



Department of Toxic Substances Control



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Agency Secretary
California Environmental
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August 20, 2002

Mr. Michael Dorsey, Chair
Cal-CUPA Forum
P.O. Box 129261
San Diego, California 92112-9261

Dear Mr. Dorsey:

It is with pleasure that I enclose an original of the fully executed Unified Program Strategic Plan for the Hazardous Waste Generator Program. This is for the Certified Unified Program Agency Forum Board files. Please feel free to distribute copies to CUPAs and to post it on www.calcupa.net.

If you have any questions please call me at (916) 255-3642.

Sincerely,

Charles A. McLaughlin, Chief
Northern California Branch
State Regulatory Programs Division

Enclosure

cc: Mr. Larry Matz, Chief
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The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.dtsc.ca.gov.

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UNIFIED PROGRAM STRATEGIC PLAN FOR HAZARDOUS WASTE GENERATOR PROGRAM

Background

The Unified Program (UP) was created by Senate Bill 1082 (1993) to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities for the following environmental and emergency management programs:

- Hazardous Materials Release Response Plans and Inventories (Business Plans)
- California Accidental Release Prevention (CalARP) Program
- Underground Storage Tank (UST) Program
- Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure (SPCC) Plans
- Hazardous Waste Generator and Onsite Hazardous Waste Treatment (tiered permitting) Programs
- California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements

The Unified Program is intended to provide relief to businesses complying with the overlapping and sometimes conflicting requirements of formerly independently managed programs. The Unified Program is implemented at the local government level by Certified Unified Program Agencies (CUPAs). Most CUPAs have been established as a function of a local environmental health or fire department. Some CUPAs have contractual agreements with another local agency, a "participating agency" (PA), that implements one or more program elements in coordination with the CUPA. Collectively these agencies are known as Unified Program Agencies (UPAs).

The success of the Unified Program depends on the effective working partnerships of local, State and federal agencies. UPAs have created a partnership and formed the California CUPA Forum. The CUPA Forum has Technical Advisory Groups (TAGs) and is a member of the Unified Program Administration and Advisory Group (UPAAG). In that advisory group members of the Cal CUPA Forum work with state and federal agencies in policy decisions, education, and problem-solving. The group's specific goals and objectives are listed in the UPAAG Strategic Plan.

The State agency partners involved in the Unified Program have the responsibility of providing technical assistance to the UPAs implementing the program. Additionally, in areas where a Designated Agency is not implementing a portion of the program, the State agencies are responsible for the implementation of that portion of the program.

The following state agencies are involved with the Unified Program:

California Environmental Protection Agency (Cal/EPA)

The Secretary of the California Environmental Protection Agency is directly responsible for coordinating the administration of the Unified Program. The Secretary certifies Unified Program Agencies. The Secretary has certified 72 CUPAs to date. These 72 CUPAs carry out the responsibilities previously handled by approximately 1,300 State and local agencies. In local jurisdictions that do not currently have a CUPA, the Secretary designates a local agency to implement portions of the Unified Program.

Department of Toxic Substances Control (DTSC)

The Department of Toxic Substances Control provides technical assistance and evaluation for the hazardous waste generator program including onsite treatment (tiered permitting).

Governor's Office of Emergency Services (OES)

The Governor's Office of Emergency Services is responsible for providing technical assistance and evaluation of the Hazardous Materials Release Response Plan and Inventories (Business Plan) Program and the California Accidental Release Response Plan (CalARP) Program.

Office of the State Fire Marshal (OSFM)

The Office of the State Fire Marshal is responsible for ensuring the implementation of the Hazardous Material Management Plan and the Hazardous Material Inventory Statement Program. These programs tie in closely with the Business Plan Program.

State Water Resources Control Board (SWRCB)

The State Water Resources Control Board provides technical assistance and evaluation for the underground storage tank program in addition to handling the oversight and enforcement for the aboveground storage tank program.

Unified Program Mission

To protect public health and safety, restore and enhance environmental quality, and sustain economic vitality through effective and efficient implementation of the Unified Program.

Unified Program Vision

A California that enjoys a clean, safe, healthy, sustainable environment that enhances the quality of life for current and future generations, and protects our diverse natural resources through effective partnership of federal, State, and local agencies.

Guiding Principles

Seamless Implementation – The business or community is treated similarly regardless of the lead agency.

Consistency – Program activities are conducted in a similar manner.

Work Sharing – By working together we accomplish our mission.

General Responsibilities

Cal/EPA

Cal/EPA is responsible for the development, management, and oversight of the Unified Program. Cal/EPA is also responsible for ensuring that all of the programs are implemented consistently throughout the state.

DTSC

DTSC is responsible for ensuring that the hazardous waste generator program is implemented consistently throughout the state. DTSC does this through their direct implementation of the State's hazardous waste program as well as their CUPA oversight responsibilities.

Their direct implementation tasks include conducting training and providing technical assistance to industry and CUPAs. In non-CUPA jurisdictions, they are responsible for implementing the hazardous waste generator program, which includes inspecting generators, developing necessary enforcement actions, and reviewing and approving onsite tiered permits.

Their oversight tasks include developing policy and guidance, conducting evaluation oversight inspections, helping CUPAs develop and improve their programs, and evaluating each CUPA's performance. DTSC conducts independent oversight inspections as an additional oversight task. DTSC gives the CUPA the opportunity to take the lead on any needed enforcement. DTSC maintains independent inspection and enforcement responsibilities.

CUPAs

Each CUPA is responsible for ensuring that their program is meeting the minimum standards established for the hazardous waste generator program. If the CUPA has PAs within their jurisdiction, CUPAs are responsible for ensuring that their PAs are performing adequately.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (U.S. EPA)

California is authorized by U.S. EPA to implement the hazardous waste management program for U.S. EPA in California. U.S. EPA maintains independent inspection and enforcement responsibilities. U.S. EPA ensures that the hazardous waste management program, which includes the hazardous waste generator program, is implemented consistently throughout California.

Hazardous Waste Generator Program Vision

The hazardous waste generator program in the State of California is implemented seamlessly and consistently, and coordinated effectively in all jurisdictions. Inspections are coordinated among agencies and conducted thoroughly, completely, and appropriately depending upon the size and complexity of the generator. The relative level of effort, quality, and thoroughness for a specific generator inspection should be similar whether DTSC, U.S. EPA, a CUPA or a PA is conducting the inspection. Each agency should feel confident that the inspection conducted by another agency was conducted and documented thoroughly and appropriately.

Formal enforcement action is taken against all significant violators* and where there are serious violations.** Enforcement is conducted in a timely manner. Penalty amounts are consistent for similar violations and similar violators. Enforcement responses and penalties are substantially consistent throughout the State.

The three agencies responsible for hazardous waste management work together to ensure that a level playing field exists throughout California. At a minimum, every CUPA conducts and documents thorough inspections for all hazardous waste generators in its jurisdiction and takes appropriate enforcement. Formal mechanisms exist for technical assistance and work sharing.

* A hazardous waste handler is classified as a Significant Non-Complier (SNC) based upon the nature of the violations, along with a number of other factors. A SNC is a handler who:

- Has caused actual exposure or substantial likelihood of exposure to hazardous waste or hazardous constituents; or
- Is a chronic violator (a handler who is regularly found to have many Class I or Class II violations) or recalcitrant violator (a handler who actively refuses to comply with the regulatory requirements); or
- Substantially deviates from the terms of a permit, order, settlement document, or decree by not meeting the requirements in a timely manner and/or by failing to perform work as required by terms of permits, orders, settlement agreements, or decrees; or
- Substantially deviates from statutory or regulatory requirements.

**Class I violations as identified in Title 22 of the California Code of Regulations.

DATA MANAGEMENT AND ASSESSMENT

Current: The CUPAs have an array of different data management systems. Some are sophisticated electronic systems, while others are paper systems. CUPAs are required to submit summary data to Cal/EPA on an annual basis; Cal/EPA then consolidates this data. Some of the current issues include not submitting data, inaccurate data, lack of electronic data systems, and late submission of consolidated data.

Future: The CUPAs maintain data in electronic databases that at a minimum contain all the elements required in Title 27. The data is consistent, correct, and up-to-date. Required data is shared with the State on an annual basis. The data accurately reflects the inspection and enforcement activities of the CUPA. Annually, Cal/EPA collects, evaluates, and disseminates statewide summary data on CUPA inspection and enforcement activities. Cal/EPA publishes an annual report, "The State of the CUPA," that evaluates the progress and outlines the challenges of the CUPA program.

Goal: DTSC will coordinate with Cal/EPA to conduct an annual evaluation of this strategic plan. (DM-01)

Objective (1): Cal/EPA and DTSC develop and publish an annual "State of the CUPA" report. The report will evaluate progress on meeting the goals of this strategic plan. At a minimum, this report will contain: (DM-01-01):

- A. A list of independent oversight, evaluation oversight, and referred inspections (those conducted by DTSC or U.S. EPA), violations found and enforcement action taken or pending for each inspection which identifies Class I or II violations or significant non-compliers.
- B. A narrative containing the problems, issues, or deficiencies observed as a result of the inspections. This will include a discussion on the enforcement action resulting from inspections conducted by U.S. EPA and DTSC that are referred to the CUPA for enforcement.
- C. A list of the triennial evaluations conducted, containing the specific deficiencies identified during each evaluation and the actions taken to correct such deficiencies.
- D. A summary of the inspection and enforcement data submitted by the CUPAs.
- E. An analysis of the CUPA data.
- F. A general assessment of progress the Unified Program has made during the year. This narrative should include positive aspects of the program as well as areas needing improvement.
- G. A discussion of how the grant or other funding will be used to make improvements in the next year.

Performance Measure: By December 30 of each year, DTSC and Cal/EPA publish the "State of the CUPA" report.

Objective (2): DTSC will coordinate with UPAAG to evaluate and update the strategic plan annually. (DM-01-02)

Performance Measure: By November 30 of each year, DTSC and UPAAG will complete a review and update the strategic plan as appropriate.

INSPECTIONS

Current: Each CUPA has its own workload standard and degree of thoroughness for a hazardous waste inspection. Some CUPAs have limited resources or only recently became responsible for the oversight of the hazardous waste generator program. Therefore, certain CUPAs have a more comprehensive hazardous waste inspection program than other CUPAs.

Future: Inspections are conducted consistently throughout the state. The inspections are thorough and evaluate all compliance requirements. Inspection reports are written for each inspection that clearly identify the scope of the inspection; potential violations; and documentation of evidence substantiating violations. All generators are inspected at least every three years except generators of less than 100 kg of hazardous waste or less than 1 kg of acutely hazardous waste, and Universal Waste Handlers. Each UPA responsible for regulating these latter businesses will dedicate five percent (5%) of their hazardous waste resources annually to ensure regulatory compliance. UPAs will do this by utilizing a combination of spot check inspections, piggyback inspections, educational outreach, follow-up to emergency responses, or other activities as identified by the UPA.

Goal: Develop regulations to standardize inspection frequency. (IN-01)

Goal: Each CUPA conducts thorough inspections that focus on all appropriate rules for the type of generator inspected. (IN-02)

Objective (1): DTSC provides CUPAs guidance on how to conduct thorough, process-based, facility-wide hazardous waste inspections. (IN-02-01)

Performance Measure: By January 2002, DTSC develops draft guidance on what is expected during a hazardous waste inspection. By July 2002, DTSC will provide the CUPA Forum Board a copy of the draft guidance. DTSC will publish the final guidance after concurrence with the CUPA Forum Board.

Performance Measure: By an agreed-upon date between DTSC and the CUPA Forum Board, each CUPA will revise their Unified Inspection and Enforcement Program Plan to incorporate DTSC's guidance for conducting comprehensive, process-based, facility-wide hazardous waste inspections.

Objective (2): CUPA inspectors are adequately trained to conduct thorough hazardous waste inspections. (IN-02-02)

Objective (3): Each CUPA will develop appropriate workload standards for planning purposes. (IN-02-03)

Goal: Each inspection report adequately documents the scope and findings at the site, identifies and classifies violations, contains evidence of specific violations and cites applicable regulations. (IN-03)

Objective (1): DTSC, with the assistance of the Cal CUPA Forum Board, develops a model inspection report. (IN-03-01)

Goal: Each CUPA inspects the generators in its jurisdiction regularly. (IN-04)

Objective (1): Each CUPA has a tracking system to identify which generators need to be scheduled for inspections. (IN-04-01)

Objective (2): Each CUPA inspects all generators in their jurisdiction at least once every three years, **except** generators of less than 100 kg of hazardous waste or less than 1 kg of acutely hazardous waste, and Universal Waste Handlers. Each UPA responsible for regulating these latter businesses will dedicate five percent (5%) of their hazardous waste resources annually to ensure regulatory compliance utilizing a combination of spot check inspections, educational outreach, follow-up to emergency responses, or other activities as identified by the UPA. (IN-04-02)

Performance Measure: Thirty-three percent (33%) of the generators (except CESQGs and Universal Waste Handlers) are inspected annually.

Performance Measure: One hundred percent (100%) of the generators (except CESQGs and Universal Waste Handlers) are inspected at least once every three years.

Goal: Each CUPA has procedures in place to respond to complaints. (IN-05)

Objective (1): Each CUPA has a written complaint response process. (IN-05-01)

ENFORCEMENT

Current: Tremendous progress has been made regarding this element. Each CUPA was to submit a self-certification by April 30, 2001, that they had the infrastructure in place to conduct hazardous waste administrative enforcement, should it be necessary. Those that did not submit the self-certification are subject to a Program Improvement Agreement with Cal/EPA. Prior to this requirement, Cal/EPA conducted statewide training on how to develop an administrative enforcement program and DTSC has been providing extensive training on the procedures of issuing an order and assessing a penalty. One of the issues that remains is the potential inconsistency in application of enforcement and penalty assessment.

Future: CUPAs take appropriate formal enforcement action using the proper tools. CUPAs coordinate enforcement with the task force. Formal enforcement actions are timely and appropriate, ensure that generators return to compliance as soon as possible, eliminate any economic benefit the generator gained from non-compliance, and provide adequate disincentive to compel future compliance.

Goal: Each CUPA develops and implements a credible enforcement program that deters non-compliance and effectively eliminates any economic benefit of non-compliance. (EF-01)

Objective (1): DTSC assists CUPAs in developing written policies and procedures. (EF-01-01)

Performance Measure: By April 30, 2001, one hundred percent (100%) of the CUPAs have written procedures detailing when and how they will compel non-compliant facilities to return to compliance and remain in compliance with the California Code of Regulations, title 22. These procedures shall, at a minimum, incorporate the substantive requirements of DTSC's Enforcement Response Policy.

Objective (2): Each CUPA assesses its polices and procedures annually. (EF-01-02)

Objective (3): DTSC provides periodic training on their penalty regulations. (EF-01-03)

Performance Measure: DTSC conducts three classes each year.

Goal: Each CUPA implements a formal enforcement program that includes administrative, civil, and criminal options as enforcement tools. A comprehensive compliance program includes education, outreach, guidance, compliance assistance, etc. This goal talks only about enforcement options. (EF-02)

Goal: Each CUPA coordinates their enforcement with other local, State, and federal agency Task Forces. (EF-03)

Objective (1): CUPAs participate in local and regional Task Force meetings. (EF-03-01)

TRAINING

Current: DTSC works with the State Training Coordinator Group (STCG) as appropriate to identify, develop, and deliver or make available training classes on hazardous waste requirements. DTSC continues to work closely with the CUPAs to assess training needs and to plan and coordinate CUPA training through bi-monthly conference calls, which also include other State Unified Program agencies and U.S. EPA. DTSC prepares a CUPA training plan for each fiscal year, participates in planning for the annual CUPA conference held every February, and provides funding to help support the conference.

Future: DTSC, in conjunction with STCG, will provide a thorough curriculum and regular training courses that inform and inspire CUPA inspectors. A comprehensive outreach education program tailored to meet the needs of CUPAs will be offered. All training will be offered at a frequency and at different locations as demand dictates. DTSC will also continue to build upon its working relationship with local agencies to further provide identified training needs to implement and maintain the Unified Program. DTSC will work with STCG to develop a system to effectively evaluate their training.

Goal: DTSC in conjunction with STCG develops a list of training courses that every CUPA inspector should attend. (TR-01)

Objective (1): DTSC develops a list of training courses for CUPA inspectors for the fiscal year with input from the CUPA Forum Board and Regional Training Coordinators. (TR-01-01)

Objective (2): DTSC develops a list of training courses by mid-March each year so that modules can be designed, content identified, and/or updates to current modules made. (TR-01-02)

Objective (3): DTSC will submit their list of training courses to the Cal CUPA Training coordinator for placement on the CUPA Website for easy access by all CUPA inspectors. (TR-01-03)

Goal: DTSC develops or adopts a syllabus for each CUPA training course. (TR-02)

Objective (1): DTSC develops the training course syllabuses (description, goals, objectives, and target audience level of experience) by the end of each May for the next fiscal year. (TR-02-01)

Objective (2): DTSC will submit their list of training courses to the Cal CUPA Training coordinator for inclusion on the CUPA's Universal Calendar for easy access by CUPA inspectors. (TR-02-02)

Objective (3): DTSC, in coordination with the CUPA Forum Board, will provide CUPAs with the training course information needed to develop a training program plan for each inspector. (TR-02-03)

Goal: DTSC provides regular training opportunities for new and experienced inspectors. (TR-03)

Objective (1): DTSC conducts training at the level (basic, intermediate, experienced, or refresher) as demand dictates. (TR-03-01)

Objective (2): DTSC conducts training courses at a frequency and at different locations as demand dictates and resources permit. (TR-03-02)

Goal: DTSC evaluates CUPA Hazardous Waste training to determine whether training needs were met. (TR-04)

Objective (1): DTSC will measure the effectiveness of the CUPA training by having attendees complete an evaluation form at the end of each training class. (TR-04-01)

Objective (2): DTSC will summarize all the evaluation forms. The summaries will be used to identify training effectiveness, to develop future training classes, and to evaluate instructors' ability to provide class material in an effective manner. (TR-04-02)

Objective (3): DTSC will measure the effectiveness of training by CUPA manager and inspector input. DTSC will conduct surveys in coordination with the CUPA Forum Board six months after the training. One survey will go to the CUPA managers to evaluate staff performance in relation to the training. A second survey will go to the attendees of the class. (TR-04-03)

Objective (4): DTSC will, using the results of the above evaluations, prepare an annual analysis of the effectiveness of the training provided, to be part of the "State of the CUPA" report. (TR-04-04)

Objective (5): DTSC and UPAAG will evaluate training effectiveness and training needs using CUPA evaluation data. (TR-04-05)

OVERSIGHT

Current: DTSC's oversight of CUPAs includes: formal evaluations, independent oversight inspections, training, technical assistance, and outreach.

Future: DTSC ensures that all evaluations of the hazardous waste element of the Unified Program provide timely feedback to the evaluated entity.

Goal: DTSC participates in the evaluators meetings and workgroups to improve the fairness, consistency, accuracy, and timeliness of the CUPA evaluation program. (OS-01)

Objective (1): DTSC will participate in assessing the current evaluation process and procedures. (OS-01-01)

Objective (2): DTSC will participate in developing procedures for a complete oversight program. (OS-01-01)

Objective (3): DTSC will participate in reviewing and updating the process and procedures as necessary. (OS-01-03)

Goal: DTSC conducts triennial evaluations of each CUPA's hazardous waste program, including field evaluations, consistent with regulatory requirements. (OS-02)

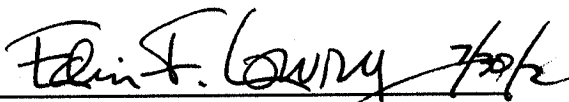
Goal: DTSC conducts independent oversight inspections statewide. (OS-03)

Goal: DTSC submits to Cal/EPA the hazardous waste component of the triennial evaluation reports in a timely manner. (OS-04)

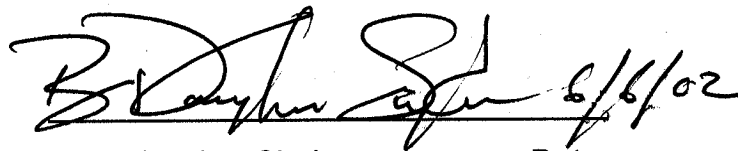
TECHNICAL ASSISTANCE

Current: DTSC liaisons provide technical assistance to CUPAs on such issues as financial assurance, manifests, and business profiles, waste issues, inspection and enforcement procedures and methods, and legislative and regulatory interpretation and application.

Future: DTSC liaisons to the CUPAs provide or arrange for technical assistance in all program areas, including financial assurance and closure cost estimates. Liaisons will conduct independent oversight inspections. Liaisons will provide quarterly updates to CUPAs on such topics as legislation, environmental initiatives and concerns, and target industry sectors. Manifest enforcement staff will provide information to CUPAs on how to use their jurisdiction's manifest data for targeting and planning.



Edwin F. Lowry, Director Date
Department of Toxic
Substances Control



Doug Snyder, Chair
California CUPA Forum

Date