

February 1, 2023

Mr. Jeff Williams
Environmental Health Manager
Sutter County Environmental Health
1130 Civic Center Boulevard, Suite A
Yuba City, California 95993-3009

Dear Mr. Williams:

During August 2018 through January 2019, CalEPA and the state program agencies conducted a performance evaluation of the Sutter County Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections at Hazardous Waste Generator facilities.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. The report also includes an example of outstanding Unified Program implementation. Enclosed, please find the final Summary of Findings report.

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

CalEPA recognizes the delay with issuing the final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in April 2023, there is sufficient time for submittal and review of one Evaluation Progress Report, although the timeframe for completion of corrective actions and resolutions outlined in the Summary of Findings report may extend beyond the remaining time period available for the Evaluation Progress Report process before the subsequent CUPA Performance Evaluation begins.

The CUPA is required to submit the first Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings report (April 4, 2023). Please provide the Evaluation Progress Report to the CalEPA Team Lead, Timothy Brandt, at Timothy.Brandt@calepa.ca.gov.

The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each

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identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in anticipated subsequent Progress Reports have been completed and addressed at present, or in advance. Any deficiencies that remain uncorrected, and any incidental findings that remain unresolved will be incorporated into the 2023 CUPA Performance Evaluation.

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

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

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Sutter County Environmental Health

Evaluation Period: August 2018 through January 2019

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt, Kareem Taylor
- **DTSC:** Matthew McCarron, Asha Arora
- **CalEPA*/Cal OES:** Denise Gibson
- **State Water Board:** Sean Farrow
- **CAL FIRE-OSFM:** Denise Villanueva, Joann Lai

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final. Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered satisfactory with improvement needed.

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

Timothy Brandt

CalEPA Unified Program

Phone: (916) 323-2204

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

CalEPA recognizes the delayed issuance of this Final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in April 2023, there is sufficient time for submittal and review of one Evaluation Progress Report, although the timeframe for completion of corrective actions may extend beyond submittal of the first Evaluation Progress Report.

The CUPA is required to submit the Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report. The Evaluation Progress Report must be submitted to the CalEPA Team Lead at timothy.brandt@calepa.ca.gov no later than **April 4, 2023**.

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

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA is not consistently ensuring that Aboveground Petroleum Storage Act (APSA) Program tank facilities include site maps containing all applicable required elements when a Hazardous Material Business Plan (HMBP) is submitted to the California Environmental Reporting System (CERS), in lieu of a tank facility statement.

Review of CERS indicates the following 4 of 12 (33%) APSA tank facilities are missing various required elements in recently accepted site map submittals:

- CERS ID 10194163: missing access and exit points, loading area, internal roads, emergency shutoff, and hazardous material handling and storage areas.
- CERS ID 10194652: missing north arrow, adjacent streets, access and exit points, emergency shutoff, evacuation staging area, and emergency response equipment.
- CERS ID 10194151: missing emergency shutoff, evacuation staging area, and emergency response equipment.
- CERS ID 10195486: missing access and exit points, emergency shutoffs, evacuation staging area, and emergency response equipment.

CITATION:

Health and Safety Code (HSC), Chapter 6.67, Section 25270.6(a)
2016 California Fire Code (CFC), Chapter 50, Sections 5001.5.1, 5001.5.2, and Appendix H [OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that future HMBP site map submittals are thoroughly reviewed and contain all required elements. The action plan will include steps to follow up with rejected or incomplete HMBP submittals due to site maps not containing all applicable required elements.

By the 2nd Progress Report, the CUPA will provide a list of APSA tank facilities that have recently submitted site maps that have been reviewed and accepted or rejected. For APSA tank facilities that have had a recently rejected site map submittal, the CUPA will provide a list of follow-up actions, including any formal enforcement taken to obtain compliance.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an updated list with the status of facility compliance. The CUPA will continue to ensure that each APSA tank facility has submitted all applicable required HMBP site map elements, or that appropriate actions were taken to enforce this requirement when facilities submit an HMBP in lieu of a tank facility statement.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

DEFICIENCIES REQUIRING CORRECTION

2. DEFICIENCY:

The CUPA is not properly classifying hazardous waste generator (HWG) Program violations.

The following HWG Program violations were incorrectly classified:

- Exceedance of authorized accumulation time was classified as a minor violation in 89 instances. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). The following are examples:
 - CERS ID 10675957: inspection dated July 10, 2018
 - CERSID 10192945: inspection dated June 26, 2017
 - CERS ID 10195159: inspection dated June 20, 2017
 - CERS ID 10504807: inspection dated April 24, 2017
- Failure to provide or conduct training for employees was classified as a minor violation. Since no training was provided, employees are not familiar with hazardous waste management and handling as well as how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3). The following are examples where this occurred at a large quantity generator (LQG) facility:
 - CERS ID 10751764: inspection dated December 4, 2017
 - CERS ID 10622704: inspection dated October 10, 2017
 - CERS ID 10195159: inspection dated June 30, 2017
 - CERS ID 10195084: inspection dated December 6, 2016
- Failure to conduct weekly hazardous waste container (storage area) inspections, failure to conduct daily tank inspection of the discharge system, monitoring equipment, and tank levels was classified as a minor violation. There may have been an economic benefit to the facility by not conducting weekly and/or daily inspections. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3). The following are examples:
 - CERS ID 10675957: inspection dated July 10, 2018
 - CERS ID 10192909: inspection dated August 1, 2017
 - CERS ID 10148991: inspection dated June 27, 2017
 - CERS ID 10116223: inspection dated January 25, 2016

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

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6

California Code of Regulations (CCR), Title 22, Sections 66260.10, 66262.34(a)(4) and 66262.34(d)(2)

[DTSC]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will train staff on the violation classification terms minor, Class I, and Class II, as described in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6 and CCR, Title 22, Section 66260.10; and how to properly classify hazardous waste violations during compliance inspections. The CUPA will provide CalEPA with training documentation such as: an outline of the training conducted and a list of CUPA personnel in attendance.

Note: CUPA inspectors can also review violation classification classes available in the California CUPA Forum Board video library Youtube website at:

<https://www.youtube.com/user/orangetreeweb/videos>.

Additionally, CUPA inspectors can review the document titled, "Violation Classification Guidance for Unified Program Agencies" at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>, which provides examples of what are considered minor vs. non-minor violations

By the 2nd Progress Report, the CUPA will provide CalEPA with an inspection report from three HWG facilities that have been inspected within the last three months, each having been cited with at least one HWG violation. Each inspection report will include the CERS ID of the facility inspected.

3. DEFICIENCY:

The CUPA's Inspection and Enforcement (I&E) Plan has inaccurate and incomplete information and is missing required components.

The following information is inaccurate:

- The inspection frequency for the "PBR Household Hazardous Waste Facilities" is listed as once every three years, citing HSC, Section 25201.4(b)(2). HSC, Section 25201.4(b)(2) should not be cited. Household hazardous waste facilities do not have a statutorily required inspection timeframe.
- The inspection frequency for Permit-By-Rule (PBR), Conditionally Authorized (CA) and Conditionally Exempt (CE) facilities should state "initial inspection within two (2) years of notification and every three (3) years thereafter."
- Page 9: In #11 of the "On-site Procedures" section, the citation "H&SC §25505(a)(2)" is incorrect. The correct citation is HSC, Section 25508(a)(2).
- Page 17: Items f and g in the minor violation definition contain HSC, Chapter 6.5, Section 25117.6 as an incorrect citation. The correct citation is HSC, Chapter 6.5, Section 25110.8.5.
- Page 33: The "Initial Penalty Matrix – Hazardous Waste" table has incorrect hazardous waste penalty amounts. Effective January 1, 2018, AB 245 amended HSC, Sections 25188, 25189 and 25189.2 to increase administrative and civil penalties to a maximum of \$70,000 per day, per violation.
- Page 35: In #3 of the "Initial Penalties" section, the citation "H&SC §25514.5" is incorrect. The correct citation is HSC, Section 25515.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

DEFICIENCIES REQUIRING CORRECTION

- Page 35: In #4 of the “Initial Penalties” section, the citation “H&SC §25514.5(a)” is incorrect. The correct citation is HSC, Section 25515.

The following components are missing:

- Procedures for addressing complaints, including the receipt, investigation, enforcement, and closure of a complaint
- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory.

Note: The findings of this deficiency were identified by Cal OES, however, CalEPA will be determining correction of this deficiency due to the July 22, 2021, transition of the implementation and oversight of HMBP/CalARP Programs to CalEPA.

CITATION:

CCR, Title 27, Section 15200(a)
[CalEPA, Cal OES, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the corrected I&E Plan.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The CUPA's Records Maintenance Procedures have the following minor inconsistencies with regulation:

- The retention time is incorrectly stated as "At least three years" for all records related to hazardous waste enforcement actions after the enforcement action has been resolved. These records are required to be retained for a minimum of five years.
- The following records are required to be retained for a minimum of five years and are not identified in the procedures:
 - Self-Audit Reports
 - Detailed records used to produce annual and quarterly summary reports submitted to CalEPA
- Training records as required by CCR, Title 27, Section 15260, and any other required training records specific to each program element. Staff training documentation is addressed in the procedures, however, the requirement for training records to be retained for a minimum of five years is not.

CITATION:

CCR, Title 27, Sections 15180(e)(2), 15185(b), and 15260
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with the Records Maintenance Procedures that address the inconsistencies identified above.

2. INCIDENTAL FINDING:

The CUPA is not consistently ensuring underground storage tank (UST) submittal related information in CERS is accurate and complete.

Review of the UST Facility/Tank Data Download report obtained from CERS on October 15, 2018, identifies the following instances where the CUPA accepted inaccurate or incomplete UST submittal information:

- Three USTs identified as having single-wall pressurized product pipe with mechanical line leak detectors installed. Single-wall pressurized product pipe is required to have an electronic line leak detector installed.
- Three USTs installed post July 1, 2004, identified as having single-wall vent piping. Post July 1, 2004, construction requires components to have secondary containment.
- Seven single-wall steel tanks incorrectly show no interior lining being installed.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

INCIDENTAL FINDINGS REQUIRING RESOLUTION

- Three USTs identified as having double-wall product pipe incorrectly show no continuous monitoring of the secondary containment.
- Five USTs installed between January 1, 1984, and June 30, 2004, incorrectly show not having to conduct secondary containment testing every 36 months.
- 24 USTs identified as having not installed striker plate/bottom protector.
- One UST installed between January 1, 1984, and June 30, 2004, incorrectly shows having no continuous interstitial pipe monitoring.

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

Note: The following CERS Frequently Asked Questions (FAQs) may be referenced: “General Reporting Requirements for USTs;” “When to Issue a UST Operating Permit;” “Common CERS Reporting Errors;” “Setting Accepted Submittal Status;” and “Which Forms Require Uploading to CERS.”

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

CITATION:

HSC, Chapter 6.7, Sections 25286 and 25288(a)
CCR, Title 23, Sections 2632(d)(1), 2634(d)(2) and 2641(g) and (h)
[State Water Board]

RESOLUTION:

By the 2nd Progress Report, the CUPA will train personnel on the procedure for reviewing UST related information in CERS to ensure it is accurate and complete before acceptance. The CUPA will provide training documentation to CalEPA such as: an outline of the training conducted and a list of CUPA personnel attending training.

With respect to UST submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete submittals when the next submittal is made, but no later than the next annual UST facility compliance inspection.

3. INCIDENTAL FINDING:

The CUPA is not consistently requiring UST facilities with single-walled component(s) to implement a program of three-year periodic enhanced leak detection (ELD) testing due to proximity to public drinking water wells.

Facility file review finds the following UST facility with single-wall tanks, proximate to a public drinking water well required to perform three-year periodic ELD testing:

- CERS ID 10194184: conducted well proximity ELD testing on April 16, 2008. Based on the initial test date, the facility should have performed ELD testing in April 2011, 2014, and 2017.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
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INCIDENTAL FINDINGS REQUIRING RESOLUTION

CITATION:

HSC, Chapter 6.7, Section 25292.4
CCR, Title 23, Sections 2640(e) and 2644.1
[State Water Board]

RESOLUTION:

During the evaluation process, the CUPA indicated the well of concern is currently inactive and provided information in the form of an email from the California Department of Public Health - Division of Drinking Water and Environmental Management (CDPH-DDWEM) dated August 28, 2008, documenting the inactivity of the well of concern. State Water Board notes providing the CUPA with a request for reconsideration (RFR) application.

By the 1st Progress Report, the CUPA will provide the RFR application to the UST owner/operator for completion and submittal. The CUPA will convey to the UST owner/operator that the RFR application should include the email from CDPH-DDWEM dated August 28, 2008, as justification to why ELD testing is not necessary.

The CUPA will provide CalEPA with the State Water Board determination letter in response to the RFR application.

In the event ELD testing is completed, the CUPA will provide CalEPA with the test results.

4. INCIDENTAL FINDING:

The CUPA is not consistently classifying APSA violations properly.

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

- Not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan is not considered a minor violation as defined in HSC Section 25404(a)(3). Based on the definition of a “minor violation,” a minor violation does not include the following: (1) a violation that presents a significant threat to human health or the environment; or (2) a violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.” In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (US EPA).
 - Fiscal Year (FY) 2016/2017- 3 of 5 (60%) instances for not having, or failure to prepare, an SPCC Plan where classified as minor.

CITATION:

HSC, Chapter 6.11, Sections 25404(a)(3), 25404.2(a)(3) and (4)
HSC, Chapter 6.67, Sections 25270.4.1(c) and 25270.4.5(a)
CCR, Title 27, Section 15200(a) and (e)
[OSFM]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

By the 2nd Progress Report, the CUPA will train its inspectors on the violation classification terms minor, class I, and class II, as described in HSC, Chapter 6.11, Section 25404(a)(3), and how to properly classify APSA violations during compliance inspections. The CUPA will provide CalEPA with training documentation such as: an outline of the training conducted and a list of CUPA personnel in attendance.

Note: CUPA inspectors can review training classes regarding properly classifying violations available in the video library on the California CUPA Forum Board website at: <http://www.calcupa.org/videos.html>. Additionally, the CUPA can request additional training assistance from OSFM.

By the 2nd Progress Report, the CUPA will provide CalEPA with an inspection report from two APSA facilities that have been inspected within the last three months, each having been cited with at least one APSA violation. Each inspection report will include the CERS ID of the facility inspected.

5. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA did not consistently and correctly report all compliance, monitoring, and enforcement (CME) data in CERS.

A comparison of information in the CUPA's facility files, data management system, and CERS indicates that CME information was not always reported consistently for the APSA program. "Failed to remove accumulation of oil in secondary containment" was cited as a violation in the inspection report, but was incorrectly reported into CERS for the following facilities:

- CERS ID 10194163
- CERS ID 10193173
- CERS ID 10193125
- CERS ID 10193068

CITATION:

CCR, Title 27, Section 15290(b)
[OSFM]

RESOLUTION: COMPLETED

During the evaluation, the CUPA corrected the CME information in CERS. This incidental finding is resolved. No further action is required.

6. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA did not document in sufficient detail whether the UST owner/operator demonstrated to the satisfaction of the CUPA, that tank closure, removal and soil sampling complies with statute and regulation and maintaining closure records as required by statute and regulation for the following facility:

- CERS ID 10194301

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT**

INCIDENTAL FINDINGS REQUIRING RESOLUTION

Note: The example provided above may not represent all instances of this Incidental Finding.

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation process, the CUPA drafted a letter to document tank closure had been appropriately completed to the satisfaction of the CUPA. The CUPA provided the owner/operator of CERS ID 10194301, with the State Water Board approved tank closure letter on October 31, 2018.

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

This incidental finding is resolved. No further action is required.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

Observations and recommendations identify areas of Unified Program implementation that could be improved and provide suggestions for improvement. Though the CUPA is not required by regulation or statute to apply the recommendations provided, the CUPA would benefit in applying the recommendations provided to improve the overall implementation of the Unified Program.

1. OBSERVATION:

The Unified Program Facility Permit (permit) procedure is not consistent with the CUPA's current permitting process. The permit procedure states that permitting activities include the UST Program and the Tiered Permitting component of the HWG Program. However, the CUPA's permitting activities currently include all Unified Program elements. For example:

- CERS ID 10193125: Permit issued March 1, 2018, for the APSA, HMBP, and HWG Programs.
- CERS ID 10194772: Permit issued March 1, 2018, for the HMBP and CalARP Programs. Please note that, according to submitted CERS information and the APSA inspection report dated April 27, 2017, this facility is also regulated under the APSA Program. However, the permit did not include the APSA Program.

RECOMMENDATION:

Revise the permit procedure to accurately represent the CUPA's current permitting process.

2. OBSERVATION:

The CUPA uses a single HWG inspection report for all sizes of HWG facilities (i.e. CESQG, SQG, LQG).

Review of 30 HWG files finds there is no section in the inspection report that specifies the size of the HWG facility being inspected. This information is helpful in determining the correct violations that would be pertinent to that size generator. Additionally, the HWG inspection report does not include LQG requirements and there is concern that the CUPA may not be covering all LQG requirements or may be incorrectly applying SQG requirements to LQG facilities.

The inspection reports do not have a section for documenting an inspector obtained consent of an operator (or a representative of the facility being inspected) for the CUPA to conduct an inspection. During the HWG oversight inspections, DTSC observed the CUPA inspector ask for consent prior to conducting the inspections.

RECOMMENDATION:

Update the HWG inspection report to include the size of the HWG facility, LQG specific requirements, and a section to document the name of the person consenting to an inspection.

3. OBSERVATION:

The CUPA's website contains a link to DTSC's website. The CUPA's website does not have any information for the regulated community regarding the HWG program.

The CUPA shares oversight of a HHW facility with Yuba County.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

RECOMMENDATION:

Update the website to include information on where residents can take household hazardous waste (<https://www.recology.com/recology-yuba-sutter/yuba-sutter-household-hazardous-waste-collection-facility/>) and any other hazardous waste information that may assist the regulated community in Sutter County.

4. OBSERVATION:

DTSC attended two oversight inspections with the CUPA on October 23, 2018. The first facility was an auto dealership (CERS ID 10194751). The facility was a non-RCRA LQG. The inspector asked for consent and did a thorough walkthrough and paperwork review. The inspector identified all violations, including labeling for brake shavings, oil and oil filter containers, daily tank inspections, training for staff and tank assessment. All eight violations were listed as minor, although some were repeated from the last inspection and should potentially have been elevated to a Class II classification or higher.

The second facility (CERS ID 10195393) was an auto body/repair shop and towing service. The inspector obtained consent and conducted a thorough walkthrough of the facility. The inspector identified all violations. The operator of the paint booth said that he did not know what happens to spent filters or solvents from equipment cleaning, that the waste is put outside and it “goes away.” Manifest data indicated that the last shipment of paint filters was shipped in 2015, yet filters had been changed a few months prior and no filters were found onsite. There was a leaking bucket of oil on top of cardboard indicating that there was no effort to minimize releases of hazardous waste. The inspector clearly explained the violations identified and corrective actions required to the staff who did not understand the process. The inspector cited one Class II violation for exceedance of storage time and 11 minor violations, some of which were repeated from previous inspections and should potentially have been elevated to a Class II classification or higher (especially with what appears to have been illegal disposal of filters and solvents).

The inspector documented the violations with photographs at both facilities.

RECOMMENDATION:

Inspectors should review previous inspection reports and identify past violations in order to determine if violations observed during the inspection were previously cited. When the inspector is presented with a statement of evidence regarding improper disposal by the facility, the statement should be documented in the inspection report. The CUPA inspector can then more properly classify violations and implement a graduated series of enforcement as necessary.

5. OBSERVATION:

Review of significant operational compliance (SOC) criteria finds minor discrepancies in the number of reported release detection (RD) and release prevention (RP) numbers between Report 6 and CERS. The following are the examples:

- FY 2017/2018 – In compliance with both RD and RP criteria; Report 6 indicates 25 instances while CERS indicates 24 instances. All other SOC criteria are consistent.
- FY 2016/2017 – In compliance with RD only criteria; Report 6 indicates 12 instances while CERS indicates 13 instances. All other SOC criteria are consistent.

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- FY 2015/2016 – In compliance with RD only criteria; Report 6 indicates 2 instances while CERS indicates 1 instance. In compliance with both RD and RP; Report 6 indicates 28 instances while CERS indicates 29 instances. All other SOC criteria are consistent.

Note: As of October 1, 2018, SOC reporting changed to technical compliance rate (TCR) criteria. For the reporting period of July 1, 2018, through September 30, 2018, the CUPA will be reporting SOC criteria in Report 6 and CERS. For the reporting period of October 1, 2018, through December 31, 2018, the CUPA will be reporting TCR criteria in Report 6 and CERS.

RECOMMENDATION:

Review CUPA policies, procedures, local database(s), and inspection reports, and ensure the new TCR reporting format can be reported appropriately.

6. OBSERVATION:

Review of Unified Program Permits which includes the UST operating permit (permit), finds one instance out of 15 where the CUPA issued a permit to a facility with USTs out of compliance.

- CERS ID 10194184 – violation cited January 28, 2016, for corrosion protection records has a return to compliance (RTC) date of January 27, 2017.

Additionally, review of the CUPA's Unified Program Consolidated Permit Plan finds revision is necessary due to recent HSC amendments. The CUPA's Permitting Plan references not issuing permits unless a facility complies with statute and regulations, violations having been corrected (if applicable), and the facility has a current UST CERS submittal that has been accepted.

Note: Beginning January 1, 2019, revisions to HSC, Chapter 6.7, Section 25285, take effect. Revision language identifies when a CUPA shall not issue or renew a permit to operate for an UST. Reference State Water Board correspondence dated October 24, 2018, titled "Underground Storage Tank Statutory Provisions of Assembly Bill 2902."

RECOMMENDATION:

Revise the CUPA's permitting plan as necessary for the UST program including, but not limited to, the recent revisions to HSC, Chapter 6.7, Section 25285 regarding issuing and renewing permits for USTs.

7. OBSERVATION:

Review of CERS finds there are a limited number of USTs/UST systems with the jurisdiction of the CUPA which may need to be permanently closed by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05.

The CUPA verbally and physically notifies UST facility owners/operators regarding the removal of UST systems in accordance with HSC, Chapter 6.7, Section 25292.05, which includes emails and bulletins.

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RECOMMENDATION:

Continue to provide guidance to facility owners/operators regarding the December 31, 2025, requirements for permanent closure of single-wall UST systems; informing the owners/operators that in order to stay in compliance and avoid fines, owners/operators must replace or remove single-wall UST systems by December 31, 2025. Additional information on the single-wall UST closure requirements is available at:

http://waterboards.ca.gov/water_issues/programs/ust/single_walled/.

The facility owner/operator should also continue to receive written guidance as part of the CUPA's reminders for the Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans which are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project UST systems. For more information on funding sources is available at:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml.

8. OBSERVATION:

Review of CERS CME information finds the CUPA incorrectly reported CERS violation number 2060015, Proper Sensor Placement (RD), as a minor violation. The following are examples:

- CERS ID 10194166 – inspection dated May 31, 2016.
- CERS ID 10192984 – inspection dated May 24, 2016.
- CERS ID 10169813 – inspection dated October 1, 2015.

Note: Review indicates no violations reported incorrectly during FYs 2016/2017 and 2017/2018.

Note: Refer to HSC, Section 25299 for this type of violation.

RECOMMENDATION:

Review the policies and procedures and ensure properly classifying and reporting UST violations is addressed.

9. OBSERVATION:

Review of UST inspection information finds minor discrepancies in the number of UST inspections reported between Report 6, CERS, and CUPA Self-Audit Reports. The following are the examples:

- FY 2017/2018 – 41 vs. 40 vs. 40.
- FY 2016/2017 – 41 vs. 42 vs. 42
- FY 2015/2016 – 42 vs. 42 vs. 42.

Note: In order to begin reporting an electronic Report 6, which will be required in the future, the CUPA's UST inspection data must be consistent between CERS and Report 6.

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RECOMMENDATION:

Review inspection reporting procedures and revise as necessary. In addition, ensure Report 6, CERS, and Self-Audit Reports reflect the same inspection numbers/information prior to reporting inspection information.

10. OBSERVATION:

Review of CERS CME information finds the following instances where reported UST violations have taken more than 90-days to return to compliance (RTC):

- CERS ID 10193080 – inspection dated September 26, 2017. Violation reported is for Financial Responsibility (violation number 2010007). RTC date reported is June 11, 2018, 258 days to RTC.
- CERS ID 10194193 – inspection dated June 3, 2016. Violation reported is for Corrosion Protection-Records (violation number 2010002). RTC date reported is September 2, 2017, 456 days to RTC.
- CERS ID 10194310 – inspection dated March 28, 2016. Violation reported is for Spill Bucket (violation number 2030054). RTC date reported is March 27, 2017, 364 days to RTC.

RECOMMENDATION:

Review the I&E Plan and ensure inspection personnel are implementing appropriate graduated series of enforcement.

11. OBSERVATION:

The CUPA's APSA webpage at

https://www.suttercounty.org/doc/government/depts/ds/ehs/cupa/cs_ehs_cupa_ast_forms contains outdated documents related to the APSA Program:

- The link "Aboveground Storage Tank Information" provides an old APSA Fact Sheet dated December 2007 with outdated information.
- The link "Spill Prevention Control and Countermeasure (SPCC) Plan" provides an old SPCC Fact Sheet dated December 2007 with outdated information.
- The Tier II Qualified Facility SPCC Plan template that is provided is outdated.

RECOMMENDATION:

Update the APSA website. APSA guidance documents and forms can be found on the OSFM webpage at: <https://osfm.fire.ca.gov/dividions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>.

12. OBSERVATION:

The CUPA's area plan contains outdated information. The phone number listed for State Fire Marshal (Sacramento), on page 94, is no longer valid. The new number is (916) 568-3800, while the 24-hour OSFM Duty Chief number is (916) 323-7390.

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RECOMMENDATION:

Update the area plan with the correct OSFM contact information.

13. OBSERVATION:

The CUPA utilizes a single inspection checklist for all APSA facility types. The CUPA inspects full plan facilities using an APSA checklist that contains 39 violation items.

The CERS APSA 2018 violation library contains approximately 99 APSA violations. There are more than 80 violations applicable to full plan facilities listed in the violation library. The CUPA has been provided the 2017 APSA TAG inspection checklists, consisting of four types for use at Conditionally Exempt facilities, Tier I qualified facilities, Tier II qualified facilities and Full SPCC plan facilities.

RECOMMENDATION:

Review all applicable violations listed in the current violation library and incorporate violations into the CUPA's APSA inspection checklist that may be applicable to full plan facilities found within the CUPA's jurisdiction. The CUPA may utilize comprehensive APSA inspection checklists, such as those developed by the APSA Technical Advisory Group (TAG) and ensure that the inspection checklist used is applicable to the type of tank facility being inspected.

14. OBSERVATION:

The I&E Plan contains the following information that is inaccurate or may benefit from improvement:

- Page 4- Introduction: The fire code Hazardous Materials Management Plan and Hazardous Materials Inventory Statement (HMMP/HMIS) Program is missing in the list of Unified Program elements.
- Page 5- Inspection Frequency table: HSC, Section 25270.5(a) is incorrectly referenced as the CUPA has an alternative inspection frequency for all APSA tank facilities every three years. The correct reference is HSC, Section 25270.5(b).
- Page 28- Procedures to Access Administrative Law Judge, Item 2: HSC, Section 25270.5 is incorrectly referenced as violations of the APSA Program. The correct reference is HSC, Chapter 6.67 (commencing with Section 25270).

RECOMMENDATION:

Update the I&E Plan to address the inaccuracies identified above.
