



Edmund G. Brown Jr.
Governor

Matthew Rodriguez
Secretary for Environmental Protection

Certified Mail: 7015 1730 0001 0036 6039

September 4, 2018

Mr. Clark Allen Pickell
Director of Environmental Health
Yuba County Environmental Health Department
915 8th Street, Suite 123
Marysville, California 95901-5273

Dear Mr. Pickell:

During December 2017 through April 2018, CalEPA and the state program agencies conducted a performance evaluation of the Yuba County Environmental Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation comprises a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System data.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify program deficiencies and associated corrective actions with timeframes for correction. Program observations, recommendations and an example of outstanding implementation are also noted. Enclosed, please find the final report.

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

To demonstrate progress towards the correction of the program deficiencies identified in the final report, the CUPA must submit a deficiency progress report every 90 days from the last day of the evaluation. Due to the delay with finalizing the Summary of Findings, the first deficiency progress report is due November 7, 2018. Submittal of deficiency progress reports is required until all identified deficiencies are considered corrected. Each deficiency progress report should be emailed as a Microsoft Word document file to the CalEPA team lead, Kareem Taylor, at kareem.taylor@calepa.ca.gov.

CalEPA will post the final report and each deficiency progress report at:
<http://cersapps.calepa.ca.gov/Public/Directory/CUPAEvaluationDocuments>.

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

Mr. Clark Allen Pickell
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If you have any questions or need further assistance, please contact Kareem Taylor at (916) 327-9557 or John Paine, Unified Program Manager, at (916) 327-5092.

Sincerely,

Original signed by Gregory E. Vlasek

Gregory E. Vlasek
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Gary Cantwell
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Mr. Clark Allen Pickell
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Unified Program Manager
California Environmental Protection Agency

Mr. Kareem Taylor
Environmental Scientist
California Environmental Protection Agency



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CERTIFIED UNIFIED PROGRAM AGENCY

FINAL SUMMARY OF FINDINGS

EVALUATION YEAR:	2018	REVIEW PERIOD:	December 2017 through April 2018	ISSUANCE DATE:	September 4, 2018
CUPA:	Yuba County Environmental Health Department				
EVALUATION TEAM MEMBERS:	CalEPA Team Lead	DTSC	Cal OES	State Water Board	CAL FIRE - OSFM
	Kareem Taylor	Asha Arora Matthew McCarron	Denise Gibson	Lisa Jensen	Joann Lai

This **FINAL SUMMARY OF FINDINGS** includes:

- deficiencies identified during the evaluation
- incidental findings 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 <i>all</i> 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 style="text-align: center;">Update 1: November 7, 2018 Update 2: February 7, 2019 Update 3: May 7, 2019 Update 4: August 7, 2019</p> <p>Each Deficiency Progress Report must be submitted to the CalEPA Team Lead.</p>
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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: FINAL SUMMARY OF FINDINGS

DEFICIENCIES IDENTIFIED DURING EVALUATION

1.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not consistently following-up and documenting return to compliance (RTC) for facilities cited with violations in inspection reports.</p> <p>A review of violation information in the California Environmental Reporting System (CERS) found the following:</p> <p>Fiscal Year (FY) 2016/2017</p> <ul style="list-style-type: none"> • Aboveground Petroleum Storage Act (APSA) Program: Six (6) out of 22 violations (27%) have no documented RTC. • Hazardous Materials Business Plan (HMBP) Program: 17 out of 42 violations (40%) have no documented RTC • Hazardous Waste Generator (HWG) Program: 33 out of 54 violations (61%) have no documented RTC <p>FY 2015/2016</p> <ul style="list-style-type: none"> • APSA Program: 27 out of 84 violations (32%) have no documented RTC. • HMBP Program: 16 out of 42 violations (38%) have no documented RTC • HWG Program: 28 out of 62 violations (45%) have no documented RTC <p>FY 2014/2015</p> <ul style="list-style-type: none"> • APSA Program: Seven (7) out of 28 violations (25%) have no documented RTC. • HWG Program: 29 out of 109 violations (27%) have no documented RTC 	<p>By UPDATE 1, the CUPA will provide CalEPA with a sortable spreadsheet of all facilities that have open violations. The CUPA will follow-up with the facilities listed in the provided spreadsheet and will prioritize follow-up RTC actions based on the level of hazard and severity of open violations. At minimum, for each facility, the spreadsheet will include:</p> <ul style="list-style-type: none"> • Facility name and address; • CERS identification (ID) number; • Facility ID number (if applicable); • Inspection and violation dates; • Scheduled RTC date; • Actual RTC date; • RTC qualifier; and • Follow-up actions taken by the CUPA and timeframe to obtain compliance. <p>By UPDATE 2, and with each subsequent Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the spreadsheet. The CUPA will also provide CalEPA with a copy of RTC documentation for three (3) facilities requested by the CalEPA, DTSC, and OSFM during the previous quarter.</p>
	<p>CITATION:</p>	
	<p>HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6 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, OSFM]</p>	

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: **FINAL SUMMARY OF FINDINGS** DEFICIENCIES IDENTIFIED DURING EVALUATION

2.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA's Unified Program Facility Permit does not include the UST Operating Permit.</p> <p>The CUPA issues two (2) different permits, on different dates, to UST facilities: the UST Permit to Operate and the Unified Program Facility Permit (called the Consolidated Permit). Both permits have different issuance dates and different permit cycles. The permit issuance procedure (Consolidated Permit Plan) states that the permit cycle is one (1) year. The permit issuance procedure does not include a five (5) year UST permit cycle. Examples include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • CERS ID 10121173 <ul style="list-style-type: none"> ○ The UST Permit to Operate has the issuance date 3/10/2017. However, the Unified Program Facility Permit has the issuance date 3/2/2017. ○ The UST Permit to Operate has the five (5) year permit cycle 1/19/2017 to 1/19/2022. However, the Unified Program Facility Permit has the annual permit cycle 2/1/2017 to 1/31/2018. • CERS ID 10122955 <ul style="list-style-type: none"> ○ The UST Permit to Operate has the issuance date 10/19/2015. However, the Unified Program Facility Permit has the issuance date 3/2/2017. ○ The UST Permit to Operate has the five (5) year permit cycle 10/27/2015 to 10/27/2020. However, the Unified Program Facility Permit has the annual UST permit cycle 2/1/2017 to 1/31/2018. • CERS ID 10123741 <ul style="list-style-type: none"> ○ The UST Permit to Operate has the issuance date 5/4/2015. However, the Unified Program Facility Permit has the issuance date 3/2/2017. ○ The UST Permit to Operate has the five (5) year permit cycle 5/9/2015 to 5/9/2020. However, the Unified Program Facility Permit has the annual UST permit cycle 2/1/2017 to 1/31/2018. 	<p>By UPDATE 1, the CUPA will revise and provide CalEPA with a copy of the procedure for issuing the Unified Program Facility Permit that includes the 5-year UST permit cycle.</p> <p>By UPDATE 2, the CUPA will incorporate the UST Permit to Operate into the Unified Program Facility Permit. The UST Permit to Operate will be issued to UST compliant facilities on the same date the Unified Program Facility Permit is issued.</p> <p>By UPDATE 4, the CUPA will provide CalEPA with a copy of the Unified Program Facility Permit, including the UST Permit to Operate, issued to five (5) UST facilities.</p>

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: FINAL SUMMARY OF FINDINGS DEFICIENCIES IDENTIFIED DURING EVALUATION

	<p>CITATION:</p> <p>CCR, Title 27, Section 15190(a) [CalEPA]</p>	
<p>3.</p>	<p>DEFICIENCY:</p> <p>The CUPA is not consistently ensuring that Hazardous Materials Business Plan site maps contain all the required elements.</p> <p>Five (5) of the 13 facility files reviewed were missing various elements in their recent site map submittals that have been accepted or reviewed by the CUPA.</p> <ul style="list-style-type: none"> • CERS ID 10122904 – missing locations of hazardous material handling and storage areas, emergency response equipment, evacuation staging area, emergency shutoffs, storm and sewer drains. • CERS ID 10414945 – missing locations of emergency response equipment, emergency shutoffs, storm and sewer drains, and access and exit points. • CERS ID 10122061 – missing locations of hazardous material handling and storage areas, emergency shut offs, storm and sewer drains, access and exit points, and north directional arrow. • CERS ID 10133482 – missing location of emergency response equipment, emergency shut offs, and storm and sewer drains. • CERS ID 10159357 – missing location of emergency response equipment, evacuation staging area, storm and sewer drains, and access and exit points. • CERS ID 10397938 – missing locations of hazardous material handling and storage areas and emergency shutoffs. <p>CITATION:</p> <p>HSC, Chapter 6.95, Section 25504(e) HSC, Chapter 6.95, Section 25505 2016 CFC, Chapter 50, Section 5001.5.1 and 2016 CFC Appendix H [Cal OES, OSFM]</p>	<p>CORRECTIVE ACTION:</p> <p>By UPDATE 2, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that future HMBP submittals are thoroughly reviewed to ensure all the required site map elements are included. The action plan will include steps to follow-up with rejected or incomplete submittals.</p> <p>By UPDATE 3, the CUPA will provide a list of facilities that have recently submitted HMBPs that have been reviewed and not accepted because the site map was missing required elements. For each facility on the list, the CUPA will include follow-up actions, including any formal enforcement.</p> <p>With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance and provide it to CalEPA.</p> <p>By UPDATE 4, the CUPA will have ensured that each regulated business has submitted all of the required elements for a HMBP or appropriate actions were taken to enforce this requirement.</p>

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4.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not inspecting all HMBP and HWG facilities with the triennial inspection frequency stated in the I&E Plan or mandated by law.</p> <p>Review of HMBP inspection information in CERS found that 101 out of 531 HMBP facilities (19%) were not inspected within the last three (3) years.</p> <p>Based on Self-Audit Report data provided by the CUPA, the CUPA did not inspect 35 out of 320 HWG facilities (11%) between 7/1/2014 and 6/30/2017.</p> <ul style="list-style-type: none"> • The CUPA inspected 69 HWG facilities in FY 2014/2015. • The CUPA inspected 85 HWG facilities in FY 2015/2016. • The CUPA inspected 131 HWG facilities in FY 2016/2017. <p>A review of HWG data in CERS shows that the CUPA did not inspect 51 out of 330 (15%) HWGs between 7/1/2014 and 6/30/2017.</p> <p>The CUPA is not meeting its scheduled inspection frequency for the Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs).</p> <ul style="list-style-type: none"> • DTSC’s review of HWG facility files indicated that CERS ID 10154245 was last inspected on 10/22/2014. • CERS ID 10134079 was last inspected on 10/8/2014. <p>DTSC acknowledges that this may have been due to the CUPA’s staff response to fires during the FY 2017/2018.</p>	<p>By UPDATE 1, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each HMBP and HWG facility is inspected within the required timeframe giving priority to RCRA LQGs. The plan will include at minimum:</p> <ul style="list-style-type: none"> • A sortable inspection tracking spreadsheet exported from their data management system or CERS that lists each HMBP and HWG facility that has not been inspected within the required timeframe. At minimum, the spreadsheet will include facility name, address, CERS ID number, Facility ID number (if applicable), and last routine inspection date; • A proposed schedule to inspect those facilities by prioritizing the most delinquent inspections to be completed prior to any other inspection; and • Future steps to ensure that each HMBP and HWG facility will be inspected within the required timeframe. <p>By UPDATE 2, and with each subsequent Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the spreadsheet to indicate facility inspections that have occurred during the previous quarter.</p> <p>By UPDATE 4, the CUPA will have inspected each HMBP and HWG facility within the required timeframe.</p>
	<p>CITATION:</p>	
	<p>HSC, Chapter 6.95, Section 25511(b) CCR, Title 27, Section 15200(a)(3) [CalEPA, Cal OES, DTSC]</p>	

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: FINAL SUMMARY OF FINDINGS DEFICIENCIES IDENTIFIED DURING EVALUATION

<p>5.</p>	<p>DEFICIENCY:</p> <p>The CUPA is not ensuring that all businesses annually submit a complete HMBP in CERS.</p> <p>Review of HMBP submittals in CERS found that approximately 68 out of 531 (13%) of HMBP facilities have not submitted a complete hazardous materials business plan within the last 12 months.</p> <p>CITATION:</p> <p>HSC, Chapter 6.95, Section 25505 HSC, Chapter 6.95, Section 25508(a) [Cal OES]</p>	<p>CORRECTIVE ACTION:</p> <p>By UPDATE 1, the CUPA will develop and provide CalEPA with a list of all regulated businesses that have not annually submitted a complete HMBP.</p> <p>With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance (inspections, updates, etc.) and provide it to CalEPA.</p> <p>By UPDATE 3, the CUPA will follow-up with each regulated business identified on the list to ensure a complete HMBP is submitted to CERS or will initiate appropriate enforcement actions.</p> <p>By UPDATE 4, the CUPA will ensure that each regulated business has submitted a complete HMBP to CERS or that appropriate actions were taken to enforce this requirement.</p>
<p>6.</p>	<p>DEFICIENCY:</p> <p>The CUPA is not consistently classifying HWG violations.</p> <p>In some cases, the CUPA is citing HWG violations as minor violations that are Class I or II violations. The following examples include, but are not limited to:</p> <ul style="list-style-type: none"> Violation for exceedance of authorized accumulation time incorrectly cited as a minor violation. Additionally, the CUPA did not provide the factual basis of violation in the inspection report to determine as to how many days over the accumulation limits were exceeded. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from the Department. 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 Health and Safety Code (HSC), Section 25404(a)(3). The following facilities were cited for exceedance of 	<p>CORRECTIVE ACTION:</p> <p>By UPDATE 2, the CUPA will train staff on the terms: minor, Class I, and Class II violations, as described in HSC, Chapter 6.5, Sections 25110.8.5, 25117.6 and CCR, Title 22, Section 66260.10. Also, the CUPA will review the violation classification video, violation classification guidance fact sheet, and train personnel on when and how to properly cite violations for each program element during routine compliance inspections. The CUPA will provide CalEPA with proof of training.</p> <p>Violation Classification:</p> <ul style="list-style-type: none"> Violation Classification Training Video 2014 Violation Classification Guidance Fact Sheet <p>By UPDATE 2, the CUPA will provide CalEPA with a copy of three (3) inspection reports for facilities cited with hazardous waste violations that were inspected within the last six months.</p>

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: **FINAL SUMMARY OF FINDINGS** DEFICIENCIES IDENTIFIED DURING EVALUATION

	<p>authorized accumulation time as a minor violation:</p> <ul style="list-style-type: none"> ○ CERS ID 10130434 - (CESQG), inspection dated 3/25/2015 ○ CERS ID 10133974 - (SQG), inspection dated 3/29/2016 ○ CERS ID 10132783 - (SQG), inspection dated 4/28/2016 ○ CERS ID 10416409 - (SQG), inspection dated 5/17/2016 ○ CERS ID 10441363 - (SQG), inspection dated 4/21/2016 ○ CERS ID 10511920 - (SQG), inspection dated 7/9/2014 <ul style="list-style-type: none"> ● Violation for failure to conduct weekly inspections incorrectly citing as minor violations. An economic benefit is gained by not conducting weekly container inspections. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). The following facilities were cited for failure to conduct weekly inspections as a minor violation: <ul style="list-style-type: none"> ○ CERS ID 10128553 - (SQG) inspection dated 3/5/2015 ○ CERS ID 10406704 - (CESQG) inspection dated 11/4/2016 ○ CERS ID 10123018 - (SQG), inspection dated 9/29/2014 ○ CERS ID 10123741 - (SQG), inspection dated 10/6/2015 ○ CERS ID 10126399 - (SQG), inspection dated 12/20/2016 	
	<p>CITATION:</p>	
	<p>HSC, Chapter 6.5, Sections 25110.8.5, 25117.6 CCR, Title 22, Sections, 66260.10, 66262.34 [CalEPA, DTSC]</p>	
<p>7.</p>	<p>DEFICIENCY:</p> <p>The CUPA is not issuing Unified Program Facility Permits, which includes the underground storage tank (UST) operating permit, prior to or upon the expiration date of an existing permit.</p>	<p>CORRECTIVE ACTION:</p> <p>By UPDATE 1, the CUPA will revise and provide CalEPA with the procedure for issuing the Unified Program Facility Permit, which includes the UST operating permit, to ensure that the CUPA issues</p>

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	<p>The CUPA's Unified Program Facility Permits are valid from 1/1/2016 to 12/31/2016. However, the permits are being issued substantially beyond the start date identified in the permit. The CUPA confirmed the date range for a valid permit may not reflect the actual issuance date.</p> <p>The following facilities have a permit with a start date that precedes the issuance dates:</p> <ul style="list-style-type: none"> • CERS ID 10128736 – valid between 1/6/2017 and 1/6/2022, issued 10/10/2017; • CERS ID 10127830 – valid between 4/17/2017 and 4/17/2022, issued October 10, 2017; and • CERS ID 10129462 – valid between 2/28/2015 and 2/28/2020, issued 4/29/2015. <p>Note: The examples provided above were identified during the CUPA evaluation and may not represent all instances of this deficiency.</p>	<p>permits to compliant UST facilities on or before the permit expiration date listed on the facility permit.</p> <p>By UPDATE 2, the CUPA will, if necessary, amend the procedure based on feedback from State Water Board and will submit the revisions to CalEPA.</p> <p>By UPDATE 3, the CUPA will implement and train personnel on the revised procedure. 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 training.</p> <p>Thirty days after the next permit issuance cycle, the CUPA will identify and provide CalEPA with a list of UST facilities (CERS ID and facility name) that have been issued permits.</p> <p>Ninety days after the next permit issuance cycle the CUPA will provide CalEPA copies of five (5) permits, as selected by State Water Board.</p>
	<p>CITATION:</p>	
	<p>HSC, Chapter 6.7, Section 25284(a) CCR, Title 23, Section 2712(c) [State Water Board]</p>	
<p>8.</p>	<p>DEFICIENCY:</p> <p>The CUPA is not consistently requiring UST facilities to implement enhanced leak detection (ELD) testing, as required by Health and Safety Code, sections 25292.4 and 25292.5, based on a facility's proximity to public drinking water wells.</p> <p>State Water Board records show there are four (4) UST facilities that neither completed the required ELD testing nor submitted a request for reconsideration (RFR) to perform ELD testing application.</p> <p>State Water Board has provided the CUPA with copies of the formal notification letters and noncompliance letters to implement required ELD testing. During the evaluation, the bulk of owner/operators notified by the CUPA have begun responding.</p>	<p>CORRECTIVE ACTION:</p> <p>By October 3, 2018, if ELD testing has not been implemented or the owner/operator has not been granted approval of the RFR, the CUPA shall initiate appropriate enforcement.</p> <p>Once ELD testing has occurred, the CUPA will provide CalEPA with a copy of each facility's test results.</p>

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	<p>Note: If a UST owner/operator believes they are not within 1,000 feet of a public drinking water well, an RFR application must be submitted to State Water Board. The application form can be found at: http://www.waterboards.ca.gov/ust/eld/index.shtml. Once received from the UST owner/operator, State Water Board will make a final determination whether or not ELD testing is required.</p>	
	<p>CITATION:</p>	
	<p>HSC, Chapter 6.7, Section 25292.4 and 25292.5 CCR, Title 23, Section 2644.1 [State Water Board]</p>	
9.	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 inaccurate:</p> <ul style="list-style-type: none"> • Page 4: The "Frequency of Inspections" table identifies the CUPA's APSA inspection frequency as the minimum mandated inspection frequency with a reference to HSC, Section 25270.5(a). The minimum mandated inspection frequency under HSC, Section 25270.5(a) is to inspect storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum at least once every three (3) years. However, the CUPA inspects all APSA facilities, including APSA facilities with less than 10,000 gallons of petroleum per HSC, Section 25270.5(b), at least once every three (3) years. • Page 4: The "Frequency of Inspections" table identifies the CUPA's Permit By Rule (PBR) Household Hazardous Waste (HHW) inspection frequency is initially within two (2) years and then once every three (3) years with a reference to HSC, Section 25201.4(b)(2). HHW collection facilities do not have a statutory inspection timeframe. Therefore, for the PBR HHW inspection frequency, the reference HSC 25201.4(b)(2) should be removed. 	<p>By UPDATE 1, the CUPA will review, edit, and provide to CalEPA their corrected I&E Plan.</p>

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<ul style="list-style-type: none">• Page 16: In the Enforcement section, the CUPA references HSC, Section 25270.3 for APSA Program enforcement. However, HSC, Section 25270.3 does not include anything regarding APSA Program enforcement actions. The correct reference to address violations of the APSA program is HSC, Chapter 6.67 commencing with Section 25270.• Page 20 - 21: Subsections f and g incorrectly references HSC, Section 25117.6 for the Class I and Class II violation definitions. The correct statutory reference for the definitions of Class I and II violations is HSC, Section 25110.8.5. <p>The following information in the plan is incomplete:</p> <ul style="list-style-type: none">• Page 9: "The standard time to return to compliance..." section does not include the APSA Program. <p>The following information in the plan is missing:</p> <ul style="list-style-type: none">• Provisions for addressing complaints do not include provisions for the receipt, enforcement, and closure of a compliant.	
CITATION:	
CCR, Title 27, Section 15200(a) [CalEPA, OSFM, DTSC]	

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: **FINAL SUMMARY OF FINDINGS**

INCIDENTAL FINDINGS REQUIRING CORRECTIVE ACTION

The findings and corrective actions provided in this section address specific incidents or activities the CUPA is required to address that do not rise to the level of a systemic deficiency. However, resolution of these matters is required by regulation or statute.

1.	FINDING: <p>The CUPA is not consistently regulating, enforcing, and ensuring an abandoned UST is properly closed.</p> <p>State Water Board finds the following UST facility has one (1) abandoned UST in place as identified during the Abandoned Tanks Initiative headed by United States (US) Environmental Protection Agency (EPA) and State Water Board:</p> <ul style="list-style-type: none">• Global ID: UST10000030<ul style="list-style-type: none">○ Gee property Olivehurst, out of compliance with unknown product status.○ This facility is not identified in CERS. <p>In addition, State Water Board finds the following:</p> <ul style="list-style-type: none">• One (1) identified facility has an abandoned UST that is not in CERS;• The CUPA is not conducting annual UST compliance inspections;• The CUPA is not conducting progressive enforcement; and• The CUPA is not reporting significant operational compliance (SOC) information. <p>Note: Please reference State Water Board correspondence dated 4/27/2017 “Conclusion of the Abandoned Underground Storage Tank Initiative, and Unified Program Agency Inspection and Reporting Requirements.” Please also reference the following CERS frequently asked questions (FAQ): “Reporting Abandoned USTs.”</p> <p>Regulation, enforcement, and ensuring abandoned UST(s) are properly closed is required as part of: HSC, Chapter 6.7, Section 25298 HSC, Chapter 6.7, Section 25299(a)(5) or (b)(3) [State Water Board]</p>
	CORRECTIVE ACTION: <p>By UPDATE 1, the CUPA will develop an action plan to properly regulate, enforce, and close identified abandoned UST(s).</p> <p>By UPDATE 2, the CUPA will revise and provide CalEPA with the I&E Plan or other applicable procedure to address abandoned USTs. The procedures will delineate the CUPA’s process for regulating, enforcing, and ensuring abandoned USTs are properly closed, which includes but is not limited to:</p> <ol style="list-style-type: none">1. Ensuring USTs are reported to CERS and remain in CERS until UST closure is completed;2. Completing annual UST compliance inspections;3. Identifying progressive enforcement options; and4. Providing SOC criteria information to State Water Board.

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: **FINAL SUMMARY OF FINDINGS**

INCIDENTAL FINDINGS REQUIRING CORRECTIVE ACTION

	<p>By UPDATE 3, the CUPA will, if necessary, amend the procedures, based on feedback from State Water Board and submit the revisions to CalEPA.</p> <p>By UPDATE 4, the CUPA will implement and train personnel on the revised procedure. In addition, 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 training.</p> <p>With respect to the identified abandoned UST, the CUPA will follow-up and ensure that proper closure is completed. Any UST(s) installed on or after 1/1/1984, which are operational, or temporarily closed, or abandoned and previously regulated by the CUPA, shall be reported to CERS or to a local reporting portal. The CUPA shall also annually inspect the UST(s) and begin progressive enforcement if not already doing so. The CUPA shall also begin reporting SOC information for the abandoned UST(s) in the next Significant Operational Compliance Report (Report 6).</p> <p>To demonstrate correction of this finding, the CUPA will provide information showing the CUPA conducting annual UST compliance inspections, taking progressive enforcement, and reporting SOC criteria information in Report 6 for two (2) annual UST compliance inspections.</p>
2.	<p>FINDING:</p> <p>The CUPA has not documented in sufficient detail whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, that tank closure, tank removal and soil sampling complies with statute and regulation and maintaining tank closure records as required by statute and regulation for one (1) tank closure reviewed by State Water Board.</p> <p>The following is an example:</p> <ul style="list-style-type: none">• CERS ID 10123741 <p>Note: The example provided above was identified during the CUPA evaluation and may not represent all instances of this finding.</p> <p>Documenting closure to the satisfaction of the CUPA is required as part of: CCR, Title 23, Section 2672(d) CCR, Title 27, Section 15180(e)(2) CCR, Title 27, Section 15185(a) and (c)(3) [State Water Board, CalEPA]</p> <p>CORRECTIVE ACTION:</p> <p>By UPDATE 1, the CUPA will revise and provide CalEPA with its UST Closure or other applicable procedure that describes how the CUPA will document in sufficient detail whether the owner/operator has demonstrated to the satisfaction of the CUPA that tank closure, tank removal and soil sampling complies with statute and regulation (i.e. correspondence, hardcopy, and electronic media). The procedure will also address how the CUPA will maintain tank closure records as required by statute and regulation.</p>

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	<p>By UPDATE 2, the CUPA will, if necessary, amend the procedure, based on feedback from State Water Board, and will submit the revisions to CalEPA.</p> <p>By UPDATE 3, the CUPA will implement and train personnel on the revised procedure. In addition, 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 training.</p> <p>To demonstrate correction of this finding, for the next two (2) tank removals, or closures in place, all closure records (including documentation demonstrating the CUPA's satisfaction tank closure, removal and soil sampling complies with statute and regulation) shall be provided to State Water Board within 15 days of the completed closure.</p> <p>With respect to previously closed facilities that have not been provided closure documentation demonstrating the CUPA's satisfaction tank closure, removal and soil sampling complies with statute and regulation, the CUPA will provide the requested documentation in the event of a public records request, or other public request for closure documentation.</p>
3.	<p>FINDING:</p> <p>State Water Board review of closure records finds the CUPA is not consistently requiring proper sampling and analysis of soil and/or water during or immediately after closure activities.</p> <p>Specifically, the CUPA is not requiring a minimum of two (2) samples taken immediately beneath the removed portions of the tank, at a minimum of two (2) feet into native material and separate samples taken for each 20 linear-feet of trench for piping per Title 23, Division 3, Chapter 16, Section 2672(d).</p> <p>The following is an example:</p> <ul style="list-style-type: none">• CERS ID 10123741 <p>Note: The example provided above was identified during the CUPA evaluation and may not represent all instances of this finding.</p> <p>Proper sampling and analysis of soil and/or water during or immediately after closure is required as part of: CCR, Title 23, Section 2672(d) [State Water Board]</p> <p>CORRECTIVE ACTION:</p> <p>By UPDATE 1, the CUPA will revise and provide CalEPA with the I&E Plan, or other applicable procedure, to delineate the CUPA's process for managing UST closure(s) including:</p> <ul style="list-style-type: none">• Permanent closure and removal of UST(s) including:<ul style="list-style-type: none">○ Taking samples immediately beneath the removed portions of the tank, a minimum of two (2) feet into native material at each end of the tank; and○ Separate samples taken for each 20 linear feet of trench• Permanent closure where UST(s) are closed in place including:

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- Taking a minimum of one (1) boring as close as possible to the midpoint beneath the tank using a slant boring or other appropriate method

By UPDATE 2, the CUPA will, if necessary, amend the I&E Plan or other applicable procedure, based on feedback from State Water Board, and will submit the revisions to CalEPA.

By UPDATE 3, the CUPA will implement and train personnel on the revised procedure. In addition, 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 training.

To demonstrate correction of this finding, the CUPA will provide State Water Board with all closure records, including sampling results, for the next two (2) tank removals or closures in place within 15 days of the completed closure.

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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>The CUPA's single fee system does not fund all of the necessary and reasonable costs needed to implement the Unified Program.</p> <p>The following are examples:</p> <p><u>FY 2016/2017</u></p> <ul style="list-style-type: none">• The CUPA's revenue of \$250,939 together with \$60,000 received in Rural Reimbursement Grant funded only 67% of Unified Program costs, which were \$462,255. <p><u>FY 2015/2016</u></p> <ul style="list-style-type: none">• The CUPA's collected revenue of \$341,841 together with \$60,000 received in Rural Reimbursement Grant funded only 83% of Unified Program costs, which were \$451,757. <p><u>FY 2014/2015</u></p> <ul style="list-style-type: none">• The CUPA's collected revenue of \$345,874 together with \$60,000 received in Rural Reimbursement Grant funded only 81% of Unified Program costs, which were \$501,190. <p>The CUPA uses the Yuba County General Fund to supplement the Unified Program costs not funded by the single fee system and the Rural Reimbursement Grant. While using the Yuba County General Fund to supplement the Unified Program costs is acceptable, Unified Program implementation may be adversely effected should the County decide to stop supplementing the Unified Program with the General Fund.</p> <p>RECOMMENDATION:</p> <p>CalEPA recommends that the CUPA review their fee accountability program to determine the necessary and reasonable costs needed to implement the Unified Program. After the Unified Program costs are determined, CalEPA recommends that the CUPA revises their single fee schedule so that the CUPA assesses fees sufficient to fund all of the necessary and reasonable costs to implement the Unified Program.</p>
2.	<p>OBSERVATION:</p> <p>The CUPA has accepted Spill Prevention, Control, and Countermeasure (SPCC) Plans in CERS. SPCC Plans are not required to be uploaded into CERS. Therefore, SPCC Plans should not be uploaded into CERS. Below are examples where the CUPA has accepted SPCC Plans in CERS.</p> <ul style="list-style-type: none">• CERS ID 10159357• CERS ID 10133482• CERS ID 10416910• CERS ID 10122061

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	<ul style="list-style-type: none">• CERS ID 10414945• CERS ID 10411420 <p>The APSA documentation section in CERS is for annual tank facility statement submittals, unless a business plan is already submitted, or other local reporting requirements.</p> <p>RECOMMENDATION:</p> <p>OSFM recommends that the CUPA reject submittals of SPCC Plans in CERS.</p>
3.	<p>OBSERVATION:</p> <p>The CUPA’s website contains various information and documents for its regulated community. However, the documents that are provided contain outdated and inaccurate information.</p> <ul style="list-style-type: none">• One of the programs identified is “Article 80, Uniform Fire Code.” This is not a program element under the Unified Program, but should refer to the fire code Hazardous Materials Management Plan and Hazardous Materials Inventory Statement.• The link “Above Ground Storage Tanks Information” provides an old APSA Fact Sheet dated December 2007 and contains outdated information.• The term “Uniform Fire Code” used for the link “Uniform Fire Code Requirements for AGTs” is outdated; the current fire code is the 2016 edition of California Fire Code (CFC). The link provides a document that contains outdated information from the 2000 edition of the fire code. In the 2016 CFC, requirements for flammable/combustible liquids are found in Chapters 1 (Scope & Adminstrating – including permits), 23 (Motor fuel dispensing facilities and repair garages, 50 (Hazardous Materials – General Provisions), and 57 (Flammable & Combustible Liquids). A new edition of the fire code is adopted generally at least once every three (3) years. Each edition of the fire code is only applicable from the time it becomes effective, until the next edition is adopted and becomes effective.• The link “Spill Prevention, Control, and Countermeasure (SPCC) Plan Requirements” provides an old APSA Fact Sheet dated December 2007 and contains outdated information.• Aboveground Tank Installation Matrix document is outdated; it references the Uniform Fire Code.• The link “SPCC Tier I template” is outdated. US EPA published a revised version dated March 18, 2010.• The “Aboveground Storage Tank Storage Statement” requests information that is inconsistent with the current statute, such as details of tanks with 10,000 gallons or more of petroleum and the installation date of such tanks. Details of tanks with greater than 10,000 gallons in capacity are required on a tank facility statement. Also, the requirement to disclose the installation date of such large tanks on the tank facility statement was removed when Senate Bill 612 (Jackson, Statutes of 2015) became effective.• The “California EPA ID Number Application” link is for an outdated California State ID number application.• The “Weekly Hazardous Waste Storage Inspection Log” link requires businesses to use a Weekly Hazardous Waste Container Inspection log when it is not required by law. <p>RECOMMENDATION:</p> <p>OSFM recommends that the CUPA update or remove the outdated and inaccurate fire code and APSA documents on the website.</p>

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	<p>DTSC recommends that the CUPA update its website to include the following:</p> <ul style="list-style-type: none">• For California EPA ID Numbers - Create a link to DTSC's website for the EPA ID number application (the DTSC form was revised in 2017). EPA ID Number Application information is available on DTSC's website at: http://www.dtsc.ca.gov/IDManifest/index.cfm.• For the Weekly Hazardous Waste Storage Inspection Log - The website should note that using a weekly container inspection log is solely a recommendation. (Generators are required to conduct inspections, but not required to maintain a log of those inspections.)
4.	<p>OBSERVATION:</p> <p>The CUPA utilizes APSA checklists derived from the CUPA Forum Board checklist versions.</p> <p>Some of the APSA facility file inspection reports, notices to comply or notices of violation provided and utilized by the CUPA did not include HSC citations. Instead, the CUPA uses the Code of Federal Regulations citations. The Federal SPCC rule has not been delegated to any state. The CUPA has no authority to enforce the Federal SPCC rule; however, the CUPA is required to implement and enforce APSA.</p> <p>RECOMMENDATION:</p> <p>OSFM recommends that the CUPA continue to utilize comprehensive APSA inspection checklists and ensure that the checklist items are applicable to the tank facilities being inspected. OSFM also recommends that the CUPA consistently use HSC citations and then reference the applicable Federal SPCC rule.</p> <p>Additionally, OSFM recommends that the CUPA update its APSA inspection checklist to reflect the new violations, deleted violations, and modified violation names and descriptions present in the 2017 CERS Violation Library update. Significant APSA revisions include the addition of six (6) new violations (4010054, 4010055, 4010056, 4010057, 4030041 and 4030042) and the deletion of five (5) violations (4010046, 4010049, 4010053, 4030004 and 4030024). In addition, many existing violations were modified in the name and description fields.</p>
5.	<p>OBSERVATION:</p> <p>The CUPA's APSA inspection standard operating procedures (SOP) also contains inaccurate information.</p> <ul style="list-style-type: none">• The General Information in section 2.1 states the CUPA is responsible for annual inspections of all aboveground storage tanks. However, the CUPA is only required to inspect tank facilities with a storage capacity of 10,000 gallons or more of petroleum at least once every three (3) years per HSC 25270.5(a).• The Statutory Authority in section 3.1 incorrectly references a UST citation (HSC 25296.10) for APSA violations. <p>RECOMMENDATION:</p> <p>OSFM recommends that the CUPA revise their APSA inspection SOP to better reflect how the APSA Program is being implemented.</p>

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6.	<p>OBSERVATION:</p> <p>The CUPA utilized an outdated Area Plan checklist from Cal OES. The checklist uses the incorrect agency name “CalEMA” in the title and in various places within the checklist. The checklist also includes outdated CCR, Title 19 citations.</p> <p>RECOMMENDATION:</p> <p>Cal OES recommends that the CUPA update their Area Plan checklist to replace all occurrences of “CalEMA” with “CalOES” and revise the incorrect CCR, Title 19 citations. Cal OES has an optional Area Plan checklist template on their webpage, if needed, at http://www.caloes.ca.gov/cal-oes-divisions/fire-rescue/hazardous-materials/area-planning.</p>
7.	<p>OBSERVATION:</p> <p>The CUPA’s Department Procedure No. 08-001, Rev. 002, titled “Access to Public Records Maintained by the Environmental Health Department Certified Unified Program Agency” states that certain records are protected under the law from disclosure to the public. One of these cited is “Any photographs pertaining to a hazardous waste generator business (Health & Safety Code Section 25185).” HSC 25185 is the statutory provision that authorizes inspections to be conducted by state and local agencies, which includes, in part, taking photographs, samples etc. This section cannot be used as authority to claim that photographs taken during an inspection are protected under the law from disclosure to the public.</p> <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA update the language in the Procedure to state that the photographs are ONLY protected from disclosure if the facility has made a trade secret assertion and the CUPA has evaluated their assertion per HSC, Section 25173.</p>
8.	<p>OBSERVATION:</p> <p>The CUPA submitted a HWG Program SOP dated March 2008 and Revision 1 dated October 2011, which contains similar information as in their I&E Plan. A review of this SOP noted the following:</p> <ul style="list-style-type: none">• Page 6, section 5.1.1.4. Tank Management: LQG tank requirements are noted, but lacks SQG tank requirements.• Page 7, Accumulation: lacks information stating that within three (3) days of reaching the 55 gallon limit, the container shall be moved to the 90-day area or the waste shall be shipped offsite. <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA update their HWG Program SOP with the following information:</p> <ul style="list-style-type: none">• Page 6, section 5.1.1.4. Tank Management: Add SQG tank requirements.• Page 7, Accumulation: Add “Within three (3) days of reaching the 55 gallon limit, the container shall be moved to the 90-day area or the waste shall be shipped offsite”.

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9.	<p>OBSERVATION:</p> <p>In some cases, the CUPA is citing facilities for hazardous waste violations that are not actual violations of the hazardous waste control law and regulations.</p> <p>The CUPA cited the following HWG facilities 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.</p> <ul style="list-style-type: none">• CERS ID 10406704 (CESQG) – inspection dated 11/4/2016.• CERS ID 10132213 (CESQG) – inspection dated 4/8/2015.• CERS ID 10130434 (CESQG) – inspection dated 3/25/2015.• CERS ID# 10124482 (SQG) – inspection dated 6/30/2015. <p>The CUPA cited the following HWG facilities with a violation for “failure to <u>mark</u> empty containers as “Empty” when there is no statutory or regulatory requirement for a generator to mark an empty container as “Empty.” CCR, Title 22 Section 66261.7(f) requires that an empty container has the date the container was emptied.</p> <ul style="list-style-type: none">• CERS ID 10212574 (LQG) - inspection dated 10/19/2015 initially cited during 2012 inspection.• CERS ID 10198774 (CESQG) - inspection dated 10/6/2015. <p>RECOMMENDATION:</p> <p>DTSC recommends that the CUPA, for HWG inspections, only cite facilities with observed violations of hazardous waste control law and regulations.</p>
10.	<p>OBSERVATION:</p> <p>State Water Board review of CERS compliance, monitoring, and enforcement (CME) in conjunction with the CUPA’s Report 6s and Self-Audit Reports finds the numbers reported for UST annual routine compliance inspections and total UST facilities is largely aligned. There are a few instances where numbers do not match.</p> <p>FY 2016/2017</p> <ul style="list-style-type: none">• Report 6 reports 39 inspections with 38 facilities (103%)• CERS CME reports 38 routine inspections (100%)• CERS lists 38 UST facilities in the facilities list with UST always and applicable• Self-Audit Report 2016/2017 lists 39 facilities and 40 routine inspections <p>FY 2015/2016</p> <ul style="list-style-type: none">• Report 6 reports 36 routine inspections with 38 facilities (95%)• CERS CME reports 36 routine inspections (95%)• Self-Audit Report 2015/2016 lists 39 facilities and 36 routine inspections (108%) <p>FY 2014/2015</p> <ul style="list-style-type: none">• Report 6 reports 38 routine inspections with 38 facilities (100%)• CERS CME reports 17 routine inspections (45%)

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	<ul style="list-style-type: none">Self-Audit Report 2014/2015 lists 39 facilities and 41 routine inspections
	RECOMMENDATION:
	State Water Board recommends that the CUPA ensure reporting across the different formats, including Report 6, CERS and the annual Self-Audit Report, are in alignment.
11.	OBSERVATION:
	<p>State Water Board review of CERS finds that there are one (1), or more, UST systems in the CUPA's jurisdiction that may need to be permanently closed in accordance with HSC, Chapter 6.7, Section 25292.05 by 12/31/2025.</p> <p>The following are examples of facilities that may require permanent closure. Please note, this list may not include all UST systems subject to the 2025 single-walled UST closure requirements:</p> <ul style="list-style-type: none">CERS ID 10123741 (tanks 1 - 3)CERS ID 10127830 (tanks 0302-1 - 0302-3)CERS ID 10172821 (tanks 1017-1 – 1017-8)CERS ID 10133974 (tanks 1 - 3)
	RECOMMENDATION:
	<p>State Water Board recommends that the CUPA continue to provide verbal reminders to UST facility owner/operators and consider providing written notification of the requirements for permanent closure of single-walled USTs no later than 12/31/2025. The notification should inform the facility owner/operators that, to stay in compliance with the law and avoid fines, owner/operators must replace or remove their single-walled USTs by the deadline date. Additional information about the single-walled UST closure requirements may be found at:</p> <p>http://waterboards.ca.gov/water_issues/programs/ust/single_walled/.</p> <p>The facility owner/operator should be notified as well about the 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. For more information on funding sources, visit the link below.</p> <p>http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml</p>
12.	OBSERVATION:
	<p>State Water Board review of CERS "UST DataDownload" report finds CERS UST submittals are largely accurate and complete. State Water Board notes a few instances of inaccurate data in accepted CERS submittals. This includes, but is not limited to, the following examples:</p> <ul style="list-style-type: none">UST systems installed on, or after, 7/1/2004 with vent piping transition sumps listed as "blank" or "none"<ul style="list-style-type: none">CERS ID 10121767 (tank P247483)UST systems with striker plate listed as "No"<ul style="list-style-type: none">CERS ID 10172821 (tanks 1017-1 to 1017-8)UST systems that do not identify a tank installation date:

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	<ul style="list-style-type: none">○ CERS ID 10122490 (tanks 58-000-OES025-1 through 58-000-OES025-3) <p>RECOMMENDATION:</p> <p>State Water Board recommends that the CUPA review UST submittals in CERS for inaccurate data and continue to assist facility owner/operators to obtain accurate and complete data with the next CERS submittal, but no later than one (1) year.</p>
13.	<p>OBSERVATION:</p> <p>State Water Board review of CERS CME information and Unified Program Facility Permits, which includes the UST operating permit, finds an instance with the CUPA issuing a permit to a facility with USTs not in compliance.</p> <p>For example:</p> <ul style="list-style-type: none">● CERS ID 10123741<ul style="list-style-type: none">○ Permit issued 5/4/2015, violations issued 10/28/2013 and 12/23/2014 has RTC identified in CERS on 10/6/2015. <p>Note: Please reference the following CERS FAQ: “When to Issue a UST Operating Permit.”</p> <p>State Water Board review of the permit also finds the permit contains a requirement for it to be displayed on the facility premises and does not identify the CERS identification number.</p> <p>Please note, effective 1/1/2017, Title 23 includes revisions for permit conditions in Section 2712(c). Specifically, Section 2712(c) now allows permits to be retained electronically or physically at the facility and requires permits to include the CERS identification number.</p> <p>Note: Please reference State Water Board correspondence dated 4/7/2017 “Amended Requirements for Unified Program Facility Permits Effective January 1, 2017.”</p> <p>RECOMMENDATION:</p> <p>State Water Board recommends that the CUPA review RTC data prior to permit issuance to verify facilities are in full UST compliance at the time of permit issuance.</p>

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

- 1. HAZARDOUS MATERIALS RESPONSE TEAM** – The Yuba County CUPA is on the operations committee of the Hazardous Materials Response Team that includes most of the fire agencies in Yuba and Sutter Counties. The CUPA personnel assist first responders during emergencies. When addressing emergencies, CUPA personnel respond with a back-up duty officer, serve as technical support, and conduct response cost recovery. CUPA personnel were instrumental in the massive flood evacuations in the City of Marysville and Yuba City. The CUPA also aided the community during the fire disaster that occurred in many areas in California.