

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

CUPA: Nevada County Department of Environmental Health

Evaluation Period: October 2021 – July 2022

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden
- **CalEPA, Cal OES*:** Garrett Chan, Jack Harrah
- **State Water Board:** Jenna Hartman, Jessica Botsford
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glen Warner

Evaluation Progress Report #1 Submitted to CalEPA: November 7, 2022

Deficiencies Pending Correction: All

Incidental Findings Pending Resolution: All

Evaluation Progress Report #2 Due to CalEPA: March 27, 2023

Deficiencies Pending Correction: #3

Incidental Findings Pending Resolution: #1

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: November 7, 2022

3rd Progress Report: June 26, 2023

2nd Progress Report: March 27, 2023

4th Progress Report: September 25, 2023

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

1. DEFICIENCY: CORRECTED

The Self-Audit Reports for Fiscal Years (FYs) 2018/2019, 2019/2020, and 2020/2021 have missing components.

Review of the Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021 finds the following components are missing:

- An indication that there has been an annual review and update of the fee accountability program
- A narrative summary of the effectiveness of the single fee system
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program
- An indication that each Self-Audit Report was completed by September 30th of the following FY.
 - Note: Supplemental information included with each Self-Audit Report provided some indication as to when each report was created; however, that information was not present within each actual Self-Audit Report.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15280(c)
[CalEPA]

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will complete and provide to CalEPA a Self-Audit Report that includes all required components and incorporates a date of compilation to demonstrate the report was completed by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report, which will include all required components and incorporate a date of completion by September 30th.

CUPA Update 1:

The CUPA has attached a copy of the 21/22 Self-Audit for CalEPA's review. Although the Self-Audit report was initiated prior to the due date of September 30th, it was not completed on time due to staffing shortages. This is documented in the report and plans are in place to aid in timely reports for 22/23 and beyond. Items that have been incorporated into the report include:

- Annual review and update of the Fee Accountability Program;
- Narrative Summary of the Effectiveness of the Single Fee System; and
- Record of Changes in Local Ordinances, Resolutions etc. Affecting the CUPA

Evaluation Team Response 1 [CalEPA]:

A review of the included Self-Audit report for FY 2021/2022 finds it includes all required elements, and a dedicated area to indicate the date of completion for subsequent FYs. It is also acknowledged that the shortage of staff attributed to the delay in completion of the Annual Self-Audit report for FY 2021/2022. The CUPA has developed plans to ensure subsequent Self-Audit reports are completed by September 30th of each year. This deficiency is considered corrected. No further action is required.

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

2. DEFICIENCY: CORRECTED

The Area Plan is missing the following required elements:

- Monitoring and decontamination guidelines for equipment
- Provisions for access to state approved and permitted hazardous waste disposal facilities and emergency response contractors

CITATION:

CCR, Title 19, Sections 2642(b) and 2643(e)
[CalEPA]

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will provide CalEPA with the revised Area Plan that includes all required elements.

CUPA Update 1:

The CUPA has amended the Area Plan and attached it for CalEPA's review. The Monitoring and Decontamination Guidelines are in a new section in Part III, Appendix R8, and the provisions for access to state approved hazardous waste facilities and emergency response contractors are in Part III, R2 & R3.

Evaluation Team Response 1 [CalEPA]:

The amended area plan addresses the identified missing required elements. This deficiency is considered corrected. No further action is required.

3. DEFICIENCY:

The Underground Storage Tank (UST) Operating Permit conditions, issued under the Unified Program Facility Permit (UPFP), has components that are inconsistent with CCR, Title 23, Division 3, Chapter 18 (UST Regulations) and Health and Safety Code (HSC), Division 20, Chapter 6.7 requirements.

Review of UST Operating Permit conditions finds the following inconsistencies with HSC:

- Permit Condition 1 references HSC, Division 20, Chapter 6.75 and CCR, Title 23, Division 3, Chapter 18.
 - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Division 20, Chapter 6.75 or CCR, Title 23, Division 3, Chapter 18.
 - The correct citations are as follows:
 - UST Regulations Sections 2610 – 2717.7.
 - HSC Sections 25280 – 25296 and 25298 – 25299.6.
 - Alternatively, the sections excluded from the UST Regulations and HSC references could be identified.
- Permit Condition 2 states, "The owner or operator must report any unauthorized releases to...within 24 hours after the release has been detected or should have been detected."
 - HSC, Section 25295(a)(1) requires an owner or operator to report a "reportable" release to a CUPA within 24 hours after a release has been detected or should have been detected and transit information regarding the unauthorized release to

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

the CUPA no later than five working days after the date of the occurrence of the unauthorized release. In addition, the UST owner or operator must report the unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time during the unauthorized release.

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

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25295(a)(1), and 25297.01(b)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the UST Operating Permit conditions to be consistent with UST Regulations and HSC. The CUPA will provide the revised UST Operating Permit conditions to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST Operating Permit conditions based on feedback from the State Water Board, and will provide the amended UST Operating Permit conditions to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST Operating Permit conditions.

By the 3rd Progress Report, if amendments to the revised UST Operating Permit conditions were necessary, the CUPA will begin to issue the amended UST Operating Permit conditions.

As a result of the five-year UST Operating Permit cycle, the State Water Board will consider this deficiency corrected upon completion and acceptance of the revised or amended UST Operating Permit conditions. Issuance of the revised or amended UST Operating Permit conditions will be verified during the next CUPA Performance Evaluation.

CUPA Update 1:

The CUPA has attached a recently issued UST Operating Permit for CalEPA's review which we believe is consistent with UST Regulations and HSC. The permit is currently the template which will be used for subsequent permits pending CalEPA's review. (See permit attached for CERS ID# 10159035)

Evaluation Team Response 1 [State Water Board]: Due to extenuating circumstances, the State Water Board is not able to review the information provided at this time. The State Water Board will provide a response with the next Progress Report.

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

1. INCIDENTAL FINDING:

The Inspection and Enforcement (I&E) Plan has inaccurate components.

Review of the I&E Plan finds the following components are inaccurate:

- Page 1: The current language of CCR, Title 27, Section 15200(a) is not reflected. An amendment was made on July 1, 2018, that updated Section 15200(a) to include the following requirements:
 - (13) Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
 - (14) Provisions for ensuring the analysis of any collected sample shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.

CITATION:

CCR, Title 27, Section 15200(a)(13) and (14)
[CalEPA, DTSC]

RESOLUTION:

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

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and DTSC, 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.

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.

CUPA Update 1:

Please find attached the updated I&E Plan for CalEPA's review.

Evaluation Team Response 1 [CalEPA, DTSC]:

CalEPA: While the revised I&E Plan provided addresses the Incidental Finding as identified, and adequately incorporates the sampling requirements of Title 27, review finds procedures for addressing complaints are missing.

With the next Progress Report, provide an amended I&E Plan that incorporates procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint

Note: The 2021 I&E Plan provided during the evaluation adequately addresses complaint procedures on pages 40 and 41 in the section titled, "VI. Complaints".

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

DTSC: The revised I&E Plan includes provisions for ensuring the analysis of any collected sample to be performed by a state certified laboratory. This incidental finding is considered resolved. No further action is required.

2. INCIDENTAL FINDING: RESOLVED

The California Accidental Release Prevention (CalARP) Program Dispute Resolution Process is missing a required element.

The following element is missing from the CalARP Dispute Resolution Process:

- Procedures that require the CUPA to render a written decision within 120 days after the owner or operator of a stationary source initiates the dispute resolution process.

CITATION:

CCR, Title 19, Section 2780.1(a)(4)
[CalEPA]

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will provide CalEPA with an updated Dispute Resolution Process with the required element.

CUPA Update 1:

Attached for CalEPA's review is the revised CalARP Dispute Resolution Process with a newly added section (6.1.1.).

Evaluation Team Response 1 [CalEPA]:

The updated CalARP dispute resolution contains the required element. This incidental finding is considered resolved. No further action is required.

3. INCIDENTAL FINDING: RESOLVED

The annual CalARP Performance Audit Report is missing a required element.

The following element is missing from the annual CalARP Performance Audit Report for FYs 2018/2019, 2019/2020, and 2020/2021:

- A listing of stationary sources which have been requested to develop Risk Management Plans (RMPs).

CITATION:

CCR, Title 19, Section 2780.5(b)
[CalEPA]

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will provide CalEPA with the annual CalARP Performance Audit Report for FY 2021/2022 that will include the listed missing component identified above.

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

CUPA Update 1:

Attached for CalEPA's review is the CUPA's 2021/2022 CalARP Performance Audit.

Evaluation Team Response 1 [CalEPA]:

The CalARP Performance audit for FY 2021/2022 addresses the missing element. This incidental finding is considered resolved. No further action is required.
