

**CERTIFIED UNIFIED PROGRAM AGENCY**  
**Evaluation Progress Report #3****CUPA: Yolo County Environmental Health****Evaluation Period:** September 2020 through February 2021**Evaluation Team Members:**

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Matthew McCarron
- **Cal OES\*:** Fred Mehr, Jack Harrah, Garrett Chan
- **State Water Board:** Wesley Franks
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glenn Warner

**Evaluation Progress Report #3 Received by CalEPA:** April 19, 2022**Deficiencies Pending Correction:** #1-7**Incidental Findings Pending Resolution:** #1, 3**Evaluation Progress Report #4 Due to CalEPA:** August 1, 2022**Deficiencies Pending Correction:** #1-6**Incidental Findings Pending Resolution:** #3

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

**Samuel Porras**

CalEPA Unified Program

Phone: (916) 327-9557

E-mail: [Samuel.Porras@calepa.ca.gov](mailto:Samuel.Porras@calepa.ca.gov)

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

Each Evaluation Progress Report must include a narrative stating the status of progress towards the correction of each deficiency and resolution of each incidental findings identified in the Final Summary of Findings Report. Evaluation Progress Reports will continue to be submitted until all deficiencies and incidental findings have been acknowledged as corrected and resolved by each issuing state agency.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via mail or E-mail.

Though subject to change, the Evaluation Progress Report submittal dates for the first year following the evaluation are as follows:

**1<sup>st</sup> Progress Report:** July 9, 2021**2<sup>nd</sup> Progress Report:** October 7, 2021**3<sup>rd</sup> Progress Report:** April 19, 2022**4<sup>th</sup> Progress Report:** August 1, 2022

\*Effective July 1, 2021, oversight of the Hazardous Materials Release Response Plans and Inventory and the California Accidental Response Prevention Program transitioned from Cal OES to CalEPA.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**1. DEFICIENCY:**

The Unified Program administrative procedures have components that are incomplete.

The following components are incomplete:

- The Public Participation procedure, titled “Public Participation Policy” does not identify how the CUPA is coordinating, consolidating, and making consistent locally required public hearings. The process and guidelines for facilitating a public hearing are not discussed in the procedure. The CUPA provided information in the “Yolo County Administrative Procedures” related to issuing public notices that is not included in the CUPA’s “Public Participation Policy.”
- The Records Maintenance procedure addressed within the “Yolo County Administrative Procedures” discusses how the CUPA has transitioned to paperless electronic reporting, however the CUPA has not addressed the minimum retention times, archival procedures, and proper disposal methods for paper documents that are retained. The CUPA has not addressed how paper documents are disposed once they have been scanned into the CUPA’s OnBase local data management system.
- The procedures for providing Hazardous Materials Release Response Plan (HMRRP) information within the “Yolo County Administrative Procedures” does not address provisions for providing “emergency response personnel and other appropriate government entities” access to HMRRP information.
- The Data Management procedure addressed within the “Yolo County Administrative Procedures” does not identify the full list of CUPA-related documents required to be retained for the five-year minimum retention time that includes:
  - Self-Audit reports, enforcement files, all records related to hazardous waste enforcement actions, detailed records used to produce the summary reports submitted to the state, surcharge billing and collection records, and training records.
- The Data Management procedure does not include provisions for submitting CME information from the West Sacramento Fire Department PA and from the Yolo County Department of Agriculture to the CUPA are not outlined in any written procedure or document. The Yolo County Administrative Procedures should include provisions for addressing how the West Sacramento Fire Department PA and the Yolo County Department of Agriculture submit CME information to the CUPA for uploading to CERS.
- The Permitting procedures addressed within the “Yolo County Administrative Procedures” do not include, the following components in regards to issuing a Unified Program Facility Permit (UPFP) in cooperation with the West Sacramento Fire Department Participating Agency (PA):
  - Time lines and time limits of appeal processes,
  - Provisions for preliminary check for application completeness,
  - Provisions for technical review of permit applications by the responsible agency,
  - A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, and
  - A process for identifying and utilizing efficient methods of transmitting the permit.
- Financial Management Procedures do not include:
  - Single Fee System
    - The CUPA, in cooperation with the West Sacramento Fire Department PA, has not delineated a process for examining how fees are set based on the necessary and reasonable costs to implement the Unified Program. Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- The CUPA shall ensure that all funds collected on behalf of the West Sacramento Fire Department PA are forward to the PA. The CUPA shall reimburse the West Sacramento Fire Department PA within 45 days of receiving designated fees designated unless the West Sacramento Fire Department PA and CUPA agree, in writing, to an alternate schedule. Written provisions outlining this process have not been provided.
- The plan to resolve fee disputes, titled the “Fee Dispute Resolution Process” does not specify that if disputes are referred to CalEPA, they shall be made in writing and include a recommendation for resolution.
- Fee accountability program
  - The CUPA and West Sacramento Fire Department PA shall annually review and update the fee accountability program. There is no means to determine if review has occurred.

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a copy of the revised Unified Program administrative procedures that completely address all required components.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA and the West Sacramento Fire Department PA, in consultation with the CUPA, will train CUPA and West Sacramento Fire Department PA personnel on the applicable revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of the CUPA and West Sacramento Fire Department PA personnel in attendance. Once training is complete, the CUPA and the West Sacramento Fire Department PA will implement the revised Unified Program administrative procedures.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised Unified Program administrative procedures were necessary, the CUPA, and the West Sacramento Fire Department PA in consultation with the CUPA, will train CUPA and West Sacramento Fire Department PA personnel on the amended Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA and West Sacramento Fire Department PA personnel in attendance. Once training is complete, the CUPA and West Sacramento Fire Department PA will implement the amended Unified Program administrative procedures.

**CITATION:**

California Code of Regulations (CCR), Title 27, Sections 15180(e), 15185(b), 15190, 15210(c), (f), and (k)(1)(A), 15220(a)(2), and 15290(a)(3)  
[CalEPA]

**CUPA Update 1:**

The CUPA Administrative SOP, Public Participation document, and Fee Dispute Resolution document have been updated to include the items listed as missing above.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**Evaluation Team Response 1 [CalEPA]:**

The CUPA provided a Public Participation Policy, Fee Dispute Resolution policy, Guidelines for Issuing Annual Underground Storage Tank Operating Permits (Permitting procedure), and Administrative Procedures document.

- The Public Participation Policy identifies how the CUPA is coordinating, consolidating, and making consistent locally required public hearings. The Administrative Procedures document contains a passage that is now consistent with the Public Participation Policy. The Public Participation Policy is satisfactory.
- The Fee Dispute Resolution Process includes a specification that any fee disputes referred to CalEPA shall be made in writing and include a recommendation for resolution. The Fee Dispute Resolution Process is satisfactory.
- The CUPA's Permitting Procedure (Guidelines for Issuing Annual Underground Storage Tank Operating Permits) includes provisions for a preliminary check for application completeness, provisions for technical review of permit applications by the responsible agency, and a procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing. The procedure does not address provisions for time lines and time limits of appeal processes and a process for identifying and utilizing efficient methods of transmitting the permit. The procedure is still incomplete. With the next progress report, ensure the procedure includes all required components.
- The Records Maintenance procedure addressed within the Administrative Procedures document asserts that all CUPA documentation is scanned and/or saved electronically. All remaining paper files that have been scanned are placed in boxes and labeled and placed in the CUPA office storage room. If files were to be discarded in the future, confidential documents would be shredded and recycled. There is a limited amount of historic program-related files that are in the process of being scanned. All electronic documents are kept indefinitely. The Records Maintenance procedure is satisfactory.
- The CUPA's HMRRP policy addressed within the Administrative Procedures document states that emergency responders including local fire departments have access to CERS. Review of the CERS database supports this statement and there are several personnel from the fire department and other emergency response personnel from various county programs that have access to HMRRP information. The HMRRP policy is satisfactory.
- The Data Management procedure addressed within the Administrative Procedures document identifies all documentation required to be retained for the five-year minimum retention time under Title 27 Section 15185(b). The Data Management procedure is satisfactory.
- The Data Management procedure addressed within the Administrative Procedures document contains a narrative discussing the responsibilities of the West Sacramento Fire Department and Yolo County Department of Agriculture in the coordination and distribution of CME information to CERS. The CUPA manages the facility reviews, inspection and return to compliance (RTC) data entry, and training of new staff while the West Sacramento Fire Department PA will only conduct inspections at facilities designated by the CUPA. The Yolo County Department of Agriculture PA will only conduct inspections at farm facilities while the CUPA will conduct CERS reviews for farm facilities, inspection and RTC data entry, and training of new staff. The CUPA transfers CME information data quarterly to CERS via electronic data transfer which also includes the data for facilities inspected by the West Sacramento Fire Department PA and the Yolo County Department of Agriculture PA.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

Though not required, it would be beneficial to clarify the program elements for which the West Sacramento Fire Department has been authorized to conduct inspections in the City of West Sacramento as a Participating Agency (HMBP, UST and APSA), and for which the Yolo County Agricultural Commissioner is authorized to conduct on farms (HMBP). The Data Management procedure is satisfactory.

- The Financial Management Procedures as addressed in the Administrative Procedures document contains verbiage requiring the West Sacramento Fire Department PA to assess a fee schedule consistent with the fee schedule set by the CUPA. The CUPA reimburses the West Sacramento Fire Department PA for the inspections that they conduct at a rate agreed upon in the Participating Agency agreement (addressed separately in Deficiency #3). In the fall of 2021, the CUPA will reexamine the reimbursement rate to verify that the fees assessed matches the cost for the CUPA to do inspections within the jurisdiction. Every quarter, the West Sacramento Fire Department PA sends the CUPA an invoice for the facilities inspected and the CUPA will provide payment within 30 days. With the next progress report, ensure the Single Fee System has fully addressed consistency in the fee schedules between the CUPA and West Sacramento Fire Department PA. Additionally, the CUPA will ensure how they ensure they are consistently conducting an annual review and update of the fee accountability program.

With the next progress report, the CUPA will provide CalEPA with the following amended Unified Program administrative procedures:

- Guidelines for Issuing Annual Underground Storage Tank Operating Permits (Permitting Procedure)
- Financial Management Procedures (as addressed in the Administrative Procedures)

The CUPA, the West Sacramento Fire Department PA (in consultation with the CUPA) and the Yolo County Agricultural Commissioner (in consultation with the CUPA), will train CUPA, West Sacramento Fire Department PA personnel, and Yolo County Agricultural Commissioner personnel on the revised and approved applicable Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of the CUPA, West Sacramento Fire Department PA, and Yolo County Agricultural Commissioner personnel in attendance.

**CUPA Update 2:**

The Guidelines for Issuing Annual Underground Storage Tank Operating Permits (Permitting Procedure) has been updated to correct the deficiencies described above and a copy has been uploaded to the SharePoint folder.

The CUPA's Administrative SOP document has been updated and a copy has been uploaded to the SharePoint folder. The updated document has been sent to CUPA staff and the WSFD and Ag. Dept. staff for their review. Because of the pandemic, the CUPA cannot conduct a formal in-person training. When the CUPA staff and the WSFD and Ag. Dept. staff have completed review of the document, they have been asked to confirm via email. This will serve as the verification of training. The CUPA will upload a training log that describes the training together with a table that summarizes the dates that CUPA and PA staff completed the training.



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**Evaluation Team Response 2 [CalEPA]:**

The provided Guidelines for Issuing Annual Underground Storage Tank Operating Permits (Permitting procedure) include acceptable provisions for addressing time lines and time limits of appeal processes and a process for identifying and utilizing efficient methods of transmitting the permit. The Permitting procedure does not address:

- Provisions for preliminary check for application completeness
- Provisions for technical review of permit applications by the responsible agency
- A procedure for tracking permit applications, establishing follow-up protocol and facilitating expeditious processing

The provided Financial Management Procedures, as addressed in the Administrative Procedures document, contains acceptable verbiage assessing the West Sacramento Fire Department PA's fee schedule consistency with the fee schedule set by the CUPA. The Single Fee System procedures do not address:

- A delineated cooperative process between the CUPA and West Sacramento Fire Department PA for examining how fees are set based on the necessary and reasonable costs to implement the Unified Program. Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.
- The CUPA ensuring that all funds collected on behalf of the West Sacramento Fire Department PA are forwarded to the PA. The CUPA shall reimburse the West Sacramento Fire Department PA within 45 days of receiving designated fees unless the otherwise agreed to in writing.

Additionally, the CUPA schedules a comprehensive fee review with a fee consultant every three years, which does not align with the requirement for the CUPA and PA to conduct an annual review and update of the fee accountability program.

The provided training log certifies the names and dates personnel from the CUPA, West Sacramento Fire Department PA, and Yolo County Agricultural Commissioner were trained on the Administrative and Financial Management Procedures documents, however the training log does not specify that personnel from the CUPA, West Sacramento Fire Department PA, and Yolo County Agricultural Commissioner have been trained on the following specific policies and procedures, considered adequate by CalEPA:

- Public Participation Policy procedures regarding:
  - coordination, consolidation and making consistent locally required public hearings.
- Administrative Procedures regarding:
  - Indefinite retention of electronic documents, and electronic scanning and saving of paper files, shredding and recycling of electronically scanned confidential paper files that may be discarded in the future
  - HMRRP policy that emergency responders, including local fire departments, have access to CERS.
  - Data Management procedure that:
    - identifies all documentation required to be retained for the five-year minimum retention time under Title 27 Section 15185(b).
    - contains a narrative discussing the responsibilities of the CUPA, West Sacramento Fire Department PA and Yolo County Department of Agriculture in the coordination and distribution of CME information to CERS

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- Financial Management Procedures, regarding:
  - requiring the West Sacramento Fire Department PA to assess a fee schedule consistent with the fee schedule set by the CUPA.

With the next Progress Report, provide CalEPA with the following amended Unified Program administrative procedures:

- Guidelines for Issuing Annual Underground Storage Tank Operating Permits (Permitting procedure), which include:
  - Provisions for preliminary check for application completeness
  - Provisions for technical review of permit applications by the responsible agency
  - A procedure for tracking permit applications, establishing follow-up protocol and facilitating expeditious processing
- The Single Fee System, as part of the Financial Management Procedures, procedures, which include:
  - A delineated cooperative process between the CUPA and West Sacramento Fire Department PA for examining how fees are set based on the necessary and reasonable costs to implement the Unified Program. Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.
  - The CUPA ensuring that all funds collected on behalf of the West Sacramento Fire Department PA are forwarded to the PA within 45 days of receipt, unless otherwise agreed to in writing.
- Fee Accountability Program procedures, as part of the Financial Management Procedures, that align with the requirement for the CUPA and PA to conduct an annual review and update of the fee accountability program.

Once the amended Unified Program administrative procedures identified above have been reviewed and determined adequate by CalEPA, the CUPA, the West Sacramento Fire Department PA (in consultation with the CUPA) and the Yolo County Agricultural Commissioner (in consultation with the CUPA), will train personnel of the CUPA, West Sacramento Fire Department PA, and Yolo County Agricultural Commissioner on the amended procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted (including specified amended procedures) and a list of personnel in attendance from the CUPA, West Sacramento Fire Department PA, and Yolo County Agricultural Commissioner.

**CUPA Update 3:**

- In the existing CUPA Guidelines for Issuing Annual Underground Storage Tank Operating Permits, under “D. Procedure”, are describes steps that the UST staff take to conduct a preliminary check for application completeness, including verification of payment of fees, determining facility compliance, determining if annual monitoring certification is current, determining if secondary containment certification is current, determining if the facility’s CERS submittals are complete and correct, determining if cathodic protection requirements have been met, determining if routine inspection has been conducted within the past 12 months, and checking for any open violations.  
This covers the preliminary check for application completeness. This also covers provisions for technical review of permit applications by the responsible agency. The rest of section “D. Procedure” talks about the CUPA’s procedure for tracking permit applications, following up and making sure permits are not held up unnecessarily. The current policy and procedure has been uploaded again to the SharePoint folder.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- The CUPA Manager has added verbiage to the Financial Management Procedures in the CUPA SOP document to include a description of the process of how fees are set based on cost of implementation of the programs. Also, the CUPA added that funds collected on behalf of the WSFD are forwarded to the PA within 30 days. The CUPA added that currently, the CUPA and PA conduct separate annual reviews and updates of their fee accountability program. The CUPA has uploaded a copy of the updated SOP in the SharePoint folder.

**Evaluation Team Response 3 [CalEPA]:**

The provided Guidelines for Issuing Annual Underground Storage Tank Operating Permits (Permitting procedure) include acceptable provisions for provisions for preliminary check for application completeness, provisions for technical review of permit applications by the responsible agency, and a procedure for tracking permit applications, establishing follow-up protocol and facilitating expeditious processing. A detailed review of the CUPA's response and reasoning substantiates the components have already been incorporated into the Permitting procedure and is considered satisfactory.

The provided Financial Management Procedures, as addressed in the Administrative Procedures document, contains acceptable verbiage for the Single Fee System ensuring that all funds collected on behalf of the West Sacramento Fire Department PA are forwarded to the PA within 30 days of receipt, as specified in the procedure. The Single Fee System includes a statement that the CUPA and the West Sacramento Fire Department PA "reviews the fees to ensure that the fees do not exceed the cost to run the program." No other details are provided. The Fee Accountability Program includes a statement that the "CUPA and the PA conduct their own annual review and update of the fee accountability program." Details regarding both components in the Single Fee System and Fee Accountability Program are limited but considered satisfactory.

With the next progress report, the CUPA, the West Sacramento Fire Department PA (in consultation with the CUPA) and the Yolo County Agricultural Commissioner (in consultation with the CUPA), will train personnel of the CUPA, West Sacramento Fire Department PA, and Yolo County Agricultural Commissioner on the amended procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted (including specified amended procedures) and a list of personnel in attendance from the CUPA, West Sacramento Fire Department PA, and Yolo County Agricultural Commissioner.

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**2. DEFICIENCY:**

Required components of the Inspection and Enforcement (I&E) Plan are missing, incomplete, or inaccurate.

The following component is missing:

- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material is performed by a state certified laboratory.

The following components are incomplete:

- Identification of all available enforcement options.
  - The I&E Plan addresses implementing various types of enforcement in different scenarios, but does not provide adequate context to convey the full range of informal and formal enforcement options utilized and when each is applied.



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
  - The I&E Plan addresses complaints within the context of the CalEPA Environmental Complaint System database, but does not address complaints received directly by the CUPA through the Yolo County website:  
<https://www.yolocounty.org/community-services/environmental-health-services/file-an-environmental-health-complaint>.
- The I&E Plan does not reflect the Health and Safety Code (HSC), Chapter 6.7, provisions of the red tag authority which prevents the withdrawal of fuel from a Underground Storage Tank (UST). Beginning January 1, 2019, no person shall withdraw fuel from a UST that has a red tag affixed to its fill pipe, except to empty the UST pursuant to a directive from the CUPA or State Water Board.

The following components are inaccurate:

- Contents of the Penalty Matrix specify a penalty less than \$500, when the minimum UST penalty is no less than \$500.

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that addresses the missing, incomplete, and inaccurate components.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, DTSC, or the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3<sup>rd</sup> Progress Report, if amendments were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended I&E Plan.

**CITATION:**

HSC, Chapter 6.7, Sections 25292.3 and 25299(a)  
CCR, Title 27, Section 15200(a)  
[CalEPA, DTSC, State Water Board]

**CUPA Update 1:**

The I&E Plan has been updated to address the issues above. A copy of the updated I&E Plan has been uploaded to the SharePoint folder.

**Evaluation Team Response 1 [CalEPA, DTSC, State Water Board]:**

**CalEPA:** The revised I&E Plan adequately ensures the CUPA has sampling capability and the analysis of any material is performed by a state certified laboratory. The I&E Plan includes a description of how complaints are received and handled by the CUPA. Both provisions are considered satisfactory.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

The I&E Plan does not include a description of all available enforcement options and adequate context to convey the full range of informal and formal enforcement options utilized and when each is applied.

With the next progress report, the CUPA will provide an amended I&E plan that adequately address and identifies all available enforcement options.

The CUPA may train CUPA personnel on the revised and approved components of the I&E Plan. The CUPA will need to train CUPA personnel on the remaining I&E Plan components once amended and approved by CalEPA. If the CUPA chooses to train CUPA personnel on the revised and approved components of the I&E Plan, the CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

**DTSC:** Review of the sampling capability and analysis procedures in the I&E plan finds the revisions acceptable.

With the next progress report, the CUPA will train CUPA personnel on the applicable revised and approved I&E Plan components and provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

**State Water Board:** Review of the revised I&E Plan finds the revisions acceptable. The CUPA has included language to reflect the red tag authority which prevents the withdrawal of fuel from a UST and has updated the Penalty Matrix to reflect no less than \$500 per violation, per day of violation, per UST.

With the next progress report, the CUPA will train CUPA personnel and UST inspection staff on the applicable revised and approved I&E Plan components and provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

**CUPA Update 2:**

The CUPA's I&E Plan has been updated and a copy has been uploaded to the SharePoint folder. The updated document has been sent to CUPA staff and the WSFD and Ag. Dept. staff for their review. Because of the pandemic, the CUPA cannot conduct a formal in-person training. When the CUPA staff and the WSFD and Ag. Dept. staff have completed review of the document, they have been asked to confirm via email. This will serve as the verification of training. The CUPA will upload a training log that describes the training together with a table that summarizes the dates that CUPA and PA staff completed the training.

**Evaluation Team Response 2 [CalEPA, State Water Board]:**

**CalEPA:** The revised I&E Plan adequately addresses all available enforcement options and adequate context to convey the full range of informal and formal enforcement options utilized and when each is applied. The I&E Plan is satisfactory.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

On November 1, 2021, the CUPA provided a training log identifying the list of personnel from the CUPA, West Sacramento Fire Department PA, and the Yolo County Agricultural Commissioner trained on the revised portions of the I&E Plan. CalEPA considers this deficiency corrected.

**State Water Board:** Review of the revised I&E Plan amended on September 30, 2021 finds the table for the UST fee penalty matrix still reflects \$0 as the minimal penalty, although the language states the minimum penalty shall be no less than \$500. Additionally, the CUPA did not provide training documentation for the UST inspection staff that were trained on the amended I&E Plan.

With the next Progress Report, provide an amended I&E Plan, and training documentation, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance.

**CUPA Update 3:**

The I&E Plan has been amended to correct the issue stated above. In Progress Report #2, the CUPA provided a training log for staff training on the I&E Plan. All CUPA inspectors except our new hire (who doesn't conduct UST facility inspections) are ICC-certified UST inspectors. A copy of the I&E Plan and that training log have been uploaded to the SharePoint folder.

**Evaluation Team Response 3 [State Water Board]:**

Due to extenuating circumstances, the State Water Board is not able to review the amended I&E Plan, which should include a UST fee penalty matrix reflecting the minimum penalty, stated to be no less than \$500. The training log provided should reflect UST inspection staff have been trained on the UST fee penalty matrix reflecting the minimum penalty as no less than \$500. The State Water Board will provide a response with the next Progress Report.

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**3. DEFICIENCY:**

The CUPA has instituted changes in the roles and responsibilities of the West Sacramento Fire Department Participating Agency (PA) and the Yolo County Department of Agriculture without notifying and receiving approval from CalEPA.

The CUPA did not submit a proposal to the Secretary to address changes in the roles or responsibilities of the West Sacramento Fire Department PA, nor the Yolo County Department of Agriculture as follows:

- The West Sacramento Fire Department PA was certified as a PA in 2003 by CalEPA for the implementation of the Hazardous Materials Business Plan (HMBP) Program, Underground Storage Tank (UST) Program, and the Aboveground Petroleum Storage Act (APSA) Tank Program within the City of West Sacramento.
  - The CUPA has since removed implementation of the UST and APSA Programs from the West Sacramento Fire Department PA without providing notification to CalEPA.
  - Currently, without authorization from CalEPA, the CUPA has delegated the West Sacramento Fire Department PA to conduct inspections of the Hazardous Waste Generator (HWG) Program for Small Quantity Generators (SQGs) within the City of West Sacramento.
  - Currently, as authorized by CalEPA, the CUPA has delegated the West Sacramento Fire Department PA to implement the HMBP Program within the City of West Sacramento.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- The 2003 Agreement between the CUPA and the West Sacramento Fire Department PA outlines the PA responsibilities to implement the “Hazardous Waste Generator Program where the facility only generates recyclable waste,” which is in conflict with the certification by CalEPA in 2003, and therefore does not authorize the West Sacramento Fire Department to implement any aspect of the HWG Program.
- The Yolo County Department of Agriculture is conducting inspections of farm facilities within the HWG and APSA Programs without authorization from CalEPA.
  - HSC, Chapter 6.95, Sections 25507.1 and 25511 authorize a CUPA to designate the county agricultural commissioner to conduct the HMBP inspection of agricultural handlers pursuant to a written agreement. The agreement does not need to be certified nor approved by CalEPA.

**CORRECTIVE ACTION:**

The West Sacramento Fire Department PA and the Yolo County Department of Agriculture must cease conducting HWG Program inspections, for all HWG type facilities. The Yolo County Department of Agriculture must also cease conducting APSA Program inspections.

By the 2<sup>nd</sup> Progress Report, if the CUPA decides to proceed with instituted changes in the roles and responsibilities of the West Sacramento Fire Department PA and the Yolo County Department of Agriculture, the CUPA will adhere to the requirements of CCR, Title 27, Section 15300 and will provide CalEPA with a proposal to add or remove program element authorizations for change, which will include the following:

- An explanation of the proposed changes in sufficient detail to enable a full understanding of the roles and responsibilities of the CUPA, the PA, and the Yolo County Department of Agriculture;
- PA agreements for any new PAs or any changes in the role or responsibilities of any PA;
- Adequate information to enable CalEPA to determine that agencies proposed to implement some element of the Unified Program meet requirements including technical expertise, training, and education applicable to those elements; and
- Sufficient information to enable CalEPA to determine that adequate resources exist to carry out all aspects of the Unified Program.

By the 4<sup>th</sup> Progress Report, if instituted changes in the roles and responsibilities of the West Sacramento Fire Department PA and the Yolo County Department of Agriculture are approved by the Secretary, the CUPA will revise the appropriate procedures to reflect the roles and responsibilities of the West Sacramento Fire Department PA and the Yolo County Department of Agriculture relative to implementation of the Unified Program and will provide the revised procedures and documentation outlined in CCR, Title 27, Section 15300 to CalEPA.

**CITATION:**

CCR, Title 27, Section 15300  
[CalEPA]

**CUPA Update 1:**

The CUPA has revised and updated the PA Agreement for the West Sacramento Fire Department (WSFD). The CUPA has drafted a new PA Agreement for the Agriculture Department. On 6/21/21, the CUPA sent the drafts to Yolo County Counsel for their review. When that is complete, the CUPA will share the drafts with the WSFD and the Ag. Dept., as well as

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

CalEPA. As needed by the CalEPA, the CUPA will also provide training, education and technical expertise information for the two participating agencies, as well as any other information that CalEPA needs to determine that the two participating agencies have adequate resources to carry out their assigned functions.

**Evaluation Team Response 1 [CalEPA]:**

CalEPA recognizes receipt of the draft PA agreements for the West Sacramento Fire Department and Yolo County Agricultural Commissioner. CalEPA and OSFM will review each draft PA agreement and provide feedback regarding formal completion of the PA agreements and the process to formally present the PA agreements to the Secretary for approval. With the next Progress Report, CalEPA requests the CUPA to provide a narrative of the proposed changes in the roles and responsibilities of the CUPA, the West Sacramento Fire Department PA, and the Yolo County Department of Agriculture, relative to the implementation of the Unified Program, summarizing adequate information to enable CalEPA to determine that the WSFD and Yolo County Department of Agriculture are capable to implement applicable elements of the Unified Program and currently meet requirements including technical expertise, training, and education.

**CUPA Update 2:**

On July 22, 2021, the CUPA sent via email the draft PA Agreement between YCEH and the Ag. Dept. and the updated draft PA Agreement between YCEH and WSFD to CalEPA, the Ag. Dept. and WSFD. The CUPA is currently waiting for CalEPA to complete their review and provide feedback.

The WSFD has been conducting CUPA program inspections as the PA since the current PA Agreement was signed in 2003. Prior to that, the WSFD had an established hazardous materials program whereby they routinely inspected businesses that used, stored or produced hazardous materials or hazardous waste. The program was well run and supported by local businesses. YCEH concluded that making WSFD a PA would be mutually beneficial. WSFD inspectors have completed the following trainings: 40-hour or 24- hour HAZWOPER, Violation Classification, and Clean Water Act/SPCC Violations. In addition, they have been attending the CUPA Conference and other relevant trainings. The CUPA believes WSFD staff have adequate technical expertise, education and training to conduct HMBP and HW SQG inspections. WSFD inspectors currently conduct inspections on paper inspection forms and send that via email to the CUPA. There is one CUPA staff who is the liaison for WSFD. The CUPA staff does data entry of the inspection report into EnvisionConnect and makes any necessary updates later, including RTC updates. The CUPA staff also scans the inspection report into the OnBase database. The CUPA staff does CERS reviews for facilities assigned to WSFD and provides training to new WSFD inspectors. The CUPA does quarterly CME EDT that include all facilities assigned to WSFD. The current PA Agreement allows WSFD to conduct HMBP, HW SQG (recyclable-only waste), and APSA program inspections. The new and updated PA Agreement will allow WSFD to conduct HMBP and HW SQG program inspections only. All the CUPA facilities in Yolo County are charged the same fee regardless of who does the inspection. In the fall of each year the CUPA reviews the fees to ensure that the fees do not exceed the cost to run the program. A comprehensive fee review with the fee consultant is done approximately every 3 years to ensure that all program costs are being captured in the fees. The West Sacramento Fire Department PA re-imbursement rate (which is set by the PA) is currently \$197.00. The inspection cost for the CUPA to do the inspections for the types of facilities that are assigned to the PA would be \$95.00 to \$142.50. While the cost for the PA to do the inspections is higher than for the CUPA to do the inspections,



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

this higher cost is not passed on to the facilities. The CUPA will continue to monitor this on annual basis when we do our annual fee review.

In 2000, an informal agreement was signed between YCEH and the Yolo County Ag. Dept. whereby the Ag. Dept. staff were able to conduct CUPA program inspections at farm facilities. Ag. Dept. inspectors have completed following training: 40-hour or 24- hour HAZWOPER, Violation Classification, and Clean Water Act/SPCC Violations. In addition, they have been attending the CUPA Conference and other relevant trainings. The CUPA believes the Ag. Dept. staff have adequate technical expertise, education and training to conduct HMBP and HW SQG inspections. Currently, Ag. Dept. inspectors conduct inspections on a tablet and when they return to the office and sync the tablet with EnvisionConnect, that automatically transfers the inspection data to EnvisionConnect. The Ag. Dept. inspectors also upload a copy of the inspection report to the OnBase database. There is one CUPA staff who is the liaison for the Ag. Dept. For violations cited, when the facility submits the RTC form, the CUPA staff updates EnvisionConnect. The CUPA staff does CERS reviews for facilities assigned to the Ag. Dept. and provides training to new Ag. Dept. inspectors. The CUPA does quarterly CME EDT that include all facilities assigned to the Ag. Dept. The current informal agreement allows the Ag. Dept. to conduct HMBP, HW SQG and APSA (SPCC-exempt only) program inspections at farms. The new PA Agreement will allow the Ag. Dept. to continue to conduct HMBP, HW SQG and APSA (SPCC-exempt only) program inspections at farms. Any time YCEH receives the Ag. Dept. inspection fee from farm facilities, the administrative staff immediately deposits that into the Ag. Dept. account.

**Evaluation Team Response 2 [CalEPA]:**

CalEPA, OSFM, DTSC, and the State Water Board reviewed the draft PA Agreement between YCEH and the Ag. Dept. and the updated draft PA Agreement between YCEH and WSFD, received from the CUPA on July 22, 2021.

On December 28, 2021, CalEPA and the CUPA discussed the concerns of the delay in CalEPA providing feedback to the CUPA regarding the information still needed in the PA agreements and formal submission of each PA proposal for CalEPA approval. In addition, concern was expressed by the CUPA regarding the inspection frequency for the HWG Program and APSA Program being less than optimum as a result of inspections no longer being able to be conducted by the Ag. Dept. The delay in providing feedback to the CUPA regarding the draft PA agreements and formal submission of each PA proposal has further delayed the CUPA in finalizing and formally submitting PA proposals to CalEPA for approval.

On January 11, 2022, CalEPA provided the CUPA with feedback regarding the information still needed in the PA agreement between YCEH and WSFD as well as the PA agreement between YCEH and WSFD. Additionally, CalEPA provided an outline of the information required to be included with the proposal to submit to CalEPA for approving each PA, as well as an outline of the information required in each PA agreement.

While the CUPA is preparing the proposal for CalEPA to review and approve, including revision and finalization of the PA Agreement with YCEH, and until such time CalEPA approves the proposal submitted, or May 1, 2022, whichever occurs first:

- OSFM is in support of the Yolo County Agricultural Commissioner to conduct inspections of APSA tank facilities conditionally exempt from SPCC Plan preparation at farms, on behalf of the CUPA.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- DTSC is in support of the Yolo County Agricultural Commissioner to conduct inspections of Hazardous Waste Small Quantity Generators (SQGs) at farms, on behalf of the CUPA.

With the next Progress Report, CalEPA requests an update on the status of formally submitting the proposal for CalEPA to review and approve, including revision and finalization of the PA Agreements with the WSFD and the Yolo County Department of Agriculture. Each PA agreement will be formally submitted to the Secretary for approval independently and separate from the Evaluation Progress Report Process.

**CUPA Update 3:**

On March 18<sup>th</sup>, 2022, the CUPA submitted to CalEPA: an updated draft PA Agreement between the CUPA and the Ag. Dept; a draft cover letter to the Secretary of CalEPA requesting review and approval of the PA Agreement between the CUPA and the Ag. Dept.; an updated draft PA Agreement between the CUPA and WSFD; and, a draft cover letter to the Secretary of CalEPA requesting review and approval of the PA Agreement between the CUPA and WSFD. The CUPA was informed by CalEPA that the drafts have been sent to the BDOs for staff review and feedback.

**Evaluation Team Response 3 [CalEPA]:**

While awaiting the submittal and review of the proposal to add the Ag. Dept. as a PA, a letter from CalEPA dated January 21, 2022, granted temporary authorization through May 1, 2022, for Ag. Dept. staff known to have completed adequate training to conduct inspections on behalf of the CUPA at farms considered to be a Hazardous Waste Small Quantity Generator and/or conditionally exempt from Aboveground Petroleum Storage Act Program Spill Prevention, Control, and Countermeasure Plans.

CalEPA, OSFM, DTSC, and the State Water Board reviewed the draft PA Agreement between YCEH and the Ag. Dept., the updated draft PA Agreement between YCEH and WSFD, the cover letter to the Secretary of CalEPA requesting review and approval of the PA Agreement between the YCEH and the Ag. Dept., and the cover letter to the Secretary of CalEPA requesting review and approval of the PA Agreement between the YCEH and WSFD, received from the CUPA on March 18, 2022.

During review of the provided documents and in response to the continued communication among CalEPA, DTSC, OSFM, and the CUPA, in addition to the progressive efforts put forth by the CUPA towards the development and submittal of the proposal package for the approval of the Ag. Dept. as a PA, CalEPA has extended the temporary authorization for Ag. Dept. staff known to have completed adequate training to conduct inspections on behalf of the CUPA at farms considered to be a Hazardous Waste Small Quantity Generator and/or conditionally exempt from Aboveground Petroleum Storage Act Program Spill Prevention, Control, and Countermeasure Plans through August 1, 2022.

With the next Progress Report, CalEPA requests an update on the status of formally submitting the proposal for CalEPA to review and approve, including revision and finalization of the PA Agreements with the WSFD and the Yolo County Department of Agriculture. Each PA agreement will be formally submitted to the Secretary for approval independently and separate from the Evaluation Progress Report Process.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**4. DEFICIENCY:**

The UST operating permit, issued under the UPFP, is inconsistent with UST Regulations and HSC.

Review of UST operating permits, issued under the UPFP, finds the following inconsistencies with UST Regulations and HSC:

- Permit conditions indicate UST owners or operators shall notify the CUPA of changes in equipment, operations, or modifications, which lacks consistency with the regulatory requirement to notify the CUPA of any change in substance stored 30 days prior to the change.
- Permit conditions include a requirement to maintain monitoring, plot plans, and emergency response plans on-site or off-site at a readily available location if approved by the local agency, which is more stringent than the regulatory requirement, and for which there is no local ordinance. Without authority granted by a local ordinance to be consistent with UST regulations, it is accurate for the UST operating permit to reflect “monitoring, plot plans, and emergency response plans must be readily accessible at the facility via a paper or electronic copy” in place of requiring monitoring, plot plans, and emergency response to be maintained “on site or off-site at a readily available location if approved by the local agency.”

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised UST operating permit template, issued under the consolidated UPFP that is consistent with UST Regulations and HSC.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised UST operating permit template, based on feedback from the State Water Board, and will provide the amended UST operating permit template to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST operating permit under the consolidated UPFP.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST operating permit template were necessary, the CUPA will begin to issue the amended UST operating permit under the consolidated UPFP. If no amendments were necessary, the CUPA will provide CalEPA with up to five UST operating permits issued to UST facilities using the revised UST operating permit template.

By the 4<sup>th</sup> Progress Report, the CUPA will provide CalEPA with up to five UPFP, which include the UST operating permit, issued to UST facilities using the amended UPFP.

**CITATION:**

HSC, Chapter 6.7, Section 25298(c)  
CCR, Title 23, Sections 2632(d)(1) and (2) and 2712(c) and (i)  
CCR, Title 27, Section 15190(h)  
[State Water Board]

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**CUPA Update 1:**

The CUPA has updated the UST operating permit form and the permit conditions form to correct the inconsistencies above. A copy of the revised UST operating permit template has been uploaded to the CalEPA SharePoint folder.

**Evaluation Team Response 1 [State Water Board]:**

Review of the UST operating permit and permit conditions finds the CUPAs amendments acceptable. However, review also finds the following:

- UST operating permit references Chapters 6.75 of the HSC or 18 of UST Regulations. The CUPA does not have regulatory authority to reference Chapters 6.75 of the HSC or 18 of UST Regulations on the UST operating permit.
- Permit conditions state the owner or operator must report an unauthorized release to the CUPA within 24 hours of detection. The regulatory requirement is for the owner or operator to report a *reportable* unauthorized release to the CUPA within 24 hours and transmit information regarding the unauthorized release to the UPA no later than five working days after the date of the occurrence of the unauthorized “reportable” release. Additionally, owners or operators also may be required to comply with additional reporting requirements, including, but not limited to, reporting requirements in Water Code, Sections 13271 and 13272 and reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time [HSC, Section 25295(c)].

With the next progress report, amend and provide CalEPA with the UST operating permit and permit conditions.

Note: While the requirements that the permit holder shall notify the CUPA of an unauthorized release within 24 hours and removing reference to Chapters 6.75 and 18 was not identified during the initial evaluation, these changes are necessary for the UST Operating Permit to be in compliance with UST Regulation and HSC.

**CUPA Update 2:**

The CUPA has updated the UST operating permit conditions form to correct the inconsistencies above. A copy has been uploaded to the CalEPA SharePoint folder. Please note that the above two discrepancies were only on the permit conditions form, not the actual operating permit (form) itself.

**Evaluation Team Response 2 [State Water Board]:**

Review of the provided UST operating permit finds reference to HSC, Chapter 6.75 and Chapter 18 of UST Regulations have been removed.

Review of the provided UST operating permit conditions finds the permit conditions state the owner or operator must report an unauthorized release to the CUPA within 24 hours of detection. The regulatory requirement is for the owner or operator to report a reportable unauthorized release to the CUPA within 24 hours and transmit information regarding the unauthorized release to the UPA no later than five working days after the date of the occurrence of the unauthorized “reportable” release. Additionally, owners or operators also may be required to comply with additional reporting requirements, including, but not limited to, reporting requirements in Water Code, Sections 13271 and 13272 and reporting an unauthorized release

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

to the Office of Emergency Services if emergency response personnel and equipment were involved at any time [HSC, Section 25295(c)].

With the next Progress Report, provide CalEPA with the UST operating permit and amended UST operating permit conditions.

**CUPA Update 3:**

With Progress Report #2, the CUPA submitted a copy of the updated UST operating permit conditions. That update corrected the two issues in the permit conditions stated above: removal of reference to HSC, Chapter 6.75 and Chapter 18 of UST Regulations; and, updating the permit conditions to state that the owner or operator must report a reportable unauthorized release to the CUPA within 24 hours and transmit information regarding the unauthorized release to the CUPA no later than five working days after the date of the occurrence of the unauthorized “reportable” release. Unfortunately, there is no room on the CUPA’s permit condition page/form to add this additional information, “Additionally, owner or operators also may be required in Water Code, Sections 13271 and 13272 and reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time [HSC, Section 25295(c)].”

The CUPA has uploaded a copy of the updated permit conditions and a sample UST operating permit to the SharePoint folder with this Progress Report #3.

**Evaluation Team Response 3 [State Water Board]:**

Due to extenuating circumstances, the State Water Board is not able to review the amended UST operating permit and amended UST operating permit conditions provided at this time. The State Water Board will provide a response with the next Progress Report.

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**5. DEFICIENCY:**

The CUPA’s local ordinance, Chapter 11, Underground Storage of Hazardous Substances is inconsistent with UST Regulations and HSC.

Review of the local ordinance finds the following inconsistencies:

- Section 6-11.02(b) grants authority to the Board of Supervisors to decide whether a liquid or solid substance is not a regulated hazardous substance and, therefore, allows the board of supervisors to implement decisions that are less stringent than UST Regulations and HSC.
- Section 6-11.02(k) provides a definition of an “Unauthorized release” that is inconsistent with HSC. The section defines an “Unauthorized release” as any release or emission of any hazardous substance which does not conform to the provisions of this chapter, unless such release is authorized by the State Water Resources Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State, while the regulatory definition is any release of any hazardous substance that does not conform to HSC, including an unauthorized release specified in HSC, Section 25295.5.
- Section 6-11.02(l)(1) provides provisions that a tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the County Agricultural Commissioner does not meet the definition of a UST if the County Agricultural Commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to the requirements contained within the local ordinance. This provision is less stringent than UST Regulations and HSC.



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- Section 6-11.02(l)(3) provides provisions that tanks used for aviation or motor vehicle fuel located within one mile of a farm and such tanks used by a licensed pest control operator, as defined by Section 11705 of the Food and Agricultural Code of the State, who is primarily involved in agricultural pest control activities, do not meet the definition of a UST. These exemptions are not authorized by statute and regulation and, therefore, are less stringent than UST Regulations and HSC.
- Sections 6-11.03, 6-11.04, 6-11.07, 6-11.10(c), 6-11.12.8 6-11.14(a) and (b), 6-11.14.4, and 6-11.23 incorrectly reference the California Administrative Code. The correct reference is California Code of Regulations.
- Section 6-11.03 provides provisions for not issuing a permit to operate to any USTs installed after January 1, 1984, unless that UST or facility meets all requirements of HSC, Section 25291 and UST Regulations. The CUPA is not following the ordinance by issuing permits to UST facilities that are not in full compliance with HSC, Section 25291 and UST Regulations.
- Section 6-11.12.2(a) provides provisions that if a UST undergoes a change in substance stored, the owner or operator must apply for a new or amended permit within 30 days after the change, when the regulatory requirement is to apply for a new or amended permit 30 days prior to the change in substance stored.
- Section 6-11.14 grants the Permitting Authority the authority to determine whether to modify or terminate a permit, which allows the Permitting Authority to implement decisions less stringent than UST Regulations or HSC.
- Section 6-11.15(a) provides provisions that any operator of a UST shall be liable for a civil penalty of not less than \$500.00 or more than \$5,000.00 per day, when the regulatory penalty is applied per day, per UST, and per violation.
- Section 6-11.22(b) and Section 6-11.23 provide provisions for “variance,” which grants the CUPA authority that allows for implementation of construction or monitoring components that are less stringent than UST Regulations and HSC. Variances only can be granted by the Regional Water Quality Control Board pursuant to UST Regulations and HSC.

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

**CORRECTIVE ACTION:**

The CUPA will no longer implement provisions of the local ordinance that are less stringent or inconsistent, with UST Regulations and HSC, including but is not limited to:

- the provisions which exclude certain tanks from the definition of a UST, including those used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the County Agricultural Commissioner if said entity determines, by inspection prior to use, that the tank provides a level of protection equivalent to the requirements contained within the local ordinance;
- tanks used for aviation or motor vehicle fuel located within one mile of a farm and such tanks used by a licensed pest control operator, as defined by Section 11705 of the Food and Agricultural Code of the State, who is primarily involved in agricultural pest control activities; and
- USTs issued site specific variances.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt, or repeal, the local ordinance to be consistent with UST Regulations and HSC. The plan will at minimum include:

- a timeline for revising, drafting and adopting, or repealing, the ordinance;
- provisions for the CUPA to provide legal analysis of the revised ordinance to the State Water Board;
- steps to reconcile with UST Regulations and HSC any USTs identified as having been previously excluded from the definition of a UST, pursuant to the local ordinance provisions identified above; and
- provisions for the State Water Board to work with the CUPA to establish compliance with USTs previously excluded from the definition of a UST, pursuant to the local ordinance.

If the CUPA, in consultation with their legal counsel makes the determination to repeal the local ordinance applicable to the UST Program, the plan shall assess and include reference to what elements of the UST Program would be affected by the repeal of local ordinance. If the local ordinance is repealed, the State Water Board will reassess UST Program implementation, including review of policies and procedures, to ensure that no UST Program elements including, but not limited to, those referenced by the CUPA, are more stringent than or inconsistent with UST Regulations and HSC.

Additionally, by the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA a list of all instances where tanks may be or are incorrectly excluded from the definition of a UST and, therefore, not currently regulated under UST Regulations and HSC. The CUPA will also provide the corresponding CERS ID, facility address, the specific exclusion or provision of non-regulation that was previously asserted under the local ordinance, and the provisions of UST Regulations or HSC which the UST does not comply with after repeal of the exclusion or variance. The State Water Board will review the material provided by the CUPA and, in consultation with the CUPA, provide direction to require owners or operators to comply with UST Regulation and HSC. The CUPA will then notify the UST owner or operator of the requirement to comply with UST Regulations and HSC, or obtain a UST closure permit. The CUPA will apply appropriate enforcement if the owner or operator does not comply. The CUPA will provide copies of all correspondence provided to the UST owner or operator. If there are no instances where tanks may be or are incorrectly excluded from the definition of a UST, the CUPA will await feedback from the State Water Board on its plan to revise and adopt, or repeal, the local ordinance to be consistent with UST Regulations and HSC.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, revise the plan based on feedback from the State Water Board.

Considering the length of time required to draft and adopt, or repeal, local ordinances, and reconcile USTs previously excluded from the UST Program, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided the plan as outlined above. During implementation of the plan, the State Water Board must have an opportunity to review the revised draft of the local ordinance, which will allow the State Water Board to work with the CUPA to ensure the revised draft of the local ordinance is consistent with UST Regulations and HSC, the CUPA certification approval, and meets all other legal requirements.

**CITATION:**

HSC, Chapter 6.7 Section 25299.2, 25299.3

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

CCR, Title 23, Section 2620(c)

CCR, Title 27, Sections 15100(b)(1)(C), 15150(c)(2), 15160, 15280(c)(5), and 15330(a)(1) and(a)(2)

[State Water Board]

**CUPA Update 1:**

For the first Progress Report, the CUPA has not had the time to address this deficiency. The CUPA will address this deficiency in the response to the second Progress Report due October 7, 2021.

**Evaluation Team Response 1 [State Water Board]:**

With the next progress report, provide CalEPA with a detailed plan to revise and adopt, or repeal, the local ordinance to be consistent with UST Regulations and HSC. The plan will at minimum include:

- a timeline for revising, drafting and adopting, or repealing, the ordinance;
- provisions for the CUPA to provide legal analysis of the revised ordinance to the State Water Board;
- steps to reconcile with UST Regulations and HSC any USTs identified as having been previously excluded from the definition of a UST, pursuant to the local ordinance provisions identified above; and
- provisions for the State Water Board to work with the CUPA to establish compliance with USTs previously excluded from the definition of a UST, pursuant to the local ordinance.

If the CUPA, in consultation with legal counsel makes the determination to repeal the local ordinance applicable to the UST Program, the plan shall assess and include reference to what elements of the UST Program would be affected by the repeal of local ordinance. If the local ordinance is repealed, the State Water Board will reassess UST Program implementation, including review of policies and procedures, to ensure that no UST Program elements including, but not limited to, those referenced by the CUPA, are more stringent than or inconsistent with UST Regulations and HSC.

Additionally, the CUPA will provide CalEPA with a list of all instances where tanks may be or are incorrectly excluded from the definition of a UST and therefore, not currently regulated under UST Regulations and HSC. The CUPA will also provide the corresponding CERS ID, facility address, the specific exclusion or provision of non-regulation that was previously asserted under the local ordinance, and the provisions of UST Regulations or HSC which the UST does not comply with after repeal of the exclusion or variance. The State Water Board will review the material provided by the CUPA and, in consultation with the CUPA, provide direction to require owners or operators to comply with UST Regulation and HSC. The CUPA will then notify the UST owner or operator of the requirement to comply with UST Regulations and HSC, or obtain a UST closure permit. The CUPA will apply appropriate enforcement if the owner or operator does not comply. The CUPA will provide copies of all correspondence provided to the UST owner or operator. If there are no instances where tanks may be or are incorrectly excluded from the definition of a UST, the CUPA will await feedback from the State Water Board on its plan to revise and adopt, or repeal, the local ordinance to be consistent with UST Regulations and HSC.

**CUPA Update 2:**

The Yolo County CUPA plans to revise and adopt the existing local ordinance for USTs to be consistent with UST Regulations and the Health & Safety Code.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- Timeline for revising, drafting and adopting the Ordinance: the CUPA plans to revise and create an updated draft of the UST Ordinance by January 15, 2022. The CUPA may consult with the Water Board while making the draft.
- The CUPA will send the draft to County Counsel for their legal analysis. The CUPA will request County Counsel to complete their analysis by February 28, 2022.
- The CUPA will send the County Counsel-approved draft to the State Water Resources Control Board for their review and feedback.
- After input from the Water Board and any necessary changes have been made, the CUPA will present the final version to the County Board of Supervisors for their approval and for adoption.
- The CUPA will train staff on the updated ordinance.
- The CUPA will implement the updated ordinance.
- As far as the CUPA knows, currently there are no USTs that have been identified as having been previously excluded from the definition of a UST, pursuant to the local ordinance provisions.
- As stated above, as far as the CUPA knows, currently, there are no USTs that have been identified as having been previously excluded from the definition of a UST, pursuant to the local ordinance provisions.

**Evaluation Team Response 2 [State Water Board]:**

Review of the plan to revise and adopt the local ordinance finds it acceptable. State Water Board acknowledges the CUPA has no knowledge of any USTs that are identified as having been previously excluded from the definition of a UST, pursuant to the existing local ordinance provisions.

With the next Progress Report, provide CalEPA with the County Counsel-approved draft of the local ordinance for review by the State Water Board, per the plan for revision and adoption of the ordinance outlined by the CUPA above.

**CUPA Update 3:**

On March 18<sup>th</sup>, 2022, the CUPA submitted to CalEPA a draft updated UST Ordinance. The CUPA mainly cleaned up references to obsolete information and added references to CERS, etc. The CUPA did not change the format or contents of the Ordinance for the most part. Because the Ordinance will have to be approved by the Yolo County Board of Supervisors, there has been a slight change to the plan for revision and adoption of the ordinance as outlined by the CUPA earlier. According to the revised plan, after the State Water Board has reviewed the draft ordinance and provided feedback to the CUPA and the CUPA has made any additional updates, the CUPA will then send the final draft to County Counsel for their review and approval before it is presented to the County BOS. The CUPA was informed by CalEPA that they were holding on to the draft updated UST Ordinance until the CUPA submits Progress Report #3 by April 18<sup>th</sup> since it pertains to this deficiency.

**Evaluation Team Response 3 [State Water Board]:**

Due to extenuating circumstances, the State Water Board is not able to review the amended draft of the local ordinance provided at this time. The State Water Board will provide a response with the next Progress Report.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**6. DEFICIENCY:**

The CUPA has not required one-time enhanced leak detection ELD testing for a double walled UST located within a 1,000-foot radius of a public drinking water well to implement one-time ELD testing.

Review of UST facility files and State Water Board ELD documentation indicates the CUPA has not required implementation of one-time ELD testing for a double-walled UST located within a 1,000-foot radius of a public drinking water well for CERS ID 10212757.

- On April 30, 2008, the State Water Board sent a Notice of Noncompliance to the UST owner or operator and the CUPA, indicating that ELD testing is required.
- On February 12, 2020, and on December 12, 2018, the CUPA cited a violation for failure to complete required one-time ELD testing or submit a request for reconsideration (RFR).
- On October 12, 2020, and on November 3, 2020, the CUPA followed up with the UST owner or operator via email correspondence, informing the UST owner or operator to conduct ELD testing.
- On March 11, 2021, the State Water Board informed the CUPA that the UST facility may be eligible for Leaking Underground Storage Tank financial assistant to assist with implementing one-time ELD testing.

Note: The ELD aspect of this deficiency was identified and corrected during the 2018 CUPA Performance Evaluation process with the understanding that the CUPA was in constant communication with the UST facility owner and was on track to achieve compliance. Additionally, review of UST facility files and CERS CME data indicates the CUPA is not requiring CERS ID 10212757 to comply with UST Regulations and HSC.

- Correspondence dated December 5, 2019, indicates CERS ID 10212757 was issued a UST Operating Permit while past due for secondary containment testing, annual monitoring certification, and ELD testing.
- The UST compliance inspection dated February 20, 2020, cites a violation for failure to complete the annual monitoring certification and secondary containment testing, however, failure to conduct the spill container testing was not cited.
- Correspondence dated January 25, 2021, indicates the CUPA notified the UST owner or operator that the annual monitoring certification for CERS ID 1021757 expired on December 30, 2019.
- Correspondence dated January 25, 2021, indicates the CUPA notified the UST owner or operator that the financial responsibility documentation expired on December 20, 2020.
- Correspondence dated January 25, 2021, indicates the CUPA notified the UST owner or operator that secondary containment testing March 18, 2018.
- On March 11, 2021, the CUPA confirmed that fuel remained in three of the six USTs at the UST facility and that the UST systems are not being continuously monitored.

Note: State Water Board has distributed the following Local Guidance Letters (LGs) to CUPAs regarding the requirement for UST facilities to implement triennial or complete one-time ELD testing:

- LG 161: distributed September 18, 2001, to provide notification of Senate Bill 989 requirements
- LG 161-2: distributed May 15, 2003, to provide an update on ELD testing requirements and responses to questions



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- LG 161-3: distributed October 23, 2006, to provide an update on ELD testing requirements and responses to questions
- LG 161-4: distributed June 12, 2007, to provide an update on ELD testing requirements and responses to questions
- LG-161-5: distributed March 25, 2008, to provide an update on ELD testing requirements and responses to questions

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will continue to provide written correspondence addressed to the UST facility owner or operator to inform the UST owner or operator of the requirement to either complete one-time ELD testing within 60 days, or submit an RFR to the State Water Board, within 30 days. The written correspondence will include language stating that failure to conduct one-time ELD testing within 60 days or submit an RFR application within 30 days will lead to appropriate enforcement, including but not limited to revocation of the UST operating permit portion of the UPFP and issuance of red tags. The CUPA will include both CalEPA and the State Water Board on the correspondence.

By the 1<sup>st</sup> Progress Report, the CUPA will provide written correspondence addressed to the UST facility owner or operator to inform the UST facility owner or operator that the UST system must be brought into compliance with, at a minimum, annual monitoring certification requirements, secondary containment requirements, financial responsibility requirements, and continuous monitoring requirements. The written correspondence will include, at a minimum, information regarding what is required to bring the UST facility into compliance, a timeline for obtaining compliance, and language stating that failure to bring the UST system into compliance will lead to appropriate enforcement, including, but not limited to, revocation of the UST operating permit portion of the UPFP and issuance of red tags. The CUPA will include both CalEPA and the State Water Board on the correspondence.

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA a list of all instances of similar situations where UST facilities have not conducted ELD testing and/or are not meeting requirements of UST Regulations and HSC, including, but not limited to, the requirements outlined above, which will include the corresponding CERS ID, facility address, and the provisions of UST Regulations or HSC with which the UST is not in compliance. The State Water Board will review the material provided by the CUPA and, in consultation with the CUPA, provide direction to require UST owners or operators to comply with UST Regulation and HSC. The CUPA will then notify the UST owner or operator of the requirement to comply with UST Regulations and HSC, apply appropriate enforcement if the owner or operator does not comply, and provide all correspondence with the UST owner or operator to CalEPA.

By the 2<sup>nd</sup> Progress Report, if ELD testing has not been conducted within 60 days of notification, or if an RFR has not been submitted to the State Water Board within 30 days of notification, the CUPA will apply appropriate enforcement, including but not limited to revocation of the UST operating permit portion of the UPFP and issuance of red tags.

By the 2<sup>nd</sup> Progress Report, if the UST system is not brought back into compliance within the approved timeline the CUPA will apply appropriate enforcement, including but not limited to, revocation of the UST operating permit portion of the UPFP and issuance of red tags.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

By the 3<sup>rd</sup> Progress Report, or until considered corrected, the CUPA will apply appropriate enforcement, including but not limited to, revocation of the UST operating permit portion of the UPFP and issuance of red tags.

The State Water Board will consider this deficiency corrected if ELD testing has been completed, and the CUPA provides CalEPA with the ELD testing results, and when the UST system are brought back into compliance with the requirements, at a minimum, outlined above.

The State Water Board will consider this deficiency closed, but not corrected, and will verify that ELD testing was conducted during the next CUPA evaluation if the UST owner or operator does not conduct ELD testing or does not submit an RFR to the State Water Board, and does not bring the UST system into compliance, and the CUPA has applied appropriate enforcement.

**CITATION:**

HSC, Chapter 6.7, Section 25292.4

CCR, Title 23, Section 2637

CCR, Title 23, Section 2640(e) and 2644.1

[State Water Board]

**CUPA Update 1:**

On June 28<sup>th</sup>, the CUPA sent via certified mail an Administrative Enforcement Order to the facility owner/operator. The facility has to either sign the Stipulation and Order and pay the penalties and correct the violations, or submit the Notice of Defense (appeal to judge). The violations cited in the AEO includes the failure to conduct ELD testing. The 15 days will be up on July 26<sup>th</sup>. The CUPA met with the facility on 7/7/21 and clarified what the facility needs to do to return to compliance.

The CUPA is not aware of any other UST facilities in Yolo County that have not conducted required ELD testing and/or are not meeting requirements of UST Regulations and HSC.

**Evaluation Team Response 1 [State Water Board]:**

Though the CUPA notified the owner/operator of CERS ID 10212757 of an Administrative Enforcement Order (AEO) via certified mail, the CUPA did not include CalEPA or the State Water Board with this correspondence. Additionally, the CUPA did not include the AEO or ELD test results (if completed) to CalEPA.

With the next progress report, provide CalEPA with the AEO, additional enforcement documentation, and/or ELD testing results (if completed).

**CUPA Update 2:**

It is not the CUPA's policy to include CalEPA or the State Water Board or any other State agency on AEO correspondence. If any State agency wishes to view the documents (which are public documents and available on the OnBase database), the CUPA is happy to provide that. The CUPA has uploaded copies of the AEO documents to the SharePoint folder.

On September 17<sup>th</sup>, 2021, the ELD test was done at FA 34, United Truck Stop, Dunnigan. The CUPA is currently waiting to get results of the test from the facility and/or contractor.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**Evaluation Team Response 2 [State Water Board]:**

Review of the AEO documents provided finds them acceptable. The CUPA nor the State Water Board have received ELD test results from September 17, 2021. With the next Progress Report, provide CalEPA with the ELD test results from the ELD test performed on September 17, 2021 at CERS ID 10212757. If the CUPA has not received the ELD test results, the CUPA will apply appropriate enforcement and will provide enforcement documentation with the next Progress Report in lieu of the ELD test results.

**CUPA Update 3:**

The CUPA has uploaded a copy of the ELD test results to the SharePoint folder.

**Evaluation Team Response 3 [State Water Board]:**

Due to extenuating circumstances, the State Water Board is not able to review the provided ELD test results from the ELD test performed on September 17, 2021 at CERS ID 10212757 at this time. The State Water Board will provide a response with the next Progress Report.

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**7. DEFICIENCY: CORRECTED**

The CUPA is not properly classifying Hazardous Waste Generator (HWG) Program and Aboveground Petroleum Storage Act (APSA) Program violations.

Review of facility files and inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) indicates the CUPA is classifying Class I or Class II HWG Program and APSA Program violations as minor violations in the following instances:

For the HWG Program:

- Violation for exceedance of authorized accumulation time (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in Health and Safety Code, Section 25404(a)(3).
  - CERS ID 10424716: inspection dated May 24, 2018
  - CERS ID 10777792: inspection dated February 8, 2019
  - CERS ID 10174477: inspection dated December 5, 2019
  - CERS ID 10213075: inspection dated January 22, 2020
  - CERS ID 10214149: inspection dated May 11, 2020
  - 69 of 97 (71%) violations were cited as minor between Fiscal Year (FY) 2017/2018 through FY 2019/2020

Note: This deficiency was identified for the HWG Program and considered corrected during the 2018 CUPA Performance Evaluation process.

For the APSA Program:

- Not having or failure to prepare a Spill Prevention, Control, and Countermeasure (SPCC) Plan incorrectly cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment, and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of minor violation as defined in HSC, Section

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

25404(a)(3). Classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (US EPA).

- FY 2017/2018 through FY 2019/2020: 7 of 25 (28%)

Note: The Federal SPCC Rule is not delegated to any state. However, the APSA Program requires consistency and compliance with the Federal SPCC Rule for SPCC Plan preparation and implementation, as well as consistency with Federal enforcement guidance.

**CORRECTIVE ACTION: COMPLETED**

The CUPA will ensure violations are correctly classified and appropriate enforcement actions are pursued for non-minor (Class I and Class II) violations.

By the 1<sup>st</sup> Progress Report, the CUPA will train inspection staff on the classification of minor, Class I, and Class II violations for the HWG and APSA programs, as defined in:

- HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
- HSC Chapter 6.11, Section 25404(a)(3)
- CCR, Title 22, Section 66260.10

The CUPA will train inspection staff on how to properly classify HWG Program and APSA Program violations during inspections and ensure inspection staff review the following:

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)  
(<https://www.youtube.com/watch?v=RB-5V6RfPH8>)
- [2020 Violation Classification Guidance for Unified Program Agencies](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf)  
(<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf>)
- [U.S. EPA Civil Penalty Policy for Section 311\(b\)\(3\) and Section 311\(j\) of the Clean Water Act, August 1998 for SPCC violations](https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html)  
([https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998\\_.html](https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html))

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

By the 2<sup>nd</sup> Progress Report, the CUPA will provide CalEPA with an inspection report for three HWG facilities, inspected within the last three months and after training has been completed, as requested by DTSC. Each inspection report will cite at least one HWG Program violation for exceedance of authorized accumulation time, contain observations, factual basis, and corrective actions to correctly identify and classify each observed violation.

Note: The following additional HWG inspection, accumulation and generator requirement training resources are available to assist in training CUPA inspectors:

- [Advanced Hazardous Waste Inspector Training Video 2016 \(1 of 2\)](https://www.youtube.com/watch?v=lgN3TJftSUM)  
<https://www.youtube.com/watch?v=lgN3TJftSUM>
- [Advanced Hazardous Waste Inspector Training Video 2012 \(5 of 7\): Tanks and Sumps](https://www.youtube.com/watch?v=oCrI3MvTd8M)  
<https://www.youtube.com/watch?v=oCrI3MvTd8M>
- [Generator Requirements Fact Sheet](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf)  
[https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM\\_FS\\_Generator\\_Requirements.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf)

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- [Accumulation Time Fact Sheet](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)  
[https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS\\_OAD\\_Accumulation.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)
- [Universal Waste](https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf)  
[https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW\\_Factsheet1.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf)
- [Managing Used Oil Filters for Generators](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf)  
[https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG\\_Used-Oil-Filters\\_Generators1.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf)
- [Management of Spent Lead Acid Batteries](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf)  
[https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS\\_DutyOfficer\\_LeadAcidBatteries1.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf)
- Generator Summary Chart  
<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf> and  
[https://www.acgov.org/forms/aceh/Generator\\_Requirements\\_Summary\\_Chart.pdf](https://www.acgov.org/forms/aceh/Generator_Requirements_Summary_Chart.pdf)

**CITATION:**

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6  
HSC, Chapter 6.11, Sections 25404(a)(3) and 25404.2(a)(3-4)  
HSC, Chapter 6.67, Sections 25270.4.1(c) and 25270.4.5  
CCR, Title 22, Sections 66260.10  
[DTSC, OSFM]

**CUPA Update 1:**

The CUPA Manager sent the web links to video and fact sheets via email to staff to view and read. Staff will confirm that they have done so via email. Because staff are still partially working from home, this is more convenient for all.

For the SPCC violation, the CUPA updated the APSA inspection checklist so now the inspector has a choice of three violations: SPCC plan prepared, SPCC plan complete and SPCC plan implemented. The CUPA Manager provided training to staff on this at the May '21 monthly unit meeting.

**Evaluation Team Response 1 [DTSC, OSFM]:**

**DTSC:** DTSC acknowledges the CUPA has begun training staff on the classification of minor, Class I, and Class II violations as the training information has been provided to staff. With the next progress report, , provide CalEPA with training documentation, confirming that all staff have completed training on the classification of minor, Class I, and Class II violations for the HWG program. Once training documentation is provided to CalEPA, DTSC will request an inspection report for three selected HWG facilities, that have been inspected within three months . Each inspection report will cite at least one HWG Program violation for exceedance of authorized accumulation time, contain observations, factual basis, and corrective actions to correctly identify and classify each observed violation.

**OSFM:** OSFM acknowledges the CUPA has begun training inspection staff on the classification of minor, Class I, and Class II violations for the APSA program.

With the next progress report, provide CalEPA with training documentation, confirming all staff have completed training on the classification of minor, Class I, and Class II violations for the APSA program.



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**Note:** In the event the CUPA revises the existing PA agreement with the West Sacramento Fire Department and establishes a PA agreement with the Yolo County Agricultural Department, for the implementation of the HWG and APSA programs, staff of the West Sacramento Fire Department and Yolo County Agricultural Commissioner shall also be trained on the classification of minor, Class I, and Class II violations for the HWG and APSA programs.

**CUPA Update 2:**

The CUPA Manager has uploaded a training log showing completion of training mentioned above by CUPA and both PA agency staff to the SharePoint folder.

**Evaluation Team Response 2 [DTSC, OSFM]:**

**DTSC:** DTSC acknowledges that the training has been completed for staff as of September 27, 2021. With the next Progress Report, provide recent inspection reports for CERS IDs: 10215553, 10482700, and 10215538.

**OSFM:** This deficiency is considered corrected.

**CUPA Update 3:**

The CUPA has uploaded recent inspection reports for CERS IDs 10215553, 10482700, and 10215538 to the SharePoint folder.

**Evaluation Team Response 3 [DTSC]:**

CERS ID 10215553 inspected on October 13, 2021 had three documented violations. One of the violations cited was classified as a minor labeling violation. However, this facility was also cited for a minor labeling violation during the previous April 20, 2018 inspection.

CERS ID 10482700 inspected on October 7, 2021 had two documented violations. One of the violations cited was classified as a minor labeling violation. However, this facility was also cited for a Class 2 labeling violation during the previous September 26, 2018 inspection.

CERS ID 10215538 inspected on September 29, 2021 had six documented violations. One of the violations cited was classified as a minor labeling violation. However, this facility was also cited for a minor labeling violation during the previous July 2, 2018 inspection.

To ensure the classification of a repetitive minor violation is escalated to a Class I or Class II classification in the future:

- Review the I&E Plan Definitions Section B 2 on page 24 with inspection staff, which states that a minor violation that is repeated should be identified as a Class 2 violation as follows:
  - “2. Class II Violation. A deviation from the requirements specified in Hazardous Waste Control Law (HWCL), or regulations, permit, or grant of authorization, or conditions, standards, or requirements adopted pursuant to HWCL, that is not a Class I violation. Typically, a violation that is identified as Class II is a minor violation that has been repeatedly noted and documented on previous inspections. In determining whether a violation is chronic or a violator is recalcitrant, YCEH shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to the requirements of the H&SC.”
- Adhere to the I&E Plan definitions when classifying violations and also consider the description, evidence, and violation history to ultimately serve as the basis for the classification of the cited violation. There are many helpful details provided in the violation

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

comments for the violations noted above. In most cases, a labeling violation can be classified as a minor violation if it occurs once.

- Check the local data management software to verify whether or not the minor violation classification is a default setting for labeling violations upon electronic data transfer (EDT) to CERS, and determine if inspectors have the ability to manually change the classification of a violation if the violation is repeatedly identified in consecutive inspections.
  - A default setting in the local data management software changing the classification of a violation upon EDT to CERS may not be the case as the labeling violation cited during the September 26, 2018 inspection at CERS ID 10482700 was transferred to CERS as a Class 2 violation. It is unclear if the Class 2 classification was applied in the field or if the classification was assigned afterwards when the Notice of Violation was issued.
- Include these examples as a case study in the next internal training as a reminder regarding the importance of correct violation classification.

DTSC always assesses violation classification as a component of the evaluation process.

This deficiency is considered corrected.

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CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**1. INCIDENTAL FINDING: RESOLVED**

The CUPA is not submitting quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter and is not submitting a copy of the current quarterly Surcharge Report template to CalEPA.

The following quarterly Surcharge Transmittal Reports were not received by the required due date:

- FY 2017/2018
  - 1<sup>st</sup> Quarter: Submitted on October 31, 2017
  - 4<sup>th</sup> Quarter: Submitted on July 3, 2018
- FY 2018/2019
  - 1<sup>st</sup> Quarter: Submitted on November 8, 2018
  - 2<sup>nd</sup> Quarter: Submitted on February 21, 2019
  - 4<sup>th</sup> Quarter: Submitted on August 21, 2019
- FY 2019/2020
  - 1<sup>st</sup> Quarter: Submitted on November 14, 2019
  - 2<sup>nd</sup> Quarter: Submitted on March 12, 2020
  - 3<sup>rd</sup> Quarter: Submitted on May 18, 2020

**RESOLUTION: COMPLETED**

By the 1<sup>st</sup> Progress Report, the CUPA will have submitted to CalEPA the 4<sup>th</sup> quarterly Surcharge Transmittal Report for Fiscal Year 2020/2021 by the required due date using the current quarterly [Surcharge Transmittal Report](#) template. Thereafter, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA at [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov) no later than 30 days after the end of each fiscal quarter. The current quarterly [Surcharge Transmittal Report](#) template can be found at: [https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT\\_1819.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT_1819.pdf).

**CITATION:**

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

**CUPA Update 1:**

The CUPA Manager has discussed this incidental finding with the Business Services Manager. The Business Services Manager has delegated this task to one of her staff and asked her to make sure that the report goes out on time on the current report template. The 4<sup>th</sup> Quarter Surcharge Transmittal Report for Fiscal Year 2020/2021 needs to be sent by July 31<sup>st</sup>, 2021. When the report is sent, the CUPA will upload a copy to the SharePoint folder.

**Evaluation Team Response 1 [CalEPA]:**

The Unified Program Oversight Surcharge was approved by the Office for Administrative Law for a fee increase as of June 25, 2021. The Oversight Surcharge rate has increased from \$49 to \$84 per facility as outlined below:

- \$27 will be allocated for the CERS NextGen Project
- \$8 for Oversight program cost increases

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

The new quarterly Surcharge Transmittal Report template can be found here:

[https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf)

CalEPA looks forward to reviewing the 4<sup>th</sup> Quarter Surcharge Transmittal Report at the next progress report.

**CUPA Update 2:**

The CUPA Manager has uploaded a copy of the 4<sup>th</sup> Quarter Surcharge Transmittal Report (Report 1) to the SharePoint folder.

**Evaluation Team Response 2 [CalEPA]:**

The CUPA provided the 4<sup>th</sup> Quarter Surcharge Transmittal Report for Fiscal Year 2020/2021, which does not reflect assessment of the \$84 Unified Program Oversight surcharge. Per the guidance CalEPA distributed to all CUPAs on September 14, 2021, each CUPA is required to include the increased Unified Program Oversight Surcharge as part of the single fee system by August 24, 2021, which is 60 days after the June 25, 2021 effective date of the increase. If a CUPA would not be able to begin assessing the increased Unified Program Oversight Surcharge amount by August 24, 2021, the CUPA was to contact CalEPA detailing the cause as to why, as well as a plan or expected date as to when the CUPA would assess regulated businesses the increased amount.

With the next Progress Report, if the CUPA is unable to assess the \$84 Unified Program Oversight Surcharge, effective August 24, 2021, the CUPA will provide CalEPA with details as to why, as well as a plan or expected date as to when the increased amount will be assessed. If the CUPA is able to assess the \$84 Unified Program Oversight Surcharge, the CUPA will ensure the 1<sup>st</sup> Quarterly Surcharge Transmittal Report for Fiscal Year 2021/2022 reflects the assessment of the increased Unified Program Oversight Surcharge with the use of the available template provided by CalEPA ([https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf)) or a similar version. Each submitted Quarterly Surcharge Transmittal Report shall also include the check number of the surcharge remittance to CalEPA.

**CUPA Update 3:**

The 4<sup>th</sup> Quarter Surcharge Transmittal Report for Fiscal Year 20-21 covers the months of April, May and June 2021. As stated above, each CUPA is required to include the increased Unified Program Surcharge as part of the single fee system by August 24, 2021, which is 60 days after the June 25, 2021 effective date of the increase. Yolo County CUPA implemented the new surcharge effective July 1, 2021. Therefore, it first showed up in the 1<sup>st</sup> Quarter Surcharge Transmittal Report for Fiscal Year 21-22. The CUPA has uploaded a copy of both reports in the SharePoint folder.

**Evaluation Team Response 3 [CalEPA]:**

The CUPA provided the Quarterly Surcharge Transmittal Report for the 4<sup>th</sup> quarter of FY 2020/2021 and for the 1<sup>st</sup> quarter of FY 2021/2022. The Quarterly Surcharge Transmittal Report for the 1<sup>st</sup> quarter of FY 2021/2022 demonstrates the CUPA has developed a separate but similar template of the Quarterly Surcharge Transmittal Report. A separate line item assesses a fee for the CERS NextGen Project, but no discernible assessment has been made regarding the increase to the Unified Program Oversight Surcharge despite additional revenue having been

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

remitted when compared with the previous fiscal quarter. The report does not include the check number of the surcharge remittance to CalEPA.

The CUPA states assessment and collection of the increase to the Unified Program Surcharge has begun, however it can't be determined from the Quarterly Surcharge Transmittal Report for the 1<sup>st</sup> quarter of FY 2021/2022. The CUPA is encouraged to use the available template provided by CalEPA ([https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf)) to ensure all necessary information is being reported to CalEPA. CalEPA considers this incidental finding resolved.

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## **2. INCIDENTAL FINDING: RESOLVED**

The Self-Audit Reports for FYs 2017/2018, 2018/2019, and 2019/2020 have missing or incomplete components and each was not completed by September 30 of the respective FY.

The following component is missing:

- A report of deficiencies with a plan of correction.

The following components are incomplete:

- A narrative summary of the effectiveness of the activities including permitting, inspections, and enforcement.
- A summary of new programs being included in the Unified Program.

### **RESOLUTION: COMPLETED**

By September 30, 2021, and each subsequent year, the CUPA will complete the Self-Audit Report that includes all required components, and incorporates a date of completion to demonstrate the report was completed by September 30<sup>th</sup>. The CUPA will provide CalEPA the FY 2020/2021 Self-Audit Report.

### **CITATION:**

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

### **CUPA Update 1:**

The CUPA will complete and submit the annual Self-Audit Report by September 30<sup>th</sup>, 2021 and include any previously missing components. The CUPA will send the report to CalEPA and upload a copy to the SharePoint folder.

### **Evaluation Team Response 1 [CalEPA]:**

CalEPA looks forward to reviewing the annual Self-Audit Report with the next progress report.

### **CUPA Update 2:**

The CUPA Manager has uploaded a copy of the FY20-21 CUPA and CalARP Self-Audit Report to the SharePoint folder.

### **Evaluation Team Response 2 [CalEPA]:**

The CUPA provided the FY 2020/2021 Self-Audit Report. There have been minor revisions to the narrative discussing the general procedures for implementation of the permitting program, though the CUPA has not provided information regarding the past fiscal year of permitting. Throughout the report, there are descriptions of the implementation of the inspection and



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

enforcement programs which adequately address the number and general effectiveness of these programs. The CUPA has not yet addressed a report of deficiencies with a plan of correction for the Unified Program. If and when, the CUPA is able to identify any deficiencies regarding implementation of the Unified Program, the CUPA is encouraged to discuss these deficiencies and create a plan with a timeline to correct or rectify such deficiencies. With the next Self-Audit Report and with each subsequent Self-Audit Report, the CUPA will continue to make progress toward providing relevant information pertaining to the past fiscal year of performance in each component identified in this incidental finding. This incidental finding is considered resolved.

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**3. INCIDENTAL FINDING:**

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated, to the satisfaction of the CUPA, that UST closure, removal, and soil and/or water sampling complies with UST Regulations and HSC.

Review of facility files finds the following example:

- CERS ID 10212871: The UST closure documentation, in the form of a “Certificate of Satisfactory Completion,” provided by the CUPA to the owner or operator states: “This statement, when signed by an authorized representative of Yolo County Environmental Health, certifies that the USTs listed above have been properly removed in accordance with Yolo County and California State Regulations and Law.” The “Certificate of Satisfactory Completion” does not identify whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure, removal, and soil and/or water sampling complies with HSC, Chapter 6.7, Section 25298(c), and CCR, Title 23, Section 2672(d).

Note: The following may be referenced: State Water Board UST Program Leak Prevention [Frequently Asked Question 15](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) ([https://www.waterboards.ca.gov/ust/leak\\_prevention/faq15.shtml](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml)).

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop a UST Closure procedure, or other applicable procedure, ensuring the establishment of a process, which will include at minimum, how the CUPA will document, in sufficient detail, the owner or operator has demonstrated to the satisfaction of the CUPA UST closure, removal, and soil and/or water sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d) (i.e. correspondence, hardcopy, electronic media).

The CUPA will provide the developed or revised UST closure procedure, or other applicable procedure to CalEPA.

In addition, the CUPA will revise the “Certificate of Satisfactory Completion” or develop a UST closure letter template. The CUPA may consider including the following language in the “Certificate of Satisfactory Completion” or UST closure letter template: “The Yolo County Environmental Health CUPA has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with HSC, Chapter 6.7, Section 25298(c), and CCR, Title 23, Section 2672(d).” The CUPA will provide the revised “Certificate of Satisfactory Completion” or developed UST closure letter template to CalEPA.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

By the 2<sup>nd</sup> Progress Report, if amendments to the revised UST closure procedure, or other applicable procedure, and/or “Certificate of Satisfactory Completion” or developed UST closure letter template, are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the amended UST closure procedure or other applicable procedure, and/or amended “Certificate of Satisfactory Completion” or developed UST closure letter template. If no amendments are necessary, the CUPA will train UST inspection staff on the revised UST closure procedure or other applicable procedure and on the use of the revised “Certificate of Satisfactory Completion” or developed UST closure letter template. Once training is complete, the CUPA will implement the revised UST closure procedure or other applicable procedure, and/or will issue the revised “Certificate of Satisfactory Completion” or developed UST closure letter template.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST closure procedure or other applicable procedure, and/or “Certificate of Satisfactory Completion” or developed UST closure letter template, were necessary, the CUPA will train UST inspection staff on the amended UST closure procedure or other applicable procedure, and/or on the use of the amended “Certificate of Satisfactory Completion” or developed UST closure letter template. Once training is complete, the CUPA will implement the amended UST closure procedure or other applicable procedure, and/or will issue the amended “Certificate of Satisfactory Completion” or developed UST closure letter template.

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the revised or amended “Certificate of Satisfactory Completion” or developed UST closure letter template and will provide documentation upon request or in the event of a public records request.

**CITATION:**

HSC, Section 25298(c)  
CCR, Title 23, Section 2672(d)  
[State Water Board]

**CUPA Update 1:**

The CUPA has finalized a Policy & Procedure for staff to follow for UST removal. A copy has been uploaded to the SharePoint folder. The CUPA has also updated the UST Removal Permit page’s Certificate of Satisfactory Completion to include the language given above. A copy of that has also been uploaded to the SharePoint folder.

**Evaluation Team Response 1 [State Water Board]:**

Review of the updated UST Removal Permit finds the CUPA has included a “Certificate of Satisfactory Completion” and finds it is consistent with UST Regulations and HSC. Review of the Policy & Procedure for UST removals, finalized on July 8, 2021, finds the following inconsistencies:

- Section D(1)(c) references “An authority to abandon UST permit...” however, there is no authority for an owner or operator to abandon USTs in UST Regulations or HSC.
- Section D(2)(j)(i) states a copy of the contractor’s removal report must include a map with all soil samples taken, however this needs to reference all soil and/or groundwater samples taken.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- Section D(5) states that it is acceptable to issue a No Further Action Letter, however, a No Further Action Letter is applicable only to site cleanup and can only be issued by a Local Oversight Program (LOP) and the Yolo County CUPA is not a state certified LOP.
- The Policy and Procedure for the UST removals references another policy for “Underground Storage Tank Soil Sampling Policy and Procedure” however, this sampling policy was not provided and reviewed by CalEPA or the State Water Board for consistency.

With the next progress report, amend and provide to CalEPA the Policy and Procedure for the UST removals. Additionally, provide CalEPA with the Underground Storage Tank Soil Sampling Policy and Procedure”.

**CUPA Update 2:**

The CUPA Manager has uploaded in the SharePoint folder two updated Policy & Procedures: one for UST removal and one for UST removal soil sampling. Also uploaded are updated UST removal permit application and certification forms.

**Evaluation Team Response 2 [State Water Board]:**

Review of the “UST Removal Inspection & Checklist” finds revisions necessary as follows:

- The section “Use When Unauthorized Release Suspected or Observed” has a checkbox for Clean-up actions completed and acceptable and a No Further Action Letter Issued, however, clean-up actions and a No Further Action Letter can only be overseen and issued by a state certified Local Oversight Program (LOP). The CUPA is not a state certified LOP and therefore, does not have regulatory authority to implement Clean-up actions or issue a No Further Action Letter.
- The Certificate of Satisfactory Completion section references CCR, Title 23, Section 2672(d), however this section should reference CCR, Title 23, Sections 2670 and 2672.

Review of the “Permit to Abandon” finds revision necessary as follows:

- UST Regulations and HSC do not authorize any UST to be abandoned, the terminology must reflect “closure-in-place”.

Review of the “UST Removal Applications” finds revisions necessary as follows:

- UST Regulations and HSC do not authorize any UST to be abandoned, the terminology must reflect “closure-in-place”.
- The “Temporary Tank Closure” section has a check box for application to remove USTs, however, USTs that go into temporary closure must be placed back into compliance, not removed or closed-in-place. Additionally, USTs are not authorized to be placed into temporary abandonment. The terminology must reflect “temporary closure.”
- Sampling requirements are inconsistent as follows:
  - The Soil Sampling protocol states an independent third-party must collect soil samples, however, this is more stringent than UST Regulations and HSC and no local ordinance authority exists.
  - Reference to the “Tri-Regional Board recommendations” is out-of-date and field analysis requirements should refer to the LUST Manual.
  - The “Sample” table states that one sample can be taken for USTs that are less than 1,000 gallons, which is less stringent than UST Regulations. The requirement

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

is to take a minimum of one sample at each end of the UST, for a total of two, for each UST being removed.

- The sampling requirements do not address sampling if the UST(s) will be closed-in-place.

Review of the “Guidelines for UST Soil and groundwater sampling” finds revisions necessary as follows:

- References to the “Tri-Regional Board Staff Recommendations” document, is out-of-date. The Guidelines must reference the Leaking Underground Fuel Tank (LUFT) Manual.
- Requirements to the sampler being qualified by an independent third-party, environmental consultant or an employee of a laboratory is more stringent than UST Regulations and HSC and no local ordinance authority exists.

Review of the “UST Plan Check” finds reference to California Fire Code and California Building Code. If the CUPA has been delegated authority of California Fire Code and California Building Code, the CUPA would be permitted to reference these codes on the UST Plan Check document and/or permit, however, requirements under other applicable laws, including but not limited to the California Fire Code or California Building Code, must be identified separately and not consolidated with UST Program requirements. If the CUPA has not been delegated authority of the California Fire Code and California Building Code, the code reference must be removed from the “UST Plan Check” document and associated permit.

The CUPA cannot withhold a Unified Program Facility Permit (UPFP), UST operating permit, or UST installation/modification or closure permit for non-compliance with requirements under other applicable laws, including California Fire Code and California Building Code.

With the next Progress Report, revise and provide the following documents as indicated above:

- UST Removal Inspection & Checklist
- Permit to Abandon
- UST Removal Applications
- Guidelines for UST Soil and groundwater sampling
- UST Plan Check

**CUPA Update 3:**

The CUPA has updated the following documents to address the issues described above:

UST Removal Inspection and Certificate  
Permit to Abandon (renamed to UST Closure-in-Place Permit)  
UST Removal Application  
Guidelines for UST Soil and Groundwater Sampling  
UST Plan Check Guidance Checklist  
Sampling Requirement table

In the UST Plan Check Guidance Checklist, reference to the Fire Code and Building Code were removed; however, the language remains because it is similar to the manufacturer's recommendations and it is helpful to have this information for UST staff to check off. The CUPA has uploaded the updated versions of all the documents above and a few additional ones to the SharePoint folder.

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

**Evaluation Team Response 3 [State Water Board]:**

Due to extenuating circumstances, the State Water Board is not able to review the following documents provided at this time:

- UST Removal Inspection and Certificate
- Permit to Abandon (renamed to UST Closure-in-Place Permit)
- UST Removal Guidelines
- UST Removal Application
- UST Removal Cover Letter
- Guidelines for UST Soil and Groundwater Sampling
- UST Plan Check Guidance Checklist
- Sampling Requirement table

The State Water Board will provide a response with the next Progress Report.

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**4. INCIDENTAL FINDING: RESOLVED**

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

Review of the UST Facility/Tank Data Download report obtained from CERS on December 1, 2020, finds UST monitoring and construction data are incorrect as follows:

- 8 of 45 (18%) continuous vacuum, pressure, or hydrostatic (VPH) Systems indicate having to conduct secondary containment testing,
- 4 of 45 (9%) VPH Systems indicate having to conduct periodic enhanced leak detection testing, and
- 5 of 45 (11%) VPH Systems indicate having single-wall components when they are required to have double-wall components.
- A small number of UST facilities indicate not having striker plates, spill buckets or spill bucket testing, when all are required.

Note: The following CERS FAQs may be referenced:

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

The following State Water Board correspondence may be referenced:

- When to Review Underground Storage Tank Records, dated November 29, 2016.

**RESOLUTION: COMPLETED**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure establishment of a process for UST inspection staff to consistently review CERS UST submittal information for accuracy and completeness regarding monitoring and construction requirements. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure. If revisions are made to a procedure other than the Data Management Procedure, the I&E Plan must be revised to incorporate reference to the revised procedure.



CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

The CUPA will train UST inspection staff on the revised Data Management Procedure, or other applicable procedure.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, to verify accuracy and completeness, the State Water Board will review three UST submittals that were accepted in CERS after UST inspection staff received training.

**CITATION:**

CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), 2641(g) and (h), and 2711(d)  
[State Water Board]

**CUPA Update 1:**

The CUPA revised the internal Policy & Procedure used by staff to correct the issues above. The CUPA Manager has uploaded a copy of the document in the SharePoint folder. The CUPA Manager sent the updated P&P to staff and asked them to read it and verify via email that they have done so. Staff have done that.

**Evaluation Team Response 1 [State Water Board]:**

Review of the Guidelines for Conducting Annual Inspections updated on May 21, 2021 finds it is acceptable, as the CUPA included a process for UST inspection staff to review CERS submittals for accuracy and completeness. The CUPA will train UST inspection staff on the revised Guidelines for Conducting Annual Inspections.

With the next progress report, once training is complete, State Water Board will review three UST submittals accepted in CERS.

**CUPA Update 2:**

The CUPA Manager has uploaded in the SharePoint folder a training log that shows that staff Completed the training described above.

**Evaluation Team Response 2 [State Water Board]:**

Review of the following accepted CERS UST submittals, after staff training occurred, finds the following improvements in CERS UST information:

- CERS ID 10212943: CERS UST information is accurate and complete.
- CERS ID 10213102: CERS UST information has a minor discrepancy. The information for UST Diesel South 2 states there is no spill bucket installed but that spill bucket testing is required.
- CERS ID 10213150: CERS UST information is accurate and complete.

This incidental finding is considered resolved.

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**5. INCIDENTAL FINDING: RESOLVED**

Upon adoption of the requirement for all overfill prevention equipment inspections to be completed no later than October 13, 2018, the CUPA is not consistently citing violations for failure to conduct an overfill prevention equipment inspection.

Review of annual UST compliance inspection reports, associated Overfill Prevention Equipment Inspection Report Forms, and CERS CME information finds the CUPA did not cite violations for the following overfill prevention equipment inspections conducted after October 13, 2018:

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

- CERS ID 10212931: Overfill Prevention Equipment Inspection Report Form dated December 21, 2018. The CUPA did not: 1) cite the correct violation during the UST compliance inspection (dated December 21, 2018, and 2) provide accurate U.S. EPA Technical Compliance Report (TCR) 9b reporting.
- CERS ID 10212964: Overfill Prevention Equipment Inspection Report Form dated January 14, 2019. The CUPA did not: 1) cite the correct violation during the UST compliance inspection (dated November 6, 2019, and 2) provide accurate U.S. EPA TCR 9b reporting.
- CERS ID 10213069: Overfill Prevention Equipment Inspection Report Form dated February 8, 2019. The CUPA did not: 1) cite the correct violation during the UST compliance inspection (dated August 21, 2019, and 2) provide accurate U.S. EPA TCR 9b reporting.

**RESOLUTION: COMPLETED**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure establishment of a process for UST inspection staff to correctly cite all violations on inspection reports, report all UST violations in CERS, and provide accurate TCR reporting. The process will delineate how the CUPA will ensure UST inspectors are trained on new provisions of UST Regulations and HSC, and to consistently and correctly cite violations for failure to implement those provisions. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If amendments are made to a revised procedure other than the I&E Plan, the I&E Plan must be revised to incorporate reference to the amended procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3<sup>rd</sup> Progress Report, if amendments were necessary to the I&E Plan or other applicable procedure, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

**CITATION:**

HSC, Chapter 6.7, Sections 25288(b), 25299, and 25299.2(a)  
CCR, Title 23, Sections 2637.2(a), 2665(b), 2712(c), (e), (g) and 2713(c) and (d)  
CCR, Title 27, Section 15290(a)(3)  
[State Water Board]

**CUPA Update 1:**

The CUPA revised the internal Policy & Procedure used by staff to correct the issues above. The CUPA Manager has uploaded a copy of the document in the SharePoint folder. The CUPA

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report #3**

Manager sent the updated P&P to staff and asked them to read it and verify via email that they have done so. Staff have done that.

**Evaluation Team Response 1 [State Water Board]:**

Review of the Guidelines for Conducting Annual Inspections updated on May 21, 2021 finds it is acceptable, as the CUPA included a process for UST inspection staff to cite all UST violations on the inspections even if the violations were corrected on-site. The CUPA will train UST inspection staff on the revised Guidelines for Conducting Annual Inspections.

With the next progress report, the CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised Guidelines for Conducting Annual Inspections.

**CUPA Update 2:**

The CUPA Manager has uploaded in the SharePoint folder a training log that shows that staff completed the training described above.

**Evaluation Team Response 2 [State Water Board]:**

Review of the training log provided finds it acceptable.  
This incidental finding is considered resolved.

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