



Edmund G. Brown Jr.
Governor

Matthew Rodriguez
Secretary for Environmental Protection

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May 11, 2017

Mr. John Kara
Environmental Health Manager
Napa County Division of Environmental Health
1195 Third Street, Suite 210
Napa, California 94559-3092

Dear Mr. Kara:

On March 21, 2017, the California Environmental Protection Agency (CalEPA), the Department of Toxic Substances Control (DTSC), the California Office of Emergency Services (Cal OES), the CAL FIRE - Office of the State Fire Marshal (OSFM), and the State Water Resources Control Board (State Water Board) completed a Unified Program evaluation of the Napa County Division of Environmental Health Certified Unified Program Agency (CUPA). The evaluation comprised of a remote assessment and oversight inspections.

Upon completion of the evaluation, the Unified Program Evaluation Team (team) developed a preliminary Summary of Findings, which identified program deficiencies and provided corrective actions with timeframes for correction. Program observations, recommendations and examples of outstanding implementation were also noted.

Enclosed, please find the final Summary of Findings. Based upon review and completion of the evaluation, the implementation and performance of the Unified Program by the CUPA is considered to be satisfactory with improvements needed.

Deficiency Progress Reports are due every 90 days from the last day of the evaluation to document progress of the CUPA towards correcting identified deficiencies. The first Deficiency Progress Report is due July 20, 2017. Submittal of Deficiency Progress Reports is required until all identified deficiencies have been corrected. Each Deficiency Progress Report should be emailed as a Microsoft Word document file to the team lead, kareem.taylor@calepa.ca.gov.

The final Summary of Findings and Deficiency Progress Reports will be posted at:

<http://cersapps.calepa.ca.gov/Public/Directory/CUPAEvaluationDocuments>

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During the evaluation, CalEPA also noted the CUPA has worked to bring about a number of local program innovations, including implementation of the Green Business Program.

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 the team lead, Kareem Taylor, at (916) 327-9557 or John Paine, Unified Program Manager, at (916) 327-5092.

Sincerely,

Original Signed by Jim Bohon

Jim Bohon
Assistant Secretary for Local Program Coordination and Emergency Response

Enclosure

cc sent via email

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Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. Kareem Taylor
Unified Program Evaluation Team Lead
California Environmental Protection Agency

CERTIFIED UNIFIED PROGRAM AGENCY

FINAL SUMMARY OF FINDINGS

EVALUATION YEAR:	2017	REVIEW PERIOD:	January 24 - February 14, 2017	ISSUANCE DATE:	May 11, 2017
CUPA:	Napa County Division of Environmental Health				
EVALUATION TEAM MEMBERS:	CalEPA Team Lead	DTSC	Cal OES	State Water Board	CAL FIRE - OSFM
	Kareem Taylor	Elizabeth McElroy	Fred Mehr	Lisa Jensen	Glenn Warner

This **FINAL SUMMARY OF FINDINGS** includes:

- deficiencies identified during the evaluation
- program 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 are considered to be:

Satisfactory with improvements needed.

Questions or comments regarding this evaluation should be directed to Kareem Taylor.

<p>The CUPA is required to submit a Deficiency Progress Report every 90 days until all deficiencies have been acknowledged as corrected.</p> <p>Each Deficiency Progress Report must include a narrative stating the correction of <u>all</u> deficiencies identified in the Summary of Findings evaluation report.</p>	<p>Deficiency Progress Report submittal dates for the first year following the evaluation are as follows:</p> <p>Update 1: July 20, 2017 Update 2: October 20, 2017 Update 3: January 22, 2018 Update 4: April 23, 2018</p> <p>Each Deficiency Progress Report must be submitted to the CalEPA Team Lead.</p>
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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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EVALUATION: **FINAL SUMMARY OF FINDINGS**

DEFICIENCIES IDENTIFIED DURING EVALUATION

1.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not consistently implementing the CUPA's Inspection and Enforcement (I&E) plan.</p> <p>1) On page 19 of the CUPA's I&E plan under the section "Report Writing", the CUPA states that, "Each inspection report shall contain observation(s), alleged violation(s), required corrective action(s), and the compliance due date(s). Each cited violation is to be listed separately and identified by violation class". The CUPA is not following the procedures it has established in the I&E plan in that each cited violation listed on an inspection report is not identified by violation class.</p> <p>2) During the oversight inspection at the facility with the California Environmental Reporting System (CERS) identification (ID) 10170297, the CUPA inspector stated that they did not want to pursue enforcement nor monetary penalties, and misclassified violations that were Class I. The CUPA's I&E plan states that formal enforcement will be pursued for all Class I violations. According to CERS, the CUPA has only cited 1 Class I violation in the last 3 years on 4/7/2016. According to the CUPA's Self-Audit Reports from fiscal years (FY) 2013/2014, 2014/2015, and 2015/2016, the CUPA did not issue any administrative enforcement orders (AEO).</p> <p>CITATION:</p> <p>CCR, Title 27, Section 15200(a) [DTSC]</p>	<p>By October 20, 2017, the CUPA will provide hazardous waste generator (HWG) inspection reports for 3 facility records, as selected by DTSC, which include violations with proper classifications. In addition to the inspection reports, the CUPA will include, if applicable, documentation of formal enforcement actions.</p>
2.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not conducting complete HWG inspections.</p>	<p>By July 20, 2017, the CUPA will provide to CalEPA all return to compliance (RTC) documentation or re-inspection reports, if applicable, from the HWG facility referenced in this deficiency once all violations have been corrected.</p>

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<p>During the HWG oversight inspection of the facility with CERS ID 10170297 conducted on 1/24/2017, the CUPA inspector did not document the following violations until consulting with the DTSC evaluator:</p> <ol style="list-style-type: none">1) The facility lacked a written, job specific, training plan.2) The facility lacked elements required of a full contingency plan.3) The facility lacked elements and documentation required for daily tank inspections. <p>The CUPA inspector also did not review the universal waste storage areas during the inspection. The facility employee offered to show the CUPA inspector where universal waste was stored. The CUPA inspector declined stating that he “trusted” the facility.</p> <p>Further, at the time of the inspection, DTSC staff consulted the CUPA inspector on the following 2 violation citations and classifications. The CUPA inspector proceeded to cite and classify the following violations incorrectly:</p> <ol style="list-style-type: none">1) The facility has been mismanaging a waste stream as a non-Resource Conservation and Recovery Act (RCRA) waste when it should be managed as a RCRA waste. Mismanaging the waste is a non-minor violation. The CUPA inspector improperly cited the violation as minor for the facility failing to “prepare hazardous waste manifests for the transport of a hazardous waste for off-site transfer, treatment, storage or disposal as required.”2) The facility lacked a written, job specific, training plan. The inspector documented the violation as a Class II. This is a Class I violation.	<p>By July 20, 2017, the CUPA will provide HWG training for all CUPA personnel that conduct HWG inspections. The training will include, but is not limited to, the following:</p> <ul style="list-style-type: none">• Basic HWG requirements.• Large quantity generator (LQG) requirements that will specifically include training on provisions required in a contingency plan, training plan, and a daily tank inspection and inspection logs. <p>The CUPA will provide to CalEPA with documentation of the training. The documentation will include an agenda, a list of staff that attended the training, a signature from each inspector, and the date the training was completed.</p> <p>Additionally, the CUPA personnel that conduct HWG inspections will view all of the HWG training videos and fact sheets linked below. The CUPA will provide CalEPA with documentation showing that the CUPA personnel have viewed all of the training material. The documentation will include the name of each inspector, a signature from each inspector, and the date the training was completed.</p> <p>Training Material:</p> <p>Hazardous Waste Accumulation and Generator Requirements:</p> <ul style="list-style-type: none">• Advanced Hazardous Waste Inspector Training Video 2016 (1 of 2)• Generator Requirements Fact Sheet• Accumulation Time Fact Sheet <p>Tanks and Sumps:</p> <ul style="list-style-type: none">• Advanced Hazardous Waste Inspector Training Video 2012 (5 of 7) <p>Violation Classification:</p> <ul style="list-style-type: none">• Violation Classification Training Video 2014• Violation Classification Guidance Fact Sheet – for citing HWG violations. <p>By October 20, 2017, the CUPA will provide CalEPA with a recent copy of an inspection reports and any applicable RTC documentation for 3 HWG facilities cited with HWG violations.</p>
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	CITATION: HSC, Chapter 6.5, Section 25187.8(a) CCR, Title 22, Section 66268.7(a)(5)(C) CCR, Title 22, Section 66262.34(f)(3)(B) [DTSC]	
3.	DEFICIENCY: The CUPA is not consistently following-up and documenting RTC within 30 days for facilities cited with minor violations in Notices to Comply (NTC) or inspection reports. A review of CERS indicates that multiple facilities became compliant over 35 days from the date of inspection when minor violations were documented. Examples are provided below: <ul style="list-style-type: none">• FY 2013/2014: 23 out of 46 minor HWG violations documented in CERS did not RTC within 35 days (50%).• FY 2014/2015: 5 out of 20 minor HWG violations documented in CERS did not RTC within 35 days (25%).• FY 2015/2016: 8 out of 33 minor HWG violations documented in CERS did not RTC within 35 days (24%) and 4 HWG violations have no documented RTC (12%). Additionally, DTSC requested that the CUPA demonstrate that timely action had been taken by the CUPA to ensure compliance when facilities did not return to compliance after 35 days. DTSC specifically requested follow-up documentation for 5 HWG facilities. For 2 facilities, the CUPA could not locate any documents. For 1 facility, a follow-up notice of violation was sent over 60 days after the initial minor violation was cited.	CORRECTIVE ACTION: By July 20, 2017, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of the total number of HWG facilities that have open minor violations. The CUPA will follow-up with the facilities identified on the spreadsheet. At minimum, the spreadsheet will include: <ul style="list-style-type: none">• Facility name and address;• CERS ID number;• Facility ID number (if applicable);• Inspection and violation dates;• Scheduled RTC date;• Actual RTC date;• RTC qualifier; and• Follow-up actions. By October 20, 2017, the CUPA will provide CalEPA with a copy of RTC documentation for 3 HWG facilities cited for minor HWG violations during the previous quarter.

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	<p>CITATION:</p> <p>HSC, Chapter 6.5, Section 25187.8(b) and (g) HSC, Chapter 6.11, Section 25404.1.2(c) CCR, Title 27, Section 15200(a) CCR, Title 27, Section 15185(a) and (c) [CalEPA, DTSC]</p>	
4.	<p>DEFICIENCY:</p> <p>The CUPA is not consistently conducting complete annual underground storage tank (UST) compliance inspections.</p> <p>State Water Board review of annual compliance inspection reports and annual monitoring certification test results finds the CUPA does not consistently inspect the facility under the same conditions as would be found during an annual monitoring certification test.</p> <p>The CUPA confirmed that in the event a CUPA inspector is unable to attend the annual monitoring certification test, the inspector will review paperwork and make a determination as to whether to “open the system.”</p> <p>State Water Board review of inspection reports found 5 facilities where the annual compliance inspection took place at a different time than the annual monitoring certification test.</p> <p>Note: Refer to Local Guidance letter 159 “Annual Underground Storage Tank Compliance Inspection.”</p> <p>CITATION:</p> <p>HSC, Chapter 6.7, Section 25288(a) [State Water Board]</p>	<p>CORRECTIVE ACTION:</p> <p>By July 20, 2017, the CUPA will revise and provide CalEPA the I&E Plan, or other applicable procedure, describing activities performed by CUPA personnel to ensure complete annual UST compliance inspections are conducted. The plan or procedure should also include, but is not limited to:</p> <ul style="list-style-type: none"> • CUPA personnel requirements for review and follow-up of submitted UST testing reports as part of the inspection process; • How to conduct annual UST inspections in the instance when CUPA personnel is on-site to witness the annual UST monitoring certification and visually confirm all UST components are in compliance; • How to conduct annual UST inspections in the instance when CUPA personnel is not on-site and cannot witness the annual UST monitoring certification and visually confirm all UST components are in compliance. <p>By October 20, 2017 the CUPA will, if necessary, amend the I&E Plan, or other applicable procedure, based on feedback from State Water Board and submit the revisions to CalEPA.</p> <p>By November 20, 2017, the CUPA will implement and train personnel on the revised plan or procedure.</p> <p>By January 22, 2018, the CUPA will provide training documentation to CalEPA. Training documentation will include, but not be limited to an outline of the training conducted and a list of CUPA personnel attending the training.</p> <p>By April 23, 2018, and each subsequent Deficiency Progress Report, the CUPA will provide 5 UST facility records, as selected by State Water Board, that includes inspection reports, monitoring certifications, all other necessary testing and compliance documentation not found in CERS.</p>

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		To demonstrate correction of this deficiency, the CUPA will, for a 1-year period, consistently conduct complete annual UST compliance inspections.
5.	<p>DEFICIENCY:</p> <p>The CUPA is not ensuring that all businesses electronically submit a complete Hazardous Materials Business Plan (HMBP) annually to CERS.</p> <p>The state agencies' review of evaluation documents and CERS found:</p> <p>Approximately 303 out of 1337 HMBP facilities (23%) have not submitted emergency response and employee training plans within the past 12 months.</p> <p>CITATION:</p> <p>HSC, Chapter 6.95, Section 25505 HSC, Chapter 1, Section 13143.9 2013 CFC, Chapter 50, Sections 5001.5.1 and 5001.5.2 [Cal OES, OSFM]</p>	<p>CORRECTIVE ACTION:</p> <p>By July 20, 2017, the CUPA will develop and provide a list to CalEPA of all regulated businesses that have not annually submitted a complete emergency response and employee training plan.</p> <p>With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance.</p> <p>By October 20, 2017, the CUPA will begin following-up with each regulated business identified on the list to ensure a complete emergency response and employee training plan is submitted.</p> <p>By January 22, 2018, the CUPA will initiate appropriate enforcement action(s) against non-compliant businesses.</p> <p>By April 23, 2018, the CUPA will ensure that each regulated business has submitted a complete emergency response and employee training plan or that appropriate actions were taken to enforce this requirement.</p>
6.	<p>DEFICIENCY:</p> <p>The CUPA is not properly classifying HWG and Aboveground Petroleum Storage Act (APSA) violation(s).</p> <p><u>HWG Program</u></p> <p>During the HWG oversight inspection of at the facility with CERS ID 10507708 conducted on 1/24/2017, the CUPA inspector documented a violation regarding improper disposal of used oil as a minor violation until consulting with the DTSC evaluator. This is a non-minor violation.</p>	<p>CORRECTIVE ACTION:</p> <p>By July 20, 2017, the CUPA will train its inspectors on the terms: minor, class I, and class II violations, as described in HSC, Chapter 6.11, Section 25404(a)(3) and HSC, Chapter 6.5, Sections 25110.8.5, 25117.6 and CCR, Title 22, Section 66260.10, and how to properly classify HWG and APSA violations during compliance inspections. The CUPA will provide CalEPA with proof of training.</p> <p>By October 20, 2017, the CUPA will provide CalEPA with a copy of 3 inspection reports and the CERS IDs for HWG and APSA facilities that were inspected within the last 3 months and cited with properly classified violations.</p>

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<p><u>APSA Program</u></p> <p>Not having a Spill Prevention, Control and Countermeasure (SPCC) Plan was cited as a minor violation on multiple occasions. Not having an SPCC Plan is not considered a minor violation as defined in HSC Section 25404(a)(3). Based on the definition of a “minor violation,” a minor violation does not include the following: (1) a violation that presents a significant threat to human health or the environment; or (2) a violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.” In addition, issuing a minor violation for not having an SPCC Plan is also inconsistent with the United States Environmental Protection Agency (EPA) Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act.</p> <p>The following are examples where the CUPA classified the violation for failing to prepare an SPCC Plan, violation #4010001, as minor:</p> <p>FY 2015/2016</p> <ul style="list-style-type: none">• One instance of violation #4010001 was classified as minor. <p>FY 2013/2014</p> <ul style="list-style-type: none">• 4 out of 6 instances of violation #4010001 were classified as minor. <p>All facilities cited for not having an SPCC Plan as a minor violation had returned to compliance.</p>	<p>Note: CUPA inspectors can review training videos regarding properly classifying violations available in the video library on the CalCUPA website at: http://www.calcupa.org/videos.html or request additional assistance from DTSC or OSFM.</p>
<p>CITATION:</p> <p>HSC, Chapter 6.67, Sections 25270.4, 25270.4.1(c), 25270.12, 25270.12.1, and 25270.12.5 HSC, Chapter 6.11, Sections 25404(a)(3), 25404.2(a)(3) and (4) CCR, Title 27, Section 15200(a) and (e) [CalEPA, DTSC, OSFM]</p>	

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7.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA did not consistently or correctly report all inspection, violation, and enforcement data, also known as CME data, to CERS.</p> <p>A comparison of information in the CUPA's facility files, administrative documents, and CERS shows that CME data were not reported consistently and correctly:</p> <p>FY 2015/2016</p> <ul style="list-style-type: none">• HMBP: 460 inspections were reported in the Self-Audit Report. However, only 394 inspections were reported in CERS. 66 (14%) inspections were not reported in CERS.• HWG: 162 inspections were reported in the Self-Audit Report. However, only 138 inspections were reported in CERS. 25 (15%) inspections were not reported in CERS. <p>FY 2014/2015</p> <ul style="list-style-type: none">• HMBP: 367 inspections were reported in the Self-Audit Report. However, only 218 inspections were reported in CERS. 149 (41%) inspections were not reported in CERS.• APSA: 44 inspections were reported in the Self-Audit Report. However, only 19 inspections were reported in CERS. 28 (64%) inspections were not reported in CERS.• HWG: 120 inspections were reported in the Self-Audit Report. However, only 87 inspections were reported in CERS. 35 (29%) inspections were not reported in CERS.	<p>By July 20, 2017, the CUPA will develop, implement, and provide CalEPA with a plan to consistently or correctly report CME data to CERS for FYs 2013/2014 through 2016/2017.</p> <p>By January 22, 2018, the CUPA will have reported all prior CME data to CERS. Additionally, the CUPA will have revised all incorrectly reported CME data in CERS.</p>

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	<p>FY 2013/2014</p> <ul style="list-style-type: none">• HMBP: 463 inspections were reported in the Self-Audit Report. However, only 218 inspections were reported in CERS. 245 (53%) inspections were not reported in CERS.• HWG: 173 inspections were reported in the Self-Audit Report. However, only 75 inspections were reported in CERS. 104 (60%) inspections were not reported in CERS. <p><u>UST Program</u></p> <p>State Water Board review of CERS CME data finds the CUPA is not reporting all UST inspection information to CERS. Of the 119 UST inspections reported between April 1, 2014 and February 8, 2017, all but one are noted as “routine” inspections.</p> <p>FY 2015/2016:</p> <ul style="list-style-type: none">• Report 6 shows 46 routine inspections• CERS reports 40 unique routine inspections• Five facilities with 2 or more routine inspections• Five facilities with no inspection reported in CERS <p>FY 2014/2015:</p> <ul style="list-style-type: none">• Report 6 shows 44 routine inspections• CERS reports 37 unique routine inspections• Three facilities with 2 or more routine inspections• Eight facilities with no inspection reported in CERS	
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	<p><u>APSA Program</u> Of the 10 APSA facility files reviewed, the OSFM observed the following:</p> <ul style="list-style-type: none"> • CERS ID 10170479 – Inspection performed on 7/6/2016 documents a single violation “Evidence of 5-Year Review not available during inspection”. File documentation also identifies RTC on 7/7/2016. However, no APSA CME data are present in CERS for the inspection, violation or the RTC. • CERS ID 10172389 – Inspection performed on 9/8/2014 observed no violations. However, no APSA CME data are present in CERS for the inspection. • CERS ID 10170627 – Inspection performed on 9/9/2014 documents a single violation “Notification number for the clean-up contractor was not listed in the notification section.” However, no APSA CME data are in CERS for the inspection or violation. <p>CITATION:</p> <p>HSC, Chapter 6.11, Section 25404(e)(4) CCR, Title 27, Section 15290(b) CCR, Title 27, Section 15187(c) CCR, Title 23, Section 2713(d) [CalEPA, DTSC, OSFM, State Water Board]</p>	
8.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA’s I&E Plan has inaccurate or incomplete information or is missing required components.</p> <p>The following information in the plan is either inaccurate or incomplete:</p> <ul style="list-style-type: none"> • There are lacking or no provisions for addressing complaints, including the receipt, investigation, and closure of a complaint. 	<p>By July 20, 2017, the CUPA will review, revise, and provide CalEPA with a copy of the corrected I&E Plan that includes the components listed in this deficiency.</p>

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	<ul style="list-style-type: none">• Page 13: Inspection frequencies for the permit-by-rule (PBR), conditional authorization (CA), and conditional exemption (CE) facilities are noted as "Triennial". The frequency should also include the language "initial inspection within two (2) years of notification."• Page 19: Under "Summary of Return to Compliance time periods per program," the hazardous waste, recycler, onsite hazardous waste, and PBR sections state that a facility shall "submit a written response to EHD within 60 days of receipt of the inspection report or within a shorter time as EHD may reasonably require (HSC Section 25185 I (3))." This statement is only applicable for non-minor violations that RTC. The section should be amended to state that minor violations shall be corrected within 30 days of the facility receiving the NTC and a written response from the facility must be provided within 5 days of achieving compliance pursuant to 25187.8(b).• Page 19: The I&E Plan incorrectly lists the HSC citation for the HWG RTC timeframe as "HSC Section 25185 I (3)" in several places. The correct citation is HSC Section 25185 (c)(3).• Page 6: The citation used for the APSA Program under the Program Elements section is incorrect. The correct APSA citation is HSC, Chapter 6.67.• Page 13: The Required Minimum Mandated Inspection Frequency table does not describe the APSA requirement properly. The mandated triennial inspection requirement applies to APSA facilities storing 10,000 gallons or more of petroleum in aboveground tanks.• Page 29: The CUPA states, under the General Enforcement Procedure "If fire code related, a citation may be issued." Unless the CUPA has authority to enforce the fire code, this statement is incorrect.	
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<ul style="list-style-type: none">• Page 36: The CUPA incorrectly references the Uniform fire code. California Fire Code (CFC) is the current fire code adopted by the state.• Page 41: APSA enforcement authority citation is incomplete. Enforcement sections for APSA also include HSC, Sections 25270.12.1 and 25270.12.5.• Page 6: The I&E Plan incorrectly lists the HSC citation for the CalARP Program as HSC, Chapter 6.7. The correct HSC citation for the CalARP Program is HSC, Chapter 6.95.• Page 6: "Tiered Permitting of Onsite Hazardous Waste Treatment" is listed as a separate program element, but should be included with the HWG Program.• Page 6: The Hazardous Materials Management Plan and Hazardous Materials Inventory Statement Program is not list among the program element. This program should also be listed.• Page 19: Inspection is misspelled "inseption" in several places and should be corrected. <p>In addition, the CUPA inconsistently references the APSA program in their I&E Plan as follows:</p> <ul style="list-style-type: none">• Page 6: "Aboveground Petroleum Storage Tank Act" in the program elements section.• Page 11: "Aboveground Petroleum Storage Tank Act" in the "Inventory of Regulated Facilities" table.• Page 33: "Above Ground Storage Tank (AST)" and AGT are used in item 7 of the "Administrative Enforcement Orders" section.	
CITATION:	
CCR, Title 27, Section 15200(a) [CalEPA, DTSC, OSFM]	

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9.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA's Public Participation Procedures are missing necessary components. The procedures are missing the following:</p> <ul style="list-style-type: none">• A component to ensure the receipt and consideration of comments from regulated businesses and the public.• A component to coordinate, consolidate, and make consistent public notices for activities related to any Unified Program element.• A component to coordinate, consolidate, and make consistent public hearings for activities related to any Unified Program element. <p>Note: The Public Participation Procedures address the CUPA's process for fee adjustments and providing fee information to the public. However, the procedures do not address the above listed components for other Unified Program activities.</p> <p>CITATION:</p> <p>CCR, Title 27, Section 15180(e) [CalEPA]</p>	<p>This deficiency was corrected during the evaluation. The CUPA provided CalEPA with revised Public Participation Procedures that include the previously missing components.</p>
10.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA's FY 2014/2015 and 2015/2016 Annual Single Fee Summary Reports are missing required information. The following APSA information was not reported:</p> <ul style="list-style-type: none">• Total number of APSA facilities• Total amount of APSA surcharge billed• Total amount of APSA surcharge waived• Total amount of APSA surcharge collected• Total amount of APSA surcharge remitted to CalEPA• Total amount of APSA surcharge owed to CalEPA	<p>This deficiency was corrected during the evaluation. The CUPA provided CalEPA with revised Annual Single Fee Summary Reports for FYs 2014/2015 and 2015/2016.</p>

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DEFICIENCIES IDENTIFIED DURING EVALUATION

	<p>Note: The CUPA used an older version of the Annual Single Fee Summary Report template when summary information was reported in FYs 2014/2015, and 2015/2016. An updated version of the Annual Single Fee Summary Report template is available on the CalEPA web site at http://www.calepa.ca.gov/files/2016/10/CUPA-Documents-Report2.docx</p>	
	CITATION:	
	CCR, Title 27, Section 15290(a)(1) [CalEPA]	

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1.	<p>OBSERVATION:</p> <p>DTSC reviewed three sources of HWG facility data and found that each of them contains a different number of HWGs within the CUPA's jurisdiction. CERS indicates that there are 427 facilities reporting as HWGs. The CUPA noted in their FY 2015/2016 Self-Audit Report that there are 414 HWGs. A review of Hazardous Waste Tracking System (HWTS) indicates that there are approximately 440 HWGs with active Environmental Protection Agency (EPA) ID numbers. The data comparison indicates that the CUPA may not be regulating some HWGs within their jurisdiction.</p> <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA review facilities in CERS that report being HWGs, active EPA ID numbers in HWTS, and the Transporter Quarterly Report (TQR) in order to identify all HWG within the CUPA's jurisdiction.</p>
2.	<p>OBSERVATION:</p> <p>The CUPA is not consistently ensuring that all operating HWGs have current active EPA ID numbers. Upon review, DTSC found that there are several HWGs within the jurisdiction of the CUPA who are operating with an inactive EPA ID number.</p> <p>Examples of HWGs who operated in 2016 with an inactive EPA ID number include, but are not limited to, the following:</p> <ul style="list-style-type: none">• CERS ID 10630885, EPA ID CAL000031539, inactive since 6/30/1998• CERS ID 10172289, EPA ID CAL000033546, inactive since 1/1/1995• CERS ID 10171551, EPA ID CAL000058100, inactive since 6/30/2011• CERS ID 10172617, EPA ID CAL000097807, inactive since 2/20/2007• CERS ID 10414954, EPA ID CAL000160175, inactive since 6/30/2008 <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA, during HWG inspections, verify that HWG facilities have an active EPA ID number and are responding to DTSC's annual electronic verification questionnaire (eVQ). Shipping waste on an inactive EPA ID number is a violation of 22 CCR. If a HWG has an inactive or suspended number because the generator did not submit an eVQ to DTSC and/or has not received an email notification from DTSC to submit an eVQ, then direct the generator to submit the DTSC Form 1358 and to the access the resources below:</p> <p>Form 1358 to Reactivate an EPA ID number: http://www.dtsc.ca.gov/HazardousWaste/upload/GISS_FORM_1358.pdf</p> <p>Information Regarding EPA ID number Verification Questionnaire and FAQ: https://www.dtsc.ca.gov/IDManifest/VQ_FAQ.cfm</p>

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	<p>Electronic Verification Questionnaire Homepage: https://evq.dtsc.ca.gov/evq/</p> <p>Further, the CUPA can use the excel spreadsheet resources emailed to the CUPA from DTSC on 1/23/2017. One of the spreadsheets contain generator information and total tonnage amounts manifested in the CUPA's jurisdiction. The second spreadsheet shows all waste that was sent on a consolidated manifest in the last 3 years.</p>
3.	<p>OBSERVATION:</p> <p>The CUPA does not consistently obtain evidence documenting RTC from facilities cited with violations.</p> <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA, in addition to obtaining a signed RTC self-certification form, should also obtain other documentation showing that violations have been corrected such as photocopies of manifest or receipts, training documentation, photographs showing labeled and closed containers, etc.</p>
4.	<p>OBSERVATION:</p> <p>During the walk-through portion of the HWG oversight inspection at the facility with CERS ID 10170297, the CUPA inspector was taking notes on the back of a business card.</p> <p>Conversations between DTSC staff and the CUPA inspector during the oversight inspection indicated that the CUPA inspector does not request verbal consent at the start of routine inspections. The CUPA inspector stated to the facility operator that "since DTSC is here" the inspector needed to request verbal consent. The CUPA inspector later told DTSC staff that consent for an inspection is not usually requested verbally at the start of an inspection and that the CUPA inspector considers prior scheduling of an inspection to be informal consent.</p> <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA takes notes on paper and use an inspection checklist that can be accessed and referenced at all times during an inspection.</p> <p>DTSC highly recommends that verbal consent always be obtained at the start of an inspection.</p>
5.	<p>OBSERVATION:</p> <p>Based on the conversations between DTSC staff and the CUPA inspector during the HWG oversight inspection at the facility with CERS ID 10170297, DTSC is concerned that the CUPA is not conducting thorough HWG inspections at LQG facilities with tanks. The CUPA inspector stated that the facility was likely the only facility in the CUPA's jurisdiction that was subject to RCRA LQG tank requirements. There are a number of LQGs in the CUPA's jurisdiction that likely have tanks and are subject to applicable tank regulations. For example, within the CUPA's jurisdiction, there are a number of non-RCRA LQG facilities that may be using tanks to store waste.</p>

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	<p>Examples include, but are not limited to, the following:</p> <ul style="list-style-type: none">• CERS ID 10170567• CERS ID 10139693• CERS ID 10171691 <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA ensure that all LQG facilities are in compliance with applicable tank regulations.</p>
6.	<p>OBSERVATION:</p> <p>State Water Board review of CERS UST data indicates a few instances of accepted CERS submittals that include incorrect data which should be reviewed and verified by the CUPA. Examples include, but are not limited to:</p> <ul style="list-style-type: none">• UST system identified as being vacuum, pressure or hydrostatic (VPH) systems according to installation date with 1 or more components identified as single-wall or none. CERS ID 10171055 (tanks 28000000023-008, 28000000023-010), 10172415 (tanks 1, 2)• UST system identified as being vacuum, pressure or hydrostatic (VPH) systems according to installation date with vent piping transition sump listed as “none.” CERS ID 10171055 (tanks 28000000023-008, 28000000023-010)• Double-wall UST system installed between 1/1/1984 and 6/30/2004 with Periodic Secondary Containment Testing listed as “no.” CERS ID 10170747 (tanks 1, 2)• Tanks with periodic spill bucket testing listed as “No”, CERS ID: 10172509 (tanks 1,2) <p>RECOMMENDATION:</p> <p>State Water Board recommends that the CUPA review CERS submittals to ensure tank and monitoring plan information is accurate.</p>
7.	<p>OBSERVATION:</p> <p>State Water Board review of UST CME data in CERS finds that the CUPA has a few instances where they are not following-up and documenting RTC for facilities cited with violations in Notices to Violation or inspection reports. Examples include, but are not limited to:</p> <ul style="list-style-type: none">• CERS ID 10171055 – Violation date 12/14/2015, no RTC• CERS ID 10171719 – Violation date 6/3/2014, RTC 370 days after finding• CERS ID 10171579 – Violation date 7/28/16, no RTC <p>RECOMMENDATION:</p> <p>State Water Board recommends that the CUPA follow-up with all facilities cited with violations in a timely manner. Implement a graduated series of enforcement actions, as needed, to bring the facilities back into compliance.</p>

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8.	<p>OBSERVATION:</p> <p>State Water review of inspection reports finds instances where CUPA is not associating violations to specific USTs or UST systems, in annual UST compliance inspection reports. Examples include, but are not limited to:</p> <ul style="list-style-type: none">• CERS ID 10170451 – Inspection reports for 2014 and 2015• CERS ID 10170815 – Inspection report for 2016• CERS ID 10171695 – Inspection report for 2016 <p>Note: Please reference State Water Board published guidance dated 6/8/2015, “Recording Underground Storage Tank Violations.”</p> <p>RECOMMENDATION:</p> <p>State Water Board recommends that the CUPA consistently identify the USTs or UST systems when citing violations.</p>
9.	<p>OBSERVATION:</p> <p>The CUPA provides public access to inspection and testing documentation through a public portal. For the purposes of this evaluation, State Water Board used the portal to retrieve the required evaluation documentation. State Water Board finds that the documentation nomenclature makes finding specific documentation challenging. Examples are provided below:</p> <ul style="list-style-type: none">• Inspection reports do not include the name of the type of inspection or some other identifier which distinguishes UST from HMBP from Food from Agricultural inspections• Associated dates included as part of filename and as “Document Date,” do not necessarily reflect the date of inspection or test• Test reports located in “CUPA – Pollution Prevention” have filenames that do not identify the type of test <p>RECOMMENDATION:</p> <p>State Water Board recommends that the CUPA include, as part of the filename, more details to distinguish one file from another. For example, for Unified Program files, include details such as UST or HMBP for inspection reports; or test, such as SB 989 or Annual Compliance Inspection (ACI or some appropriate acronym). And ensure the date that is part of the filename relates to the date of the inspection or test.</p>
10.	<p>OBSERVATION:</p> <p>The CUPA’s APSA inspection report forms currently in use appear to have not been updated since July 2016.</p> <p>The CERS violation library was updated in July 2016. Several revisions were made including removal and addition of violations. The total number of APSA violations in the 2016 library has increased to approximately 98.</p>

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	<p>RECOMMENDATION:</p> <p>OSFM recommends that the CUPA update their APSA inspection report forms to include additional APSA specific violations and ensure that the checklist items are applicable to the tank facilities being inspected.</p> <p>The CUPA Forum Board has four 2014 versions of the APSA checklists (Tier I Qualified Facility, Tier II Qualified Facility, Conditionally Exempt, Professional Engineer-Certified SPCC Plan Facilities) based on the 2014 APSA violation library, available at this website link: http://www.calcupa.com/WordChecklists.php. However, the updated 2016 APSA checklist versions (consistent with the CERS 2016 violation library) are not yet available from the CUPA Forum Board. The CUPA should consider implementation of the 2016 APSA checklist versions as they become available.</p>
11.	<p>OBSERVATION:</p> <p>On the CUPA's website titled Pollution Prevention (http://www.countyofnapa.org/PBES/Pollution/), the following inaccurate statements were observed related to the APSA Program:</p> <ol style="list-style-type: none">1) "This law mandates a CUPA to conduct inspections of all facilities that store petroleum products in containers of 55-gallons or greater, including above ground tanks, with a total aggregate quantity of at least 1,320 gallons." APSA requires only facilities with 10,000 gallons or more of petroleum in aboveground storage tanks to be inspected at least once every 3 years.2) "Please visit the State Water Resources Control Board website for more information on AST's as well as Title 40 - Protection of Environment." OSFM now has state oversight of the APSA Program, while the State and Regional Water Boards retained authority to oversee or cause cleanup or abatement of a release from an APSA facility. <p>RECOMMENDATION:</p> <p>OSFM recommends that the CUPA update the APSA Program information on its website.</p> <p>The following are suggested edits to the CUPA's website regarding the APSA Program:</p> <ol style="list-style-type: none">1) This law regulates each tank facility that stores petroleum products in containers of 55-gallons or greater, including aboveground tanks, with a total aggregate storage capacity of at least 1,320 gallons. This law also mandates a CUPA to conduct inspections at least once every 3 years at each tank facility that has a total aggregate storage capacity of 10,000 gallons or more of petroleum.2) Please visit the Office of the State Fire Marshal website for more information on the APSA Program and the US EPA website for information on SPCC requirements.
12.	<p>OBSERVATION:</p> <p>The CUPA's Self-Audit Report for 2015/2016 identifies 79 APSA facilities, while CERS (Facility Listing spreadsheet) identifies 189 APSA applicable facilities. The CUPA's Self-Audit Report for 2015/2016 identifies 48 APSA inspections performed. However, CERS (AST CME Download) identifies only 41 APSA inspections were performed.</p>

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	<p>RECOMMENDATION:</p> <p>OSFM recommends that the CUPA review its list of APSA facilities relative to the CERS list of APSA applicable facilities and update the list as appropriate. OSFM also recommends that the CUPA take steps to update CERS with all APSA inspections performed in FY 2015/2016.</p>
13.	<p>OBSERVATION:</p> <p>CalEPA's review of the Self-Audit Reports for FYs 2014/2015 and 2015/2016 found the following:</p> <ul style="list-style-type: none">• Under the section "(1) Report of deficiencies with a plan of correction:" the CUPA stated that all deficiencies from the previous Unified Program evaluation were corrected. This section should instead contain a narrative describing the deficiencies found by the CUPA as a result of the self-audit and include a plan of correction.• Under the section "(D) The single fee system:" the CUPA stated that local fees cover approximately 80% of program costs and that the remaining 20% are covered by the General Fund. CalEPA's review of the CUPA's fee accountability spreadsheet shows that, for FY 2015/2016, \$568,796 in revenue covers 91% of \$624,510 in total expenses and, in FY 2014/2015, \$577,533 in revenue covers 94% of \$613,081 in total expenses. <p>RECOMMENDATION:</p> <p>CalEPA recommends that the CUPA include in the Self-Audit Report the deficiencies found by the CUPA along with a plan of correction. Additionally, CalEPA recommends that the CUPA verify the accuracy of the fee accountability assessment information in the Self-Audit Report.</p>

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. **COMMUNITY CENTERED SERVICE AND GREEN OPERATIONS** – Napa County Division of Environmental Health CUPA has been paperless for approximately 10 years. While this benefits both the CUPA and the environment, the CUPA has taken the extra step to help ensure a decrease in paper use by having their inspection checklist data automatically populate the inspection report. This saves the resources, inspector time, and can provide the facility owner/operator with a single page inspection report summary to review as opposed to the many pages from an inspection checklist.

As a result, the CUPA recognizes that not all members of their community may be computer literate and some may not have computers. To ensure all members of the community are able to comply with electronic submission requirements, the CUPA offers both hands-on training and computer access for facility owner/operators.

2. **GREEN BUSINESS PROGRAM** – Napa County CUPA is part of a network of local governments that facilitate the Green Business Program. For businesses to be certified as a green business, they must comply with rigorous criteria to demonstrate their care for the environment by going above and beyond 'business as usual.' Napa County Certified Green Businesses use eco-friendly products and environmentally sustainable business practices. The CUPA provides Certified Green Business facilities with a 10% reduction in local fees.
3. **COORDINATION AND TRAINING** – The CUPA is an active participant in several Unified Program technical groups and has assisted with training and software development.
 - One inspector is assigned to the Hazardous Waste Technical Advisory Group (TAG).
 - One inspector is assigned to the UST TAG.
 - The supervisor has been an alternate on the Bay Area CUPA Forum Board for the last 4 years.
 - The supervisor has organized the UST Track of the Annual Unified Program Training Conference for the last 2 years.
 - The supervisor has functioned as the Bay Area UST Issue Coordinator for the last 2 years.