

June 19, 2012

LOS ANGELES FIRE DEPARTMENT



BRIAN L. CUMMINGS
FIRE CHIEF

June 8, 2012

BOARD OF FIRE COMMISSIONERS
FILE NO. 12-098

TO: Board of Fire Commissioners

FROM: Brian L. Cummings, Fire Chief

SUBJECT: CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION

FOR INFORMATION ONLY:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

For Information Only

The California Environmental Protection Agency (Cal/EPA), along with California Emergency Management Agency, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of Los Angeles Fire Department's Certified Unified Program Agency (CUPA) on July 18-21, 2011.

The evaluation is mandated by the Health and Safety Code, Chapter 6.11, to be conducted at least once every three years, in order to verify the Certified Unified Program Agency's implementation of the Unified Program (UP).

Attached, for your review, are two documents:

1. A 3-page document dated September 21, 2011 from Don Johnson, Assistant Secretary for the California Environmental Protection Agency transmitting the review board's findings to the Department Evaluation Summary of Findings prepared by Cal/EPA.
2. An 18-page matrix from the evaluation team that summarizes program deficiencies.

The Department will provide a progress report to the Board of Fire Commissioners at a future meeting.

Board report prepared by Hani Malki, Risk Management Prevention Program Manager, Bureau of Fire Prevention and Public Safety.

Attachments



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

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EDMUND G. BROWN JR.
GOVERNOR

Certified Mail: 7003 1680 0000 6167 4366

September 15, 2011

Mr. Timothy Kerbrat
Battalion Chief
City of Los Angeles Fire Department
200 North Main Street, Suite 1700
Los Angeles, California 90012

Dear Mr. Kerbrat:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the City of Los Angeles Fire Department Certified Unified Program Agency (CUPA) on July 18 - 21, 2011. The evaluation was comprised of an in-office program review and field oversight inspections by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that City of Los Angeles Fire Department's program performance is unsatisfactory with improvements needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Kareem Taylor every 90 days after the evaluation date; the first report is due on October 19, 2011.

Mr. Timothy Kerbrat
Page 2
September 15, 2011

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or email jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via email:

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Mr. Sean Farrow
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Sacramento, California 94244-2102

Ms. Jennifer Lorenzo
Office of the State Fire Marshal
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Mr. Timothy Kerbrat
Page 3
September 15, 2011

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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Enclosure



MATTHEW RODRIQUEZ
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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS - FINAL

CUPA: Los Angeles City Fire Department

Evaluation Date: July 18 through 21, 2011

EVALUATION TEAM

Cal/EPA: Kareem Taylor
SWRCB: Laura Fisher
SWRCB: Sean Farrow
Cal EMA: Analisa Canepa
DTSC: Asha Arora
DTSC: Ari Erman

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are now considered to be final. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

<u>Deficiency</u>	<u>Corrective Action</u>
<p>1</p> <p>The CUPA is not adequately implementing its fee accountability program, which is impacting the CUPA's ability to administer the unified program (UP) in the City of Los Angeles.</p> <p>A combination of events and actions are collectively the cause of this situation. The CUPA's operations are deficient in the following areas:</p> <ul style="list-style-type: none"> Single fees collected and earmarked solely for UP-related activities are being inappropriately used to fund personnel and other related expenses for non-UP work activities. Cal/EPA and the SWRCB have discovered that a CUPA inspector has been reassigned from underground storage tank (UST) plan check activities to the fire department's non-UP related Regulation Four Unit that handles fire suppression and sprinkler systems. The inspector's position remains fully funded by the 	<p>Effective immediately, CUPA single fees collected will no longer be used to fund any non-UP related personnel or activities.</p> <p>By January 21, 2012, the CUPA will ensure that UP funds used for non-UP activities are returned to Los Angeles City Fire Department's CUPA. The CUPA will submit, to Cal/EPA, documentation of the UP funds return.</p> <p>By January 21, 2012, the CUPA will assess its resource needs based on the number of businesses it regulates and report its finding in the first progress report to Cal/EPA.</p> <p>By April 21, 2012, the CUPA will, in</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>CUPA's single fee revenues.</p> <p>Using the UP fee revenues to fund work activities that are not part of the scope of the UP is not allowed by statute. Pursuant to state law, the UP single fee revenues are required to be used for the sole purpose of funding the necessary and reasonable costs incurred by the CUPA in their administration of the UP in the City of Los Angeles.</p> <ul style="list-style-type: none"> Cal/EPA has discovered that the CUPA's fee accountability program is insufficient to acquire and maintain the necessary resources to regulate approximately 9500 businesses. The fee accountability program also fails to address the additional resources necessary for the aboveground petroleum storage tank (AST) program. Insufficient resource allocation has impacted the CUPA in the following ways: <ul style="list-style-type: none"> incomplete inspections incomplete unified program consolidated forms (UPCF) current business plans/three-year review certifications have not been collected and properly reviewed current chemical inventories/inventory certifications have not been collected and properly reviewed inaccurate Annual Summary Reports inaccurate Semi-Annual UST Report 6 <p>HSC, Chapter 6.11, Section 25404.5 (c) (Cal/EPA, SWRCB) CCR, Title 27, Section 15220 (a)</p>	<p>coordination with the Los Angeles City Council, develop a fee accountability program that will more adequately address the CUPA's resource needs.</p> <p>The CUPA will submit requested documentation to Cal/EPA verifying progress toward acquiring additional resources along with quarterly progress reports.</p> <p>By July 1, 2012, the CUPA will have begun following its new fee accountability program that more adequately addresses the CUPA's resource needs.</p>
2	<p>In some cases, the CUPA is not following-up and/or documenting return to compliance (RTC) for businesses cited for violations in notices to comply, notices of violation (NOV) and inspection reports.</p> <ul style="list-style-type: none"> According to the fiscal year (FY) 2008/2009 "NOV tracking sheet," 46 out of 96 businesses that received a NOV have not RTC. According to the "Violation Notices Tracking Sheet July 1 – December 31, 2010," none of the 94 businesses that received a NOV have RTC 	<p>Effective immediately, the CUPA will regularly document enforcement activities (enforcement letters, re-inspection reports, phone calls, RTC certifications) using Microsoft Excel until the CUPA's database is upgraded to Envision Connect.</p> <p>By October 21, 2011, the CUPA will develop a list of all businesses with ongoing violations and submit the list to</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>certifications.</p> <p>HSC, Chapter 6.11, Section 25404.1.2 (c) (Cal/EPA, DTSC) CCR, Title 27, Section 15200 (a) CCR, Title 27, Section 15185 (a)(c)</p>	<p>Cal/EPA.</p> <p>The CUPA will submit requested documentation to Cal/EPA verifying that follow-up actions are taking place along with quarterly progress reports.</p> <p>By July 21, 2012, the CUPA will have followed-up with all the businesses on the list and provide requested documentation to Cal/EPA.</p>
3	<p>The CUPA is not fully implementing its Inspection and Enforcement (I and E) Plan. In many cases, CUPA inspectors are not completing an inspection report after each inspection and leaving a copy with the facility operator. Cal/EPA, Cal EMA, and the SWRCB have observed that many facility files did not contain current inspection reports.</p> <p>CCR, Title 27, Section 15200 (a) (Cal/EPA, Cal EMA, SWRCB)</p>	<p>Effective immediately, the CUPA will document all inspections using an inspection report for each program element.</p> <p>By October 21, 2011, the CUPA will submit inspection report templates for the hazardous materials release response plan (HMRRP), AST, and UST programs to Cal/EPA.</p> <p>By July 21, 2012, the CUPA will provide a list of facilities that were inspected during FY 2011/2012. Cal/EPA will review the list and will request copies of inspection reports from the list.</p>
4	<p>The CUPA's Participating Agency (PA), the Los Angeles County Fire Department, is not meeting its scheduled inspection frequency for the Resource Conservation and Recovery Act (RCRA) large quantity generators (LQGs), as depicted in the CUPA's I and E Plan and the mandated frequency for the tiered permitting (TP) program.</p> <ul style="list-style-type: none"> A list of 1524 LQGs and/or TP facilities provided by the CUPA (LA County Participating Agency (PA)) on May 10, 2011, for DTSC's selection of the hazardous waste generator oversight inspection indicated that 1387 facilities had not been inspected over the last three years. The PA did not inspect 25 out of 164 TP facilities (15%), 	<p>By July 21, 2012, the CUPA will ensure that its PA has inspected all RCRA LQGs and TP facilities that have not been inspected in the past three years.</p> <p>Please submit a quarterly progress report to Cal/EPA to provide an update on the number of RCRA LQG and TP facilities inspected.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>and 18 out of 120 RCRA LQGs (15%) within the last three years.</p> <ul style="list-style-type: none"> • Ten (10) of the 25 TP facilities (40%) were inspected over four years ago and one facility was inspected over five years ago. • Fourteen (14) of the 18 RCRA LQGs were inspected over four years ago and 10 facilities were inspected over five years ago. <p>HSC, Chapter 6.5, Section 25201.4 (b) (DTSC) CCR, Title 27, Section 15200 (a)(3)</p>	
5	<p>The CUPA's PA has not fully developed and implemented the hazardous waste generator (HWG) and TP program. Based on the file review, it appears that administrative reviews of the TP notifications are not done accurately. In addition, technical reviews are not verified accurately during the inspections. The following are instances observed by DTSC where the TP program was not implemented accurately:</p> <ul style="list-style-type: none"> • California Electroplating Inc. (Commerce Office) inspected on 7/28/08 shows cyanide and chrome treatment listed as one permit-by-rule (PBR) unit. (Cyanide and chrome treatment must be under separate units.) • Barry Avenue Plating (Culver City Office) inspected on 6/21/11 shows cyanide and chrome treatment listed as one PBR unit. • The Bumper Shop inspected on 10/21/09 shows both PBR and a conditionally exempt small quantity treatment unit (CESQT). (Facility with CESQT is not eligible to treat waste in any other tier.) • Stutzman Plating, Inc. (Culver City Office) inspected on 11/7/07 shows one PBR unit for evaporation of cyanide and other wastes. (Evaporation of cyanide waste is not eligible under PBR.) • Highland Plating Company (Culver City Office) inspected on 10/23/09 shows cyanide and chrome treatment listed as one PBR unit. (Cyanide and chrome treatment must be under separate units.) • Accurate Engineering (Sylmar Office) inspected on 2/5/08 and re-inspected on 6/5/08 shows an incomplete PBR notification and types of waste treated. (Notification needs to be corrected during 	<p>By October 21, 2011, the CUPA, in coordination with their PA, will develop and implement a plan to fully develop and implement the HWG and TP program. In the plan, the PA will identify their corrective actions to be taken to address the instances cited by DTSC under this deficiency.</p> <p>By January 21, 2012, the CUPA will ensure that its PA follows-up with all facilities that treat aqueous waste containing cyanide, chrome, CEQST treatment facilities and corrects their treatment authorizations, as necessary.</p> <p>By January 21, 2012, the CUPA will ensure that its PA provides HWG and TP training to its staff, which will include but not be limited to, basic HWG training, tiered permitting of cyanide and chrome and multiple units involving hazardous waste.</p> <p>The CUPA will provide documentation of the trainings by January 21, 2012.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>administrative review and technical review during the inspections.)</p> <ul style="list-style-type: none"> PPG Industries, doing business as Sierracin Corporation (Sylmar Office) and inspected on 2/9/10, shows that the TP notification lists evaporation for aqueous waste as "Special waste" under the CESW tier. (Waste was incorrectly listed as special waste.) <p>The PA did not demonstrate that its staff had been adequately trained in the TP program involving cyanide, chrome, and multiple units involving hazardous waste. In addition, the PA did not demonstrate that its staff were familiar with conducting administrative and technical reviews of the TP program (types of waste treated, treatment technologies, TP eligibility, one unit vs. two units).</p> <p>HSC, Chapter 6.11, Sections 25404.2 (a)(1)(A) (DTSC) HSC, Chapter 6.5, Sections 25201.5, 25200.3 CCR, Title 27, Section 15100 (b)(2)(H), CCR, Title 27, Section 15200 (a)(3)(A) CCR, Title 22, Section 67450.2 (b)(4) CCR, Title 22, Section 66265.16 CCR, Title 22, 66261.120</p>	
6	<p>The CUPA's PA inspectors did not conduct complete hazardous waste generator oversight inspections.</p> <p>During the HWG oversight inspection of Certified Enameling, Inc., located at 3342 Emery Street, in Los Angeles, CA on 6/20/11 and 6/21/11, the PA inspector missed the following violations:</p> <ul style="list-style-type: none"> Failure to conduct weekly inspections of hazardous waste containers. Failure to routinely check emergency equipment such as fire extinguishers and eyewash/showers. Failure to submit notification for the two treatment units in two separate buildings. (Facility was listed as a recycler.) <p>During the inspection of Barry Avenue Plating, located at 2210 Barry Avenue, Los Angeles, CA on 6/22/11, the PA inspector failed to identify the adequacy of tank integrity assessment, waste analysis plan, and the</p>	<p>By February 21, 2011, the CUPA will ensure that the PA inspectors receive hazardous waste generator training that includes, at a minimum but not limited to, training on basic generator requirements, permit-by-rule notifications, tank integrity assessments, waste analysis plan and treatment units..</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>number of treatment units, such as one unit vs. two units.</p> <p>The PA inspector consulted with the DTSC evaluator and correctly cited the facility with the proper violations.</p> <p>CCR, Title 27, Section 15200 (b) (DTSC) CCR, Title 22, Sections 66260.10, 66265.13, 66265.32, 66265.174, 6625.192, 67450.4(b)</p>	
7	<p>The CUPA is not inspecting all UST facilities annually.</p> <p>The file review and CUPA database query conducted by the SWRCB indicated that there are several UST facilities that have not been inspected within the last 12 months.</p> <p>This deficiency was also cited in the 2009 CUPA evaluation.</p> <p>HSC, Chapter 6.7, Section 25288 (a) (SWRCB) CCR, Title 23, Chapter 16, Section 2712 (e)</p>	<p>By October 21, 2011, the CUPA will identify UST facilities that have not been inspected within the last 12 months and submit to Cal/EPA a list of UST facilities that need to be inspected.</p> <p>By June 30, 2012 and each subsequent year, the CUPA will have inspected every UST facility it regulates. Also, submit to Cal/EPA a list of UST facilities that were inspected in FY 2011/2012.</p>
8	<p>The annual UST inspection is not always conducted in accordance with the requirements set forth in state law.</p> <p>Upon questioning the CUPA, it was confirmed that if the CUPA is not present to witness the annual UST monitoring certification (while access to the underground equipment is accessible); the inspector conducts a walk-through of the facility at another time. This walk-through inspection does not meet the inspection requirements. The CUPA is not always verifying that:</p> <ul style="list-style-type: none"> • Sumps and under-dispenser containments are clean and dry; • Sensors are placed correctly; • Sensors are of the correct type; • Tags have been applied to sensors; • Secondary open for earliest possible alarm; and • Etc. to verify compliance. 	<p>By January 21, 2012, the CUPA will develop and submit to Cal/EPA an UST inspection policy to be included in the I and E Plan. This policy will outline how the CUPA will conduct UST inspections. The policy will describe various types of inspections including those when the inspector is not able to witness the annual UST monitoring certification.</p> <p>By April 21, 2012, the CUPA will make the necessary amendments to this policy, incorporate it into the CUPA's I and E Plan and begin to implement the policy.</p> <p>By September 30, 2012, the CUPA will conduct their FY 2011/2012 self audit and submit the narrative self audit report to Cal/EPA. The FY 2011/2012 self</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	HSC, Chapter 6.7, Section, 25288 (a) (SWRCB) CCR, Title 23, Section, 2712 (e)	audit report will address the status of implementation and identify any necessary changes.
9	<p>The CUPA is not preparing a compliance report for every UST inspection.</p> <p>File review indicates that an inspection report is not prepared for every UST inspection. Upon questioning the CUPA, it was confirmed that inspection reports are not prepared for facilities that are in compliance.</p> <p>File review and CUPA database query indicate that not all CUPA inspectors use the same method for documenting and reporting violations. Some inspectors enter the data in Envision while some complete a checklist. Upon questioning the CUPA, this was confirmed.</p> <p>The CUPA is not having a facility representative sign the inspection report indicating their review and receipt of the inspection report. In addition, the CUPA is not always mailing a compliance report to the owner or operator after the inspection.</p> <p>HSC, Chapter 6.7, Section 25288 (b) (SWRCB)</p>	<p>By January 21, 2012, the CUPA will develop a UST inspection policy to be included in the I and E Plan that describes steps that will be taken to prepare compliance reports for every annual UST inspection.</p> <p>By April 21, 2012, the CUPA will submit this policy to Cal/EPA for review.</p> <p>By July 21, 2012, the CUPA will incorporate and implement the UST inspection policy as described above.</p> <p>By September 30, 2012, the CUPA will conduct their FY 2011/2012 self audit and submit the narrative self audit report to Cal/EPA. The FY 2011/2012 self audit report will address the status of implementation and identify any necessary changes.</p>
10	<p>The CUPA issues the UST operating permit without verifying compliance.</p> <p>The file review indicated that compliance is not verified prior to issuing an operating permit. Upon questioning the CUPA, it was confirmed that operating permits are issued based on payment of fees rather than compliance.</p>	<p>By January 21, 2012, the CUPA will develop and submit to Cal/EPA a policy to be included in their Consolidated Permit Program to ensure that a UST facility is in compliance before issuing the permit to operate.</p> <p>By April 21, 2012, the CUPA will make the necessary amendments to this policy, incorporate it into the CUPA's Consolidated Permit Program and begin to implement the policy.</p> <p>By September 30, 2012, the CUPA will conduct their FY 2011/2012 self audit and submit the narrative self audit report to Cal/EPA. The FY 2011/2012 self audit report will address the status of</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	HSC, Chapter 6.7, Section 25235 (b) (SWRCB) CCR, Title 23, Section 2712 (e)	implementation and identify any necessary changes.
11	<p>The CUPA is not approving the UST owner/operator submitted monitoring and response plans.</p> <p>The file review indicates that the CUPA is not signing the approval/disapproval section, indicating that the plans/forms have been reviewed for completeness and accuracy. Upon questioning the CUPA, the failure to approve or disapprove these forms was confirmed.</p> <p>This deficiency was also cited in the 2009 CUPA evaluation.</p> <p>CCR, Title 23, Section 2632 (b), (d)(2) (SWRCB) CCR, Title 23, Section 2641 (g)</p>	<p>By January 21, 2012, the CUPA will develop and submit to Cal/EPA a policy to be included in the I and E Plan that describes the CUPA approval process for UST owner/operator submitted monitoring and response plans.</p> <p>By April 21, 2012, the CUPA will make the necessary amendments to this policy, incorporate it into the CUPA's I and E Plan and begin to implement the policy.</p> <p>By September 30, 2012, the CUPA will conduct their FY 2011/2012 self audit and submit the narrative self audit report to Cal/EPA. The FY 2011/2012 self audit report will address the status of implementation and identify any necessary changes.</p>
12	<p>The CUPA's UST files are not complete.</p> <p>All files reviewed were missing one or more of the following documents:</p> <ul style="list-style-type: none"> • Financial responsibility; • Plot plans; • Secondary containment inspections; • Tank and line integrity tests; • Monitoring certifications; • ELD certifications; • Designated operator; • Tank lining and recertification reports; • UPCF A; and • UPCF B. <p>This deficiency was also cited in the 2009 CUPA evaluation.</p> <p>CCR, Title 27, Section 15185 (a), (c) (1), (i) (SWRCB)</p>	<p>Immediately, the CUPA will start to collect and retain UST facility compliance documents for all facilities for the prescribed time frames.</p> <p>By January 21, 2012, the CUPA will implement the use of a file review checklist. This file review checklist will be maintained in the UST facility file for 3 years; allowing for future verification that the deficiency has been corrected.</p> <p>By July 21, 2012, the CUPA will report to Cal/EPA on how the file review and checklist implementation has progressed.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

13	<p>The CUPA is not inspecting each HMRRP facility once every three years. The Annual Summary Reports for the past three FYs indicate that 110 percent of facilities have had routine inspections; however, out of the files reviewed by Cal EMA, 50 percent of the facilities reviewed were not inspected within the past three FYs.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2009.</p> <p>HSC, Chapter 6.95, Section 25508 (b) (Cal EMA)</p>	<p>By January 21, 2012, the CUPA will determine the status of the HMRRP facility inspections and develop an action plan to ensure the HMRRP inspections are achieved. By February 1, 2012, the CUPA will begin inspecting at least one-third of its business plan facilities annually. Priority will be given to the facilities that have not been inspected for the longest period of time.</p> <p>By April 21, 2012, the CUPA will submit to Cal/EPA the status of all HMRRP inspections. Along with each progress report, the CUPA will update Cal/EPA on the total number of business plan facilities and the number of business plan routine inspections conducted in the current fiscal year. Also, submit to Cal/EPA 10 random business plan inspection reports from the facilities inspected within the current FY.</p> <p>By July 21, 2012, the CUPA will have inspected at least one-third of its business plan facilities.</p>
14	<p>The CUPA is not adequately reviewing business plans to ensure completeness. Of the 20 files reviewed:</p> <ul style="list-style-type: none"> • Nine lacked the Business Activities Page, • One lacked the Hazardous Materials Inventory pages, • Nine lacked the Annotated Site Map, and • Seven had incomplete Emergency Response Plans (lacking the equipment inventory, notification procedures, or both). <p>This deficiency was identified during the CUPA's last evaluation in 2009.</p> <p>HSC, Chapter 6.95, Sections 25504 (a)(b)(c), 25505 (a)(1)(2)(d) CCR, Title 19, Sections 2729, 2729.2 (a), 2731, 2732 (Cal EMA)</p>	<p>By January 21, 2012, the CUPA will develop a business plan review process and checklist to ensure that all business plans are complete and accurate.</p> <p>By April 21, 2012, the CUPA will submit copies of at least ten complete business plans and corresponding business plan review checklists for hazardous materials facilities.</p> <p>By July 21, 2012, the CUPA will ensure that all business plans are complete and correct.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

15	<p>The CUPA is not ensuring that HMRRP businesses submit either an updated hazardous materials inventory or a "no-change" to their inventory certification on an annual basis. During the file review, 95% of the files reviewed lacked a current inventory or "no-change" certification.</p> <p>The CUPA has a "Business Plan Annual Renewal Certification" form that is not currently being used.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2009.</p> <p>HSC, Chapter 6.95, Sections 25501 (f) and 25505 (d) CCR, Title 19, Sections 2729.4 and 2729.5 (Cal EMA)</p>	<p>By November 21, 2011, the CUPA will submit an action plan outlining how it will ensure that HMRRP businesses annually submit either an annual certification of "no-change" to their inventory or an updated inventory by March 1st.</p> <p>By January 21, 2012, the CUPA will develop a tracking method to determine who did or did not submit the information.</p> <p>By April 21, 2012, the CUPA will submit copies of 10 updated facility inventory forms and 20 completed and signed HMRRP facility annual "no-change" certifications to Cal/EPA.</p>
16	<p>The CUPA is not ensuring that HMRRP businesses certify that they have reviewed their business plan, made necessary changes and submitted any business plan revisions to the CUPA at least once every three years.</p> <p>The CUPA has a "Business Plan Annual Renewal Certification" form that includes a review certification area, but it is not used.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2009.</p> <p>HSC, Chapter 6.95, Section 25505 (c) (Cal EMA)</p>	<p>By November 21, 2011, the CUPA will submit an action plan outlining how it will ensure that HMRRP businesses certify to the CUPA that they have reviewed the emergency plan and training program portions of their business plan, made necessary changes and submitted any changes to the CUPA at least once every three years.</p> <p>By January 21, 2012,, the CUPA will develop a tracking method to determine who did or did not submit the information.</p> <p>By April 21, 2012, the CUPA will submit copies of 20 completed and signed three-year review certifications submitted by HMRRP businesses'.</p>
17	<p>The CUPA is not ensuring that HMRRP businesses submit a revised business plan within 30 days from when a substantial change or specified event occurs.</p> <p>Businesss are required to submit a revised business plan when there is a 100 percent or more increase in the</p>	<p>By January 21, 2012, the CUPA will submit copies of five business plan facility inspection reports where it was found that changes needed to occur in the inventory or contact information. Also, submit copies of the updated</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>quantity of a previously disclosed hazardous material, any handling of a previously undisclosed hazardous material subject to the inventory requirements, change of business address, change of business ownership, or change of business name. Business are also required to submit a revised business plan whenever a substantial change in the handler's operations occurs that requires a modification of its business plan.</p> <p>The CUPA inspectors make changes to the business contact information and address on the "Business Information" form and changes to the facility's inventory on the "Inspection Responsibility" form during inspections, but do not require the business to submit revised UPCF forms with all of the required information.</p> <p>HSC, Chapter 6.95, Sections 25505 (b), 25509 (a), and 25510 CCR, Title 19, Sections 2729.2 (a) and 2729.4 (d) (Cal EMA)</p>	<p>business plan forms submitted that corrected the violations.</p> <p>By July 21, 2012, the CUPA will ensure that all HMRRP businesses use the UPCF or forms that store the same information as the UPCFs when changes are made.</p>
18	<p>The CUPA is not collecting, tracking or accurately reporting Significant Operational Compliance (SOC) information on a semi-annual basis.</p> <p>The CUPA is not collecting SOC criteria during each UST compliance inspection; therefore, the CUPA is not able to comply with the required SOC reporting.</p> <p>CCR, Title 23, Section 2713 (c) (SWRCB) CCR, Title 27, Section 15290 (b)(1)(2)</p>	<p>By October 21, 2011, the CUPA will have begun collecting SOC criteria during each UST compliance inspection.</p> <p>By October 21, 2011, the CUPA will submit to Cal/EPA a revision of its Notice of Violation Tracking spreadsheet. The revision will include columns to allow for the tracking of SOC information.</p> <p>By September 1, 2012, the CUPA will submit to Cal/EPA its Semi-Annual UST Report 6 (data from January to June of 2012) that includes accurate SOC information.</p>
19	<p>The CUPA is not collecting, retaining, and managing information necessary to implement the UP. The following information is not being adequately collected, retained or managed:</p> <ul style="list-style-type: none"> Enforcement information is not regularly tracked in any database or on inspection reports. NOV's are stored in a binder maintained by the Los Angeles City Fire Department's legal section. When the Annual Summary Reports become due, 	<p>Immediately, the CUPA will regularly document enforcement activities using Microsoft Excel until the CUPA's database is upgraded to Envision Connect.</p> <p>By October 21, 2011, the CUPA will add a column in its NOV tracking sheet in order to record SOC. The CUPA will submit the NOV tracking sheet along</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>the CUPA management reviews all of the NOV's created during the reporting FY and records the information in Microsoft Excel. This occurs once per FY.</p> <ul style="list-style-type: none"> • SOC information is not regularly tracked in any database or on inspection reports. • Complete UPCF information is not always being collected. Cal/EPA, Cal EMA, and SWRCB have observed that HMRRP and UST forms information is either out-of-date or missing. <p>CCR, Title 27, Section 15185 (a) (Cal/EPA, Cal EMA, SWRCB)</p>	<p>with each progress report.</p> <p>By October 21, 2012, the CUPA will have demonstrated that it is collecting, retaining, and managing information necessary to implement the UP by submitting requested enforcement, SOC and UPCF documentation to Cal/EPA.</p>
20	<p>The CUPA is not reviewing its I and E Plan annually and updating it as needed.</p> <p>In addition, the I and E Plan is missing the HWG program element and should be updated to include that element. The CUPA's current plan only refers to the PA's I and E Plan in regard to the HWG program; however, that plan is not readily available.</p> <p>CCR, Title 27, Section 15200 (a)(b) (Cal/EPA, DTSC)</p>	<p>By October 21, 2011, the CUPA will review its entire I and E Plan and update it as needed.</p> <p>By October 21, 2011, the CUPA, in coordination with their PA, will revise its I and E Plan to include the administration of the HWG program element.</p>
21	<p>The CUPA did not adequately complete a FY 2009/2010 narrative self audit of its activities.</p> <p>The FY 2009/2010 narrative self audit reviewed by Cal/EPA did not differ much from the FY 2008/2009 narrative self audit. The only changes observed were the changes from "FY 2008/2009" to "FY 2009/2010".</p> <p>CCR, Title 27, Section 15230 (c) (Cal/EPA)</p>	<p>By September 30, 2012, the CUPA will conduct their FY 2011/2012 self audit and submit the narrative self audit report to Cal/EPA.</p>
22	<p>The CUPA is not accurately reporting information on the Annual Inspection (Report 3) and Enforcement (Report 4) Summary Reports.</p> <ul style="list-style-type: none"> • FY 2009/2010 – HWG and the AST program information is missing from Reports 3 and 4. Also, on Report 3 the percent of routine inspections with class 1 or 2 violations that RTC was reported as 100 percent for the HMRRP and California Accidental Release Response Plan (CalARP) facilities; however, on Report 4 no 	<p>By September 30, 2011, the CUPA will submit its FY 2010/2011 Annual Summary Reports that accurately depicts its inspection and enforcement activities.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>facilities with violations were reported for those program elements.</p> <ul style="list-style-type: none">• FY 2008/2009 - On Report 3 the percent of routine inspections with class 1 or 2 violations that returned to compliance was reported as 100 percent for the HMRRP and CalARP businesses; however, on Report 4 no facilities with violations were reported for those program elements. Also, on Report 4 the number of local and statutory Administrative Enforcement Orders (AEO) reported are identical for HWG businesses; however, the two types of AEOs come from two different authorities. Local AEO authority comes from local law, code, or ordinance. Statutory AEO authority comes from the state Health and Safety Code.• FY 2007/2008 – The percentages of routine inspections with class 1 or 2 violations that returned to compliance was not reported for the HWG program element. <p>This deficiency was also cited during the 2009 evaluation.</p> <p>CCR, Title 27, Section 15290 (a) (Cal/EPA, DTSC)</p>	
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Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** The CUPA uses Decade's Envision as its data management system. Envision is used to manage the following information: HMRRP, inspection dates, daily activities logs, single fee, permitting. Microsoft Excel is used to store enforcement information (violation classifications, corrective action dates, RTC dates, civil referrals). The CUPA's goal since the 2009 evaluation has been to upgrade its database to Envision Connect. The CUPA's electronic reporting transition plan shows that the upgrade is scheduled for December 2012. Once the upgrade is complete, the CUPA will incorporate laptop Field Inspection Systems (FIS) to perform inspections and record violations electronically while in the field.

Recommendation: None.

2. **Observation:** The CUPA is making good progress towards full compliance with the electronic reporting law (AB 2286) by 2013. The CUPA has completed and submitted a draft electronic reporting grant application to Cal/EPA. The draft is pending approval from Cal/EPA. The upgrade to Envision Connect will allow the CUPA's data management system to exchange data with CERS once the data exchange function is in place.

Recommendation: Cal/EPA encourages the CUPA to continue the process of upgrading from Envision to Envision Connect.

3. **Observation:** The CUPA's formal enforcement activities have included the use of Red Tags, AEOs, and civil referrals through the fire department's legal section. According to the Report 4s, for the past three FYs, HMRRP and CalARP businesses have not been cited for violations. This is problematic because one must assume that approximately 7600 HMRRP and CalARP businesses have been perfect in following the requirements including the completion of all of the UPCF forms. Cal/EPA has observed that some HMRRP businesses have not submitted either business plan forms information or amended business plan forms to the CUPA.

Recommendation: Please refer to corrective actions in deficiency number 19.

4. **Observation:** The CUPA's UST inspection report does not distinguish among Class 1, Class 2, and minor violations and does not identify SOC items or provide for a summary of these items for tracking purposes during the annual compliance inspection. The CUPA also does not have an inspection checklist for single-walled USTs. The file review indicates that the CUPA is using its doubled-walled UST inspection checklist for its single-walled tank facilities.

Recommendation: The SWRCB recommends that the CUPA implement the use of LG-159: Annual Underground Storage Tank Compliance Inspection (http://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/159.pdf) and its Handbook enclosure (http://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/159enc.pdf). The inspection checklist covers all aspects of an UST inspection from file review (in office and at facility), performing the inspection (single-walled tanks, doubled-walled tanks, generators, etc.), and

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

notice to comply/summary of violations for minor and class II/I violations. The checklist also identifies SOC criteria during the inspection.

5. **Observation:** The CUPA does not have an UST installation inspection checklist or plan check checklist.

Recommendation: The SWRCB recommends that the CUPA develop an UST installation and Plan Check checklist. The SWRCB will provide sample checklists upon the CUPA's request. Examples can also be found on the Unidocs website.

6. **Observation:** The CUPA's I and E Plan does not address the collection of the Board of Equalization (BOE) number.

Recommendation: The SWRCB recommends that the CUPA review Policy Memo 0910-06: BOE Tank Number Collection on Cal/EPA's website (http://calepa.ca.gov/CUPA/Bulletins/2010/0910_06.pdf) and update its I and E Plan.

7. **Observation:** The CUPA has put together an UST file review checklist for annual UST inspections, but its inspectors do not use it.

Recommendation: The SWRCB strongly recommends that the CUPA begin using its file review checklist or LG-159.

8. **Observation:** The CUPA's I and E Plan needs to be updated. Either the H&SC citation or the compliance date on page 4 needs to be changed. H&SC, chapter 6.7, section 25288 (d) states 60 days and CCR, title 23, section 2712 (f) states 30 days.

Recommendation: The SWRCB recommends either change the citations or add both to its I and E Plan.

9. **Observation:** The CUPA has one fee for its tank modification permits regardless of the scope of the modification. The fee is \$1760.00 and is based on 11 hours minimum billed at \$160.00 per hour. Regardless, if it takes 2 to 3 hours or up to 11 hours of work, the CUPA charges the same fee.

Recommendation: The SWRCB recommends that the CUPA restructure its permit fees for UST modifications to include a fee for major and a fee for minor modification permit, which reflects the CUPA's project cost associated with processing the permit.

10. **Observation:** The SWRCB observed that, in some cases, the CUPA is not consistent in applying its fees for Tank Modifications, Plan Check and Inspection Permits (code 5300). According to the file review, the CUPA billed \$480 for one permit (change of sensor) on 5/24/2011 while, on 3/29/11, it billed \$1760 for the same type of permit.

Recommendations: The SWRCB recommends that the CUPA charge permit fees that are based on the actual work duration. The fees should be calculated the same way regardless of the type of facility. Please refer to the observation referring to the implementation of a major vs. minor permit. The CUPA may even revise or add UST permit categories to the fee schedule such as like for like, secondary

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

containment boot repair, cold start, etc. Applying this sort of permit fee schedule would cause less confusion for both the CUPA staff and those applying for a specific type of permit.

- 11. Observation:** The CUPA's PA is doing a good job in following up on HWG complaints referred by DTSC.

Recommendation: None.

- 12. Observation:** The field inspection report and checklist developed by the CUPA's PA does not contain a section for an inspector to check off which hazardous waste program the facility is regulated by (ex. RCRA LQG, LQG, SQG, or CESQG). While this information is not required, it is important to note so inspectors can determine the regulations that are applicable at the beginning of inspections. It will also assist in reporting RCRA LQG information.

Recommendation: DTSC recommends that the PA modify its HWG inspection report to include checkboxes for marking the type of hazardous waste facility being inspected.

- 13. Observation:** The CUPA's PA is not consistently documenting EPA ID# on HWG and TP inspection reports.

Recommendation: DTSC recommends that the PA include EPA ID# for all HWG and TP inspections.

- 14. Observation:** The CUPA's PA does not classify all violations as Class 1, Class 2, or minor in its inspection reports.

Recommendation: DTSC recommends that the PA begin classifying violations as Class 1, Class 2, or minor on its inspection reports. The PA may modify its inspection reports to include checkbox columns where classifications may be recorded by inspectors. Documenting violation classifications will allow for better efficiency when violation data is entered into the PA's Envision data management system.

- 15. Observation:** The CUPA's PA has been submitting its quarterly RCRA LQGs inspection and enforcement reports to DTSC.

Recommendation: None.

- 16. Observation:** The CUPA's area plan was revised in February 2009, and is compliant with the pesticide drift requirements of SB 391; however, there were a few errors and typos observed.

- In Tab 6, the Important Telephone Numbers page has the wrong number for the State Warning Center. The current number should be (916) 845-8911.
- There are several references to the Office of Emergency Services or OES which should be changed to the California Emergency Management Agency or Cal EMA.
- Some of the page numbers and sections on the Hazardous Materials Area Plan Crosswalk are not correct.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

Recommendation: Most of these errors are benign, but during the February 2012 area plan revision, Cal EMA recommends that the CUPA take steps to ensure that all information is current and correct.

- 17. Observation:** According to the list of CalARP inspection dates given to Cal EMA during the evaluation, the CUPA inspected 49 out of 50 CalARP facilities within the last three years. The one facility that had not been inspected, Tri Marine Fish Co., was scheduled to have an inspection done 10/28/08 according to a review of the file, but the inspection never took place.

Recommendation: Cal EMA recommends that the CUPA closely track the CalARP inspection due dates and whether or not they have been inspected.

- 18. Observation:** The CUPA's Consolidated Contingency Plan template form has out-of-date references. State Office of Emergency Services should be changed to California Emergency Management Agency and the number (916) 262-1621 is no longer a primary number for the State Warning Center.

Recommendation: Cal EMA recommends that the CUPA update their Consolidated Contingency Plan template form to reference the California Emergency Management Agency and update the Cal EMA Warning Center phone number to (916) 845-8911.

- 19. Observation:** The CUPA uses a "Business Information" sheet, which contains the business contact information and address, as well as an "Inspection Responsibility" sheet, which contains a listing of the facility's inventory, during inspections. Cal EMA observed, through review of business plan files, that these forms were being used as confirmation of inspection and to update business plan information. Of the 19 facility files reviewed that contained these forms, four had no signatures or dates either from the facility owner/operator or the inspector to acknowledge that an inspection had taken place. Also, any updates to these forms do not capture all the information required in the UPCFs.

Recommendation: Cal EMA recommends that the CUPA discontinue the use of the "Business Information" and "Inspection Responsibility" forms. The CUPA will create an inspection checklist for the business plan inspections per deficiency #3. The inspection report will include the following elements:

- Verification that all required business plan information is complete and correct,
- Inspector comments,
- RTC dates and actions,
- Signature and date from both the inspector and owner/operator.

Each inspector should use the inspection checklist for all business plan inspections and leave a copy with the facility at the end of each inspection. Also, inspectors should have businesses complete UPCF forms or custom forms that store all the required information if any changes to the business plan information are necessary.

- 20. Observation:** Cal EMA accompanied a CUPA inspector on three business plan oversight inspections on July 22, 2011. The inspector was professional and knowledgeable about the business plan program. The inspector did not have the full facility file for any of the facilities, including the site map. While he did verify the inventory, he could not verify the correct inventory location without the site map. The

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

inspector failed to look at the facilities' training records and did not ensure that a current copy of the business plan was available onsite. Cited violations were discussed with the facility managers, but none of the violations were documented, nor were follow-up actions taken by the CUPA.

Recommendation: Cal EMA recommends that the CUPA inspectors take the full facility file, including the site map, along with them to the inspections. The CUPA will create an inspection checklist for the business plan inspections per deficiency #3. Also refer to recommendation #19.

