothy.Brandt@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. Any deficiencies that remain uncorrected

Mr. Jeffrey Warren  
Page 2

and any incidental findings that remain unresolved will be incorporated into the 2022 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:

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Supervising Waste Specialist  
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Mr. Jeffrey Warren  
Page 3

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Mr. Jeffrey Warren  
Page 4

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Mr. Tim Brandt  
Environmental Scientist  
California Environmental Protection Agency

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

**CUPA:** El Dorado County Environmental Management Department

**Evaluation Period:** July 2019 to November 2019

### Evaluation Team Members:

- **CalEPA Team Lead:** Tim Brandt, Marc Lorentzen
- **DTSC:** Asha Arora
- **State Water Board:** Sean Farrow
- **Cal OES/CalEPA\*:** Fred Mehr, Jack Harrah
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final. Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered satisfactory with improvement needed.

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

**Timothy Brandt**

CalEPA Unified Program

Phone: (916) 323-2204

E-mail: [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov)

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

The CUPA is required to submit an Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report. The Evaluation Progress Report must be submitted to the CalEPA Team Lead at [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov) no later than **November 21, 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 include 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.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

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

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**1. DEFICIENCY:**

The CUPA is not inspecting each facility subject to Hazardous Material Business Plan (HMBP) requirements at least once every three years.

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) finds:

- 265 of 615 (38%) facilities subject to Business Plan requirements were not inspected within the last three years.

Note: This deficiency was identified during the 2015 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

Note: The findings of this deficiency were identified by Cal OES, however, CalEPA will be determining correction of this deficiency due to the July 22, 2021, transition of the implementation and oversight of the HMBP and California Accidental Release Prevention (CalARP) Programs to CalEPA.

**CITATION:**

Health and Safety Code (HSC), Chapter 6.95, Section 25511(b)  
[Cal OES/CalEPA]

**CORRECTIVE ACTION:**

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

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

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with the number of business plan inspections that have occurred during the previous quarter.

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

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**2. DEFICIENCY:**

The CUPA is not inspecting all underground storage tank (UST) facilities at least once every 12 months.

UST facilities not inspected at least once every three years jeopardize the ability of California to meet the U.S. Environmental Protection Agency (EPA) certification requirements of the Energy Policy Act of 2005.

Review of the Significant Operational Compliance Report (Report 6) indicates UST facilities were not inspected at least once every 12 months for the following Fiscal Years (FYs):

- FY 2018/2019: 6 of 78 (8%)
- FY 2017/2018: 9 of 80 (11%)
- FY 2016/2017: 6 of 81 (7%)

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop and provide CalEPA with an action plan that, at a minimum, will include:

- Identification of UST facilities that have not been inspected within the last 12 months. Identification of UST facilities can be determined with a spreadsheet exported from the CUPA's data management system or CERS, and shall include, at a minimum:
  - CERS ID
  - facility name, and
  - the date of the last UST compliance inspection;
- A schedule to inspect those facilities identified, prioritizing the most delinquent inspections to be completed prior to any other annual UST compliance inspection; and
- Steps to ensure that all UST facilities will be inspected at least once every 12 months.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an updated spreadsheet identifying the UST facilities that have not been inspected within the last 12 months.

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UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

**3. DEFICIENCY:**

The CUPA is not inspecting each Aboveground Petroleum Storage Act (APSA) tank facility that stores 10,000 gallons or more of petroleum at least once every three years.

Review of CERS CME information as of September 7, 2022, indicates:

- 6 of 26 (23%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years.

Note: At the time of the Exit Briefing, November 21, 2019, 10 of 26 (38%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility that stores 10,000 gallons or more of petroleum is inspected at least once every three years. The action plan will include at a minimum:

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each APSA facility storing 10,000 gallons or more of petroleum that has not been inspected at least once every three years. For each APSA tank facility listed, the spreadsheet will include at a minimum:
  - facility name
  - CERS ID, and
  - the date of the last routine inspection.
- A proposed schedule to inspect those APSA tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities (i.e., large volumes of petroleum or proximity to navigable water).
- Future steps to ensure that each APSA tank facility storing 10,000 gallons or more of petroleum will be inspected at least once every three years.

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

By the 4<sup>th</sup> Progress Report, the CUPA will have inspected each APSA tank facility storing 10,000 gallons or more of petroleum at least once in the last three years.



UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

**4. DEFICIENCY:**

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

Review of CERS CME information indicates HWG facilities were not inspected once every three years for the following FYs:

- FY 2018/2019: 92 of 487 (19%)
- FY 2017/2018: 107 of 482 (22%)
- FY 2016/2017: 104 of 501 (21%)

Note: This deficiency was identified during the 2015 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. Upon closure of the 2015 CUPA Performance Evaluation, more than 50% of HWG facilities had not been inspected.

**CITATION:**

California Code of Regulations (CCR), Title 27, Section 15200(a)(3)  
[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 HWG facility is inspected once every three years. The action plan will include at a minimum:

- A sortable 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, and
  - the date of the last routine inspection;
- A proposed schedule to inspect those HWG facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection based on risk; and
- Future steps to ensure that each HWG facility will be inspected at least once every three years.

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each HWG facility once every three years.

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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

**5. DEFICIENCY:**

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

Review of CERS CME information indicates the CUPA has not conducted any TP facility inspections for the last three FYs (2016/2017, 2017/2018, and 2018/2019).

Review of CERS CME information for the following TP facilities indicates:

- CERS ID 10202947
  - Has a Conditionally Exempt (CE) Specified Waste treatment unit
  - The last HWG and CE inspections were conducted on September 5, 2019. There are no HWG or CE inspections in CERS subsequent to the facility notifying the CUPA as a CE on October 21, 2013.
- CERS ID 10203499
  - Is operating a unit that heats water/oil to remove water under a Conditionally Exempt-Limited (CEL) tier that was accepted by the CUPA on March 9, 2016.
  - The last CE inspection was conducted on January 21, 2016. No subsequent CE inspection has been conducted.
- CERS ID 10203325
  - Before the most recent inspection dated, September 10, 2019, the facility was last inspected for the Permit By Rule (PBR) unit and the HWG program on January 20, 2016.
  - The facility has resubmitted two PBR applications on December 18, 2019, and August 14, 2019, that are under review.
- CERS ID 10203379
  - The facility submittal indicates there are two TP units, a Conditionally Exempt Small Quantity Treatment (CESQT) unit, and a Conditionally Exempt Commercial Laundry (CE-CL) unit.
  - The submittal was accepted by the CUPA on April 3, 2015, and an inspection was conducted the same day.
  - No subsequent inspections have been conducted.
  - The facility is not a commercial laundry, so the CE-CL unit submittal is incorrect. Facilities operating under a CESQT tier cannot exceed a total volume of 55 gallons or 500 pounds of HW treated per calendar month, facility wide; and the HWG is not otherwise required to obtain a hazardous waste facilities permit or other grant of authorization for any other hazardous waste management activity at the facility (HSC, section 25201.15(a)). The facility cannot operate under both a CE-CL unit and a CESQT TP unit.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

- CERS ID 10019731
  - There is one PBR unit for which a submittal was marked by the CUPA as “not applicable” on August 9, 2016, as “the submittal is not applicable to your operations.”
    - If the submittal was applicable to the facility’s operations, the PBR submittal seems incorrect as the facility is not a CESQG and there is no indication of a facility capable for offsite recycling of the treatment residuals being present.
  - A PBR inspection was conducted on June 1, 2016, with a comment that the facility does not treat hazardous waste onsite. This plating facility uses cyanide, yet there has never been F-listed cyanide plating waste manifested from the facility. If the cyanide bearing plating waste and rinse waters are not being treated onsite and are not appropriately manifested offsite, the hazardous waste may not be managed correctly.
  - During the PBR inspection conducted on June 1, 2016, a Class I violation was cited and no enforcement has been taken.
  - No subsequent inspections have been conducted

**CITATION:**

HSC, Chapter 6.5, Section 25201.4(b)(2)  
[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 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:

- A sortable 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
  - the date of the last routine inspection;
- A proposed schedule to inspect those TP facilities, prioritizing the most delinquent inspections to be completed prior to any other TP inspection based on risk; and
- Future steps to ensure that each TP facility will be inspected at least once within the first two years of operation and every three years thereafter.

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each TP facility at least once within the first two years of operation and every three years thereafter.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

**6. DEFICIENCY:**

The CUPA is not consistently following up and documenting return to compliance (RTC) information in CERS for APSA Program facilities cited with violations.

Review of CERS CME information for the following FYs, as of September 7, 2022, indicates there is no documented RTC for the following violations:

- FY 2018/2019: 7 of 15 (47%)

Note: At the time of the Exit Briefing, November 21, 2019, for FY 2017/2018, 12 of 38 (32%) APSA Program violations cited had no RTC. As of September 7, 2022, 5 of 38 (13%) APSA Program violations cited have no RTC. This deficiency no longer applies to FY 2017/2018.

**CITATION:**

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

**CORRECTIVE ACTION:**

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

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the appropriate enforcement taken by the CUPA to ensure RTC.

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

By the 3<sup>rd</sup> Progress Report, the CUPA will provide CalEPA with APSA Program facility records, as requested by OSFM, that include RTC documentation, or a narrative of the appropriate applied enforcement taken by the CUPA in the absence of RTC, for the following facilities:

- CERS ID 10203712
- CERS ID 10202611
- CERS ID 10203052

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

**7. DEFICIENCY:**

The CUPA is not consistently following up and documenting RTC information in CERS for HWG program facilities cited with violations.

Review of CERS CME information for the following FYs indicates cited violations have no documented RTC:

- FY 2016/2017: 9 of 84 (11%)
- FY 2017/2018: 18 of 99 (18%)
- FY 2018/2019: 65 of 85 (76%)

**CITATION:**

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

**CORRECTIVE ACTION:**

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

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the appropriate enforcement taken by the CUPA to ensure RTC.

The CUPA will prioritize follow-up actions with each facility based on the level of hazard present to public health and the environment.

By the 3<sup>rd</sup> Progress Report, the CUPA will provide CalEPA with HWG Program facility records, as requested by DTSC, that include RTC documentation, or a narrative of the appropriate applied enforcement taken by the CUPA in the absence of RTC for the following facilities:

- CERS ID 10204327: inspection dated August 22, 2016
- CERS ID 10204006: inspection dated March 17, 2017
- CERS ID 10202845: inspection dated September 25, 2017
- CERS ID 10203175: inspection dated December 18, 2018
- CERS ID 10204018: inspection dated November 19, 2018

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

**8. DEFICIENCY:**

Required components of the I&E Plan and the Consolidated Permit Plan are missing, inaccurate, or incomplete.

The following components of the I&E Plan are missing:

- Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory.
- A graduated series of enforcement is not identified.

The following components of the I&E Plan are inaccurate:

- Page 5: Items F and G of the Enforcement Plan contain an incorrect citation for the definition of a minor violation. The correct citation is HSC, Chapter 6.5, Section 25110.8.5.
- Pages 8 and 9 reference the red tag enforcement option that does not incorporate amendments of HSC, Chapter 6.7, Section 25292.3, which became effective January 1, 2019.

The following components of the Consolidated Permit Plan are inaccurate or incomplete:

- Reference is made to issuing permits to new UST owners/operators, however, renewing UST permits to operate is not referenced.
- Recent amendments of HSC, Chapter 6.7, Section 25285, effective January 1, 2019, are not incorporated.
- Reference to submittal of Unified Program Consolidated Forms (UPCFs), such as Forms A, B, D (monitoring plan), and financial responsibility, etc. is outdated as the use of CERS replaced the use of UPCFs effective January 1, 2013.

**CITATION:**

CCR, Title 27, Section 15200(a)

HSC, Chapter 6.7, Sections 25285(b), 25295.3(a)(2)(A) and (c)(1)(C)

[CalEPA, State Water Board, DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised I&E Plan and the revised Consolidated Permit Plan, that adequately incorporate and correctly address all required components.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

**9. DEFICIENCY:**

The CUPA is not consistently requiring the owner or operator to submit UST testing and leak detection documents within 30 days. The CUPA is required to maintain such documentation in either CUPA facility files or in CERS.

During the evaluation, the CUPA collected testing and leak detection documents from UST owners/operators of the following facilities and provided the documentation to the State Water Board:

- CERS ID 10202515
- CERS ID 10191010
- CERS ID 10154019

UST testing and leak detection documentation as specified below was not found in facility files or CERS for the following facility:

- CERS ID 10154019
  - 2018 Overfill Prevention Equipment Inspection Report
  - 2018 Spill Container Testing Report

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

**CITATION:**

CCR, Title 23, Sections 2637(f), 2637.1(e), 2637.2(e), 2638(d), and 2643(g)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure, to ensure the establishment of a process for the CUPA to require UST facility owners/operators to submit UST testing and leak detection documents to the CUPA within 30 days of testing and outline the appropriate enforcement options to apply for failure of the UST owners/operators to submit UST testing and leak detection documents.

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 CalEPA with the amended I&E Plan. 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 3<sup>rd</sup> Progress Report, if amendments to the I&E Plan 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.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

By the 4<sup>th</sup> Progress Report, the CUPA will develop and provide CalEPA with UST Program outreach materials. The outreach materials must explain the requirement for UST owners/operators to submit the appropriate UST testing and leak detection documents within 30 days of testing to the CUPA. The CUPA will provide CalEPA with an outline of how and when the UST Program outreach materials will be provided to the regulated community, including both UST owners and operators.

By the 5<sup>th</sup> Progress Report, the CUPA will have completed the distribution of the UST Program outreach materials notifying the regulated community of the requirements to submit appropriate UST testing and leak detection documents to the CUPA within 30 days of testing. The CUPA will provide CalEPA with the final UST Program outreach materials and a distribution list of the UST regulated community that the materials were provided.

By the 6<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, if not available in CERS, the CUPA will provide CalEPA with the following facility records for up to five UST facilities, as selected by the State Water Board:

- monitoring certification results
- secondary containment test results
- spill bucket test results, and
- any other testing or leak detection documents showing the date the testing and leak detection documents were received by the CUPA.

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#### 10. DEFICIENCY:

The CUPA is not consistently citing violations for failure to conduct an overfill prevention equipment inspection.

No later than October 13, 2018, all overfill prevention equipment must be inspected periodically and after repairs. Review of annual UST compliance inspection reports, associated overfill prevention equipment inspection reports, and CERS CME information indicates the following overfill prevention inspections were conducted beyond the October 13, 2018, deadline:

- CERS ID 10505242: The overfill prevention equipment inspection results are dated May 22, 2019. The CUPA conducted the annual compliance inspection on May 22, 2019, and did not report a violation for not performing the overfill prevention equipment inspection on or before October 13, 2018. CERS violation comments indicate the CUPA reported a violation for failure of components only.
- CERS ID 10509229: The CUPA conducted the annual compliance inspection on June 3, 2019, and did not report a violation for not performing the overfill prevention equipment inspection on or before October 13, 2018. The overfill prevention equipment inspection report is missing from the UST facility file.
- CERS ID 10202686: The overfill prevention equipment inspection results are dated May 17, 2019. The CUPA conducted the annual compliance inspection on July 15, 2019, and did not report a violation for not performing the overfill prevention equipment inspection on or before October 13, 2018.



**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

Note: Not reporting the violation for not performing the overfill prevention equipment inspection on or before October 13, 2018, in Report 6 and CERS, subsequently results in inaccurate Technical Compliance Rate (TCR 9b) reporting to the U.S. EPA.

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

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise and provide CalEPA with the I&E Plan, or other applicable procedure, to ensure establishment of a process for UST inspection staff to consistently and correctly cite all violations identified during the annual compliance inspection on inspection reports and in CERS.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the I&E Plan, or other applicable procedure, based on feedback from the State Water Board and will provide the amended I&E Plan, or other applicable procedure, to CalEPA. 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 3<sup>rd</sup> Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure and 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 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, if not available in CERS, the CUPA will provide CalEPA with the most recent annual UST compliance inspection report and the most recent overfill prevention equipment inspection report for the following five facilities, as requested by the State Water Board:

- CERS ID 10505242
- CERS ID 10509229
- CERS ID 10202686
- CERS ID 10203520
- CERS ID 10202629

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

**11. 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.

Note: The findings of this deficiency were identified by Cal OES, however, CalEPA will be determining correction of this deficiency due to the July 22, 2021, transition of the implementation and oversight of the HMBP and California Accidental Release Prevention (CalARP) Programs to CalEPA.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will certify to CalEPA that a complete review of the Area Plan has been conducted and any necessary revisions have been made. The CUPA will provide CalEPA with the revised Area Plan.

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**12. DEFICIENCY:**

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

Review of HMBPs submitted to CERS in lieu of a tank facility statement as of September 7, 2022, indicates:

- 25 of 119 (21%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months.

Note: At the time of the Exit Briefing, November 21, 2019, 47 of 118 (40%) APSA tank facilities had not submitted a chemical inventory and site map within the last 12 months. As of September 7, 2022, 23 of 118 (19%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months. This deficiency no longer applies to the submittal of chemical inventory and site map within the last 12 months.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a list of all APSA tank facilities that have not annually submitted a complete HMBP to CERS when an HMBP is submitted in lieu of a tank facility statement.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

By the 2<sup>nd</sup> Progress Report, the CUPA will follow up with each APSA tank facility identified on the list to ensure a complete HMBP is submitted to CERS when an HMBP is submitted in lieu of a tank facility statement, or the CUPA will initiate appropriate enforcement.

By the 4<sup>th</sup> Progress Report, the CUPA will have ensured that each APSA tank facility has submitted a complete HMBP to CERS when an HMBP was submitted in lieu of a tank facility statement, or the CUPA will have taken appropriate enforcement.

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**13. DEFICIENCY:**

The CUPA has not fully developed and implemented the TP program.

The following TP program requirements have not been implemented:

- Administrative review of TP notifications are not completed accurately.
- Technical review of TP notification is not accurately verified during inspection.
- Proper review, processing, and authorization of each annual Onsite Hazardous Waste Treatment Notification for facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receipt is not completed.

Review of CERS CME information finds the following instances where two of four Onsite Hazardous Waste Treatment Notifications under PBR were not reviewed by the CUPA within 45 days, or, where administrative and technical review of TP notifications was incorrect and/or inaccurately verified during inspection:

- CERS ID 10019731, a Large Quantity Generator (LQG) facility
  - A PBR notification was submitted to CERS on January 26, 2016. The CUPA rejected the submittal stating, "This submittal is not applicable to your operations," on August 9, 2016.
  - This facility conducts bronze, copper, silver and gold plating using cyanide, as well as nickel plating. This facility uses cyanide in plating operations, yet no onsite treatment of the cyanide is occurring and there are no manifests going offsite that lists F007 (spent cyanide plating bath solutions), and no F008 (plating bath residues where cyanides are used) wastes since 2014.
  - This facility's PBR notification incorrectly states that the facility is a federal "CESQG" and evaporates aqueous waste with metal (950 gallons per month). To be considered a federal CESQG the facility has to generate less than 27 gallons (100 kg or 220 lbs.) of waste facility-wide per month.
  - The CUPA has stated that this facility is not treating waste. Therefore, the comment as to why the notification was "not applicable" should be more detailed as to why the submittal was not applicable

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

- CERS ID 10203325
  - Two PBR notifications were submitted to CERS on July 9, 2019, which have been under review by the CUPA since August 14, 2019.
  - PBR notifications dated March 1, 2016, April 26, 2016, February 9, 2017, March 31, 2017, January 26, 2018, July 2, 2019, and August 14, 2019, are incomplete or inaccurate for both PBR units as follows:
    - In the Treatment Unit Identification and Details section of the PBR notifications, the narratives have been left blank in the Specific Waste Type Treated section.
    - In the Treatment Process Description (Narrative) section it is stated that, “Waste collected in pH Tank. Tanks BR1-BR4 are cascading chain of tanks. BR4 is pumped to BR5, then ultimately to T1F-T3F for discharge to sewer;” and “Waste collected in RT1, RT2, or RT3. Treated with H<sub>2</sub>O<sub>2</sub> and pH adjusted then ultimately transferred to T1F, T2F, T3F for discharge to sewer.” The hazardous waste characteristics are not clearly identified in the notification. For example, “Aqueous wastes containing metals.” It appears that this facility is conducting cyanide treatment using hydrogen peroxide (H<sub>2</sub>O<sub>2</sub>) and pH adjusting to precipitate metals and discharging treated water to the sewer.
    - The CUPA has accepted six incorrect notification submittals during the last three years.
  - The uploaded closure plan is missing the cost of professional engineer (P.E.) certification.
  - It is unclear whether or not one of the FTUs was a Temporary Treatment Unit (TTU), replaced in 2016, with the tank returned to the facility from which it was rented.
- CERS ID 10203379
  - A notification for a CESQT tier was submitted on April 3, 2015, with incorrect information.
  - The CUPA accepted this incorrect CESQT notification on April 3, 2015. The facility stated that 20 gallons is treated per month with a description, “Tumbler water is placed into tank and individual pieces are rinsed before being placed into tumbler,” and conducts, “Evaporation of tumbler water through process of heating.” There is no identification of the hazardous waste characteristics of the waste in the notification. For example, “Aqueous wastes containing metals,” does not specify why the waste is hazardous, nor what metals are exceeding the regulatory thresholds causing it to be a hazardous waste.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

- CERS ID 10204456
  - A notification for a CESQT tier was submitted on May 22, 2015, with incorrect information.
  - The CUPA accepted this incorrect CESQT notification on June 9, 2015.

**CITATION:**

HSC, Chapter 6.5, Sections 25101(d);  
HSC, Chapter 6.11, Section 25404.2(a)(1)(A);  
CCR Title 22, Sections 67450.2(b)(4) and 67450.3(c)  
CCR, Title 27, Sections 15100 (b)(3) and 15200(a)(3)(A);  
[DTSC]

**CORRECTIVE ACTION:**

By Update 1, the CUPA will develop, implement, and provide CalEPA with an action plan to fully implement the TP program. The action plan will at a minimum address procedures on 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.

By the 2<sup>nd</sup> Progress Report, the CUPA will train CUPA personnel 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 personnel in attendance.

Note: The CUPA can review TP classes available in the California Certified Unified Program Agency Forum Board video library on the CalCUPA website at:  
<http://www.calcupa.org/videos.html>. The CUPA may also request additional assistance from DTSC.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

By the 2<sup>nd</sup> 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 that annual notification submittals are accurate, correct, and represent the actual waste treatment systems used at the facility.

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**14. DEFICIENCY:**

The CUPA is not properly classifying HWG Program violations.

Review of CERS CME information finds the CUPA is classifying Class I and/or Class II HWG 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 defined in HSC, Section 25404(a)(3).
  - CERS ID 10149079: an LQG inspection dated February 5, 2019.
- Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. Since no training was provided, employees are not familiar with hazardous waste management 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 described in HSC, Section 25404(a)(3).
  - CERS ID 10203712: an LQG inspection dated March 26, 2019.
  - CERS ID 10204285: an LQG inspection dated March 21, 2018.
  - CERS ID 10202806: an SQG inspection dated October 4, 2016.
  - CERS ID 10019731: an LQG inspection dated June 1, 2016
  - CERS ID 10203412: a CE, inspection dated March 15, 2016.
- Violation for failure to obtain tank integrity assessment incorrectly cited as a minor violation during an LQG inspection. LQGs are required to obtain a tank integrity assessment to be completed and certified by a professional engineer in accordance with CCR, Title 22, Section 66265.192. There is an economic benefit to the facility in not obtaining a tank integrity assessment by a professional engineer. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3).
  - CERS ID 10203325: an LQG inspection dated January 20, 2016.
- Violation for illegal disposal of hazardous waste into the garbage incorrectly cited as a minor violation during an LQG inspection. Spent blast media had been thrown into the garbage. No waste characterization had been conducted to determine whether or not the media was hazardous. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3).
  - CERS ID 100197731: an LQG inspection dated June 1, 2016.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

- Violation for no treatment logs and no records of amounts of wastes treated incorrectly cited as a minor violation. Failure to maintain treatment logs hinders the ability of the CUPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.
  - CERS ID 10203412: an inspection dated March 15, 2016.

**CITATION:**

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6  
CCR, Title 22, Sections, 66260.10, 66262.34(a)(4), 66262.34(d)(2), and 66265.16  
[DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and Class I and Class II violations as defined in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6, and CCR, Title 22, Section 66260.10. The CUPA will train inspection staff on how to properly classify HWG Program violations during inspections as minor, Class I, and Class II. Training should include, at a minimum, review of 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-Document-accessible.pdf>

The CUPA will provide training documentation to CalEPA which at a minimum will include an outline of the training conducted and a list of CUPA inspection staff in attendance.

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

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**15. DEFICIENCY:**

The CUPA's local data management system, Envision Connect, is unable to consistently electronically transfer CME information to CERS, for a variety of program elements.

**CITATION:**

HSC, Chapter 6.11, Section 25404(e)(4)  
CCR, Title 27, Section 15187(c)  
[CalEPA]

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA, in coordination with the Information Technology resource, will develop, implement, and provide CalEPA with a plan to successfully electronically transfer CME information from the local data management system to CERS. The plan will, at a minimum, identify:

- Problem areas and solutions;
- Timeframe for implementing solutions;
- The number of facility submittals that have been successfully transferred, and the number of those that still need to be transferred;
- The number of facilities with CME information that have been successfully transferred, and the number of those that still need to be transferred; and
- the expected completion date for correction of this deficiency.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an update of the progress towards the successful electronic transfer of CME information to CERS.

By the 5<sup>th</sup> Progress Report, the CUPA will have successfully reported, and will continue to successfully report, all CME information to CERS.

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**16. DEFICIENCY: CORRECTED DURING THE EVALUATION**

The CUPA is not consistently ensuring UST owners/operators demonstrate to the CUPA that tanks are product tight after the construction of an UST/UST system.

Review of State Water Board records indicates enhanced leak detection (ELD) test results have not been provided by an ELD testing company to an owner/operator of a newly constructed UST/UST system. The ELD testing company on October 8, 2019, confirmed ELD test results were not provided to the owners/operators. The following UST/UST system has not received passing ELD test results, demonstrating to the CUPA the tank(s) are product tight:

- CERS ID 10204096

During the 2019 CUPA Evaluation the CUPA corrected this deficiency by obtaining and providing the ELD test results to the State Water Board showing the UST/UST system is product tight.

**CITATION:**

HSC, Chapter 6.7, Section 25290.1(j)  
[State Water Board]

**CORRECTIVE ACTION: COMPLETE**

No further action necessary.



**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.

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**1. INCIDENTAL FINDING:**

The CUPA has not established nor implemented all Unified Program administrative procedures and established Unified Program administrative procedures are missing a required component.

- A procedure for forwarding the Hazardous Material Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities in accordance with HSC, Section 25504(c) has not been established.
- The records maintenance procedure is missing minimum retention times.

**CITATION:**

CCR, Title 27, Section 15180(e)  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will:

- establish and implement a procedure for forwarding HMRRP information and
- Revise the records maintenance procedure to include minimum retention times.

The CUPA will provide CalEPA with the established and revised Unified Program administrative procedures.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, revise the established procedure and/or amend the revised procedure, based on feedback from CalEPA. The CUPA will provide the revised established procedure and amended revised procedure. If no revisions or amendments are necessary, the CUPA will begin to implement the established and revised procedures.

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**2. INCIDENTAL FINDING:**

The CUPA did not complete a Self-Audit Report for FY 2015/2016.

**CITATION:**

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

**RESOLUTION:**

By September 30, 2020, and each year thereafter, the CUPA will complete an annual Self-Audit Report.

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UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

**3. INCIDENTAL FINDING:**

The UST Operating Permit and UST permit conditions, issued under the Unified Program Facility Permit (UPFP) do not include all required UST elements, and include requirements more stringent than UST regulations.

Review of UST Operating Permits and permit conditions issued under the UPFP indicates:

- Though the number of regulated tanks is identified, the UST tank identification numbers are missing. UST regulations require a UST Operating Permit to include UST tank identification numbers.
- UST permit conditions require the UST Operating Permit to be posted in a conspicuous place onsite. UST regulations require the UST Operating Permit to be readily accessible at the facility in either paper or electronic format.

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

**CITATION:**

CCR, Title 23, Section 2712(c) and (i)  
CCR, Title 27, Section 15190(h)  
[State Water Board]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise the consolidated permit template that includes the UST Operating Permit and UST permit conditions to completely and correctly include the required components.

By the 3<sup>rd</sup> Progress Report, the CUPA will provide CalEPA five UST Operating Permits issued to facilities utilizing the revised consolidated permit template.

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**4. INCIDENTAL FINDING:**

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

Review of the UST Facility/Tank Data Download report obtained from CERS on October 4, 2019, indicates the following:

- 4 instances of USTs identified as having single-wall pressurized product pipe with mechanical line leak detectors when this configuration requires electronic line leak detectors to be installed;
- 9 instances of USTs identified as having unlined single-wall steel tanks when this configuration requires tank lining to be installed;
- 26 instances of USTs identified as being installed between January 1, 1984, and June 20, 2003, with double-wall piping and having no continuous interstitial pipe monitoring;

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

- 5 instances of USTs identified as being installed post July 1, 2004, conducting periodic secondary containment testing when this configuration does not require periodic secondary containment testing;
- 3 instances of USTs identified as having to conduct periodic enhanced leak detection (ELD) testing when no notification to conduct periodic ELD has been issued by State Water Board.

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

Note: Please reference the following CERS Frequently Asked Questions (FAQs):

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

Note: Reference State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records.” The State Water Board expects UST testing and maintenance records to be reviewed as soon as possible, but no later than 30 days after the submittal date. All other records are to be reviewed for completeness and accuracy, though not necessarily verified in the field, as soon as possible, but no later than 60 days after the submittal date.

**CITATION:**

HSC, Chapter 6.7, Sections 25286 and 25288(a)  
CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), and 2641(g) and (h)  
[State Water Board]

**RESOLUTION:**

By the 2<sup>nd</sup> Progress Report, the CUPA will review the Data Management Procedure, or other applicable procedure, and revise as necessary, to ensure establishment of a process for UST inspection staff to review CERS UST submittal information for accuracy and completeness.

The Data Management Procedure, or other applicable procedure will, at a minimum, delineate the CUPA’s process for reviewing CERS UST submittals for accuracy and completeness as follows:

- 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 and resubmitted within the time specified by the CUPA, the CUPA will apply appropriate enforcement per the I&E Plan.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

By the 3<sup>rd</sup> Progress Report, the CUPA will, if necessary, amend the Data Management Procedure, or other applicable procedure, based on feedback from the State Water Board and will provide the amended Data Management Procedure, or other applicable procedure to CalEPA. If no amendments are necessary, the CUPA will train personnel on the revised Data Management Procedure, or other applicable procedure.

By the 4<sup>th</sup> Progress Report, if amendments to the Data Management Procedure, or other applicable were necessary, the CUPA will train personnel on the amended Data Management Procedure or other applicable procedure.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

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

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**1. OBSERVATION:**

The information provided below summarizes a comparison of the regulated community and the necessary and reasonable resources for implementation of the Unified Program upon certification with the current regulated community and the current resources available to the CUPA for implementation. The information is sourced from the following:

- El Dorado County Department of Environmental Health CUPA Application, dated October 31, 1996;
  - CERS “Summary Regulated Facilities by Unified Program Element” report, generated on December 6, 2019; and
  - El Dorado County Department of Environmental Health Annual Self-Audit Report.
- Total Number of **Business Plan** Regulated Businesses and Facilities:
    - In 1996 Application: 437
    - Currently: 882
    - An increase of 445 facilities
  - Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
    - In 1996 Application: 137
    - Currently: 80
    - A decrease of 57 facilities
  - Total Number of Regulated **USTs**:
    - In 1996 Application: 401
    - Currently: 217
    - A decrease of 184 USTs
  - Total Number of Regulated **Hazardous Waste Generator** Facilities:
    - In 1996 Application: 141
    - Currently: 488
    - An increase of 347 facilities
  - Total Number of Regulated **Household Hazardous Waste (HHW)** Facilities:
    - In 1996 Application: Not specified
    - Currently: 3
    - Comments: HHW Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

- **Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
  - In 1996 Application: 13
  - Currently: 4
  - A decrease of 9 facilities
- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
  - In 1996 Application: Not specified
  - Currently: 12
  - Comments: RCRA LQG Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- **Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
  - In 1996 Application: 0
  - Currently: 1
  - Comment: The CUPA Self-Audit report reflects no CalARP facilities.
- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
  - In 1996 Application: N/A
  - Currently: 118
  - An increase of 118 facilities
  - Comment: Prior to 2013, SPCC facilities were regulated by the regional water board.

While certain program elements, such as total regulated UST facilities, total USTs, and tiered permitting facilities, have decreased since applying to become certified as a CUPA, the overall trend shows the number of regulated facilities managed by the CUPA as of FY 2018/2019 has increased by nearly 220% in comparison to the number of regulated facilities at the time of certification in 1996. Program elements for APSA and RCRA LQG facility monitoring have been incorporated into the implementation of the Unified Program since the CUPA was certified, which has added to the total facility count and increased the general workload undertaken by the CUPA. This expansion of program elements greatly increased the number of overall regulated facilities managed by the CUPA.

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 staff has increased or decreased. The information is sourced from the El Dorado County CUPA 1996 Application and recent information provided by the CUPA.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

- Inspection staff
  - In 1996 Application
    - 2 staff positions at full time = 2 FTEs
  - Currently
    - 2-3 staff positions, 1-2 at full time, 1 at part time = approximately 2 FTEs
      - Note: The supervisor was also a full-time inspector for approximately half of FY 2018/2019
  
- Supervisory staff
  - In 1996 Application
    - 1 supervisor position at full time = 1 FTE
  - Currently
    - 1 supervisor position at full time = 1 FTE
      - Note: The supervisor was also a full-time inspector for approximately half of FY 2018/2019

Despite the expansion of both the program elements and facilities managed by the CUPA, staffing levels as of FY 2018/2019 are the same or lower than when the program was first certified in 1996.

#### **RECOMMENDATION:**

The comparison of the implementation of the program upon certification with present-day circumstance reveals a combination of persistent inadequate staffing and insufficient resources may be impeding the CUPAs ability to adequately implement each Unified Program element. Between growth within the county and the expansion of the Unified Program elements since its inception, the number of facilities regulated by this CUPA have more than doubled since the CUPA was first certified. In contrast, the CUPA has fewer full-time personnel than when the agency was first certified, which in and of itself is a factor that reduces the ability of the CUPA to implement all program elements effectively within the jurisdiction of the CUPA.

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

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**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**OBSERVATIONS AND RECOMMENDATIONS**

**2. OBSERVATION:**

Review of the Inspection Plan, and the Enforcement Plan, which collectively comprise the I&E Plan, finds information relative to the APSA program is missing or inaccurate, and may benefit from improvement.

Review of the Inspection Plan finds the following information is missing or inaccurate:

- Page 1: The APSA statute and the California Fire Code (CFC), found in CCR, Title 24, Part 9, are referenced as the CUPA's authority to implement the APSA program as well as to address APSA program violations. This is incorrect. Authority for the CUPA to implement the APSA program is obtained from the APSA statute found in HSC, Chapter 6.67, which can also be used to address APSA program violations. Additionally, the correct CFC citation for the Hazardous Materials Management Plans and Hazardous Materials Inventory Statements is CCR, Title 24, Part 9, Sections 5001.5.1 and 5001.5.2 and Appendix H.
- Pages 1 and 2: The APSA program is referred to as the Aboveground Storage Tank Program, or AST.
- Page 7: In paragraph #11, an RTC timeframe for APSA is not addressed.

Review of the Enforcement Plan finds the following information is inaccurate:

- Page 1: The APSA program is referred to as the Aboveground Storage Tank Program.
- Page 18: The APSA statute reference in the Administrative Enforcement Order (AEO) section should be HSC, Chapter 6.67 (commencing with Section 25270), rather than HSC, Section 25270.5.

**RECOMMENDATION:**

Update the I&E Plan.

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**3. OBSERVATION:**

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

The CUPA has been provided with the OSFM fact sheet on farms. More information on farms under the Federal SPCC rule may be found on the [U.S. Environmental Protection Agency website](https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc) (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>).



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

#### RECOMMENDATION:

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

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

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#### 4. OBSERVATION:

The CUPA’s [webpage](#)

([https://www.edcgov.us/Government/emd/HazardousMaterials/pages/aboveground\\_storage\\_tanks\\_\(ast\\_s\).aspx](https://www.edcgov.us/Government/emd/HazardousMaterials/pages/aboveground_storage_tanks_(ast_s).aspx)) contains various resources and information for the regulated community and public. The AST section of the Environmental Management webpage contains the following outdated or inaccurate information:

- The ‘Who is Subject to the Act’ and ‘How is Tank Facility Defined’ sections do not reflect the current regulatory conditions of the APSA Program. Tank facilities with a tank in an underground area (TIUGA) are regulated under APSA, regardless of the facility’s total petroleum storage capacity if the tank is stationary, contains petroleum, and has a minimum shell capacity of 55 gallons.
- The ‘What is a Qualified Facility’ section should clearly identify that the definitions are derived from the SPCC Rule, which references total oil storage volumes (not petroleum only storage volumes).
- In the ‘What are the Qualified Facilities Tiers?’ section, the Tier I template link does not connect directly to a template, instead it connects to the U.S. EPA website.
- The Tier II Template references U.S. EPA, and no link is provided. U.S. EPA has not published a Tier II template, however, OSFM has created one; the current version is dated May 2021. Tier II qualified facilities may use the OSFM Tier II qualified facility SPCC Plan template.
- The ‘When are the Compliance Dates?’ section is outdated. Details for compliance dates are found on the [U.S. EPA website](https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-compliance-dates) (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-compliance-dates>).
- The dates mentioned in the ‘Could a Facility Use the Same SPCC Plan that was Developed Many Years Ago?’ section are incorrect. The effective date for the 2008 and 2009 final rules were effective January 14, 2010. Amendments to the SPCC rule and a summary of the compliance dates are described in the [U.S. EPA SPCC Guidance Presentation](https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/presentation-regulated-community-revisions-spcc) (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/presentation-regulated-community-revisions-spcc>).

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

- The 'Above Ground Storage Tank Inspection Logs and Schedules' link opens an inspection log and schedule specific to Tier I qualified facilities. This inspection log and schedule cannot be used by a Tier II qualified facility or a facility with a professional engineer-certified SPCC Plan. The OSFM Tier II qualified facility template, revised September 2018, contains an inspection log and schedule. Additionally, Steel Tank Institute provides free monthly and annual checklists for owners/operators of facilities with shop-fabricated aboveground storage tanks based on the SP001 standard via their [website](https://www.steeltank.com/SP001StandardFAQs/tabid/463/Default.aspx) (https://www.steeltank.com/SP001StandardFAQs/tabid/463/Default.aspx) (refer to question 5).

**RECOMMENDATION:**

Update the references and links on the CUPA's webpage.

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**5. OBSERVATION:**

The Area Plan contains outdated information.

The following information is outdated:

- The phone number listed for California State Fire Marshal, on page 3 of Appendix R-2 is not valid. The new number is (916) 568-3800 for the main office in Sacramento.
- The outdated 2001 California Fire Code is referenced on page 37 of the Cost Recovery and Funding Sources section. The current California Fire Code is the 2019 edition, effective January 1, 2020.

**RECOMMENDATION:**

Update the information in the Area Plan.

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**6. OBSERVATION:**

Review of CERS CME information indicates the RTC rate for UST program violations is significantly reduced for FY 2018/2019 in comparison to previous FYs as follows:

- FY 2018/2019: 101 of 195 (52%) violations have RTC
- FY 2017/2018: 131 of 138 (95%) violations have RTC
- FY 2016/2017: 168 of 176 (95%) violations have RTC

This reduction in numbers could be due to staffing levels; reporting of inspection, violation, and enforcement information to CERS; or the fact that FY 2018/2019 has recently ended.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

**RECOMMENDATION:**

Review CERS CME information and ensure RTC information is accurate. If RTC information is determined to be accurate, it is recommended that the CUPA identify why the RTC rate for FY 2018/2019 is vastly lower and actively engage in solutions to increase the RTC rate for FY 2018/2019 as well as for future FYs.

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**7. OBSERVATION:**

Review of CERS indicates that the following facilities with UST systems may require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10202518
- CERS ID 10202632
- CERS ID 10505242

Note: The examples above may not include all UST systems subject to the December 31, 2025, Single Walled permanent closure requirements.

**RECOMMENDATION:**

Continue to provide verbal reminders to all applicable UST facility owners/operators and consider providing written notification to all applicable UST facility owners/operators regarding the December 31, 2025, requirements for permanent closure of single-wall USTs. The written notification should inform facility owners/operators that, in order to remain in compliance, owners/operators must replace or remove single-wall USTs by December 31, 2025. Additional information about 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/)

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

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust.shtml](http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml)

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**8. OBSERVATION:**

The CUPA has cited facilities for hazardous waste violations that are not actual violations of the hazardous waste control law and regulations.

- The CUPA cited the following HWG facility with a violation for “failure to document weekly container inspections” when there is no statutory or regulatory requirement for a generator to document weekly container inspections:
  - CERS ID 10156629: an SQG facility, inspected on January 31, 2017.
    - The CUPA noted “Observed last documented hazardous waste daily audit documented on November 2016. Storage areas shall be inspected weekly. Submit documentation of weekly inspection by the comply by date.”

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

- The CUPA cited the following HWG facilities with a violation for “failure to retain employee training records for SQGs” when there is no statutory or regulatory requirement for a generator to document employee training records for SQGs:
  - CERS ID 10204351: an SQG facility, inspected on August 3, 2016.
    - The CUPA noted, “No current employee training records were available at the time of the inspection. Employees shall be provided with training on how to properly handle and manage hazardous materials/ waste within six (6) months of hire and annually thereafter. Submit documentation of employee training by the comply by date.”
  - CERS ID 10203808: an SQG facility, inspected on January 3, 2017.
    - The CUPA noted “Training records were not located during the inspection. Employees shall be provided initial training and annual training in safety procedures in the event of a release, including the Emergency Response Plan, SDS's, spill cleanup, etc. Submit a copy of the training log showing annual hazardous materials training by the comply by date.”

**RECOMMENDATION:**

Cite facilities with observed violations of hazardous waste control law and regulations and use language during the inspection and on the inspection report that indicates recordkeeping is recommended by the CUPA, not required.

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**9. OBSERVATION:**

The El Dorado County CUPA Hazardous Waste Generator/Tiered Permitting webpage contains inaccurate or outdated information.

**RECOMMENDATION:**

Revise broken links to documents and review information within the webpage for accuracy.

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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.

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**1. CERS OUTREACH, SUPPORT, AND INSTRUCTION FOR THE REGULATED COMMUNITY:**

The CUPA has continued to offer regulated businesses support with CERS and has provided assistance with entering information into the required data elements. The CUPA has adopted a library of FAQ's, PowerPoint presentations, guides, templates, and example documentation to help regulated businesses with CERS-related activities. The CUPA also provides over the phone assistance to CERS users and one-on-one guidance by appointment.

In addition to providing general CERS support and instruction, the CUPA has also implemented new procedures for ensuring timely compliance with CERS-related reporting. Quarterly emails are sent out to all facilities as a reminder that the annual CERS re-certification is due. In order to be successful with this action, it was necessary for the CUPA to make certain all facilities in CERS have a correct and up to date environmental contact listed in the Owner/Operator Information section of CERS, complete with a valid email address. Email and paper notices are also mailed to facilities that are currently overdue in providing a certification or submittal to CERS. The CUPA provided data which indicated that the number of timely CERS facility submittals has increased significantly over the last three fiscal years, resulting in 73% of all facilities being in compliance with CERS reporting requirements since the beginning of 2019. In addition, the number of rejected submittals has more than doubled in the last fiscal year; further demonstrating the level of detail the CUPA commits to the review of each submittal.