



Gavin Newsom
Governor

Yana Garcia
Secretary for Environmental Protection

September 6, 2022

Ms. Amy Irani
Director of Environmental Health
Nevada County Department of Environmental Health
950 Maidu Avenue, Suite 170
Nevada City, California 95959-8600

Dear Ms. Irani:

During October 2021 through July 2022, CalEPA and the state program agencies conducted a performance evaluation of the Nevada County Department of Environmental Health 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 (CERS) 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, the CUPA's overall implementation of the Unified Program is considered to meet or exceed Unified Program standards.

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (November 7, 2022), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead at Timothy.Brandt@calepa.ca.gov.

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

To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned to Melinda Blum within 30 days. If you would like to have specific comments remain anonymous, please indicate so on the survey.

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

Sincerely,



Jason Boetzer, REHS
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosures

cc sent via email:

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Nevada County Department of Environmental Health

Evaluation Period: October 2021 – July 2022

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden
- **CalEPA, Cal OES*:** Garrett Chan, Jack Harrah
- **State Water Board:** Jessica Botsford, Jenna Hartman
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glen 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 to meet or exceed Unified Program standards.

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

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

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

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

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

1st Progress Report: November 7, 2022
3rd Progress Report: May 12, 2023

2nd Progress Report: February 10, 2023
4th Progress Report: August 18, 2023

*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 Self-Audit Reports for Fiscal Years (FYs) 2018/2019, 2019/2020, and 2020/2021 have missing components.

Review of the Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021 finds the following components are missing:

- An indication that there has been an annual review and update of the fee accountability program
- A narrative summary of the effectiveness of the single fee system
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program
- An indication that each Self-Audit Report was completed by September 30th of the following FY.
 - Note: Supplemental information included with each Self-Audit Report provided some indication as to when each report was created; however, that information was not present within each actual Self-Audit Report.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15280(c)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will complete and provide to CalEPA a Self-Audit Report that includes all required components and incorporates a date of compilation to demonstrate the report was completed by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report, which will include all required components and incorporate a date of completion by September 30th.

2. DEFICIENCY:

The Area Plan is missing the following required elements:

- Monitoring and decontamination guidelines for equipment
- Provisions for access to state approved and permitted hazardous waste disposal facilities and emergency response contractors

CITATION:

CCR, Title 19, Sections 2642(b) and 2643(e)
[CalEPA]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised Area Plan that includes all required elements.

3. DEFICIENCY:

The Underground Storage Tank (UST) Operating Permit conditions, issued under the Unified Program Facility Permit (UPFP), has components that are inconsistent with CCR, Title 23, Division 3, Chapter 18 (UST Regulations) and Health and Safety Code (HSC), Division 20, Chapter 6.7 requirements.

Review of UST Operating Permit conditions finds the following inconsistencies with HSC:

- Permit Condition 1 references HSC, Division 20, Chapter 6.75 and CCR, Title 23, Division 3, Chapter 18.
 - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Division 20, Chapter 6.75 or CCR, Title 23, Division 3, Chapter 18.
 - The correct citations are as follows:
 - UST Regulations Sections 2610 – 2717.7.
 - HSC Sections 25280 – 25296 and 25298 – 25299.6.
 - Alternatively, the sections excluded from the UST Regulations and HSC references could be identified.
- Permit Condition 2 states, “The owner or operator must report any unauthorized releases to...within 24 hours after the release has been detected or should have been detected.”
 - HSC, Section 25295(a)(1) requires an owner or operator to report a “reportable” release to a CUPA within 24 hours after a release has been detected or should have been detected and transit information regarding the unauthorized release to the CUPA no later than five working days after the date of the occurrence of the unauthorized release. In addition, the UST owner or operator must report the unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time during the unauthorized release.

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

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25295(a)(1), and 25297.01(b)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the UST Operating Permit conditions to be consistent with UST Regulations and HSC. The CUPA will provide the revised UST Operating Permit conditions to CalEPA.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST Operating Permit conditions based on feedback from the State Water Board, and will provide the amended UST Operating Permit conditions to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST Operating Permit conditions.

By the 3rd Progress Report, if amendments to the revised UST Operating Permit conditions were necessary, the CUPA will begin to issue the amended UST Operating Permit conditions.

As a result of the five-year UST Operating Permit cycle, the State Water Board will consider this deficiency corrected upon completion and acceptance of the revised or amended UST Operating Permit conditions. Issuance of the revised or amended UST Operating Permit conditions will be verified during the next CUPA Performance Evaluation.

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 has inaccurate components.

Review of the I&E Plan finds the following components are inaccurate:

- Page 1: The current language of CCR, Title 27, Section 15200(a) is not reflected. An amendment was made on July 1, 2018, that updated Section 15200(a) to include the following requirements:
 - (13) Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
 - (14) Provisions for ensuring the analysis of any collected sample shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.

CITATION:

CCR, Title 27, Section 15200(a)(13) and (14)
[CalEPA, DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that addresses the identified missing components.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and DTSC, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan.

By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan.

2. INCIDENTAL FINDING:

The California Accidental Release Prevention (CalARP) Program Dispute Resolution Process is missing a required element.

The following element is missing from the CalARP Dispute Resolution Process:

- Procedures that require the CUPA to render a written decision within 120 days after the owner or operator of a stationary source initiates the dispute resolution process.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

CITATION:

CCR, Title 19, Section 2780.1(a)(4)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an updated Dispute Resolution Process with the required element.

3. INCIDENTAL FINDING:

The annual CalARP Performance Audit Report is missing a required element.

The following element is missing from the annual CalARP Performance Audit Report for FYs 2018/2019, 2019/2020, and 2020/2021:

- A listing of stationary sources which have been requested to develop Risk Management Plans (RMPs).

CITATION:

CCR, Title 19, Section 2780.5(b)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the annual CalARP Performance Audit Report for FY 2021/2022 that will include the listed missing component identified above.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

The CUPA is currently reporting inspections as “PBR” (Permit-by-Rule) inspections at CERS ID 10159229, which is a Household Hazardous Waste Collection Facility (HHWCF). While HHWCFs are granted an authorization to operate under Permit-by-Rule authorizations, the California Electronic Reporting System (CERS) has a distinct “HHW” (Household Hazardous Waste) inspection identification for HHWCFs. “PBR” inspections should only be reported for facilities conducting authorized treatment activities under a Permit-by-Rule Tiered Permit.

RECOMMENDATION:

Report HHWCF inspections as “HHW” inspections in CERS.

2. OBSERVATION:

The I&E Plan contains information that is inaccurate or may benefit from improvement relative to the Hazardous Waste Generator (HWG) Program, Aboveground Petroleum Storage Act (APSA) Program, California Accidental Release Prevention (CalARP) Program and Hazardous Materials Business Plan (HMBP) Program.

The following information pertains to the HWG Program:

- Section V. Training Component and Section III, Subsection G (Gathering Evidence and Collecting Samples) meet the Title 27, Section 15200(a) requirements regarding sampling capabilities, however these sections could benefit by including additional information and/or clarification such as:
 - how the CUPA would prepare for sampling events, for example, those needed to support enforcement actions;
 - procedural information for preparation of a sampling plan before each sampling event; and
 - necessary information to include in a sampling plan.
- Page 8, Inspection Frequency Chart: The chart incorrectly identifies Small and Large Quantity Universal Waste Handlers. California’s Universal Waste Rule only has definitions for Universal Waste Handlers, unlike the Federal equivalent which distinguishes between Small and Large Quantity Handlers. The definition for Universal Waste Handlers can be found in CCR, Title 22, section 66273.9.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- Page 9, Universal Waste and Silver Only Facilities: The letter to CUPAs issued by the CUPA Forum Board on May 8, 2001, that is referenced in this section contains outdated information regarding Silver-only Generators and Conditionally Exempt Small Quantity Universal Waste (CESQUW) Handlers. Reference to the October 11, 2021, letter issued to CUPAs by DTSC provides accurate guidance on how to regulate Silver-only Generators and CESQUW Handlers. In addition, the link to the worksheet to allocate resources to Silver-only Generators and Small Quantity Universal Waste Handlers is not active and contains outdated information.

The following information pertains to the APSA Program:

- Page 4: APSA gives Unified Program Agencies (UPAs) the authority to inspect tank facilities not only under HSC, Section 25270.5(a) but also HSC, Section 25270.5(b).
- Page 12: Section 3: The link to Unified Program Bulletin 0405-03 (April 7, 2005) is broken. This bulletin is no longer available on the CalEPA website.
- Page 12: Section 3: The link to Unified Program Bulletin 0607-01 (June 6, 2007) is broken. This bulletin has been rescinded and is no longer available on the CalEPA website.
- Page 18: Section H. Availability of Records, does not include an APSA section.
- Page 27: Links to the task force and sample penalty matrixes are broken.
- Page 32: Section 11. Referral to State Agency: AST (APSA) violations should no longer be referred to the State Water Board, since APSA is implemented and enforced by the UPAs.
- Page 33: Referral to US EPA on violations of “AST” should be violations of “Spill Prevention Control and Countermeasure (SPCC) Rule”
- Page 34: Table 1: Notice to comply applies to all Unified Program facilities cited for minor violations, including APSA, per HSC, Section 25404.1.2(b).
- Page 36: Section J. 4. AST: Citations HSC, Sections 25270.12.1 and 25270.12.5 should be included. Both statements beneath the citations should be removed as the statements are inconsistent with the current statute and are not applicable to the topic of program specific enforcement authorities.
- Page 40: Section D:
 - The CalEPA Secretary no longer implements the APSA training. This training is now administered by OSFM.
 - The CalEPA inspection training link is broken and should be updated to the current link: <https://calepa.ca.gov/enforcement/enforcement-training-resources/>
 - Add the link to information on the APSA Basic Inspector Training: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- The following areas of the I&E Plan reference “AST” where “APSA” should be referenced for consistency with the statute. Also, not all ASTs contain petroleum that is subject to APSA.
 - Table of Contents: page iv, section V, subsection D
 - Page 4: code sections giving UPAs the authority to inspect
 - Page 8: Inspection Frequency Table
 - Page 34: Enforcement Tables 1 and 2
 - Page 36: Section 4. AST
 - Page 40: Section D. Aboveground Storage Tank Program (add the word Petroleum to title and first bullet point)

The following information pertains to the CalARP and HMBP Programs:

- Page 38: "Cal/ARP" should be "CalARP" for consistency.
- Page 40: Health and Safety Code section 25514, subdivision (a) does not exist.
- Page 40: Health and Safety Code section 25514.5, subdivision (a) does not exist.

An additional observation is noted below:

- Page 37: The link to the Violation Classification Guidance for Unified Program Agencies is broken and should be updated to the current link: <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>.

RECOMMENDATION:

With the next update of the I&E plan, address the incorrect or inconsistent information identified above.

3. OBSERVATION:

The CUPA's websites at <https://www.mynevadacounty.com/2157/Above-Ground-Petroleum-Storage> and <https://www.mynevadacounty.com/2144/Hazardous-Materials-CUPA> contain various resources for the public and regulated community. The following are suggestions for improvement:

- Aboveground Petroleum Storage should be referred to as APSA
- Information should be updated to reflect the current statute, including tank facilities subject to the Federal Spill Prevention, Control, and Countermeasure (SPCC) rule requirements and tank facilities with one or more tanks in an underground area (TIUGA).
 - Add information on certain tank facilities that are conditionally exempt from SPCC Plan preparation under APSA.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- Clarify that an SPCC Plan must be kept at the facility if normally attended at least four hours per day or at the nearest field office if the facility is not so attended.

RECOMMENDATION:

Update the website as indicated above.

4. OBSERVATION:

Multiple APSA tank facilities submitted an HMBP in lieu of a tank facility statement using the 2011 or older consolidated emergency response and training plans template, which contains obsolete information, including but not limited to the OSFM phone number.

The 2022 version of the consolidated emergency response and training plans template is the current template with the correct OSFM phone number.

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template as part of the HMBP submittal, in lieu of the tank facility statement, to use the current 2022 template. The current template can be found here: <https://calepa.ca.gov/wp-content/uploads/sites/6/2022/03/Emergency-Response-Plan-corrected-6-27-22.pdf>

5. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 72 tank facilities. The CUPA’s data management system identifies 68 APSA tank facilities.

- 67 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 5 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system.
 - Some of these facilities are likely not APSA regulated, and the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable” for each facility.
 - Some of these facilities are APSA regulated, and the CUPA should update the local data management system appropriately.
- 1 facility identified as an APSA tank facility in the CUPA’s data management system is not in the CERS list of APSA facilities. The CUPA should determine if the facility really is an APSA facility.
 - Those that aren’t should have the APSA reporting requirement set to “Not Applicable,” and should not be identified as APSA tank facilities in the CUPA’s data management system.
 - Those that are APSA regulated should have the APSA reporting requirement set to “Applicable.”

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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OBSERVATIONS AND RECOMMENDATIONS

- There are 2 additional potential APSA facilities currently reported in CERS as “APSA Not Applicable” and are not identified on the CUPA’s list of APSA facilities. The CUPA should investigate if the facilities really are APSA facilities, and if so, should update the local data management system and change the APSA reporting requirement to “Applicable”.

RECOMMENDATION:

Ensure the number of facilities identified as “APSA Applicable” and “APSA Not Applicable” remain consistent between the CUPA’s data management system and CERS.

6. OBSERVATION:

The Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021 contain information that may benefit from improvement.

- Page 1, item 1: Identifies the Unified Program elements implemented by the CUPA, however is missing the fire code Hazardous Materials Management Plans-Hazardous Materials Inventory Statements (HMMP-HMIS). The HMMP-HMIS is consolidated with the HMBP Program to streamline the regulatory requirements for regulated facilities.
- The number of regulated APSA tank facilities were listed as 27, 28, and 74 for FYs 2018/2019, 2019/2020, and 2020/2021, respectively. The number of facilities listed in the FYs 2018/2019 and 2019/2020 Self-Audit Reports appear to be the total number of tank facilities storing 10,000 gallons or more of petroleum.
- The APSA Program is referenced as aboveground storage tank or SPCC, which is inconsistent with the statute.

RECOMMENDATION:

Address the above observations in future Self-Audit Reports.

7. OBSERVATION:

The Area Plan contains the following information that is inaccurate or may benefit from improvement:

- Page 9, Part I-3, item 2: The Uniform Fire Code is referenced. The current fire code adopted by the state is the California Fire Code, 2019 edition.
- Pages 9 and 14: APSA is incorrectly referenced as “aboveground storage tanks”.
- Page 11, Part III: The definition of the California State Fire Marshal is incorrect. CAL FIRE-OSFM has jurisdiction over *intrastate* hazardous liquid pipelines in California. US Department of Transportation, Pipeline and Hazardous Materials Safety Administration has jurisdiction over *interstate* hazardous liquid pipelines.
- Page 14, Part I-8: The following statement should be updated, “Under oversight by Cal/EPA (Department of Toxic Substance Control), the system, known as CERS will include hazardous materials business plan and other Unified program information...”

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

- Page 55 of the Appendices: Renumbering of Title 19, Division 2, Chapter 4, Sections 2720 and 2722-2728 to 2640 and 2642-2648, respectively is not reflected.
- Page 96, Part III: Phone numbers for (OSFM) Pipeline Safety and State Fire Marshal are obsolete and should be replaced with the OSFM 24-hour duty chief line at (916) 323-7390.
- Throughout the Area Plan appendices, the link, <http://www.firescope.org/ics-forms.htm>, does not lead to the FIRESCOPE website.
- Metadata for documents indicate association with Yuba County.
- Many page numbers on the Optional Area Plan Reporting form do not match the Area Plan.

RECOMMENDATION:

With the next review, revise the area plan to address the outdated or incorrect information identified above.

8. OBSERVATION:

The CalARP Performance Audit contains the following incorrect information:

- Personnel Years is a unit to address how much time used solely for CalARP.

RECOMMENDATION:

With the next submittal, revise the CalARP Performance Audit to address the incorrect information identified.

9. OBSERVATION:

The CalARP Dispute Resolution contains the following outdated information:

- The CalARP Dispute Resolution has an outdated address for The Director of the Governor's Office of Emergency Services (CalOES). State program oversight authority and responsibilities for the CalARP program have transferred from CalOES to CalEPA. CalEPA is located at 1001 I Street, Sacramento, CA 95814.
- Section 6.17 was indicated per Section 6.0 (Page 4) and was not found within the provided document.

RECOMMENDATION:

With the next submittal, revise the CalARP Dispute Resolution to address the incorrect information identified.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

10. OBSERVATION:

Review of the UPFP, which consolidates various program permits, includes provisions that are more stringent than CCR, Title 23, Division 3, Chapter 16 (UST regulations) and HSC and do not specify if they are or are not applicable to the UST program. Examples include the following:

- The UPFP states, “This permit cannot be transferred to another owner/operator or location under any circumstances.” This is more stringent than HSC, section 25284(b) which allows for the transfer of permits.
- The UPFP states, “PLEASE DETACH FROM HERE AND DISPLAY CONSPICUOUSLY ON THE PREMISES” and “POST IN A CONSPICUOUS PLACE.” This is more stringent than UST Regulations, Section 2712(i) which allows permits to be maintained as a hard copy on-site, or electronically.

RECOMMENDATION:

Ensure the UPFP references which provisions are not applicable to the UST program to ensure compliance with UST Regulations and HSC.

11. OBSERVATION:

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

- Nevada County Department of Environmental Health CUPA Application, dated December 25, 1995;
 - CERS “Summary Regulated Facilities by Unified Program Element” report, generated on March 30, 2022; and
 - CERS “UST Inspection Summary Report (Report 6),” generated on March 30, 2022.
 - Nevada County Department of Environmental Health Annual Self-Audit Report for Fiscal Year 2020/2021, dated September 30, 2021
- Total Number of **Business Plan** Regulated Businesses and Facilities:
 - In 1995 Application: 528
 - Currently: 546
 - An increase of 18 facilities
 - Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
 - In 1995 Application: 97
 - Currently: 35
 - A decrease of 62 facilities
 - Total Number of Regulated **USTs**:
 - In 1995 Application: 241
 - Currently: 98
 - A decrease of 143 USTs

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- **Total Number of Regulated Hazardous Waste Generator Facilities:**
 - In 1995 Application: 357
 - Currently: 307
 - A decrease of 50 facilities
- **Total Number of Regulated Household Hazardous Waste (HHW) Facilities:**
 - In 1995 Application: Not specified
 - Currently: 2
 - Comments: HHW Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- **Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
 - In 1995 Application: 10
 - Currently: 1
 - A decrease of 9 facilities
- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
 - In 1995 Application: Not specified
 - Currently: 4
 - 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 1995 Application: Not specified
 - Currently: 4
 - Comment: The original application indicates the number of RMPP facilities had yet to be determined.
- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
 - In 1995 Application: Not applicable
 - Currently: 72

Since the original application for certification was submitted in 1995, the CUPA has seen relatively minor changes in the number of regulated facilities in nearly all Unified Program elements. The incorporation of the APSA program added 72 facilities not previously regulated by the CUPA, which represents the largest increase in regulated facilities out of all program elements. In general, the CUPA experienced small-to-moderate decreases in the number of regulated facilities across the majority of all program elements. In particular, the number of regulated UST facilities and total USTs decreased respectively by 62 (or 64%) and 143 (or 59%), the number of regulated

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OBSERVATIONS AND RECOMMENDATIONS

HWGs decreased by 50 facilities (or 14%), and the number of TP facilities decreased by 9 (or 90%).

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the Nevada CUPA 1995 Application and recent information provided by the CUPA.

- In 1995 Application
 - 1.8 FTEs budgeted for CUPA program implementation, includes 6 total CUPA staff, and management positions.
 - 1.5 FTEs for staff positions
 - Includes 3 full-time inspectors and 2 part-time inspectors
 - 0.3 FTEs
 - 1 supervisory position
 - Note: 1.8 FTEs was calculated using the total staff/managerial working time of 3,712 hours from FY 96/97 and the current standard of 2,080 working hours per FTE.
- Currently
 - 2.5 budgeted FTEs, includes 3 total staff
 - 2.0 FTEs for 2 staff positions
 - 0.5 FTEs
 - 1 CUPA Program Manager

Additional program element responsibilities have been incorporated into the implementation of the Unified Program and the number of facilities regulated by the CUPA has changed since the CUPA applied for certification in 1995.

Since the CUPA applied for certification in 1995, an expansion of responsibilities in the HMBP, HWG, and CalARP programs has occurred, increasing the workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. Additionally, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms to the implementation of electronic data reporting through local data management systems and CERS. The CUPA has adapted the budgeted FTEs to allow for the allocation of additional resources to be put towards the incorporation of increased aspects of Unified Program implementation.

RECOMMENDATION:

Based on the information above, it appears the CUPA has been proactive in adapting staffing resources accordingly to meet the changing needs of Unified Program implementation over time.

Continue to regularly assess the allocation of current staff assignments and existing resources to ensure adequate implementation of each program element within the Unified Program is obtained.

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OBSERVATIONS AND RECOMMENDATIONS

12. OBSERVATION:

Overall implementation of the HWG Program, including policies and procedures, CERS information, facility file information, information provided by the CUPA and Self-Audit Reports for October 1, 2018, through September 31, 2021, is summarized below:

- There are 317 regulated HWG facilities according to information provided by the CUPA, including 10 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities. There is 1 Tiered Permitted facility and 1 Household Hazardous Waste facility (HHW).
- 10 facilities appear in CERS with HWLQG inspection types, corresponding to RCRA LQG's. However, the following 5 facilities were identified as SQG's during previous inspections and may have an HWLQG inspection type incorrectly entered into CERS:
 - CERS ID's 10139695, 10147183, 10158605, 10158979, 10619056.
- The CUPA reported 7 RCRA LQG's in the Supplemental Questionnaire.
- CERS data shows that during this period 194 facilities answered "Yes" to being a HWG.
- The CUPA inspected 287 facilities and performed 346 Routine or Other HWG and TP inspections, of which 206 (60%) had no violations cited and 140 (40%) had at least one violation cited. The State average for HWG and TP routine inspections performed having at least one violation cited is 40%.
 - In the 140 inspections performed with at least one violation cited, 331 total violations were issued, consisting of:
 - 5 Class I violations,
 - 103 Class II violations, and
 - 223 minor violations.
 - The CUPA has ensured return to compliance for 306 of 331 (92%) violations cited.
- There were no separate formal enforcement actions initiated for hazardous waste related violations.
- Inspection reports contain detailed comments that note the factual basis of cited violations and indicate whether consent to inspect was requested prior to the inspection.

RECOMMENDATION:

Continue with the three-year HWG inspection frequency and applied enforcement efforts in addition to generating quality inspection reports. Continue to ensure that detailed factual basis of each violation is included in inspection reports and in the CME information transferred to CERS, to support any enforcement efforts. Follow up with facilities that have not returned to compliance by the scheduled RTC date and apply appropriate enforcement when facilities do not RTC, per the CUPA's I&E Plan. Review inspection reports and CERS information for facilities with HWLQG inspection types in CERS to confirm that none are SQG's.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

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

1. APSA PROGRAM IMPLEMENTATION:

Despite several challenges since the last evaluation in FY 2017/2018, the CUPA has been able to effectively implement the APSA Program within its jurisdiction. Challenges include the COVID-19 impacts, overall increased workload for the CUPA's department due to a new ordinance in 2019 on commercial cannabis and other responsibilities within the department, impacts from the 2021 River Fire wildfire and a loss of one staff due to retirement in December 2020. One additional staff was successfully hired in April 2021. CUPA staff are routinely expected to provide customer service and assistance in many other areas such as building permit and planning project clearances/reviews, emergency response, septic and well inspections, restaurant inspections and complaints, special event inspections, illegal dumping complaints and solid waste regulatory oversight, vector related complaints and public outreach, public records, abandoned mine land reclamation and environmental assessments, code compliance assistance, public water system oversight and seasonal organized camp inspections. The CUPA meets the mandated triennial inspections of its APSA tank facilities storing 10,000 gallons or more of petroleum and meets its triennial inspections of other APSA tank facilities. The CUPA was able to successfully enforce the APSA Program and obtain compliance from facilities that have been cited for violations since the last evaluation in FY 2017/2018. The CUPA is also on its way toward obtaining full compliance from tank facilities cited for violations in FY 2020/2021.

2. HAZARDOUS WASTE GENERATOR PROGRAM IMPLEMENTATION:

The CUPA has made an outstanding effort in implementing the HWG and Tiered Permitting (TP) Programs since the last CUPA performance evaluation despite facing new challenges. These challenges include the COVID-19 impacts, overall increased workload for the CUPA's department due to a new ordinance in 2019 on commercial cannabis and other responsibilities within the department, impacts from the 2021 River Fire wildfire and a loss of one staff due to retirement in December 2020. One additional staff was successfully hired in April 2021. During this evaluation period, the CUPA was able to successfully ensure that over 90% of HWG and TP Facilities within the jurisdiction of the CUPA were inspected once every three years, while also achieving a high Return to Compliance (RTC) rate for violations cited. It is also recognized that the CUPA maintains a proactive approach to obtaining RTC for HWG and TP violations as evidenced by the formal Notice of Violation letters and RTC communications that were reviewed during this evaluation.

3. UST PROGRAM IMPLEMENTATION:

The CUPA has displayed outstanding implementation of the UST program despite facing challenges since the last CUPA Performance Evaluation. The CUPA has experienced impacts from staffing changes, the COVID-19 pandemic, multiple public safety power shutoff events, the 2020 Jones Fire wildfire, and the 2021 River Fire wildfire. Despite the challenges, the CUPA completed 100% of the routine annual UST compliance inspections with an overall 96% return to

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

compliance rate within the current evaluation period. The CUPA also permanently closed all remaining single-walled tank and piping systems within their jurisdiction before the December 31, 2025, closure deadline. The efforts of the CUPA's active participation in the 2020 UST regulation rewrite process, in which the CUPA provided comments and assisted in UST form development and review is recognized and appreciated.

4. ACTIVE INVOLVEMENT IN CUPA FORUM AND INTERNAL COMMITTEES:

The CUPA continues to actively participate in the CUPA Forum Board and the Unified Program Administration and Advisory Group via a variety of Unified Program committees, Technical Advisory Groups (TAGs), and workgroups that function to coordinate, consolidate, and make consistent the implementation of the Unified Program throughout the state. The CUPA is active in the Hazardous Waste, Data and Enforcement Steering Committees, Hazardous Waste TAGs, Title 27 Workgroup, and other special groups. The CUPA's attendance and active participation in these groups, in particular Claire Chapple who is a consistently proactive participant during these meetings, is recognized. The participation of the CUPA in these meetings highlights the CUPA's ownership of the HWG program and shared vested interest in the outcomes of issues throughout the State and the commitment of the CUPA to achieve continued improvement in Unified Program implementation. These efforts are above and beyond the standard expectations for implementation of the Unified Program.
