

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

CUPA: City of Santa Monica Fire Department Fire Prevention Division

Evaluation Period: June 2019 through October 2019

Evaluation Team Members:

- **CalEPA Team Lead:** Tim Brandt,
Marc Lorentzen
- **DTSC:** Kevin Abriol
- **Cal OES/CalEPA*:** Fred Mehr
- **State Water Board:** Lisa Jensen
- **CAL FIRE-OSFM:** Glenn Warner

Evaluation Progress Report #1 Submitted to CalEPA: July 10, 2023

Deficiencies Pending Correction: # 1

Incidental Findings Pending Resolution: # 1

This Evaluation Progress Report concludes the 2019 CUPA Performance Evaluation.

No further Evaluation Progress Reports are applicable.

The remaining deficiency and incidental finding will be carried forward to the 2023 CUPA Performance Evaluation.

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

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*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.

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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 issuing the Unified Program Facility Permit (UPFP), which includes the UST operating permit, prior to or upon the expiration date of an existing permit.

The UPFP has an expiration date of June 30.

Review finds UPFPs were issued substantially beyond the start date identified on the UPFP. The following facilities were issued a UPFP with a start date of October 1, 2018, and with an issuance date occurring after October 1, 2018:

- CERS ID 10173173: UPFP issued August 12, 2019
- CERS ID 10175569: UPFP issued August 12, 2019
- CERS ID 10435456: UPFP issued December 3, 2018

CITATION:

Health and Safety Code (HSC), Chapter 6.7, Section 25284(a)
California Code of Regulations (CCR), Title 23, Section 2712(c)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the procedure for issuing the UPFP, which includes the UST operating permit, to ensure the issuance date of the UPFP and UST operating permit does not occur after the start date indicated on the UPFP and UST operating permit.

By the 2nd Progress Report, the CUPA will, if necessary, amend the UPFP issuance procedure, based on feedback from the State Water Board and will submit the amended UPFP issuance procedure to CalEPA. If no amendments are necessary, the CUPA will implement the revised UPFP issuance procedure and train CUPA personnel on the revised UPFP issuance procedure. the CUPA will provide training documentation to CalEPA, which will include at minimum, an outline of the training conducted and a list of CUPA personnel in attendance.

The CUPA will provide CalEPA with five UPFPs, including a UST operating permit, that have been issued to UST facilities that reflect an accurate start and issuance date.

CUPA Update 1:

As of July 2020, the Santa Monica CUPA began utilizing Tyler DHD inspection software; through which the UPFP and UST operating permits are generated. Samples of 2020, 2021 & 2022 permits have been provided as attachments to this response ("Attachment 1 Deficiency 1 – Sample UST Permits"). Additionally, the annual permit expiration date has been established as September 30 on an annual basis.

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The following procedures have been established as elements of the permit process:

1. Permit Application for UST operating permits & UPFP:
 - a. Facilities operating under existing permit authorizations will be reissued a permit when the following conditions apply:
 - i. The existing UST permit reaches its expiration date of September 30 of each year; and
UST facilities the following conditions must be met:
 - A. Facility must not have uncorrected violations and shall not be in formal enforcement procedures;
 - B. UST information must be reported on California Environmental Reporting System (CERS) within the UST permitting cycle;
 - C. CERS submittal must be reviewed by California UST ICC certified inspection staff
 - D. All CUPA consolidated permit fees must be paid in full; invoices shall be mailed by August 1st of each year.
 - E. Facility must have an annual compliance inspection within 1 year of the permit date;
 - ii. Consolidated permits will be sent to applicants via U.S. Mail. All permits are sent to the environmental contact / address provided on the application.

Evaluation Team Response 1 [State Water Board]:

The established elements for the permitting process procedures are acceptable.

This deficiency will be carried over to the 2023 CUPA Performance Evaluation.

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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 Inspection and Enforcement (I&E) Plan contains inaccurate information.

The following information is inaccurate:

- Page 17- The Hazardous Waste Penalty information is outdated.
 - HSC, Chapter 6.5, Section 25188 changed as of January 1, 2018, to state, "A person subject to an order issued pursuant to Section 25187 who does not comply with that order shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for each day of noncompliance."
 - HSC, Chapter 6.5, Section 25189 changed as of January 1, 2018, and has updated penalty amounts of up to \$70,000 for each violation or for continuing violations (a through e). The I&E Plan reflects the outdated \$25,000 penalty amount.

CITATION:

HSC, Chapter 6.5, Sections 25188 and 25189
CCR, Title 27, Section 15200(a)
[DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan to reflect accurate information. The CUPA will and provide CalEPA with the revised I&E Plan, addressing revisions to the inaccurate, information identified.

CUPA Update 1:

The CUPA's Inspection and Enforcement (I&E) Plan has been updated and revised in 2023 to reflect the noted inaccuracy, as well as additional updates to the Unified Program's procedures since its last revision in 2019. Updated I&E Plan will be provided in the 2023 Evaluation included with this response. This Incidental Finding may carry into the scheduled 2023 Evaluation.

Evaluation Team Response 1 [DTSC]:

The updated I&E Plan will be reviewed during the 2023 CUPA Performance Evaluation. This incidental finding will be carried over to the 2023 CUPA Performance Evaluation.

2. INCIDENTAL FINDING: RESOLVED

The CUPA is not ensuring the Los Angeles County Fire West District Participating Agency (PA) is applying enforcement to HWG facilities cited for violations return to compliance (RTC). In some cases, the PA is stating that a violation has been corrected when the violation still exists.

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During the inspection report review, DTSC noted the following:

- CERSID 10159009: Inspection dated January 17, 2019, cites a violation for failure to maintain an active U.S. Environmental Protection Agency (U.S. EPA) Identification (ID) number. The follow-up inspection dated March 21, 2019, cites the violation as corrected with the following note: “Completed EPA ID application ... Violations corrected and notice of compliance abated.” However, review of the DTSC Hazardous Waste Tracking System (HWTS) finds the U.S. EPA ID for the facility, CAL000070848, has been inactive since June 30, 1998.
- CERSID 10456684 Inspection dated January 30, 2018, cites a violation for failure to maintain an active EPA ID number. The violation was considered corrected onsite with the following note: “CAL912975348 inactive per HWTS. Application to reactivate completed at time of inspection – to be emailed on behalf of business owner ... Submit documentation to the CUPA demonstrating that you have reactivated the facility’s EPA ID number.” However, a review of the HWTS indicates that the U.S. EPA ID for the facility, CAL912975348, has been inactive since June 30, 2016.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

HSC, Chapter 6.11, Section 25404.1.2(c)

CCR, Title 27, Sections 15185(a) and (c), and 15200(a) and (e)

[DTSC]

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will ensure the Los Angeles County Fire West District PA trains personnel on:

- correctly determining when violations have obtained RTC, including when to consider a violation “Corrected Onsite”, and
- obtaining the requisite evidence to demonstrate correction of a violation cited.

The CUPA will ensure the PA provides training documentation to the CUPA, including, at minimum, the date training was conducted, an outline of the training conducted, and PA personnel in attendance. The CUPA will provide the training documentation to CalEPA.

CUPA Update 1:

The CUPA acknowledges and accepts the Evaluation Team’s discoveries as detailed in Incidental Finding #2. The response to this finding is two-part in providing background specific to past challenges in attaining compliance for violations cited for inactive EPA ID numbers.

In 2018, following the implementation of eVQ replacing the previously mailed verification form, many EPA IDs were inactivated for active hazardous waste-generating facilities that failed to respond to the electronic verification questionnaire. It was often determined that the business profile lacked a valid email address.

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In the same period, the PA discovered through assisting facilities in the submittal of Form 1358 to request reactivation that significant delays and/or multiple submittals of Form 1358 were required. This posed a challenge beyond the control of the owner/operator and the PA to attain compliance. As such, the PA began to abate violations cited (specific to reactivation of EPA IDs) when the business owner/operator provided evidence of submittal of Form 1358 – either in an email to DTSC (ldnumber@dtsc.ca.gov) or a facsimile transmittal report to DTSC.

Currently, the EPA ID reactivation no longer poses challenges to gaining compliance on cited violations. Once Form 1358 is emailed, the owner/operator receives confirmation of receipt from DTSC, and within weeks, the EPA ID is reactivated if the application is completed correctly. The PA ensures the EPA ID is indeed active before abating the violation.

As a second part of this response, the PA has requested clarification from DTSC regarding properly citing an inactive EPA ID. The question pertaining to the Unified Program having the authority to cite such violations has been addressed as well.

The following has been established, and the PA inspection team has been notified and shall be trained on the guidance provided by DTSC on this matter:

1. The CERS violation library does not have a dedicated code for the specific section under the hazardous waste regulations.
2. HSC 25404(c) gives the Unified Program / Participating Agency the authority to cite an inactive EPA ID under HSC 25205.16 (b) and (c)
3. Until there is a dedicated code in the CERS violation library for this specific section UPAs/PAs shall cite under the HW general code 3010, reference the HSC 25205.16(b) section, and describe the violation in the violation comments section, including the HSC 25205.16(c) section reference to best assist the generators in understanding the violation.

Evaluation Team Response 1 [DTSC]:

The PA correctly described the EPA ID and eVQ process over the years and the challenges presented. DTSC has recently provided the PA clarification on citing this violation and enforcement for the failure to complete the eVQ process for a facility's EPA ID number. The PA's description of the established pathway for training and use of the current CERS library for citing violations and future changes needed is correct. It is a good the PA has started this conversation to gain consistency for all CUPAs across the state. This incidental finding is considered resolved.
