

March 8, 2021

Mr. Freddie Agyin, MA, REHS, Director
Vernon City Health and Environmental Control
4305 Santa Fe Avenue
Vernon, California 90058-1730

Dear Mr. Agyin:

During October, 2018, through January, 2019, CalEPA and the state program agencies conducted a performance evaluation of the Vernon City Health and Environmental Control Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation and California Environmental Reporting System data.

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

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

CalEPA recognizes the delay with issuing the final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in August, 2021, there is sufficient time for submittal and review of one Evaluation Progress Report, although the timeframe for completion of corrective actions and resolutions may extend beyond submittal of the first Evaluation Progress Report.

The CUPA is required to submit the Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report, **May 7, 2021**. The Evaluation Progress Report must be submitted to Tim Brandt at Timothy.Brandt@calepa.ca.gov.

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

Failure to adequately correct each of the deficiencies and resolve each of the incidental findings identified in the final Summary of Findings in a timely manner may result in the

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establishment of a Program Improvement Agreement between CalEPA and the governing body of the CUPA.

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

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

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Vernon City Health and Environmental Control

Evaluation Period: October 2018 – January 2019

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt, Christopher Moon
- **DTSC:** Elizabeth Brega, Matthew McCarron
- **Cal OES:** Fred Mehr
- **State Water Board:** Wesley Franks, Lisa Jensen
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the CUPA's Unified Program implementation and performance is considered: Unsatisfactory

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

Tim Brandt

CalEPA Unified Program

Phone: (916) 323-2204

E-mail: timothy.brandt@calepa.ca.gov

CalEPA recognizes the delayed issuance of this final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in May 2021, there is sufficient time for submittal and review of one Evaluation Progress Report, although the timeframe for completion of corrective actions may extend beyond submittal of the first Evaluation Progress Report.

The CUPA is required to submit the Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report. The Evaluation Progress Report must be submitted to the CalEPA Team Lead at timothy.brandt@calepa.ca.gov no later than **May 7, 2021**.

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

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA is not inspecting all facilities regulated under the Unified Program at the inspection frequencies required, or specified in the Inspection and Enforcement (I&E) Plan.

Hazardous Materials Business Plan (HMBP):

- Review of inspection, violation and enforcement information, also known as compliance, monitoring and enforcement (CME) information in the California Environmental Reporting System (CERS) indicates 19% of HMBP facilities were not inspected within the last three years.

California Accidental Release Prevention (CalARP) Program:

- Review of CME information in CERS indicates 34% of CalARP Program facilities were not inspected within the last three years.

Underground Storage Tank (UST) Program:

- Review of the Semi-Annual Report (Report 6) and CME information in CERS indicates:
 - Fiscal Year (FY) 2017/2018
 - Report 6 indicates 10 of 28 (36%) UST facilities were not inspected
 - CERS CME indicates 4 of 28 (14%) UST facilities were not inspected
 - FY 2016/2017
 - Report 6 indicates 6 of 28 (21%) UST facilities were not inspected
 - CERS CME indicates 8 of 28 (29%) UST facilities were not inspected
 - FY 2015/2016
 - Report 6 indicates 5 of 28 (18%) UST facilities were not inspected
 - CERS CME indicates 15 of 28 (54%) UST facilities were not inspected

Hazardous Waste Generator (HWG) Program:

- Review of FY 2017/2018, FY 2016/2017 and FY 2015/2016 CME information in CERS for the HWG Program indicates 51 of 192 (27%) HWG facilities were not inspected once every three years, as stated in the I&E Plan. As the deficiency is based on CERS CME data, the actual number of HWG facility inspections conducted may be different than what is noted above.

CITATION:

HSC, Chapter 6.5, Section 25187.8(b) and (g)
HSC, Chapter 6.7, Section 25288(a)
HSC, Chapter 6.11, Section 25404.1.2(c)
HSC, Chapter 6.95, Sections 25511(b) and 25537(a)
CCR, Title 19, Section 2775.3
CCR, Title 23, Section 2712(e)
CCR, Title 27, Sections 15185(a) and (c), 15200(a)
[CalEPA, Cal OES, DTSC, State Water Board]

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will perform an analysis of the UST Program implementation and determine why the annual compliance inspection frequency is not being met. The analysis will include discussion on existing staffing resources, and how many inspections each inspector is capable of conducting annually.

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure Unified Program facilities within the HMBP, CalARP, UST, and HWG Programs are inspected at the frequency required and specified within the I&E Plan. The action plan will include at a minimum, for each of the HMBP, CalARP, UST, and HWG programs:

- A spreadsheet, exported from the CUPA's local data management system or CERS, of facilities identified as not being inspected at the inspection frequency required and specified within the I&E Plan. For each facility, the spreadsheet will include, at a minimum, the CERS ID, facility name, and last inspection date;
- A proposed schedule to inspect those facilities by prioritizing the most delinquent inspections to be completed prior to any other inspection;
- Future steps to ensure that all facilities will be inspected at the inspection frequency required and specified within the I&E Plan.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an updated spreadsheet of facilities identified as not being inspected at the inspection frequency required and specified within the I&E Plan.

2. DEFICIENCY:

The CUPA is not properly implementing a fee accountability program.

Review of budget documents for Fiscal Years 2016/2017 and 2017/2018 indicate that the fee accountability program does not include costs for each inspector and the Senior Environmental Specialist. Budget documentation indicates three positions at combined .75 full time equivalent (FTE). This does not include funding for clerical staff or inspectors. The Self-Audit report states that the CUPA operates with five field inspectors and an additional three administrative staff, accounting for .25 FTE each. Review of the CUPA's funding accounts show no resources allocated or earmarked to cover personnel expenses.

Note: In early 2018, the Vernon City Council notified CalEPA that the CUPA will be working to rectify significant accounting issues, including identifying sources of revenue and expenditures.

CITATION:

HSC, Chapter 6.11, Section 25404.5(a)(2)(A)
CCR, Title 27, Sections 15210(d) and 15220(a)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a plan for implementing a fee accountability program. The plan should address, at a minimum, the following:

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DEFICIENCIES REQUIRING CORRECTION

- Identification of all sources of funding received and a process for securing such revenue;
- Reviewing and updating the Fee Accountability program;
- Reviewing and updating the financial management procedure;
- Completion of a work load analysis that incorporates direct and indirect cost analysis; and
- Review of the Single Fee System to ensure adequate funding going forward, for example, committing to conducting a comprehensive review of costs against the actual revenue and tracking this in the Annual Self-Audit for the purposes of recognizing the need to adjust single fees, if applicable;

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a narrative update and any necessary supporting documentation describing the CUPA's progress and any necessary changes to the plan.

By the 6th Progress Report, based on the CUPA's analysis of workload and identification of direct and indirect costs, the CUPA will reassess the fee schedule to ensure revenue from single fees fund the necessary and reasonable costs of Unified Program implementation. The CUPA will provide CalEPA with a copy of the revised single fee schedule, if adjusted.

3. DEFICIENCY:

The CUPA is not submitting a Quarterly Surcharge Transmittal Report to CalEPA by the required due date for each fiscal quarter.

FY 2016/2017, the CUPA submitted the Quarterly Surcharge Transmittal Reports after the due date:

- Quarter 1 – received by CalEPA two days late
- Quarter 2 – received by CalEPA 27 days late

FY 2017/2018, the CUPA submitted the Quarterly Surcharge Transmittal Reports after the due date:

- Quarter 1 – received by CalEPA 16 days late
- Quarter 2 – received by CalEPA 54 days late

CITATION:

CCR, Title 27, Section 15250(b)(1)
[CalEPA]

CORRECTIVE ACTION:

The CUPA will prepare and submit each Quarterly Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter.

4. DEFICIENCY:

The CUPA did not complete an Annual Self Audit Report for fiscal year 2017/2018.

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

CCR, Title 27, Section 15280(a)

[CalEPA]

CORRECTIVE ACTION:

The CUPA will provide CalEPA with the completed Self Audit Report for fiscal year 2019/2020.

5. DEFICIENCY:

The CUPA's Unified Program administrative procedures have not been fully established or implemented, are missing required components, and contain inaccurate information.

The Data Management Procedures component of the Unified Program Administrative Procedures has inaccurate information and is missing required components.

- The data management procedure, "California Environmental Reporting System (CERS)," addresses how the CUPA intends to direct facility submittal and reviewing. The inspection procedure states that data will be uploaded to CERS.
- The data management procedure does not include:
 - the collection, retention, and management of electronic data and documents in compliance with CCR, Title 27, Section 15185;
 - the transfer and exchange of electronic data through an applicable local information management system or local reporting portal in compliance with CCR, Title 27, Section 15187; and
 - the reporting of electronic data in compliance with CCR, Title 27, Section 15290.

The Financial Management Procedures component of the Unified Program Administrative Procedures has not been established and is not being implemented.

- The CUPA submitted finance and budget documents that do not directly articulate the procedures being implemented.
- The information provided as a financial management procedure does not include relevant instructions, nor does it promote adequate fiscal management.
- Financial Management Procedures must include:
 - A single fee system in compliance with CCR, Title 27, Section 15210;
 - A fee accountability program in compliance with CCR, Title 27, Section 15220; and
 - A surcharge collection and reimbursement program in compliance with CCR, Title 27, Section 15250.

CITATION:

CCR, Title 27, Section 15180(e)(5) & (7)

[CalEPA]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with the Data Management Procedures that address the inaccurate information and incorporate the missing components. The CUPA will develop and provide CalEPA with Financial Management Procedures.

By the 2nd Progress Report, the CUPA will, if necessary, amend the Data Management Procedures and Financial Management Procedures, based on feedback from CalEPA. Once finalized, the CUPA will implement the Data Management Procedures and Financial Management Procedures.

6. DEFICIENCY:

The CUPA is not certifying to Cal OES every three years that a complete review of the area plan has been conducted and any necessary revisions have been made.

CITATION:

HSC, Chapter 6.95, Section 25503(d)(2)

[Cal OES]

CORRECTIVE ACTION:

By the 4th Progress Report, the CUPA will certify to Cal OES that a complete review of the area plan has been conducted and any necessary revisions have been made. The CUPA will provide CalEPA with the revised area plan.

7. DEFICIENCY:

The CUPA is not ensuring that inventories and/or site maps are submitted annually by each handler.

CITATION:

HSC, Chapter 6.95, Sections 25505(a)(3) and 25508(a)(2) and (3)

[Cal OES]

CORRECTIVE ACTION:

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a list of all regulated businesses that have not submitted an inventory and/or site map within the past year.

By the 4th Progress Report, for those businesses that have not submitted an inventory and/or site map upon follow up by the CUPA, the CUPA will apply appropriate enforcement.

8. DEFICIENCY:

The CUPA did not conduct an annual self-audit of the CalARP program.

The CUPA did not compile a CalARP performance audit report for the FYs of 2015/2016 and 2016/2017.

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CITATION:

CCR, Title 19, Section 2780.5

[Cal OES]

CORRECTIVE ACTION:

By the 4th Progress Report, the CUPA will conduct an annual self-audit of the CalARP program and compile a CalARP performance audit report. The CUPA will provide CalEPA with the annual CalARP performance self-audit report for the last two FYs.

9. DEFICIENCY:

The CUPA is not ensuring each inspector completes and passes the APSA inspector training program prior to conducting inspections at tank facilities for compliance with the Spill Prevention, Control and Countermeasure (SPCC) Plan requirements of APSA.

The following inspections were conducted by a CUPA inspector prior to completing and passing the initial APSA inspector training.

CERS ID 10411675: Inspection dated July 23, 2018

CERS ID 10451617: Inspection dated July 17, 2018

As of November 27, 2018, the CUPA has no certified APSA inspectors.

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

CITATION:

HSC, Chapter 6.67, Section 25270.5(c)

[OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, each CUPA inspector that conducts APSA inspections for SPCC Plan compliance at tank facilities will complete and pass the initial APSA inspector training program. The CUPA will provide CalEPA with the APSA training exam certificate for each inspector that will conduct SPCC Plan compliance inspections at ASPA tank facilities.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will identify all APSA inspections conducted at tank facilities storing 10,000 gallons or more of petroleum that were completed by inspectors who did not complete and pass the initial APSA inspector training program. The CUPA will provide CalEPA with a proposed schedule for re-inspecting the identified APSA facilities by an inspector that has completed the APSA training program and passed the exam.

10. DEFICIENCY:

The CUPA is not consistently conducting complete annual UST compliance inspections.

Review of annual UST compliance inspection reports, associated monitoring certifications, and CERS CME information finds the following:

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- CERS ID 10156103: Annual Monitoring Inspection report, dated April 2, 2018, identifies the three failures below, however, no violations were reported in CERS.
 - “supply lines were damaged/broken and need to be replaced and re-tested.”
 - “the spill bucket leaking water”
 - “boot on supply line cracked and needs to be replaced”
 - Additionally, the CUPA notes not all testing was completed as supply lines needed replacement. Testing was to be completed after repairs.
- CERS ID 10398634: Annual Monitoring Inspection report, dated March 5, 2018, identifies one failure, however, no violations were reported in CERS.
- CERS ID 10446364: Annual Monitoring Inspection report, dated September 10, 2018, identifies two failures, however, no violations were reported in CERS.

Note: Local Guidance letter 159 “Annual Underground Storage Tank Compliance Inspection” may be referenced.

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

CITATION:

HSC, Chapter 6.7, Sections 25299 and 25299.2(a)

CCR, Title 23, Section 2713(d)

CCR, Title 27, Section 15290(b)(1)

[State Water Board, CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with 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 will include at a minimum:

- 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.

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

By the 3rd Progress Report, the CUPA will implement and train personnel on the revised or amended I&E plan or other applicable procedure and will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide records for five UST facilities, as selected by the State Water Board, that will include, at a minimum: associated annual monitoring certifications, UST

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compliance inspection reports, spill container testing, and any other necessary testing and compliance documentation not found in CERS.

11. DEFICIENCY:

The CUPA is not consistently requiring UST facilities to submit UST testing and leak detection documents.

Review of UST facility files and CERS CME information find the following examples where UST testing and leak detection documents were not found:

- CERS ID 10156103:
 - 2016 testing and leak detection document missing
 - 2015 secondary containment testing document missing
- CERS ID 10174361:
 - 2014 secondary containment testing document missing
- CERS ID 10398634:
 - 2015 secondary containment testing document missing

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

CITATION:

HSC, Chapter 6.7, Section 25288(b)

CCR, Title 23, Sections 2637(e), 2638(d), 2643(g) and 2644.1(a)(5)

[State Water Board]

CORRECTIVE ACTION:

From this point forward, in accordance with statute and regulation, the CUPA will require owners and operators to submit the appropriate UST testing and leak detection documents, which are required to be submitted within 30 days of testing. In accordance with statute and regulation, the CUPA will require owners and operators to comply with timely submittal of these documents.

By the 1st Progress Report, the CUPA will revise and provide CalEPA with the I&E Plan, or other applicable procedure, describing, at a minimum, the following activities performed by the CUPA:

- Ensuring owners/operators submit UST testing and leak detection documents within the prescribed time frame;
- Enforcement options for failure to submit UST testing and leak detection documents.

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

By the 3rd Progress Report, the CUPA will implement and train personnel on the revised I&E Plan or other applicable procedure and will provide training documentation to CalEPA, which at a

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minimum will include an outline of the training conducted and a list of CUPA personnel in attendance.

By the 3rd Progress Report, the CUPA will provide five facility records, if not available in CERS, as selected by the State Water Board. The selected facility records will include at a minimum, monitoring certification results, secondary containment test results, spill bucket test results, and any other testing or leak detection documents showing the date the testing and leak detection documents were received by the CUPA.

12. DEFICIENCY:

The CUPA is not consistently requiring proper sampling and analysis of soil and/or water during or immediately after UST closure activities.

The CUPA is not requiring a minimum of two samples to be taken immediately beneath the removed portions of the UST, at a minimum of two feet into native material and is not requiring separate samples to be taken for each 20 linear-feet of trench for piping, per Title 23, Division 3, Chapter 16, Section 2672(d).

Review of UST facility files finds the following examples:

- CERS ID 10450339: tank closure report does not identify depth into native material, locations of samples obtained, or provide maps of sampling points.
- CERS ID 10451158: tank closure report does not identify depth into native material, locations of samples obtained, or provide sufficient detail on map of sampling points. No information is provided as to total linear length of piping trench, number of samples, or locations.

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

CITATION:

CCR, Title 23, Section 2672(d)

[State Water Board]

CORRECTIVE ACTION:

Effective immediately, the CUPA will require proper sampling and analysis of soil and/or water during or immediately after UST closure activities.

By the 1st Progress Report, 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:

- Permanent closure and removal of UST(s)
 - Taking samples immediately beneath the removed portions of the UST, a minimum of two feet into native material at each end of the tank;
 - Separate samples taken for each 20 linear feet of trench
- Permanent closure where UST(s) are closed in place
 - Taking a minimum of one boring as close as possible to the midpoint beneath the UST using a slant boring or other appropriate method.

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

By the 3rd Progress Report, the CUPA will implement and train personnel on the revised or amended I&E Plan or other applicable procedure and will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance.

For the next two UST removals or closures in place, the CUPA will provide the State Water Board with all closure records, including sampling results within 15 days of the completed closure.

13. DEFICIENCY:

The CUPA is not consistently documenting in sufficient detail whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, tank closure, removal and soil sampling complies with statute and regulation and maintaining closure records as required by statute and regulation.

Review of UST facility files finds the following examples of UST facilities where no documentation is provided to identify whether the USTs were properly closed:

- CERS ID 10450339: no documentation is provided identifying whether the tanks were properly closed.
- CERS ID 10451158: no documentation is provided identifying whether the tank was properly closed.

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

CITATION:

CCR, Title 23, Section 2672(d)

CCR, Title 27, Sections 15180(e)(2) and 15185(a) and (c)(3)

[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with its UST Closure procedure 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, removal and soil sampling complies with statute and regulation (i.e. correspondence, hardcopy, electronic media), and address how the CUPA will maintain closure records as required by statute and regulation.

By the 2nd Progress Report, the CUPA will, if necessary, amend the UST Closure procedure or other applicable procedure, based on feedback from the State Water Board, and will submit the amendments to CalEPA.

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By the 3rd Progress Report, the CUPA will implement and train personnel on the revised or amended UST Closure procedure or other applicable procedure and will provide training documentation to CalEPA. Training documentation will include, at a minimum an outline of the training conducted and a list of CUPA personnel in attendance.

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

For the next two 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) will be provided to the State Water Board within 15 days of the completed closure.

14. DEFICIENCY:

The CUPA is not consistently and correctly reporting CME information to CERS for the HWG Program.

The following are specific examples of CME information not being reported or being incorrectly reported to CERS:

- CERS ID 10445545
 - Violations cited on an inspection report dated March 1, 2018, are not in CERS.
 - An inspection dated April 26, 2018, is not in CERS.
- CERS ID 10464916
 - An inspection dated June 27, 2017, is not in CERS.
- CERS ID 10461553
 - An inspection dated March 22, 2017, is not in CERS.
- CERS ID 10435492
 - Violations cited on an inspection report dated October 19, 2019, are not in CERS.
- CERS ID 10446307
 - A violation cited on an inspection report dated December 21, 2017, is not in CERS.
 - Large Quantity Generator (LQG) violations were documented in CERS, however, this facility is a Small Quantity Generator (SQG).
- CERS ID 10469005
 - An inspection dated June 30, 2017, is not in CERS.
 - Both LQG violations and SQG violations are documented in CERS for an inspection on June 5, 2017.

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

Note: The CUPA has begun to identify and address the EnvisionConnect and CERS data transfer issue relative to CME information. Data for facility inspections conducted in 2015, 2016, and 2017 was reported to EnvisionConnect, however the information did not upload to CERS.

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)

CCR, Title 27, Sections 15187(c) and 15290(b)

[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with the Data Management Procedure or other applicable procedure to ensure the CUPA personnel consistently and correctly report violation information to CERS and to identify and address the EnvisionConnect and CERS data transfer issue relative to CME information.

By the 2nd Progress Report, the CUPA will amend the Data Management Procedure or other applicable procedure if necessary. The CUPA will implement and train personnel on the revised or amended Data Management Procedure or other applicable procedure and will provide training documentation to CalEPA, which at a minimum will include, an outline of the training conducted and a list of CUPA personnel in attendance.

By the 3rd Progress Report, the CUPA will have consistently and correctly reported inspection, violation, and enforcement information to CERS.

15. DEFICIENCY:

The CUPA is not properly classifying violations for the HWG and APSA Programs.

HWG Program:

The following examples are instances when the CUPA is citing HWG violations as minor violations that are Class I or Class II violations:

- Violation for exceedance of authorized accumulation time (illegally stored hazardous waste) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in Health and Safety Code, Section 25404(a)(3).
 - CERS ID 10630393: inspection dated May 2, 2018
 - CERS ID 10412983: inspection dated April 25, 2018
 - CERS ID 10503061: inspection dated April 4, 2018
 - CERS ID 10469719: inspection dated March 28, 2018
 - CERS ID 10441162: inspection dated March 26, 2018.
- Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. Since no training had been provided, employees are not familiar with hazardous waste issues and handling as well as how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of minor violation as defined in Health and Safety Code, Section 25404(a)(3).

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- CERS ID 10468801: inspection dated June 1, 2017
- CERS ID 10469227: inspection dated May 3, 2017
- CERS ID 10441303: inspection dated August 30, 2016
- CERS ID 10445545: inspection dated May 24, 2017
- CERS ID 10468669: inspection dated March 17, 2016.

APSA Program:

The CUPA cited not having a SPCC Plan as a minor violation in 2 of 4 (50%) instances during FY 2015/2016 through FY 2017/2018.

- Not having an SPCC Plan is not considered a minor violation as defined in HSC, Section 25404(a)(3) and is inconsistent with and less stringent than the U.S. Environmental Protection Agency Civil Penalty for Section 311(b)(3) and Section 311(j) of the Clean Water Act. 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.”

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

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6

HSC, Chapter 6.67, Sections 25270.4.1(c), 25270.12, 25270.12.1, and 25270.12.5

CCR, Title 22, Sections 66260.10, 66262.34

[OSFM, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will train staff on the violation classification terms: minor, Class I, and Class II, as described in HSC, Chapter 6.11, Section 25404(a)(3), HSC, Chapter 6.5, Sections 25110.8.5, 25117.6 and CCR, Title 22, Section 66260.10. The CUPA will ensure personnel review the following violation classification video and violation classification guidance:

- [Violation Classification Training Video 2014:](#)
 - <https://www.youtube.com/watch?v=RB-5V6RfPH8>
- [Violation Classification Guidance:](#)
 - <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>

The CUPA will train personnel on how to properly classify violations for the HWG and APSA Programs during routine compliance inspections and will provide CalEPA with training documentation, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance.

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DEFICIENCIES REQUIRING CORRECTION

CUPA inspectors may request additional training assistance from OSFM and DTSC, and may also review training classes regarding properly classifying violations available in the [video library](https://calcupa.org/training/training-video-library.html) on the CUPA Forum Board website at: <https://calcupa.org/training/training-video-library.html>

By the 2nd Progress Report, the CUPA will provide CalEPA with three HWG inspection reports, as selected by DTSC, for facilities cited with hazardous waste violations.

16. DEFICIENCY:

The CUPA has not fully implemented the tiered permitting (TP) program.

The following are instances where TP requirements were not implemented:

- The CUPA is not implementing TP requirements at the following hazardous waste facilities that appear not to be properly managing and disposing of hazardous waste in a timely manner, and are not authorized under the correct treatment tier:
 - CERS ID 10464916: Facility conducts nickel and chromium plating. The facility has not manifested any metal bearing wastes since 2006. The only wastes being manifested are parts washing waste. Additionally, to conduct plating, facilities need to treat waste onsite in order to discharge wastewater to the sewer. This facility has no tiered permitting or recycling CERS submittals.
 - CERS ID 10470673: Facility conducts copper and nickel plating and has cyanides onsite according to the chemical inventory. Manifest data indicates that this facility is only manifesting hazardous waste every two years. Additionally, wastes expected to be generated monthly and seen in manifest data such as wastewater treatment sludge, was last manifested in 2016 and prior to that, not since 2008. The tiered permitting CERS submittal appears to be incorrect, in that it indicates the facility treats 10,000 gallons of waste a month, yet has a conditionally exempt small quantity treatment (CESQT) authorization, which is for treating less than 55 gallons of certain wastes per month. In addition, as the facility has cyanide onsite, a permit-by-rule (PBR) application should have been submitted to do cyanide destruct onsite in order to discharge wastewater to the Publicly Owned Treatment Work (sewer system). No submittal for a PBR facility was in CERS.

CITATION:

HSC, Chapter 6.5, Sections 25101(d)

HSC, Chapter 6.11, Section 25404.2(a)(1)(A)

CCR Title 22, Sections 67450.3(c) and 67450.2(b)(4)

CCR, Title 27, Section 15100 (b)(3), and Section 15200(a)(3)(A)

[DTSC]

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to fully implement the TP program. The action plan will at minimum address the specific items in this deficiency.

By the 2nd Progress Report, the CUPA will train personnel on how to properly implement the TP Program and will provide CalEPA with training documentation, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance.

17. DEFICIENCY:

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

Review of CERS CME information indicates the following:

Fiscal Year 2017/2018:

- APSA: 8 of 9 (89%) violations have no reported RTC, including one violation for no SPCC Plan.
- HWG: 60 of 99 (61%) violations have no reported RTC.

Fiscal Year 2016/2017

- APSA: 2 of 9 (22%) violations have no reported RTC, including one violation for no SPCC Plan.
- HWG: 24 of 104 (23%) violations have no reported RTC.

Fiscal Year 2015/2016

- APSA: 2 of 2 (100%) violations have no reported RTC.

Note: Facilities that operate without a SPCC Plan present a significant threat to human health or the environment, and the violator may benefit economically from the noncompliance either by reduced costs or competitive advantage.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet of all facilities that have open violations. The CUPA will follow-up with the facilities listed in the spreadsheet and will prioritize follow-up actions based on the level of hazard. At minimum, for each facility listed, the spreadsheet will include:

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DEFICIENCIES REQUIRING CORRECTION

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

By the 3rd Progress Report, the CUPA will provide CalEPA with 10 facility records that document RTC for HWG violations cited between July 1, 2015, and June 30, 2018.

By the 3rd Progress Report, the CUPA will provide CalEPA with RTC documentation, from the previous quarter for the following five APSA facilities, as selected by OSFM:

- CERS ID 10452205
 - CERS ID 10452904
 - CERS ID 10435492
 - CERS ID 10452763
 - CERS ID 10469719
-

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INCIDENTAL FINDINGS REQUIRING RESOLUTIONS

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

1. INCIDENTAL FINDING:

The CUPA is not ensuring all USTs including associated piping, used for the storage of hazardous substances installed on, or after, July 1, 2004, comply with the requirements of HSC, Chapter 6.7, Section 25290.1.

Review of CERS and UST facility files finds the following facility does not comply with the design, construction, monitoring, and testing requirements of HSC, Chapter 6.7, Section 25290.1:

- CERS ID 10452973: (Tanks T-1 and T-2) installed January 1, 2008, indicate single-wall construction in CERS for product/waste piping, piping/turbine containment sump, vent piping, riser/fill piping, and under dispenser containment. In addition, these tanks indicate no vent piping containment sump is installed.

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

Note: State Water Board Local Guidance Letters 162-1, 162-2, and 162-3 dated July 25, 2003, October 12, 2007, and March 5, 2008, respectively may be referenced.

CITATION:

HSC Chapter 6.7 25290.1

[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will review facility records for USTs used for the storage of hazardous substances installed on, or after July 1, 2004, to determine whether the facilities meet the applicable monitoring and construction requirements based on the installation date. The CUPA will provide a detailed analysis to CalEPA regarding the outcome of the review and a determination whether the facilities are in compliance.

By the 2nd Progress Report, if it has been determined facilities are not in compliance with applicable monitoring and construction requirements, the CUPA will inform the facility owner/operators in writing that the installed UST system does not comply with the requirements of HSC, Chapter 6.7, Section 25290.1. The CUPA will include information regarding what is required to bring the facility into compliance and a timeline for obtaining compliance. The CUPA will carbon copy both CalEPA and the State Water Board on the correspondence to the UST facility owner/operator.

2. INCIDENTAL FINDING:

The CUPA's I&E Plan is missing a required component and has inaccurate or incomplete information.

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INCIDENTAL FINDINGS REQUIRING RESOLUTIONS

The I&E Plan has not been updated in the last year.

The following component is missing:

- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.

The following information is inaccurate or incomplete:

- Page 2: In the Required Frequency of Inspection table, the triennial statutory inspection frequency applies to APSA facilities storing 10,000 gallons or more of petroleum. It is accurate to cite HSC 25270.5(a) when referencing these APSA mandated inspections.
- Page 24: The APSA column on the Matrix of Enforcement Options table is missing an “X” in the table, corresponding to Notice to Comply, Administrative Order and Referral to State/Federal agency.
- Page 37: Add an APSA acronym.
- Various instances of inconsistent referral to the APSA program as AST, aboveground storage tanks, or SPCC were observed, including on the Table of Contents and on Pages 1, 2, 7 and 30.

CITATION:

CCR, Title 27, Section 15200(a)

[DTSC, CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the I&E Plan that incorporates the identified missing component.

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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. OBSERVATION:

The CUPA's website contains an Above Ground Storage Tanks webpage describing APSA program requirements, which omits the SPCC Plan implementation requirement for owners/operators.

RECOMMENDATION:

Update the description of APSA program requirements on the Above Ground Storage Tanks webpage. Add APSA and SPCC Plan links on the CUPA's website as follows:

- Please visit the [Office of the State Fire Marshal website](http://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act) (<http://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act>) for more information on the APSA program and the [U.S. Environmental Protection Agency website](https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations) (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>) for information on SPCC requirements.
-

2. OBSERVATION:

The CUPA does not utilize a comprehensive APSA specific checklist when conducting APSA facility inspections.

The CUPA has been provided the four 2017 APSA TAG inspection checklists, for use at Conditionally Exempt facilities, Tier I qualified facilities, Tier II qualified facilities, and professional engineer-certified SPCC Plan facilities.

RECOMMENDATION:

Utilize the most recent and comprehensive APSA TAG inspection checklists and ensure that the inspection checklist used is applicable to the APSA tank facility being inspected.

3. OBSERVATION:

Review of the CUPA's UST monitoring and construction information in CERS finds the data is largely accurate and complete. A limited number of instances were identified where the CUPA is not consistently ensuring UST related information in CERS is accurate and complete based on the UST Facility/Tank Data Download report obtained from CERS on November 6, 2018.

Note: The following CERS FAQs may be referenced:

- "General Reporting Requirements for USTs";
- "When to Issue a UST Operating Permit";

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OBSERVATIONS AND RECOMMENDATIONS

- “Common CERS Reporting Errors”;
- “Setting Accepted Submittal Status”; and
- “Which Forms Require Uploading to CERS.”

State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records” may be referenced.

RECOMMENDATION:

Review UST submittals in CERS for inaccurate data and continue to assist facility owners/operators to obtain accurate and complete data with the next CERS submittal, but no later than one year.

4. OBSERVATION:

Review of CERS inspection information finds the CUPA is classifying “Other” inspections as “Routine” inspections for the following limited number of inspections:

- Fiscal Year 2017/2018:
 - CERS ID 10156103: has three routine inspections in two months
 - CERS ID 10398634: has two routine inspections in the same month
 - CERS ID 10154957: has two routine inspections in five months
- Fiscal Year 2016/2017:
 - CERS ID 10409101: has three routine inspections in 12 months
 - CERS ID 10405261: has two routine inspections in the same month
 - CERS ID 10472926: has two routine inspections in four months
- Fiscal Year 2015/2016:
 - CERS ID 10468228: has two routine inspections in two months

A routine inspection is a regularly scheduled inspection to evaluate compliance, a routine inspection does not include follow-up inspections. Other inspections include complaint investigations, closure, release investigations, tank installation and/or removal oversight, tank cleaning, and follow-up enforcement inspections, or other inspections that may be in addition to a regularly scheduled inspection.

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

RECOMMENDATION:

Classify annual compliance inspections as “Routine” and inspections such as verification inspections, complaint investigations, enforcement follow-up, closures, tank installation and/or removal oversight, tank cleaning, and release investigations as “Other.”

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OBSERVATIONS AND RECOMMENDATIONS

Multi-day inspections are reported in CERS as one inspection regardless of the number of days needed to complete an inspection. CERS FAQ “How to Report Multi-Day Inspections in CERS” may be referenced.

5. OBSERVATION:

The CUPA is not consistently ensuring that all operating HWGs have current active U.S. EPA ID numbers.

- 160 of 192 (83%) HWGs have active U.S. EPA ID numbers in the Hazardous Waste Tracking System (HWTS).

RECOMMENDATION:

During HWG inspections, determine whether or not the HWG has an active U.S. EPA ID number and whether or not the HWG is responding to DTSC’s annual electronic U.S. EPA ID number verification questionnaire (eVQ). If a HWG has an inactive or suspended U.S. EPA ID number due to the fact that the HWG did not submit an eVQ to DTSC and/or is not receiving an email notification from DTSC to submit an eVQ, advise the HWG to submit DTSC Form 1358 and direct the HWG to the resources below:

- Form 1358 to Reactivate an EPA ID number:
http://www.dtsc.ca.gov/HazardousWaste/upload/GISS_FORM_1358.pdf
- Information Regarding EPA ID number Verification Questionnaire and FAQ:
https://www.dtsc.ca.gov/IDManifest/VQ_FAQ.cfm
- Electronic Verification Questionnaire Homepage:
<https://evq.dtsc.ca.gov/evq/>

6. OBSERVATION:

The CUPA’s HWG inspection report is lacking sufficient violation citations for SQGs and TP facilities. As a result, the inspection report may not be appropriate for those facilities.

RECOMMENDATION:

Create a revised HWG inspection report checklist (or multiple checklists) specific for each HWG type. The CUPA may choose to use the HWG inspection checklists provided by the California CUPA Forum Board: <https://calcupa.org/inspection-checklist/index.html>