

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1**CUPA:** City of Long Beach Department of Health and Human Services**Evaluation Period:** April 2021 through December 2021**Evaluation Team Members:**

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Matthew McCarron
- **CalEPA*:** Garrett Chan, Jack Harrah
- **State Water Board:** Sean Farrow
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glenn Warner

Evaluation Progress Report #1 Received by CalEPA: June 10, 2022**Deficiencies Pending Correction:** #'s 1-15**Incidental Findings Pending Resolution:** #'s 1-3**Evaluation Progress Report #2 Due to CalEPA:** November 17, 2022**Deficiencies Pending Correction:** #'s 1-15**Incidental Findings Pending Resolution:** #'s 1, 2

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

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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:

1st Progress Report: June 14, 2022**2nd Progress Report:** August 17, 2022**3rd Progress Report:** November 17, 2022**4th Progress Report:** February 17, 2023

*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.

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1. DEFICIENCY:

Established administrative procedures have components that are incomplete or inaccurate.

The following administrative procedures have components that are incomplete:

- The public participation procedure does not outline how the CUPA ensures the receipt and consideration of comments from regulated businesses and the public.
- The file retention policy is missing the following list of files to be retained for the five-year minimum retention time:
 - Copies of self-audit reports, inspection reports, enforcement files
 - All records related to hazardous waste enforcement actions from the date the enforcement action is resolved
 - Detailed records used to produce the summary reports submitted to the state
 - Surcharge billing and collection records following closure of any billing period or until completion of any audit process
 - Training records
- The procedures for providing Hazardous Materials Release Response Plan (HMRRP) information do not include provisions for providing HMRRP information to other appropriate government entities in accordance with Health and Safety Code (HSC) Section 25504(c).
- The file retention policy does not include archival procedures for documentation other than the Underground Storage Tank (UST) Program.

The following administrative procedure has a component that is inaccurate:

- The Unified Program Consolidated Permit procedure, Section III, Subsection (A)(3) references “HSC, Chapter 6.75” and “Title 23 of the CCR Chapter 18.” However, the CUPA is not authorized to implement HSC, Chapter 6.75 or CCR, Title 23, Division 3, Chapter 18.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15180(e)(1), (e)(4), 15180(e)(2), and 15185(b)
Health and Safety Code (HSC), Chapter 6.7, Section 25292.3
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised Unified Program administrative procedures that adequately incorporate all required components.

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures, are necessary based on feedback from CalEPA and the State Water Board, the CUPA will provide CalEPA with the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised Unified Program administrative procedures.

By the 3rd Progress Report, if amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended Unified

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Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended Unified Program administrative procedures.

CUPA Update 1:

Record Retention Policy is attached for review.

All requested changes have been made to the Public Participation (00-11A), File Retention (00-6A), Hazardous Materials Disclosure (00-10P) and Consolidated Permit (00-9A) procedures.

The City of Long Beach CUPA considers this deficiency abated and closed.

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

CalEPA: The CUPA provided a revised file retention policy titled "Record Retention and Maintenance Policy." The revised policy includes a five-year minimum retention policy for inspection reports, enforcement, hazardous waste enforcement documentation for Unified Program elements other than the UST Program, including the HWG Program, CalARP Program, APSA Program, and Business Emergency Plan Program. The policy also outlines a five-year minimum retention policy for additional CUPA records including the annual self-audit reports, surcharge billing and collection records, and training records. The file retention policy is satisfactory.

With the next Progress Report, the CUPA will provide the following procedures:

- Public participation procedure outlining how the CUPA ensures the receipt and consideration of comments from regulated businesses and the public.
- Hazardous Materials Release Response Plan (HMRRP) procedure including provisions for providing HMRRP information to other appropriate government entities in accordance with Health and Safety Code (HSC) Section 25504(c).

State Water Board: A copy of the Unified Program Consolidated Permit procedure was not provided. With the next Progress Report, provide the revised Unified Program Consolidated Permit procedure.

2. DEFICIENCY:

The CUPA did not submit the Annual Single Fee Summary Report to CalEPA by September 30th for Fiscal Years (FYs) 2018/2019 and 2019/2020.

CITATION:

CCR, Title 27, Section 15290(a)(2)
[CalEPA]

CORRECTIVE ACTION:

By the 3rd Progress Report, the CUPA will provide CalEPA with the completed Annual Single Fee Summary Report for FY 2021/2022. The CUPA will complete an Annual Single Fee Summary Report by September 30th for each subsequent FY.

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CUPA Update 1:

Long Beach CUPA is making significant progress in completing the Annual Single Fee Summary Report for Fiscal Years 2018/2019 and 2019/2020. The delay was due to a citywide change in financial and billing systems between FY 2018/19 and FY 2019/2020. This resulted in many financial and budget related activities during this transition becoming challenging to complete, excessive workloads for financial staff to close out one financial system and learn the new one, and the resulting intermittent staff support for financial analysis. During this time, the Environmental Health Bureau hired an Administrative Analyst and Accountant who are working together to analyze and complete the FY 2018/2019 and FY 2019/2020 Annual Single Fee Summaries. We also anticipate finishing the Annual Single Fee Summary Report for FY 2021/2022 by the 3rd Progress Report and will ensure that future reports are submitted by September 30th for each subsequent FY.

Evaluation Team Response 1 [CalEPA]:

The CUPA provided a response explaining the reasons the Annual Single Fee Summary Reports were not completed for FY 2018/2019 and 2019/2020. The CUPA has assigned staff to work on addressing the completion of both reports and completing the Annual Single Fee Summary Report for FY 2021/2022 by September 30th.

With the 3rd Progress Report, or earlier, provide the Annual Single Summary Report for FY 2021/2022 and ensure that each subsequent report is submitted by September 30th.

3. DEFICIENCY:

The CUPA's Single Fee System does not include details for the allocation of supplemental revenues to properly fund the Unified Program.

The CUPA provided a budget spreadsheet covering FYs 2017/2018, 2018/2019, and 2019/2020 that incorporates calculations of total expenditures and revenues funding the Unified Program.

- FY 2017/2018:
 - The CUPA reported expenditures of \$1,977,235.87 and single fee revenues of \$1,767,633.12. The CUPA has a budget deficit of \$209,602.75.
- FY 2018/2019:
 - The CUPA reported expenditures of \$2,082,293.73 and single fee revenues of \$1,778,799.24. The CUPA has a budget deficit of \$303,494.49.
- FY 2019/2020:
 - The CUPA reported expenditures of \$2,074,340.18 and single fee revenues of \$1,869,739.93. The CUPA has a budget deficit of \$204,600.25.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide a narrative identifying the additional funding sources, and the financial amounts of those additional funding sources used to supplement the

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CUPA's expenditures accrued with the implementation of the Unified Program for FYs 2017/2018, 2018/2019, and 2019/2020.

By the 1st Progress Report, the CUPA will review and revise the Financial Management Procedure to include a narrative that specifically identifies the funding sources and financial amounts of the Single Fee System for Unified Program implementation. The narrative will identify how the fee accountability program incorporates additional and reliable funding sources in the Single Fee System, such as supplemental deferred funds, and the relative amounts of each additional funding source to be utilized in the future for continually supplementing the necessary and reasonable costs accrued as expenditures in the implementation of the Unified Program. The CUPA will provide the revised Financial Management Procedure to CalEPA.

By the 2nd Progress Report, if amendments to the Financial Management Procedure are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended Financial Management Procedure.

By the 2nd Progress Report, the CUPA will provide the annual Self-Audit Report for FY 2021/2022, which will include a narrative that specifically identifies the additional funding sources and the amount of each additional funding source in the Single Fee System, used to supplement the necessary and reasonable costs for implementing the Unified Program, if applicable. Each subsequent Self-Audit Report will include a review of the fee accountability program including, but not limited to identifying the additional funding sources and the amount of each additional funding source in the Single Fee System, used to supplement the necessary and reasonable costs for implementing the Unified Program, if applicable.

CUPA Update 1:

The Long Beach CUPA fund budget deficits for FY 2017/18, 2018/19, and 2019/20 were covered by the Long Beach CUPA fund balance which by the end of FY 2016/17 had grown to \$1,526,513 primarily due to intermittent staffing vacancies from prior fiscal years. A concurrent fee accountability study and resource analysis of the Long Beach CUPA determined that, if fully staffed and all necessary expenditures were incurred, the fees being charged at that time would need to be increased 25% to fully offset these expenditures. Given the amount of the Long Beach CUPA fund balance at the time, it was decided that a five year plan to slowly increase fees by 25% to offset the annual expenditures of a fully staffed Long Beach CUPA would result initially in annual deficits that would carefully draw down the fund balance to an appropriate level while also increasing fees annually to fully support expenditures by year five.

The Long Beach CUPA endeavors to maintain a reasonable fund balance to balance the budget in fiscal years where expenditures happen to exceed revenues. For FY 2020/21 our fund balance was \$396,359.42. A Fee amounts will be reviewed annually to ensure they fully offset estimated expenditures. Currently, a citywide fee analysis is being conducted by a consulting firm specializing in such studies. The Long Beach CUPA fund is actively involved in this study, and the resulting recommendation will most likely be to raise fees to fully offset the annual expenditures of the Long Beach CUPA and is planned to be presented for adoption for the City fiscal year FY 2022/23 (October 1, 2022 – September 30, 2023) and will be incorporated into the annual CUPA permit bills that are sent out in mid-October of every year.

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Evaluation Team Response 1 [CalEPA]:

The CUPA provided a narrative identifying the additional funding sources, and the financial amounts of those additional funding sources used to supplement the CUPA's expenditures accrued with the implementation of the Unified Program for FYs 2017/2018, 2018/2019, and 2019/2020. The narrative includes an explanation of the CUPA's action plan using a third-party consultant to conduct a citywide fee analysis to address balancing the budget in future fiscal years by raising fees to "fully offset the annual expenditures of the Long Beach CUPA." CalEPA looks forward to continued updates regarding the status of the citywide fee analysis and its potential adoption for FY 2022/2023.

With the next Progress Report, the CUPA will review and revise the Financial Management Procedure to include a narrative that specifically identifies the funding sources and financial amounts of the Single Fee System for Unified Program implementation. The narrative will identify how the fee accountability program incorporates additional and reliable funding sources in the Single Fee System, such as supplemental deferred funds, and the relative amounts of each additional funding source to be utilized in the future for continually supplementing the necessary and reasonable costs accrued as expenditures in the implementation of the Unified Program. The CUPA will provide the revised Financial Management Procedure to CalEPA.

With the next Progress Report, the CUPA will provide the annual Self-Audit Report for FY 2021/2022, which will include a narrative that specifically identifies the additional funding sources and the amount of each additional funding source in the Single Fee System, used to supplement the necessary and reasonable costs for implementing the Unified Program, if applicable.

4. DEFICIENCY:

The CUPA is not submitting quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter when state surcharge revenues are remitted.

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

- FY 2018/2019
 - 2nd Fiscal Quarter
 - Due on January 30, 2019, submitted on February 11, 2021.
 - 3rd Fiscal Quarter
 - Due on April 30, 2019, submitted on February 11, 2021.
 - 4th Fiscal Quarter
 - Due on July 30, 2019, submitted on May 6, 2021.
- FY 2019/2020
 - 1st Fiscal Quarter
 - Due on October 30, 2019, submitted on May 13, 2021.
 - 2nd Fiscal Quarter
 - Due on January 30, 2020, submitted on May 13, 2021.
 - 3rd Fiscal Quarter
 - Due on April 30, 2020, submitted on May 13, 2021.
 - 4th Fiscal Quarter
 - Due on July 30, 2020, submitted on May 13, 2021.

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- FY 2020/2021
 - 1st Fiscal Quarter
 - Due on October 30, 2020, submitted on June 17, 2021.
 - 2nd Fiscal Quarter
 - Due on January 30, 2021, submitted on June 17, 2021.
 - 3rd Fiscal Quarter
 - Due on April 30, 2021, submitted on June 17, 2021.

Note: A deficiency for not remitting surcharges was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. However, after the 2018 CUPA Performance Evaluation was closed and prior to the 2021 CUPA Performance Evaluation, the CUPA remitted surcharges to CalEPA.

CITATION:

CCR, Title 27, Section 15250(b)(1) and (2)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA the 3rd quarterly Surcharge Transmittal Report for Fiscal Year 2021/2022 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 no later than 30 days after the end of each fiscal quarter.

Note: CalEPA has revised the Quarterly Surcharge Transmittal Report template to reflect the increased CUPA Oversight state surcharge, which became effective July 1, 2021, and includes an assessment for the CERS NextGen Project. The revised Quarterly Surcharge Transmittal Report is available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf. Though CalEPA has requested use of the revised Quarterly Surcharge Transmittal Report, the July 1, 2018, version of the Quarterly Surcharge Transmittal Report may be used until the revised Quarterly Surcharge Transmittal Report is incorporated into Title 27.

CUPA Update 1:

Long Beach CUPA was delayed in submitting the Quarterly Surcharge Report and surcharge checks due the same reasons noted in the response to Deficiency #2. The delayed reports and surcharge checks were given top priority to complete and remit as quickly as possible. The hiring of the Administrative Analyst and Accountant is coupled with the Long Beach CUPA making it a high priority to submit future Quarterly Surcharge Reports and surcharge checks on time. Reports for Q2 & Q3 of Fiscal Year 2021/2022 were submitted before the due date and we will ensure submission of future reports within 30 days after the end of each fiscal quarter.

Evaluation Team Response 1 [CalEPA]:

The CUPA provided a response explaining the reasons the 3rd quarterly Surcharge Transmittal Report was not provided by the required due date. The 2nd and 3rd quarter Surcharge Transmittal Reports were remitted to CalEPA on June 17, 2022. The CUPA has assigned staff to work on addressing the completion of future quarterly Surcharge Transmittal Reports by the required due date.

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With the next Progress Report, provide the 4th quarterly Surcharge Transmittal Report for FY 2021/2022.

5. DEFICIENCY:

The CUPA is not inspecting each Hazardous Waste Generator (HWG) facility once every three years.

Review of facility files, inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA indicates:

- 486 of 931 (52%) HWG facilities were not inspected once every three years.

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

CCR, Title 27, Section 15200(a)(3)(A)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility is inspected once every three years. The action plan will include, at a minimum:

- An analysis and explanation as to why the inspection frequency for the HWG program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS identifying each HWG facility that has not been inspected once every three years per the inspection frequency established in the Inspection and Enforcement (I&E) Plan. For each HWG facility listed, the spreadsheet will include, at a minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those HWG facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.
- Future steps to ensure that all HWG facilities will be inspected once every three years.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from DTSC. The CUPA will provide the revised action plan to CalEPA.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

By the 5th Progress Report, the CUPA will have inspected each HWG facility once every three years.

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CUPA Update 1:

Enter CUPA progress here.

Evaluation Team Response 1 [DTSC]:

The following aspects of the action plan were not provided:

- An analysis and explanation as to why the inspection frequency for the HWG program is not being met.
- A schedule to inspect HWG facilities; and
- Future steps to ensure all HWG facilities will be inspected.

The CUPA provided a spreadsheet without headers or legends included. It is not possible to effectively assess the information provided within the spreadsheet when it is not clear what the information represents. Data in the spreadsheet included a list of facilities and inspection dates.

Review of CERS information from July 1, 2021 to June 16, 2022, which represents almost one third (33%) of the timeframe that will be assessed during the next CUPA Performance Evaluation, finds 235 routine HWG inspections were conducted. Having a total of 931 HWG facilities within the jurisdiction of the CUPA, if one third (33%) of the facilities are inspected each year, in order to meet the triennial inspection frequency, approximately 310 HWG facilities would need to be inspected each 12 months.

With the next Progress Report, provide the following aspects of the written action plan:

- an analysis and explanation as to why the inspection frequency for the HWG program is not being met.
- an updated spreadsheet that includes clear and descriptive headers or legends;
- a schedule to inspect HWG facilities; and
- future steps to ensure all HWG facilities will be inspected.

6. DEFICIENCY:

The CUPA is not inspecting each Tiered Permit (TP) facility within the first two years of operations and every three years thereafter.

Review of CERS CME information from July 1, 2018, through June 30, 2021, and additional information provided by the CUPA indicates:

- 4 of 6 (67%) TP facilities were not inspected every three years after the initial inspection.

CITATION:

HSC, Chapter 6.5, Section 25201.4(b)(2)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each TP facility is inspected at least once within the first two years of operation and every three years thereafter. The action plan will include, at a minimum:

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- An analysis and explanation as to why the inspection frequency for TP facilities is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each TP facility that has not been inspected at least once within the first two years of operation and every three years thereafter. For each TP facility listed, the spreadsheet will include, at a minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those TP facilities, prioritizing the most delinquent inspections to be completed prior to any other TP inspection based on risk.
- Future steps to ensure that all TP facilities will be inspected at least once within the first two years of operation and every three years thereafter.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan, based on feedback from DTSC. The CUPA will provide the revised action plan to CalEPA.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

By the 3rd Progress Report and with each subsequent Progress Report, until considered corrected, the CUPA will provide CalEPA with up to three TP facility compliance inspection reports.

By the 5th Progress Report, the CUPA will have inspected each TP facility at least once within the first two years of operation and every three years thereafter.

CUPA Update 1:

It should be noted that the Tiered Permit program was up to date with routine inspections at year-end 2019 prior to the pandemic. At that time, 2 things happened that affected the inspection rate. The primary Tiered Permit inspector retired and the pandemic occurred. For the safety of inspectors, emergency response, complaint, new license inspections and pandemic response took priority.

Since the evaluation, the following inspections have taken place:

- 10151763, Lubeco, 6859 Downey, routine inspection 4/26/2022
- 10153131, Gulfstream Aerospace, 3495 Lakewood, Inspected 2/10/2022 and taken out of the program.

Per your request, the Tiered Permit spreadsheet has been attached, "Deficiency 6 TP Detail Attachment Update 1"

Two TP facilities require a routine inspection to abate this deficiency. It is the goal to inspect those facilities by year-end 2022.

All inspections referenced in this response were used as tiered permit field training for 2 new staff with the primary inspector as lead.

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Evaluation Team Response 1 [DTSC]:

The following aspect of the action plan was not provided:

- Future steps to ensure that all TP facilities will be inspected at least once within the first two years of operation and every three years thereafter.

With the next Progress Report, provide the following:

- A revised written action plan that includes future steps to ensure that all TP facilities will be inspected at least once within the first two years of operation and every three years thereafter;
 - An updated spreadsheet; and
 - an update on the two outstanding TP facilities that require a routine inspection.
-

7. DEFICIENCY:

The CUPA is not properly classifying HWG Program violations.

Review of facility files and CERS CME information indicates the CUPA is classifying Class I or Class II HWG Program violations as minor violations in the following instances:

- 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 described in HSC, Section 25404(a)(3).
 - CERS CME information indicates 25 of 25 (100%) violations cited between FY 2018/2019 through FY 2020/2021, for exceedance of accumulation timeframe were classified as minor. The following are examples:
 - CERS ID 10411642: inspection dated August 2, 2018
 - CERS ID 10460902: inspection dated October 15, 2019
 - CERS ID 10610836: inspection dated March 3, 2020
- Violation for unauthorized treatment (HSC 25201) or illegal disposal (HSC 25189.5) incorrectly cited as a minor violation. Unauthorized treatment may result in a significant threat to human health or safety or the environment. Illegal disposal fails to ensure that hazardous waste is destined for, and delivered to, an authorized hazardous waste facility. Additionally, there is an economic benefit and avoided costs when hazardous waste is treated without authorization or illegally disposed. This does not meet the definition of minor violation as described in HSC, Section 25404(a)(3).
 - CERS CME information indicates 4 of 7 (57%) violations cited between FY 2018/2019 through FY 2020/2021, for unauthorized treatment or illegal disposal were classified as minor. The following are examples:
 - CERS ID 10452652: inspection dated March 27, 2019, citing two separate minor violations
 - CERS ID 10810588: inspection dated July 1, 2019, citing two separate minor violations

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CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
HSC, Chapter 6.11, Sections 25404(a)(3)
CCR, Title 22, Section 66260.10
CCR, Title 27, Section 15200(a) and (e)
[DTSC]

CORRECTIVE ACTION:

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 1st Progress Report, the CUPA will train inspection staff on:

- the classification of minor, Class I, and Class II violations, 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
- how to properly classify HWG Program violations during inspections and ensure inspection staff review the following:
 - Violation Classification Training Video 2014
<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>

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

By the 2nd Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with an inspection report citing at least one HWG Program violation for an inspection that has been conducted after training was completed and within the past three months for three HWG Program facilities, as requested by DTSC. Each inspection report will contain observations, factual basis, and corrective actions to correctly identify and classify each observed HWG Program 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=Iqn3TJftSUM>
- Advanced Hazardous Waste Inspector Training Video 2012 (5 of 7): Tanks and Sumps
<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
- Accumulation Time Fact Sheet
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

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- Managing Used Oil Filters for Generators
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
- 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

CUPA Update 1:

Enter CUPA progress here.

Evaluation Team Response 1 [DTSC]:

No training documentation was provided. With the next Progress Report, provide training documentation, which at minimum will include an outline of the training conducted and a list of CUPA inspection staff in attendance for the required training detailed above. Once training documentation is provided, in the subsequent Progress Report, DTSC will select three HWG facilities for which to provide an inspection report citing at least one HWG Program violation.

8. DEFICIENCY:

The CUPA is not properly reviewing, processing, and authorizing each annual Onsite Hazardous Waste Treatment Notification for Permit By Rule (PBR) facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.

During the 45-day review process the CUPA must:

- Authorize operation of the FTU; or
- Deny authorization of the FTU in accordance with PBR laws and regulations; or
- Notify the owner/operator that the notification submittal is inaccurate or incomplete.

CERS data indicates that 5 of 7 (71%) PBR Onsite Hazardous Waste Treatment Notifications submitted July 1, 2018, through June 30, 2021, were not reviewed, processed, or authorized by the CUPA within 45 days of receipt as follows:

- CERS ID 10151765
 - PBR notification submitted March 8, 2019, and authorized May 9, 2019
 - PBR notification submitted February 28, 2018, and authorized August 1, 2018
- CERS ID 10152249
 - PBR notification submitted February 20, 2019, and authorized on May 9, 2019
 - PBR notification submitted February 19, 2018, and authorized on August 1, 2018
- CERS ID 10640032
 - PBR notification submitted January 24, 2020, and authorized on April 16, 2020

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

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CITATION:

CCR, Title 22, Section 67450.3(c)(1) and (d)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide inspectors with Tiered Permit (TP) training regarding how to accurately review, process, and authorize Onsite Hazardous Waste Treatment Notifications within the 45-day review process by either:

- Authorizing operation of the FTU; or
- Denying authorization of the FTU in accordance with PBR laws and regulations; or
- Notifying the owner/operator that the notification submittal is inaccurate or incomplete.

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

Note: A TP training video is available on the California Certified Unified Program Agency Forum Board website at: <https://www.youtube.com/user/orangetreeweb/videos>. Additional TP training assistance may also be requested from DTSC.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a narrative update to CalEPA on the status of the progress made toward accurately reviewing, processing, and authorizing each Onsite Hazardous Waste Treatment Notification to ensure annual notification submittals are accurate, correct, and represent the actual waste treatment systems used at the notifying facility.

CUPA Update 1:

The primary Tiered Permit inspector has reviewed Tiered Permit documentation and consulted with Matthew McCarron, DTSC on various Tiered Permit subjects. The 2 new inspectors attended Tiered Permit Overview training at the CUPA conference. In addition, the 2 most recent Tiered Permit inspections were used as field training for the 2 new inspectors (Steve Wilson and Dang Chiem), which included a discussion of the CERS requirements.

The CERS website is reviewed weekly for new Tiered Permit submissions.

The City of Long Beach CUPA considers this deficiency abated and closed.

Evaluation Team Response 1 [DTSC]:

No training documentation was provided. To assist CUPA personnel in the future, it is recommended to develop a written procedure for reviewing PBR submittals if one does not already exist. With the next Progress Report, provide:

- the requested training documentation, which at minimum will include an outline of the training conducted and a list of CUPA inspection staff in attendance for the required training detailed above; and
- a narrative update on the status of the progress made toward accurately reviewing, processing, and authorizing each Onsite Hazardous Waste Treatment Notification to ensure annual notification submittals are accurate, correct, and represent the actual waste treatment systems used at the notifying facility.

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9. DEFICIENCY:

The CUPA is not ensuring all regulated businesses subject to the Hazardous Materials Business Plan (HMBP) reporting requirements annually submit a chemical inventory or no-change certification to CERS.

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 328 of 1,311 (25%) business plan facilities have not submitted a chemical inventory (including site map) or no-change certification within the last 12 months.

CITATION:

HSC, Chapter 6.95, Sections 25505(a) and 25508(a)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that all business plan facilities have annually submitted an HMBP, including a chemical inventory, or no-change certification to CERS, and that each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at a minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP containing all required components or a no-change certification to CERS within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - recent review, acceptance and rejection of HMBPs
 - For those businesses that have not complied, the appropriate enforcement taken by the CUPA to ensure a complete HMBP is annually submitted to CERS.

By the 4th Progress Report, the CUPA will follow up with each business plan facility identified in the action plan to ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP or certification to CERS, or the CUPA will apply appropriate enforcement.

CUPA Update 1:

83% corrected ; 17% outstanding; Please see excel spreadsheet, "Deficiency 9 Detail Attachement UPDATE 1".

Column H is column in question for this deficiency. CUPA emails all facilities in January as a reminder of annual update/submittal in CERS. Additionally, CUPA started emailing quarterly to any facilities that have not made an update or submittal within the previous 12 months.

January email accounts for Q1; An email sent in May accounts for Q2 of 2022.

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See language of emails sent below:

- **From:** LBCUPA <LBCUPA@longbeach.gov>
Sent: Tuesday, January 25, 2022 9:49 AM
Subject: Long Beach CUPA requires annual CERS submittal by March 1st each year
Importance: High

Good Morning,

You are receiving this notification because you are listed on a California Environmental Reporting System (CERS) account that is located within the City of Long Beach CUPA jurisdiction. Long Beach CUPA requires submittal by March 1st each year.

If you have made a submittal of all applicable elements recently, Thank you for your compliance!

IF YOU ARE NO LONGER RESPONSIBLE AND SHOULD BE REMOVED FROM A USER LIST FOR A CERS-LISTED FACILITY, PLEASE CONTACT THE LEAD USER FOR THE CERS ACCOUNT. HERE IS A GUIDANCE ON MANAGING USERS ON AN ACCOUNT (WE ARE NOT ABLE TO ADD/REMOVE FOR YOU).

<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2020/12/CERS-Business-Portal-Help-How-to-Manage-Users-for-Your-Business-Organization.pdf>

SELF-CERTIFICATION

Does your facility qualify to be able to Self-Certify instead of a full submittal?

Here's a guidance on how to use that function:

<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2020/09/CERS-Business-Portal-Help-NEW-Feature-AB1429-Self-Certification-9.15.20.pdf>

HOW TO MAKE A SUBMITTAL FROM A PREVIOUS SUBMITTAL:

https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2017/04/making-a-submittal-from-a-previous-submittal_submittals.pdf

UST FACILITIES MUST COMPLETE FULL SUBMITTAL ANNUALLY – CERS UST

FAQS: **https://www.waterboards.ca.gov/water_issues/programs/ust/cers/faqs.html**

CERS CONSOLIDATED EMERGENCY RESPONSE/CONTINGENCY PLAN -

https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2020/11/consolidated-ER-plan-2017_new.pdf

APSA SUBMITTAL SECTION: **<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2020/08/CERS-Business-Portal-Help-Preparing-an-APSA-Submittal-in-CERS.pdf>**

Follow-up email was sent to 262 CERS users associated with accounts that have not made a submittal to the HMBP Inventory section in the past 12 months on 5/12/2022.

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The CUPA will email CERS submittal reminders to facilities once per quarter. This was completed in Q1 on January 25th and in Q2 on May 12th.

Evaluation Team Response 1 [CalEPA]:

CalEPA commends the progress the CUPA has made towards resolving overdue HMBP submittals and encourages the continued efforts to pursue compliance.

As of June 13, 2022, review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds 257 of 1,344 (19%) business plan facilities have not submitted a chemical inventory (including site map) or no-change certification within the last 12 months.

The provided action plan does not address steps taken to bring the facility notified by email into compliance. With the next Progress Report, provide an action plan to ensure that all business plan facilities have annually submitted an HMBP, including a chemical inventory, or no-change certification to CERS, and that each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS.

With the next Progress Report, provide an updated spreadsheet.

10. DEFICIENCY:

The CUPA is not inspecting each facility subject to HMBP Program requirements at least once every three years.

Review of facility files, CERS CME information, and additional information provided by the CUPA indicates:

- 399 of 1,311 (30%) facilities subject to Business Plan requirements were not inspected within the last three years.

CITATION:

HSC, Chapter 6.95, Section 25511(b)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to HMBP requirements is inspected at least once every three years. The action plan will include, at a minimum:

- An analysis and explanation as to why the triennial compliance inspection requirement is not being met for Business Plan facilities. Existing inspection staff resources and the number of facilities scheduled to be inspected each year are factors to address in the explanation.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected within the last three years. For each HMBP facility listed, the spreadsheet will include, at a minimum:
 - Facility name;
 - CERS ID;

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- Date of the last routine inspection.
- A schedule to inspect those HMBP facilities based on risk, prioritizing the most delinquent inspections to be completed prior to any other Business Plan inspection based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan, based on feedback from CalEPA. The CUPA will provide the revised action plan to CalEPA.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

By the 5th Progress Report, the CUPA will have inspected each HMBP facility at least once in the last three years.

CUPA Update 1:

The CUPA only obtained two full-time HMBP inspectors in Q1 2018; both inspectors had to be trained and orientated. Strategies that have been used to help bridge the gap in staffing in 2017-2018 included having one FTE work on their day off to complete inspections. Presently, the same FTE inspectors are working for the HMBP Program and are tasked with CERS review and field inspections. They must keep up with new facilities, facility closures, CERS submittals throughout the year, and routine inspections. As they work through the next rotation, it is anticipated that the shortfall in routine inspections will be slowly but surely closed. The pandemic closures resulted in a high rate of closures, change of ownership and shuttering of businesses that were normally open and available for routine inspections. As the city returns to more normalized business hours, it is anticipated that facility availability will also improve.

Requested Spreadsheet: 226 Facilities last inspected on or before 5/30/2019 per CERS that are now due for 36 month routine inspection – see attached.

Strategy for future: Focus for next update will be to capture the oldest facilities due while working in high-risk facilities coming due for inspection.

Evaluation Team Response 1 [CalEPA]:

Review of CERS CME data from April 1, 2019, to March 31, 2022, indicates the CUPA is maintaining an inspection frequency of 30%, with 942 of 1300 HMBP facilities that were not inspected within the last three years.

The following aspects of the action plan were not provided:

- A schedule to inspect those HMBP facilities based on risk, prioritizing the most delinquent inspections to be completed prior to any other Business Plan inspection based on risk, and
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

With the next Progress Report, provide the following:

- A revised written action plan that includes a schedule to inspect HMBP facilities based on risk, prioritizing the most delinquent inspections to be completed prior to any other Business Plan inspection based on risk, and future steps to ensure that all HMBP facilities will be inspected at least once every three years; and
- an updated spreadsheet.

11. DEFICIENCY:

The underground storage tank (UST) operating permit and permit conditions, issued under the Unified Program Facility Permit (UPFP), are missing provisions required under HSC and UST Regulations and are inconsistent with HSC and UST Regulations.

Review of UST operating permits finds the following provisions are missing:

- CERS identification (ID) number.
- UST ID numbers.
- Issuance date.

Review of UST operating permits, and permit conditions finds the following inconsistencies with HSC and UST Regulations:

- Permit indicates being issued in conformity with “EXISTING FEDERAL AND STATE LAWS...,” however, the CUPA is not authorized to implement federal rule.
- Permit Condition 7 references “CH&SC DIV 20 CH 6.75;” “CCR TITLE 23, CH 18;” and “CCR TITLE 24, PART 9.” However, the CUPA does not have regulatory authority under HSC, Division 20, Chapter 6.75 or California Code of Regulations, Title 23, Division 3, Chapter 18. In addition, Permit Condition 7 references “CALIFORNIA FIRE CODE CHAPTER 23 (FIRE PERMIT F33 – AIRCRAFT REFUELING, FP37 – AUTO FUELING OR FP43A – MARINE FUELING).” Pursuant to HSC, Division 20, Chapter 6.11, Section 25404(a)(6), a UPFP cannot contain provisions of the California Fire Code. Equally, as noted in the 2018 CUPA Performance Evaluation, the permit condition references the UST program element as “motor fuel dispensing.” The UST program covers storage of more materials than motor vehicle fuel.
- Permit Condition 8 references “CH&SC DIV 20 CH 6.75;” “CCR TITLE 23, CH 18;” “CCR TITLE 24 PART 9;” “CALIFORNIA FIRE CODE CHAPTERS 23 AND 57;” and “LB MUNICIPAL CODE 18.48 (FIRE PERMIT FP 11A).” However, the CUPA does not have regulatory authority under HSC, Division 20, Chapter 6.75 or CCR, Title 23, Division 3, Chapter 18. In addition, pursuant to HSC, Division 20, Chapter 6.11, Section 25404(a)(6), a UPFP cannot contain provisions of the California Fire Code.
- Permit and permit condition requires a UST owner or operator to post a specific portion of the permit in a conspicuous place at the facility. This requirement is more stringent than HSC and UST Regulations, and where no local ordinance authority exists. UST Regulations require a paper or electronic copy of the UST operating permit be readily accessible at the facility.
- Permit Condition states, “Maintain all UST related CUPA forms at facility.” However, the regulatory requirement is for an UST owner or operator to provide UST related information in CERS.
- Permit Condition reflects maintaining records of monitoring, maintenance, and testing for “3 years.” However, the requirement for UST owners or operators is to maintain monitoring and maintenance records for 36 months.
- Permit Condition states, “Notify CUPA within 30 days of any change in usage of UST...” However, the regulatory requirement for an UST owner or operator is to notify the CUPA 30 days prior to any change in substance stored.

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

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.7, Sections 25285(c) and 25295(a)(1)
CCR, Title 23, Sections 2650, 2651, 2652, and 2712(b), (c) and (i)
CCR, Title 27, Section 15190(h)
[State Water Board]

CORRECTIVE ACTION:

During the CUPA Performance Evaluation, the CUPA provided a revised UPFP, titled “Permit to Operate,” which the State Water Board will review to ensure it includes a revised UST operating permit template and revised UST operating permit conditions. The State Water Board will provide feedback with the 1st Progress Report.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST operating permit template and UST operating permit conditions, based on feedback from the State Water Board, and will provide the amended UST operating permit template and UST operating permit conditions to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST operating permit issued under the UPFP and will provide CalEPA with five UST operating permits issued to UST facilities using the revised UST operating permit template and revised UST operating permit conditions.

By the 3rd Progress Report, if amendments to the revised UST operating permit template and UST operating permit conditions were necessary, the CUPA will begin to issue the amended UST operating permit issued under the UPFP and will provide CalEPA with five UST operating permits issued to UST facilities using the amended UST operating permit template and amended UST operating permit conditions.

CUPA Update 1:

“During the CUPA Performance Evaluation, the CUPA provided a revised UPFP, titled “Permit to Operate,” which the State Water Board will review to ensure it includes a revised UST operating permit template and revised UST operating permit conditions. The State Water Board will provide feedback with the 1st Progress Report.”

** CUPA has entered RFP timeline to acquire new data/permitting system. Anticipate process to last through Q2/Q3. Will provide update to timeline in next update. Once acquired a permit will be generated from the new system for the WB evaluator to review.
As of 6/7/2022 review of RFP bids has begun and is in progress.

Evaluation Team Response 1 [State Water Board]:

Due to extenuating circumstances, the State Water Board is not able to review the revised “Permit to Operate” template or the response provided at this time. The State Water Board will provide a response with the next Progress Report.

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12. DEFICIENCY:

The CUPA is not consistently citing violations for late overfill prevention equipment inspections during annual UST compliance inspections. As a result, the CUPA is also not accurately reporting Technical Compliance Rate (TCR) data to the United States Environmental Protection Agency (U.S. EPA). Additionally, the CUPA is not consistently citing the correct overfill prevention equipment violation number.

Review of annual UST compliance inspection reports, associated Overfill Prevention Equipment Inspection Report Forms, and CERS CME information finds the following overfill prevention equipment inspections were conducted beyond the October 13, 2018, deadline and the CUPA did not cite and/or correctly cite violations.

The following UST facilities were not cited a violation for late overfill prevention equipment inspections during the CUPA's annual UST compliance inspection:

- CERS ID 10152639: Overfill Prevention Equipment Inspection Report Form dated July 29, 2020. The CUPA did not cite the violation for failure to conduct the overfill prevention equipment inspection during the annual UST compliance inspection May 16, 2019, and provide accurate U.S. EPA TCR 9b reporting.
- CERS ID 10212625: Overfill Prevention Equipment Inspection Report Form dated May 22, 2019. The CUPA did not cite the violation for failure to conduct the overfill prevention equipment inspection during the annual UST compliance inspection May 22, 2019, and provide accurate U.S. EPA TCR 9b reporting.
- CERS ID 10405297: Overfill Prevention Equipment Inspection Report Form dated March 21, 2019. The CUPA did not cite the violation for failure to conduct the overfill prevention equipment inspection during the annual UST compliance inspection March 12, 2019, and provide accurate U.S. EPA TCR 9b reporting.

The following UST facilities were cited the incorrect overfill prevention equipment violation number during the annual UST compliance inspections:

- CERS ID 10445332: Overfill Prevention Equipment Inspection Report Form dated July 18, 2019. The CUPA cited CERS violation number 2010018 for Overfill Prevention Inspection Records. The correct CERS violation number is 2030036 for Overfill Prevention (USEPATCR 9b). The CUPA did not cite the correct CERS violation number during the annual UST compliance inspection October 8, 2019, and provide accurate U.S. EPA TCR 9b reporting.
- CERS ID 10649515: Overfill Prevention Equipment Inspection Report Form dated November 20, 2019. The CUPA cited CERS violation number 2010018 for Overfill Prevention Inspection Records. The correct CERS violation number is 2030036 for Overfill Prevention (USEPATCR 9b). The CUPA did not cite the correct CERS violation number during the annual UST compliance inspection November 20, 2019, and provide accurate U.S. EPA TCR 9b reporting.
- CERS ID 10403842: Overfill Prevention Equipment Inspection Report Form dated October 22, 2019. The CUPA cited CERS violation number 2010018 for Overfill Prevention Inspection Records. The correct CERS violation number is 2030036 for Overfill Prevention (USEPATCR 9b). The CUPA did not cite the correct CERS violation number during the annual UST compliance inspection October 22, 2019, and provide accurate U.S. EPA TCR 9b reporting.

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CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process to delineate how the CUPA will ensure UST inspection staff are trained on provisions of HSC and UST Regulations, and how to consistently and correctly cite violations, including violations for overfill prevention equipment inspections, in CERS and TCR criteria to the U.S. EPA. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure were 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 no amendments were 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 a 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 3rd 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 a 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.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, if not available in CERS, the CUPA will provide CalEPA with the annual UST compliance inspection report for five UST facilities, as selected by the State Water Board, once training of UST inspection staff has been completed. The inspection report for each selected UST facility will include all properly cited UST violations, such as overfill prevention equipment inspection violations. The State Water Board will review CERS for consistency with annual UST compliance inspection reports ensuring violations are cited for late overfill prevention equipment inspections (if applicable) and correct violation numbers.

CUPA Update 1:

See updated I&E Plan.

Evaluation Team Response 1 [State Water Board]:

Due to extenuating circumstances, the State Water Board is not able to review the revised I&E Plan provided at this time. The State Water Board will provide a response with the next Progress Report.

13. DEFICIENCY:

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The CUPA is not ensuring all USTs including associated piping, used for the storage of hazardous substances installed on, or after, July 1, 2004, are in compliance with the design, construction, monitoring, and testing requirements of HSC, Division 20, Chapter 6.7, Section 25290.1.

Review of all USTs installed on, or after, July 1, 2004, finds:

- Five UST facilities either have not provided appropriate documentation or are missing or needing to complete and provide proof of required ELD testing for USTs.
 - During the CUPA Performance Evaluation, the CUPA provided information to demonstrate compliance for two UST facilities.
- The following UST facilities have not provided appropriate documentation or are missing or needing to complete and provide proof of required ELD testing for USTs:

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

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

CITATION:

HSC Chapter 6.7, Section 25290.1
[State Water Board]

CORRECTIVE ACTION:

During the CUPA Performance Evaluation, the CUPA provided information to demonstrate compliance for two of the five identified UST facilities that had not provided appropriate documentation or were missing or needing to complete and provide proof of required ELD testing. The CUPA is currently working with the UST owners or operators of the following three facilities to obtain appropriate documentation regarding the required ELD testing:

- CERS ID 10485634 (Tank ID number 002)
- CERS ID 10590478 (Tank ID number 002)
- CERS ID 10590595 (Tank ID numbers 001 and 002)

By the 1st Progress Report, for each of the three identified UST facilities, if the appropriate documentation regarding the required ELD testing has not been obtained for each UST, the CUPA will issue a Notice of Violation (NOV) to the applicable UST owners or operators and will require compliance within 30 days. If compliance is not obtained within 30 days, the CUPA will apply appropriate enforcement, which includes affixing UST red tags to non-compliant USTs.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide the appropriate documentation obtained from each UST facility regarding the required ELD testing. If the appropriate documentation regarding the required ELD testing has not been obtained for a UST, the CUPA will provide enforcement documentation for each applicable UST facility.

CUPA Update 1:

CERS ID 10485634 was able to locate and provide final ELD Test Pass results on 6/12/2010 - no further action required.

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CERS ID 10590478 was able to locate and provide final ELD Test Pass results on 10/14/2005 - no further action required.

CERS ID 10590595 was not able to locate and provide original final ELD Test Pass results and was required to conduct new test. LDT Test started on 6/2/2022. Final test results will be available by the next update.

Evaluation Team Response 1 [State Water Board]:

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

14. DEFICIENCY:

The local ordinance, *Title 8 – Health and Safety, Chapter 8.85 Underground and Above Ground Storage Tanks*, is inconsistent with HSC and UST Regulations.

Review of the local ordinance finds the following inconsistencies:

- Sections 8.85.010 (Creation of Long Beach/Signal Hill CUPA), 8.85.020 (Definitions), 8.85.030 (Designation of Long Beach/Signal Hill CUPA as local agency for underground storage tanks), 8.85.040 (Designation of Long Beach/Signal Hill CUPA as Unified Program Agency for above ground storage tanks), and 8.85.050 (Fees) reflect Long Beach/Signal Hill as the CUPA, however, Signal Hill no longer implements the CUPA program alongside Long Beach.
- Section 8.85.020 reflects a Joint Powers Agreement (JPA) between Long Beach and Signal Hill, however, the JPA is no longer valid between Long Beach and Signal Hill.
- Sections 8.85.030, 8.85.050, and 8.85.060 reference “Chapter 6.75 of Division 20 of the California Health and Safety Code” and “Chapter 18 of Division 3 of Title 23 of the California Code of Regulations.” However, the CUPA does not have regulatory authority under HSC, Division 20, Chapter 6.75 or CCR, Title 23, Division 3, Chapter 18.

CITATION:

HSC, Chapter 6.7 Sections 25299.2, and 25299.3

CCR, Title 23, Section 2620(c)

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

[State Water Board]

CORRECTIVE ACTION:

The CUPA will ensure the local ordinance reflects the correct authorized entities implementing the CUPA program.

By the 2nd Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt the revised local ordinances to be consistent with HSC, UST Regulations, and Unified Program Regulations. The plan will at a minimum include:

- A timeline for revising, drafting, and adopting, or repealing, the local ordinance; and
- Provisions for the CUPA to provide the revised local ordinance the State Water Board for analysis to ensure consistency with HSC, UST Regulations, and Unified Program Regulations.

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By the 3rd Progress Report, the CUPA will, if necessary, revise the plan for revision and adoption, or repealing, of the revised local ordinances based on feedback from the State Water Board.

Considering the length of time required to draft, revise, and adopt, or repeal, local ordinances, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided an acceptable plan for the revision and adoption of the revised local ordinance 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 HSC, UST Regulations, Unified Program Regulations, and authorized entities implementing the CUPA program, the CUPA certification approval, and meets all other requirements.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinance has been adopted.

CUPA Update 1:

We have not been able to start the process of revising the local ordinance. Planning Update with Progress Update #2.

Evaluation Team Response 1 [State Water Board]:

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

15. DEFICIENCY:

The CUPA is not consistently documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA, UST closure, and soil and/or groundwater sampling complies with UST Regulations and HSC when contamination is present.

The CUPA issues two different documents for UST closure, one for sites with contamination that require referral to the Los Angeles Regional Water Quality Control Board (Regional Board), and another for sites without contamination.

Review of UST facility files finds the following examples where the CUPA does not provide adequate UST closure documentation to the owner or operator upon completion of UST closure activities when contamination exists, and when the site is referred to the Regional Board for cleanup:

- CERS ID 10420759: Letter provided to the Regional Board dated August 10, 2020, does not document that the owner or operator has demonstrated proper closure to the satisfaction of the CUPA and in accordance with HSC and UST Regulations.
- CERS ID 10590523: Letter provided to the Regional Board dated August 10, 2020, does not document that the owner or operator has demonstrated proper closure to the satisfaction of the CUPA and in accordance with HSC and UST Regulations.

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

Note: 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) may be referenced.

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CITATION:

HSC, Chapter 6.7, Section 25298(c)
CCR, Title 23, Section 2672(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the UST closure procedure or other applicable procedure, to ensure the establishment of a process, which will include at a minimum how the CUPA will:

- Document in sufficient detail, the owner or operator has demonstrated to the satisfaction of the CUPA UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC, and
- Provide UST closure documentation to the UST owner or operator for all closures which demonstrates to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

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

By the 1st Progress Report, the CUPA will develop or revise a UST closure letter template for sites with contamination. The CUPA may consider including the following language in the UST closure letter template: “the City of Long Beach Department of Health and Human Services 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)” to include reference to specific UST code citations. The CUPA will provide the developed or revised UST closure letter template to CalEPA.

By the 2nd Progress Report, if amendments to the revised UST closure procedure, or other applicable procedure and/or the UST closure letter template are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST closure procedure or other applicable procedure and/or the UST closure letter template. If no amendments to the revised UST closure procedure or other applicable procedure and/or the UST closure letter template are necessary, the CUPA will train UST inspection staff on the revised UST closure procedure and/or UST closure letter template. The CUPA will provide training documentation to CalEPA, which at a 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 UST Closure procedure or other applicable procedure and/or the UST closure letter template.

By the 3rd Progress Report, if amendments to the revised UST closure procedure, or other applicable procedure and/or the 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 the UST closure letter template. 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 UST Closure procedure or other applicable procedure and/or UST closure letter template.

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With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the approved UST closure letter template and provide updated closure documentation upon request.

For the next two UST closures, or until considered corrected, the CUPA will provide CalEPA with a copy of the UST closure documentation demonstrating the CUPA's satisfaction UST closure complies with HSC and UST Regulations.

CUPA Update 1:

Please see requested attachments and updated I&E Plan.

Evaluation Team Response 1 [State Water Board]:

Due to extenuating circumstances, the State Water Board is not able to review the revised I&E Plan or the attachments provided at this time. The State Water Board will provide a response with the next Progress Report.

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1. INCIDENTAL FINDING:

The CUPA is not issuing the required Unified Program Facility Permit (UPFP). The CUPA issues a “CUPA Permit,” to combine the issuance of Unified Program permits in place of a UPFP.

CITATION:

CCR, Title 27, Section 15190(a) and (b)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will replace the “CUPA Permit” template with a UPFP template and provide the UPFP template to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, revise the UPFP template based on feedback from CalEPA. If no revisions are necessary, the CUPA will provide CalEPA with a copy of three UPFPs issued to facilities within the previous three months using the revised UPFP template.

CUPA Update 1:

Although work has started in getting our City IT to update the template; this has not been finalized yet. Anticipate an update in the next update and definitely will be resolved upon setup in the new inspection database that we are currently in RFP for.

Evaluation Team Response 1 [CalEPA]:

CalEPA acknowledges the CUPA is currently working with the IT Department and has an active RFP for updating the “CUPA Permit” template to reflect “Unified Program Facility Permit.” At this time, CalEPA has not been able to request and obtain a legal interpretation as to the requirement of the title for the permit that consolidates Unified Program permitting amongst all program elements.

Though the CUPA intends to provide an update with the next Progress Report, and will continue to work with the IT Department to revise the “CUPA Permit” template, it may not be necessary to revised the title of the “CUPA Permit” template to “Unified Program Facility Permit”.

With the next Progress Report, provide an update regarding the setup of the new inspection database and whether or not the CUPA will move forward in revising the title of the “CUPA Permit” to reflect “Unified Program Facility Permit.”

2. INCIDENTAL FINDING:

Required components of the I&E Plan are missing, inaccurate, or incomplete.

The following component is missing:

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.

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The following components are inaccurate:

- The Program Specific Enforcement Violation section for the UST Program does not reflect the current provisions of HSC, Chapter 6.7, Section 25292.3, which was amended and effective January 1, 2019. As written, the I&E Plan is not consistent with the requirements for a UST owner or operator when USTs are affixed with red tags.
- Throughout the I&E Plan, “Business Emergency Plans (BEPs)” is used instead of HMBPs.
- The citation Section 25512.2 (a-b) may have been intended to be cited as 25515.2(a-b).
- The civil penalties for the California Accidental Release Prevention (CalARP) Program are noted as \$2,000 and should be \$5,000.

The following components are incomplete:

- Provisions for addressing complaints do not include the investigation, enforcement, and closure of a complaint.
- Language requiring UST inspection staff to issue the correct citation for UST violations, specify utilization of “General” or “General/Local Ordinance” violation citations for which there is no authority under UST Regulations, HSC, or local ordinance authority. “General” or “General/Local Ordinance” violation citations should not be used to report UST violations when a specific violation citation is available or when the CUPA does not have a local ordinance.

Note: The 2018 CUPA Performance Evaluation identified a deficiency for citing violations as “General” or “General/Local Ordinance” for which the CUPA has no authority under either HSC, Chapter 6.7 or Local Ordinance. Though the CUPA updated the local data management system, revised the inspection checklist, and held a verbal training to address the deficiency, the CUPA did not provide a revised I&E Plan, training documentation, or annual UST compliance inspection reports for requested UST facilities to correct the deficiency. Review of current CERS CME information finds the CUPA has ceased reporting “General” or “General/Local Ordinance” violations and is consistently and correctly citing UST violations.

CITATION:

HSC, Chapter 6.7, Section 25299.2(a)
HSC, Chapter 6.95, Section 25515.2
CCR, Title 27, Section 15200(a)(11) and (14)
[CalEPA, DTSC, State Water Board]

RESOLUTION:

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

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, DTSC, and 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. Once training is complete, the CUPA will implement the revised I&E Plan.

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

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CUPA Update 1:

See attachments for I&E Plan and Incidental 2 update. Please note that Long Beach CUPA will host sampling training on June 22, 2022 in person.

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

CalEPA: Review of the revised I&E Plan provided finds it adequately addresses the inadequacies identified for the HMBP and CalARP Programs. This incidental finding is considered resolved. No further action is needed.

DTSC: Review of the revised I&E Plan provided finds it does not address sampling provisions as required in CCR, Title 27, Section 15200(a)(14). With the next Progress Report, provide an amended I&E Plan that addresses the above requested components.

State Water Board: Due to extenuating circumstances, the State Water Board is not able to review the revised I&E Plan or the attachments provided at this time. The State Water Board will provide a response with the next Progress Report.

3. INCIDENTAL FINDING: RESOLVED

The CUPA is not consistently addressing each referred complaint in accordance with the I&E Plan.

The following complaint number was referred to the CUPA and has not been addressed:

- Complaint #: COMP-49490; Referral dated: December 14, 2020

CITATION:

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

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will address the referred complaint identified in this deficiency. The CUPA will provide CalEPA with follow-up documentation and explain the outcome of the complaint.

CUPA Update 1:

Mitch Yamada spent a lot of time resolving their issue and making sure he is receiving DTSC complaints on a timely basis now.

We consider this finding closed.

Evaluation Team Response 1 [DTSC]:

Review of the CalEPA Environmental Complaint database finds the CUPA responded to the referral and closed out the complaint accordingly. This incidental finding is considered resolved. No further action is necessary.
