

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #4

CUPA: Kern County Environmental Health Services Department

Evaluation Period: August 2021 through May 2022

Evaluation Team Members:

- **CalEPA Team Lead:** Kaeleigh Pontif, Samuel Porras
- **DTSC:** Brennan Ko-Madden, Kevin Abriol
- **CalEPA*:** Garrett Chan
- **State Water Board:** Michelle Suh, Kaitlin Cottrell, Sean Farrow
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glenn Warner

Evaluation Progress Report #4 Due to CalEPA: April 10, 2024

Deficiencies Pending Correction: #'s 2, 3, 5

Incidental Findings Pending Resolution: # 7

Evaluation Progress Report #5 Due to CalEPA: August 16, 2024

Deficiencies Pending Correction: #'s 2, 3

Incidental Findings Pending Resolution: None, all resolved

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

Kaeleigh Pontif
CalEPA Unified Program
Phone: (916) 803-0623
E-mail: Kaeleigh.Pontif@calepa.ca.gov

The CUPA is required to submit the first Evaluation Progress Report 60 days from receipt of the Final Summary of Findings Report. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response. For each identified deficiency and incidental finding, the CUPA must complete the corrective action and resolution as indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute. The Evaluation Progress Report process will continue until all deficiencies and incidental findings have been acknowledged as corrected or resolved by each issuing Unified Program state agency.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at Kaeleigh.Pontif@calepa.ca.gov, or uploaded to the established SharePoint website. A narrative stating the status of progress towards the correction of each deficiency and resolution of each incidental finding identified in the Final Summary of Findings report, and any applicable supporting documentation must be included in each Evaluation Progress Report.

*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: CORRECTED

The CUPA is not consistently ensuring Underground Storage Tank (UST) facility owners/operators submit UST testing and leak detection documents and is not citing the corresponding violation during the annual UST compliance inspection.

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was partially corrected during the Evaluation Progress Report process.

CITATION:

Health and Safety Code (HSC), Chapter 6.7, Section 25288(a) and (b)
California Code of Regulations (CCR), Title 23, Sections 2637(e), 2638(d), 2643(g) and 2644.1(a)(5)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION: COMPLETED

During the evaluation, review of the CUPA's revised *Inspection Performance Standards* finds reference to the *Kern County UPA Performance Enforcement Standards* for enforcement options regarding UST facility owners/operators who fail to submit testing and leak detection documents.

The referenced *Kern County UPA Performance Enforcement Standards* are acceptable. Review of UST facility files finds the CUPA is ensuring testing and leak detection documents are submitted by UST owners/operators.

The CUPA trained UST inspection staff on the revised *Inspection Performance Standards* and the *Kern County UPA Performance Enforcement Standards* and provided training documentation to CalEPA. As training is complete, the CUPA will implement the revised *Inspection Performance Standards* and the *Kern County UPA Performance Enforcement Standards*. The training documentation provided will be reviewed during the 1st Progress Report to ensure an outline of the training conducted and a list of UST inspection staff in attendance are included.

CUPA Update 1:

I and E plan has been updated. Staff has been assigned to review the revised plan. Staff sign in sheets and the revised I and E plan is attached to the update. (I AND E REVIEW SIGN IN SHEET.DOC). Staff will review the I and E plan on an annual basis.

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 and training documentation provided at this time. The State Water Board will provide a response with the next Progress Report.

CUPA Update 2:

Currently waiting for water board update/response.

Evaluation Team Response 2 [State Water Board]:

The revised I&E Plan and training documentation provided is acceptable This deficiency is corrected.

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2. DEFICIENCY:

The CUPA is not consistently ensuring UST facilities with testing or leak detection violations obtain return to compliance (RTC) within 60 days or is not consistently following up and documenting RTC information in CERS for UST testing or leak detection violations.

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) finds the following UST facilities cited with testing or leak detection violations did not obtain RTC within 60 days:

- Fiscal Year (FY) 2020/2021: 59 of 214 (28%)

Review of CERS CME information finds the following UST facility testing or leak detection violations have no documented RTC in CERS:

- FY 2020/2021: 91 of 214 (42%)
 - Examples include:
 - CERS ID 10238002: UST violation dated July 23, 2020, for *Line Leak Detector (LLD)-Double-Walled Pressurized Pipe*.
 - CERS ID 10233190: UST violation dated October 27, 2020, for *Monitoring Equipment*.
 - CERS ID 10775977: UST violation dated November 16, 2020, for *Vacuum, Pressure, Hydrostatic (VPH) Monitoring - On or After July 1, 2004*.
 - CERS ID 10236640: UST violation dated December 7, 2020, for *Overfill Prevention*.
 - CERS ID 10235179: UST violation dated February 4, 2021, for *Overfill Prevention*.

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

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, Section 25288(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records for the following eight UST facilities, as selected by the State Water Board, that include RTC documentation. For UST facilities that have not obtained RTC within 60 days for testing or leak detection violations, the CUPA will provide documentation of applied appropriate enforcement.

- CERS ID 10232884
- CERS ID 10232494
- CERS ID 10232647
- CERS ID 10230649
- CERS ID 10236640

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- CERS ID 10775977
- CERS ID 10133170
- CERS ID 10724215

CUPA Update 1:

Status of each facility will be provided. Please see attached (UST STATUS.DOC). All enforcement performed will be attached (UST ENFORCEMENT.DOC).

Evaluation Team Response 1 [State Water Board]:

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

CUPA Update 2:

Currently waiting for water board update/response.

Evaluation Team Response 2 [State Water Board]:

Review of the information provided finds RTC has been documented for four of the eight requested facilities. With the next Progress Report, provide UST facility records for the following UST facilities that include RTC documentation. For UST facilities that have not obtained RTC within 60 days for testing or leak detection violations, provide documentation of applied enforcement.

- CERS ID 10232884
- CERS ID 10232647
- CERS ID 10230649
- CERS ID 10236640

CUPA Update 3:

CERS ID: 10232647 JKCM Corporation, dba JK Gas & Mart

All open violations have been corrected. A work Order was submitted showing that the Leak Detection violations were repaired within 60 days. All equipment passed during the 2023 monitoring certification. The RTC documentation is included in the folder.

CERS ID: 10236640 Prince Palace Chevron Taft Hwy

Notice of violation was sent to the facility owner on October 27, 2022, requiring immediate Overfill Prevention Equipment Inspection and another test in October 2024. Overfill Prevention Equipment Inspection scheduled for 11/10/2022. Results have not been received. The department is in contact with the tester to obtain the results. Facility also needs to update CERS. NOV is in the folder.

CERS ID: 10230649 The Spot Food Mart #4 (The Barn Olive)

Raj Dillon is the new owner. He has contracted with Rich Environmental to complete the testing. He is unable to access any previous testing. Rich Environmental submitted the results of the 2023 Monitor Cert, Overfill Prevention testing, and passing secondary testing for the 91 product line. The only remaining violations are onsite missing paperwork from the previous owner. The RTC documentation is in the folder.

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CERS ID: 10232884 24 Seven Travel Plaza

Notice of violation was issued on September 12, 2023. Facility is working with a contractor to make all repairs. The facility is planning on removing the problem tanks within the next 9 months. The NOV is in the folder.

Evaluation Team Response 3 [State Water Board]:

Review of the information provided finds RTC has been documented for CERS ID 10232647 and CERS ID 10230649.

Progressive enforcement was not consistently applied as outlined in the I&E Plan and NOV when CERS ID 10236640 and CERS ID 10232884 failed to obtain RTC.

With the next Progress Report, provide RTC documentation or documentation of applied enforcement for the following UST facilities:

- CERS ID 10236640
 - - In accordance with the NOV issued October 27, 2022, and the I&E Plan, progressive enforcement should include AEO proceedings, or a red tag.
 - The NOV, issued on October 27, 2022, advises compliance within 30 days to “minimize future oversight costs...additional fines and penalties.”
 - The I&E Plan outlines issuance of an Administrative Enforcement Order (AEO) for lack of compliance.
- CERS ID 10232884
 -
 - In accordance with the NOV issued September 27, 2023, RTC documentation should include an approved UST Removal Permit application or UST closure documents.

CUPA Update 4:

CERS ID: 10236640 Prince Palace Chevron Taft Hwy

A Routine Inspection was conducted at this facility on 11/18/2023 and one repeat violation was issued for the failure to have the Overfill Prevention Equipment inspected to satisfy 2021 testing requirements. Facility failed to provide acceptable results for the 2/14/2022 test (results are missing required attachments). NOV issued 4/9/2024.

CERS ID: 10232884 24 Seven Travel Plaza

Red Tags were applied to Tank #1, Tank #3, Tank #4, and Tank #5 on 12/18/2023. KCEH approved the Permanent Tank Closure Application on 4/8/2024. A copy of the permit is in the folder.

Evaluation Team Response 4 [State Water Board]:

Review of the information provided finds the following:

- CERS ID 10232884
 - RTC has been documented (approved UST Removal Permit application)
- CERS ID 10236640
 - The violation cited on November 18, 2023, was not reported to CERS
 - The NOV issued on April 9, 2023, was not reported to CERS

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- Progressive enforcement was not applied

With the next Progress Report, provide documentation of RTC or documentation of applied enforcement (e.g., AEO or red tag) for CERS ID 10236640.

3. DEFICIENCY:

The CUPA is not ensuring UST facilities with single-walled component(s) within a 1,000-foot radius of a public drinking water well have performed the required enhanced leak detection (ELD) testing. The UST facility owner/operator must perform an ELD test once notified by the State Water Board and triennially thereafter.

Review of CERS CME information indicates:

- CERS ID 10234741: No ELD testing has been performed. The State Water Board notified the UST facility owner/operator in November 2006 to conduct ELD testing. The CUPA applied enforcement on March 14, 2022, for violations occurring November 21, 2013, through October 26, 2021.
- CERS ID 10443121: Triennial ELD testing is not being performed. The last triennial ELD test was completed on October 12, 2015. The UST facility owner/operator has not performed triennial ELD testing in 2018 nor 2021. The CUPA applied enforcement on August 9, 2021.

Note: The UST facilities identified above have single-walled components and must be permanently closed by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05.

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

CORRECTIVE ACTION:

During the evaluation, regarding CERS ID 10234741, the CUPA prepared and sent a “Notice of Significant Violation and Enforcement of Red Tag Authority” to the UST facility owner/operator dated March 11, 2022, requiring the UST facility owner/operator to immediately obtain a permit to remove the UST and submit all UST removal documentation to the CUPA.

During the evaluation, regarding CERS ID 10443121, on March 16, 2022, the State Water Board UST Enforcement Unit sent an email to the CUPA to coordinate scheduling Focused Enforcement of Recalcitrant and Significant Violator inspections at the facility.

By the 1st Progress Report, if triennial ELD testing has not been completed for the above identified UST facilities, and/or permits have not been obtained to close-in-place or remove the USTs, the CUPA will continue applying appropriate enforcement pursuant to the I&E Plan.

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By the 2nd Progress Report, and in each subsequent Progress Report until considered corrected, the CUPA will provide a narrative update to CalEPA on the status of the above identified UST facilities and continued enforcement pursuant to the I&E Plan.

The State Water Board will consider this deficiency corrected once the following has occurred for CERS ID 10234741 and CERS ID 10443121:

- the CUPA issues a UST closure letter to the UST facility owner/operator and provides CalEPA with the UST closure letter and associated UST closure documentation; or
- the CUPA provides CalEPA with well proximity ELD test results.

CUPA Update 1:

The following are the statuses of each facility:

1. CERS ID 10234741: The site is still red tagged. In addition, we have contacted the RUST staff with state water board to assist in the removal of the tank. The owner of the UST has been emailed the RUST grant application along with the grant waiver request form. Also, the Water board was going to investigate whether this was actually a UST since there are no records of it ever containing fuel. The contact with water board was Shawn Farrow.
2. CERS ID 10443121: The state water board enforcement unit, Brian Taylor, has taken over enforcement against this facility. The water board issued a notice of violation and order to correct on July 21, 2022, followed up by a 2nd notice of violation on October 18, 2022. Both enforcement notices will be attached to this update.

Evaluation Team Response 1 [State Water Board]:

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

CUPA Update 2:

No changes from the last CUPA update. Currently waiting for water board update/response.

Evaluation Team Response 2 [State Water Board]:

Review of the narrative provided finds enforcement has been applied at each facility. With the next Progress Report, provide a narrative update regarding:

- CERS ID 10234741, and the status of enforcement pursuant to the I&E Plan, tank removal, and whether it has been determined if the UST has ever contained fuel; and
- CERS ID 10443121, regarding the status of enforcement

CUPA Update 3:

Parker Residence (10234741)

This department has no evidence that this tank has ever contained any hazardous materials.

3/14/2022- Mr. Parker stated that the property was built in 1972 but he didn't purchase the property until 1975. When the property was purchased, he acquired the underground tank along with a hand crank. Mr. Parker stated that he has never used the tank, let alone as a storage tank to store motor fuels of any kind. Mr. Parker was unable to confirm if the tank was ever used prior

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to his ownership of the property. Submittals in California Environmental Reporting System (CERS) on 5/23/2014 and 7/17/2014 both answer NO to the following question: Does your facility have on site (for any purpose) at any one time, hazardous materials at or above 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet for compressed gases (include liquids in ASTs and USTs); or is regulated under more restrictive local inventory reporting requirements (shown below if present); or the applicable Federal threshold quantity for an extremely hazardous substance specified in 40 CFR Part 355, Appendix A or B; or handle radiological materials in quantities for which an emergency plan is required pursuant to 10 CFR Parts 30, 40 or 70? I explained to Mr. Parker that the State is asking our department to pursue enforcement by placing a red bag over the fill pipe. We coordinated a second visit for Monday March 14, 2022 to affix a red bag over the fill pipe. During the second visit, Mr. Parker allowed us inside his property to view and assess the tank. Pictures of the tank concrete slab, inside the fill pipe and the hand crank were taken. Upon arrival we noticed two pipes protruding above ground level. One pipe was designated as the fill pipe but was missing the hand crank. The second pipe was intended for the vent line. In looking down the fill pipe, visible rainwater was noticed but no sheen was observed. Mr. Parker inserted a PVC pipe down the fill pipe and was able to get rain water to run off the PVC pipe. The liquid was sniffed for odors but we were unable to detect the smell of gasoline/diesel contents. The rusted hand crank was later found in the bottom of a scrap pile to be sent to recycling. The underground tank did not have a submersible turbine pump, no line leak detector, electronic monitoring panel, no piping nor UDC's. I can confirm that there was no evidence of recent operations of this underground tank. Mr. Parker stated that he once received a letter indicating that he was within 1,000 feet of a drinking water well, but he wasn't sure where that water well would be located. Red Bag #0794 was affixed to the fill pipe and we exited the premises at approximately 11:00 a.m. I informed Mr. Parker that I would update him periodically if updates were made available.

Once back in the office, a search of our GIS system determined that the residence address is 1,024 feet away from a drinking water well. Please see attachment. I do believe this residence qualifies for a reconsideration and the Request for Reconsideration Form is also attached to this email. Photographs are available in I:\HAZMAT\Parker Residence_UST (FA0003543_10234741). (ES)

10/25/2022- Spoke to Robert Smith with the Water Boards to clarify what Parker needs to complete to be considered for the RUST grant waiver; I spoke to Parker and sent him the RUST Grant Eligibility Waiver Request Form, the Grant application, checklist, and the RUST grant fact sheet to Cali_rose2003@yahoo.com. He and his wife said they will complete it ASAP (DT)

4/27/2023- Spoke to Parker to verify he sent in the required documentation. He stated that he never saw a RUST Grant Eligibility Waiver Request Form. He stated that we should send correspondence to his email MojaveRedNeck@Hotmail.com from now on since his wife does not check the Cali_Rose2003@yahoo.com email on a regular basis. I had him review and sign the request form and requested the other documents he completed to send to the Water Boards. (DT)

5/5/2023- Emailed the signed RUST Grant application and RUST Grant Eligibility Waiver Request to DFA-RUST@WaterBoards.ca.gov, Janice.Clemons@WaterBoards.ca.gov, Kathy.Jundt@WaterBoards.ca.gov, and cc'd Mr. Parker at MojaveRedNeck@Hotmail.com. (DT)

5/17/2023- Performed Routine Inspection; red tag is still affixed with no change in the condition or status of the tank. (DT)

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7/26/2023- Called Water Boards to verify that they had everything they needed to review the request. Spoke to Robert Smith who said they received the email on 5/5/2023, but it had not been assigned to an analyst yet. I received the following statement in an email from Robert Smith as a follow-up from our phone conversation:

"Hi Danielle,

Per our phone conversation today, we will assign this application to one of our Program Analyst to review and will contact yourself and Mr. Parker if we need further information.

As stated, Janice Clemons and Kathy Jundt no longer work for the State Water Board. Any email inquiries can be sent here or to the Program Analyst once assigned.

I apologize that the application got lost in the email shuffle.

Thank you,



Robert Smith

*Program Manager - EAR, LOP and RUST
UST Cleanup Fund
Division of Financial Assistance
State Water Resources Control Board*

"You don't have to see the whole staircase, just take the first step." - Martin Luther King, Jr."

(DT)

Speedy Fuel 10443121

12/19/2022: Facility is currently undergoing State Water Board enforcement and UST tanks are red tagged. CI

9/20/2023: Christian Iwuchukwu

Speedy Fuel - ELD Test scheduled observer mandatory:

On 9/20/2023, ELD testing conducted by LEAK DETECTION TECHNOLOGIES failed in all four UST tanks. The testing was witnessed by the State Water Board inspector, Amber Camarena who stated that further repairs of the failed UST components and rescheduling of the ELD test are required. Facility was previously red-tagged and should continue to be red-tagged until ELD test pass the testing. According to Brian Taylor on his email to Waqar Rustam on August 31, 2023, the tank repair was successful. However, all tanks failed ELD test on September 20, 2023. Our office has not received any ELD test result from the tester or from the State Water Board.

10/5/2023: Tanks are still Red-Tagged.

Evaluation Team Response 3 [State Water Board]:

The provided narratives for CERS ID 10234741 and CERS ID 10443121 on the status of the RUST grant application and the ELD testing are sufficient.

With the next Progress Report, provide a narrative update regarding:

- CERS ID 10234741, on the status of enforcement pursuant to the I&E Plan and tank removal; and
- CERS ID 10443121, on the status of enforcement.

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CUPA Update 4:

Parker Residence (10234741)

1/23-26/2024 Douglas McDevitt with the Water Boards emailed Laurel and requested the most recent inspection reports, reports that offered the most details describing the tanks, or photos. They questioned if there was any conclusive evidence the tank actually stored hazardous materials, if we had observed any residual fuel in the tank or other signs that it had been used, or if there was documentation describing what fuel was detected.

1/31/2024 I sent the following email to Douglas Mc Devitt, Brian Taylor, and Johnny Wales with the Water Boards:

“Good Morning, Inspector Shmoon noted the following on 3/14/2022: “Mr. Parker stated that the property was built in 1972, but he didn’t purchase the property until 1975. When the property was purchased, he acquired the underground tank along with a hand crank. Mr. Parker stated that he has never used the tank, let alone as a storage tank to store motor fuels of any kind. Mr. Parker was unable to confirm if the tank was ever used prior to his ownership of the property. Submittals in California Environmental Reporting System (CERS) on 5/23/2014 and 7/17/2014 both answer NO to the following question: Does your facility have on site (for any purpose) at any one time, hazardous materials at or above 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet for compressed gases (include liquids in ASTs and USTs); or is regulated under more restrictive local inventory reporting requirements (shown below if present); or the applicable Federal threshold quantity for an extremely hazardous substance specified in 40 CFR Part 355, Appendix A or B; or handle radiological materials in quantities for which an emergency plan is required pursuant to 10 CFR Parts 30, 40 or 70?”

I explained to Mr. Parker that the State is asking our department to pursue enforcement by placing a red bag over the fill pipe. We coordinated a second visit for Monday March 14, 2022 to affix a red bag over the fill pipe. During the second visit, Mr. Parker allowed us inside his property to view and assess the tank. Pictures of the tank concrete slab, inside the fill pipe and the hand crank were taken. Upon arrival we noticed two pipes protruding above ground level. One pipe was designated as the fill pipe but was missing the hand crank. The second pipe was intended for the vent line. In looking down the fill pipe, visible rainwater was noticed but no sheen was observed. Mr. Parker inserted a PVC pipe down the fill pipe and was able to get rain water to run off the PVC pipe. The liquid was sniffed for odors but we were unable to detect the smell of gasoline/diesel contents. The rusted hand crank was later found in the bottom of a scrap pile to be sent to recycling. The underground tank did not have a submersible turbine pump, no line leak detector, electronic monitoring panel, no piping nor UDC’s. I can confirm that there was no evidence of recent operations of this underground tank. Mr. Parker stated that he once received a letter indicating that he was within 1,000 feet of a drinking water well, but he wasn’t sure where that water well would be located. Red Bag #0794 was affixed to the fill pipe and we exited the premises...”

You can find some of the photos taken on 3/14/2022 (these may include the photos that Laurel already provided) in the following link: [☐ Parker Residence](#)

Essentially, KCEH has no evidence that hazardous materials were ever stored in the tank. Mr. Parker said that he had submitted for the RUST grant quite a few years ago, but the application was denied since he did not meet the qualifications (not a business, etc.). He was not able to provide records of his first RUST grant attempt and didn’t send in all necessary documents on his second attempt, so we assisted Mr. Parker with sending in the RUST Grant application and RUST Grant Eligibility Waiver Request in May 2023. Please let me know if this helps or if I can be of more assistance.”

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1/31/2024 McDevitt emailed back with “Good morning Danielle, This was extremely helpful. Thank you very much for all of your insight. We’ll be sure to touch base if anything else is on our mind.”

10443121 Speedy Fuel

Facility applied for a permanent tank removal permit on 3/7/2024. The Permanent Tank Removal permit was approved by KCEH and issued on 3/29/2024.

Evaluation Team Response 4 [State Water Board]:

Review of the provided narrative finds each update sufficient. With the next Progress Report provide the following:

- CERS ID 10443121
 - An update on the status of the tank removal permit issued on March 29, 2024.
 - If the tank removal occurs prior to the next Progress Report, provide closure documentation demonstrating UST permanent closure was completed in accordance with CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672 (UST Regulations) and HSC, Division 20, Chapter 6.7, Section 25298 (c)
- CERS ID 10234741
 - An update on the enforcement pursuant to the I&E Plan and tank removal.

4. DEFICIENCY: CORRECTED

The UST Operating Permit conditions, issued as part of the UST Operating Permit under the Unified Program Facility Permit (UPFP), are inconsistent with HSC and UST Regulation requirements.

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

- Permit Condition 6 states, “...changes to the underground storage tanks shall be submitted to this Division within 30 days of testing and/or changes.” The regulatory requirement is to notify the CUPA 30 days prior to any change in substance stored.
- Permit Condition 8 states, “The owner and/or operator must report any significant unauthorized release from underground storage tanks to this Division within 24 hours of discovery.” The language does not capture transmitting of the unauthorized release, per HSC, Section 25295(a)(1). UST owners or operators also may be required to comply with additional reporting requirements, including, but not limited to, reporting requirements in Water Code, Sections 13271 and 13272 and reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time, per HSC, Section 25295(c).

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
CCR, Title 23, Sections 2712(c) and (i)
[State Water Board]

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CORRECTIVE ACTION: COMPLETED

During the 2021 CUPA Performance Evaluation, the CUPA provided an acceptable revised UST Operating Permit and UST Operating Permit conditions template.

By the 1st Progress Report, the CUPA will begin to issue the revised UST Operating Permit and UST Operating Permit conditions, issued under the UPFP. The CUPA will provide CalEPA with five UPFPs issued to UST facilities using the revised UST Operating Permit and UST Operating Permit conditions.

CUPA Update 1:

The permit conditions has been updated. The new permit conditions have been issued to the facilities on July 1, 2022. We will attach the new permit conditions to this update.

Evaluation Team Response 1 [State Water Board]:

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

CUPA Update 2:

Currently waiting for water board update/response.

Evaluation Team Response 2 [State Water Board]:

The revised UST Operating Permit and UST Operating Permit conditions provided are acceptable. With the next Progress Report, provide five UPFPs issued to UST facilities using the revised UST Operating Permit and UST Operating Permit conditions.

CUPA Update 3:

The requested permits are in the attached folder.

Evaluation Team Response 3 [State Water Board]:

The provided UPFPs are acceptable. This Deficiency is considered corrected.

5. DEFICIENCY: CORRECTED

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

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

- 621 of 3,622 (17%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 661 of 3,622 (18%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

CITATION:

HSC, Chapter 6.95, Sections 25505(a), 25508(a), and 25508.2
[CalEPA]

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CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that all regulated businesses subject to Business Plan reporting requirements have annually submitted an HMBP or a no-change certification, and that each HMBP submitted to CERS 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 minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP or no-change certification containing all required components within the last 12 months:

- Facility name:
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance, and rejection of HMBP or no-change certifications
 - 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 regulated business subject to Business Plan reporting requirements identified in the action plan, to ensure an HMBP or a no-change certification has been submitted to CERS, or the CUPA will apply appropriate enforcement.

CUPA Update 1:

Action Plan:

1. This year the Overdue email CERS reminder will go out by November 15, 2022 with the individual facility's information included.
2. The CERS Due Date email reminder will go out to everyone as a general letter in the first week of January every year.
3. Regulated businesses subject to Business Plan Reporting requirements annually who fail to submit a Hazardous Materials Business Plan or a no change Certification to CERS will get a "OVERDUE" email reminder on March 15, every year.

Templates of the email reminder are attached.

Evaluation Team Response 1 [CalEPA]:

The email templates provided reference penalty citations that are outdated and are no longer accurate. Refer to HSC, Sections [25515\(b\)](#) and [25515.2\(b\)](#).

The action plan provided does not address how the CUPA will ensure each HMBP submitted to CERS is thoroughly reviewed and contains all required elements before being accepted in CERS.

With the next Progress Report:

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- revise the email templates to include the correct penalty citations and provide the revised email templates to CalEPA. Ensure future notifications reference the correct penalty citations;
- provide an updated action plan that addresses how each HMBP submitted to CERS is thoroughly reviewed and contains all required elements before being accepted in CERS; and
- provide the spreadsheet, as requested, for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP or no-change certification to CERS.

CUPA Update 2:

The citations have been corrected on the email templates to refer to the correct HSC sections. The following will be attached for this deficiency:

- Corrected E-mail templates
- Spread sheet of facilities that have not submitted or certified
- Requested action plan

Evaluation Team Response 2 [CalEPA]:

The revised email templates and updated action plan provided are acceptable. Review of the spreadsheet provided and review of CERS HMBP submittals on June 19, 2023, finds:

- 471 of 3,630 (13%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 506 of 3,530 (14%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

With the next Progress Report, provide an updated spreadsheet.

CUPA Update 3:

Requested spreadsheets are in the attached folder.

Evaluation Team Response 3 [CalEPA]:

Review of the spreadsheet provided and review of CERS HMBP submittals on October 19, 2023, finds:

- 390 of 3,623 (11%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 425 of 3,623 (12%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

With the next Progress Report, provide an updated spreadsheet.

CUPA Update 4:

As of 4/9/2024 (1:00 PM)

- 326 of 3,686 (8.8%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 335 of 3,686 (9.1%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

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Requested spreadsheets are in the attached folder.

Evaluation Team Response 4 [CalEPA]:

Review of the spreadsheet provided and CERS CME information on April 24, 2024, finds:

- 247 of 3,643 (7%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 252 of 3,629 (7%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

This Deficiency is considered corrected.

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1. INCIDENTAL FINDING: RESOLVED

The CUPA is not consistently ensuring HMBP submittals, provided in lieu of a tank facility statement, include site maps that contain all applicable required elements.

Review of CERS indicates the following 8 of 18 (44%) APSA tank facilities are missing site map elements in recently accepted HMBP submittals:

- CERS IDs 10775977 and 10231906: missing evacuation staging area and emergency response equipment
- CERS IDs 10233064, 10233403, 10235905, and 10234048: missing evacuation staging area, emergency response equipment, and emergency shutoff
- CERS IDs 10233325 and 10455082: missing emergency response equipment and emergency shutoff

Review of CERS indicates the following 10 of 18 (56%) APSA tank facilities are missing emergency response equipment in recently accepted site map submittals:

- CERS IDs 10237609, 10235905, 10455082, 10233403, 10231906, 10233325, 10234048, 10233064, 10775977, and 10238311

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)(2)
2019 California Fire Code (CFC), Chapter 50, Sections 5001.5.1 and 5001.5.2, and Appendix H [OSFM]

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will develop, implement, and provide an action plan to ensure that future HMBP submittals, provided in lieu of a tank facility statement, are thoroughly reviewed, and contain all applicable required elements. The action plan will include steps to follow-up with rejected or incomplete submittals.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a list of all APSA tank facilities with recent HMBP submittals, provided in lieu of tank facility statements, that have been reviewed and not accepted for missing applicable required elements. For each APSA tank facility on the list, the CUPA will include follow-up actions, including appropriate applied enforcement.

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility submits an HMBP containing all applicable required elements, when an HMBP is provided in lieu of a tank facility statement or the CUPA will have applied appropriate enforcement.

CUPA Update 1:

Action Plan:

1. A map review guidance document for CERS has been developed and discussed with staff to ensure consistent review of CERS map submittals. This will be attached to the update (CalEPA Incidental Findings site map.doc)
2. All new staff will be given this guidance document at the start of their time with the CUPA.

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STEPS TO CORRECT REJECTED OR INCOMPLETE SUBMITTALS

1. If inspector observes an incomplete submittal, the submittal will be rejected and will notify the operator concerning the rejection with an assigned time frame.
2. A CERS report will be generated to assess facilities with incomplete submittals will be sent an email concerning the discrepancy.
3. The inspector will follow-up with the operator with the given time frame to ensure complete submittal is submitted.
4. Progressive enforcement will be implemented if necessary.

Evaluation Team Response 1 [OSFM]:

The action plan provided is acceptable as it addresses reviewing HMBP submittals, provided in lieu of tank facility statements, to ensure all applicable required elements are complete, and includes steps to follow-up with facilities regarding rejected or incomplete HMBP submittals. Begin to implement the provided action plan.

With the next Progress Report, provide the list, as requested, of all APSA tank facilities that provided an HMBP in lieu of a tank facility statement, that has been reviewed within the last three months and was not accepted due to missing applicable required elements.

CUPA Update 2:

Staff is reviewing APSA facility sites and will update a spread sheet with all rejected site maps of these facilities. Please see attachments for this incidental finding:

-Spread sheet of all rejected APSA site maps

Evaluation Team Response 2 [OSFM]:

The CUPA has implemented the action plan to ensure that HMBP submittals, provided in lieu of tank facility statements, are thoroughly reviewed, and contain all applicable required elements. The spreadsheet provided identifies 57 APSA tank facilities that submitted an HMBP in lieu of a tank facility statement since March 1, 2023, that have been reviewed by the CUPA and were not accepted due to missing applicable required elements. This incidental finding is considered resolved.

2. INCIDENTAL FINDING: RESOLVED

The I&E Plan is missing a required component.

The following component is missing:

- Provisions for ensuring the CUPA has sampling capability. The I&E Plan should describe sampling training, equipment, and methods to preserve physical evidence obtained through sampling, or procedures when sampling is required and a qualified person or entity is contracted to sample on behalf of the CUPA.

Note: This incidental finding was identified during the 2018 CUPA Performance Evaluation and was not resolved during the Evaluation Progress Report process.

CITATION:

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HSC, Chapter 6.5, Section 25201.4(b)
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided a revised I&E Plan that lists “Sampling and Instrumentation Training” and “Preservation of Evidence” as required trainings for inspectors. However, additional detail is necessary to describe the sampling training, equipment and methods used to preserve physical evidence obtained through sampling, or procedures when sampling is required and a qualified person or entity to conduct the sampling is contracted with the CUPA to sample on behalf of the CUPA.

By the 1st Progress Report, the CUPA will provide CalEPA with a revised I&E Plan that adequately incorporates and correctly addresses the required sampling 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. 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.

CUPA Update 1:

The I and E plan has been updated to address this deficiency. This will be attached to this update.

Evaluation Team Response 1 [CalEPA, DTSC]:

CalEPA, DTSC: The I&E Plan is adequate as it now includes sampling capability procedures for the CUPA to follow when sampling is required. The CUPA will contract with a certified lab to take samples on behalf of the CUPA. CUPA personnel will not conduct sampling. As no amendments to the revised I&E Plan are necessary, train CUPA personnel on the sampling capability procedures and implement the revised I&E Plan.

3. INCIDENTAL FINDING: RESOLVED

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 CUPA is not utilizing the Surcharge Transmittal Report template, effective July 1, 2018. The following quarterly Surcharge Transmittal Reports were not received by the required due date:

- FY 2020/2021
 - 1st Fiscal Quarter: Due October 30, 2020. Submitted December 2, 2020.
- FY 2019/2020
 - 1st Fiscal Quarter: Due October 30, 2019. Submitted November 7, 2019.

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- 2nd Fiscal Quarter: Due January 30, 2020. Submitted February 8, 2020.
- 4th Fiscal Quarter: Due July 30, 2020. Submitted September 25, 2020.
- FY 2018/2019
 - 2nd Fiscal Quarter: Due January 30, 2019. Submitted February 13, 2019.

Note: Effective June 25, 2021, the quarterly Surcharge Transmittal Report template was updated to reflect the increased CUPA Oversight state surcharge, which includes an assessment for the CERS NextGen Project.

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation, the CUPA held a meeting with Kern County fiscal support staff. The Kern County fiscal support staff agreed to ensure surcharges will be remitted to CalEPA on time with the current quarterly Surcharge Transmittal Report template.

By the 1st Progress Report, the CUPA will have submitted the 1st quarterly Surcharge Transmittal Report for FY 2022/2023 to CalEPA at cupa@calepa.ca.gov by the required due date using the current quarterly Surcharge Transmittal Report template. Thereafter, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA at cupa@calepa.ca.gov no later than the required due date, which is 30 days after the end of each fiscal quarter. The current quarterly Surcharge Transmittal Report template can be found at: https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf. Each line item on the Surcharge Transmittal Report template should be completed, including the check number of the remittance check.

CUPA Update 1:

The 1st quarterly surcharge report for FY 2022/2023 was sent on October 30, 2022.

Evaluation Team Response 1 [CalEPA]:

The CUPA did not submit the 1st Quarterly Surcharge Transmittal Report to CalEPA at cupa@calepa.ca.gov by the required due date, as requested above. The CUPA has confirmed with fiscal staff that the report will be submitted to both, CalEPA at cupa@calepa.ca.gov and the Air Resources Board, by the required due date. With the next Progress Report, indicate whether the 2nd Quarterly Surcharge Transmittal Report was submitted to both, CalEPA at cupa@calepa.ca.gov and the Air Resources Board.

CUPA Update 2:

Surcharge were submitted to Airboard and CUPA@calepa.ca.gov

Evaluation Team Response 2 [CalEPA]:

The 2nd and 3rd Quarterly Surcharge Transmittal Reports were submitted to both the California Air Resources Board (CARB) and CalEPA by the required due dates. Continue to submit Quarterly Surcharge Transmittal Reports by the required due date for each FY. This incidental finding is considered resolved.

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4. INCIDENTAL FINDING: RESOLVED

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

Review of UST facility file information finds the UST closure letter provided by the CUPA to the UST owner/operator of the following facilities does not identify whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure, removal, and soil and/or groundwater sampling complies with UST Regulations and HSC:

- CERS ID 10234531: UST closure letter for three USTs dated December 7, 2020
 - The closure letter does not identify the following:
 - Date of UST closure; and
 - Whether the UST system was removed or closed in place.
 - The UST closure letter indicates “no further action is indicated at this time.” A “no further action letter” may only be issued by a Local Oversight Program (LOP) to a UST owner and/or operator, or other responsible party, when a corrective action is being taken in response to an unauthorized release, in accordance with HSC, Section 25296.10. The Kern County Environmental Health Services Department is not a State Water Board certified LOP and, therefore, does not have the authority to determine if further action is necessary or implement corrective actions for the cleanup of leaking USTs.
- CERS ID 10175647: UST closure letter for three USTs dated February 8, 2021
 - The closure letter does not identify the following:
 - Date of UST closure; and
 - Specific provisions the UST closure complied with.

Examples of information for each UST referenced in a UST closure letter or other UST closure documentation includes but is not limited to:

- UST identification (i.e., size of the UST, what the UST contained, UST ID#);
- Citations (UST Regulations, Sections 2670 and 2672 and HSC, Section 25298);
- Date of UST removal or closure in place and dates of all closure activity that occurred;
- Whether the UST was closed in place or removed; and
- Whether closure was completed in accordance with UST Regulations.

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

Note: State Water Board “UST Program Leak Prevention Frequently Asked Question 15” (https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) may be referenced.

CITATION:

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

RESOLUTION: COMPLETED

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During the evaluation, the CUPA provided an acceptable revised UST closure letter template to issue to UST owners/operators.

By the 1st Progress Report, the CUPA will train UST inspection staff on the revised UST closure letter template. Once training is complete, the CUPA will utilize the revised UST closure letter template.

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

CUPA Update 1:

Staff has been provided with training on how to utilize the new closure templates. The training sign in sheet will be attached to this update.

The CUPA will determine when closure letters will be updated prior to issuing public records request.

Evaluation Team Response 1 [State Water Board]:

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

CUPA Update 2:

Currently waiting for water board update/response.

Evaluation Team Response 2 [State Water Board]:

The training documentation provided is acceptable. This incidental finding is considered resolved.

5. INCIDENTAL FINDING: RESOLVED

The CUPA has not established nor implemented all Unified Program administrative procedures.

Established Unified Program administrative procedures have components that are incomplete.

The following administrative procedures have not been established nor implemented:

- Public Participation Procedures that:
 - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.

The following administrative procedures have components that are incomplete:

- Archival Procedures as addressed in the Information Management Procedure, do not provide details regarding the whereabouts of CUPA documentation that is archived and criteria for determining when to archive documentation.

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CITATION:

CCR, Title 27, Section 15180(e)(1) and 15180(e)(2)
[CalEPA]

RESOLUTION: COMPLETED

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

By the 2nd Progress Report, if revisions to the established Unified Program administrative procedures and/or amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised and/or amended Unified Program administrative procedures. If no revisions and/or amendments are necessary, the CUPA will train CUPA personnel on the established and/or revised Unified Program administrative procedures. Once training is complete, the CUPA will implement the established and/or revised administrative procedures.

By the 3rd Progress Report, if revisions to the established Unified Program administrative procedures and/or amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the revised and/or amended Unified Program administrative procedures. Once training is complete, the CUPA will implement the revised and/or amended administrative procedures.

CUPA Update 1:

The CUPA provided Public Participation and Records Maintenance procedures.

Evaluation Team Response 1 [CalEPA]:

The Public Participation procedures provided include the required component. The revised Records Maintenance document provided addresses archival procedures. This incidental finding is considered resolved.

6. INCIDENTAL FINDING: RESOLVED

The annual California Accidental Release Prevention (CalARP) performance audit report is missing a required element.

The “Exempted list of CalARP facilities” is missing from the annual CalARP performance audit report for the following FYs:

- FY 2020/2021
- FY 2019/2020
- FY 2018/2019

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, which will include all required elements.

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CUPA Update 1:

The self-audit plan has been updated to address this deficiency. This will be attached to this update. All future self-audits will include exempted CalARP chemicals and all facilities waived.

Evaluation Team Response 1 [CalEPA]:

The CUPA's FY 2021/2022 CalARP performance audit includes the required element. This incidental finding is considered resolved.

7. INCIDENTAL FINDING: RESOLVED

The local ordinance, *Chapter 8.48 Underground Storage of Hazardous Substances* is inconsistent with local ordinance *Chapter 8.04 Environmental Health Permits and Service Fees* and the UST Operating Permit (issued under the UPPF).

Review of the local ordinances and the UST Operating Permit finds the following inconsistencies:

- *Section 8.48.090* indicates a permit shall be effective for five years. *Section 8.04.060* indicates a UST facility permit shall be issued each fiscal year. The UST Operating Permit indicates it is valid for one year, but does not specify "fiscal year."
- *Section 8.48.100* indicates a UST permit may be transferred to a new UST owner. *Section 8.04.030* indicates a permit is not transferable. The UST Operating Permit states, "PERMIT IS NON-TRANSFERABLE AND..."

Note: The CUPA's Consolidated Permit Plan indicates the UST Operating Permit, issued under the UPPF, is valid for five years and states that UST Operating Permits are not transferable.

CITATION:

HSC, Chapter 6.7 Section 25299.2, 25299.3

CCR, Title 23, Section 2620(c)

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

[State Water Board]

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt, or repeal, the local ordinance *Chapter 8.48 Underground Storage of Hazardous Substances*, and/or the local ordinance *Chapter 8.04 Environmental Health Permits and Service Fees*. The CUPA will provide CalEPA with a detailed plan to revise the UST Operating Permit (issued under the UPPF). The plan will at a minimum include a timeline for:

- Revising, drafting and adopting, or repealing, local ordinance *Chapter 8.48*, and/or local ordinance *Chapter 8.04*
- Revising the UST Operating Permit (issued under the UPPF); and
- Providing the revised local ordinance *Chapter 8.48*, local ordinance *Chapter 8.04*, and/or the revised UST Operating Permit (issued under the UPPF) to the State Water Board for review to ensure consistency among one another and with HSC and UST Regulations, the CUPA's Consolidated Permit Plan, as well as all other legal requirements.

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

Considering the length of time required to draft, 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(s) and/or the UST Operating Permit as outlined above.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinance(s) were adopted and/or the revised UST Operating Permit was issued.

CUPA Update 1:

Since September of 2022, Kern County Environmental Health is performing a review of all ordinances for Kern County. The CUPA will update the ordinance to address this incidental finding. It is anticipated that this process will take a minimum of 6 months to a year. The main processes will include the following:

1. Ordinance review and revision by supervisors
2. Review by upper management for approval
3. Submission to County Council for review
4. Submission to Board of Supervisors for discussion and approval
5. Implementation of ordinance changes

Evaluation Team Response 1 [State Water Board]:

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

CUPA Update 2:

Currently waiting for water board update/response.

Evaluation Team Response 2 [State Water Board]:

With the next Progress Report, provide an updated timeline on the plan to revise and adopt the local ordinance *Chapter 8.48 Underground Storage of Hazardous Substances*, and the local ordinance *Chapter 8.04 Environmental Health Permits and Service Fees*.

CUPA Update 3:

Kern County UPA

Since September of 2022, Kern County Environmental Health is performing a review of all ordinances for Kern County. The CUPA will update the ordinance to address this incidental finding. It is anticipated that this process will take a minimum of 6 months to a year. The main processes will include the following:

1. Ordinance review and revision by supervisors
2. Review by upper management for approval
3. Submission to County Council for review
4. Submission to Board of Supervisors for discussion and approval
5. Implementation of ordinance changes
 - a. Rescinding 8.48 from county ordinance and revising 8.04.

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Evaluation Team Response 3 [State Water Board]:

The provided timeline for review is acceptable. With the next Progress Report, provide a narrative update on progress made towards review, revision and approval of local ordinance *Chapter 8.48 Underground Storage of Hazardous Substances*, and the local ordinance *Chapter 8.04 Environmental Health Permits and Service Fees*.

CUPA Update 4:

On 04/09/2024 the ordinance changes went to the Board of Supervisors and was approved and the changes will be effective May 24 2024. Please see the attached Proposed Ord - underground storage2532328.doc.

Evaluation Team Response 4 [State Water Board]:

Review of the revised ordinance is acceptable. This Incidental Finding is considered resolved.
