



CUPA Performance Evaluations: Determining Findings

Presented by

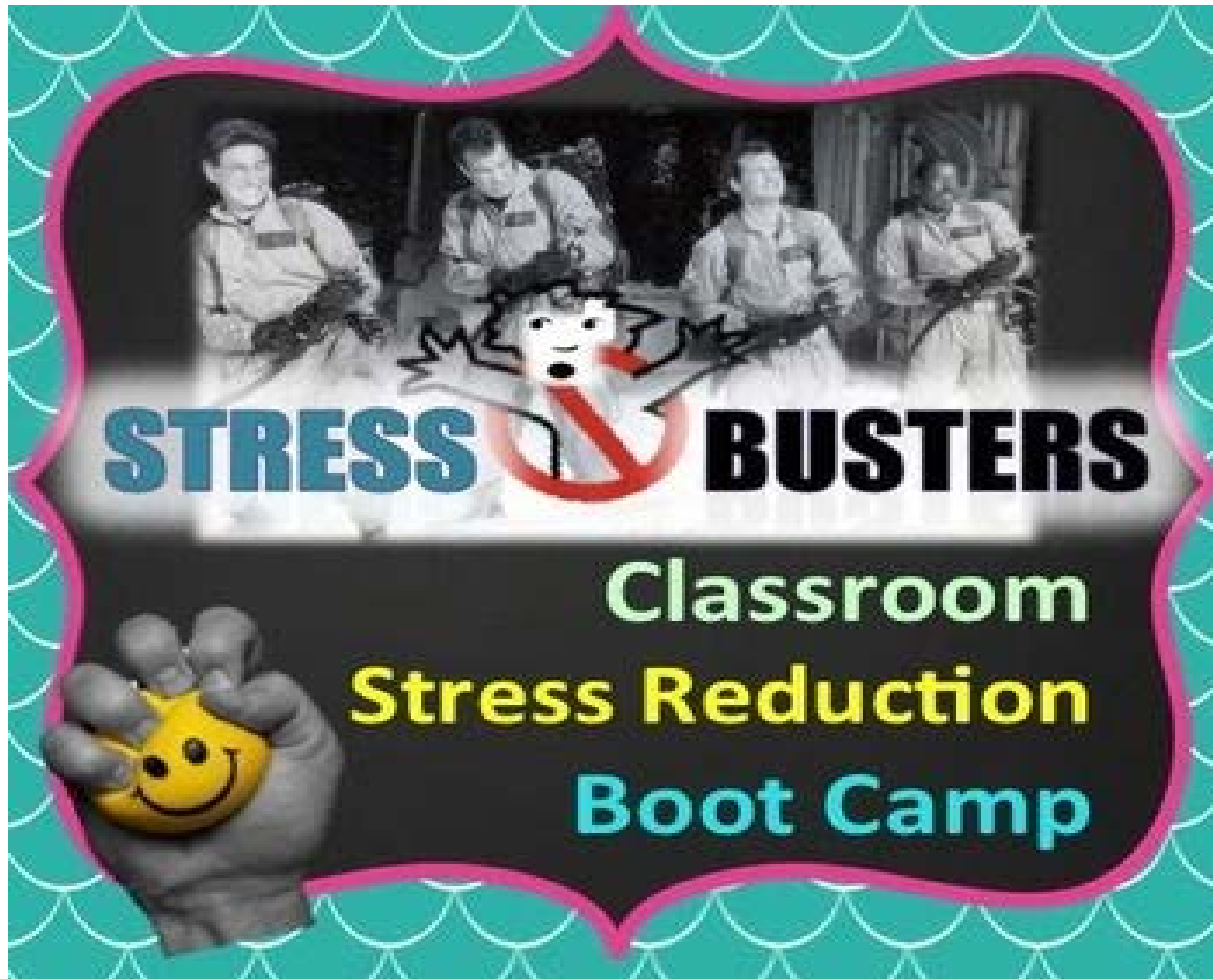
Department of Toxic Substances Control



21st Annual California CUPA Training Conference
February 25-28, 2019
Anaheim



www.calcupa.org



Purpose of CUPA evaluations for DTSC

- Consistent application of the hazardous waste management program throughout California.
- State regulation requires evaluation of CUPAs every three years.
- Federal EPA authorized DTSC to implement the RCRA program.
- CalEPA certified the CUPAs to implement the hazardous waste generator program, including enforcement.

impact
evaluation
tracking
value
plan
measures
outcomes
planning

DTSC Evaluation Process



- Review previous evaluations and progress reports
- Pick facility files to review for evaluation
- Pick and set up oversight inspections with CUPA
 - Choose RCRA LQGs and on-site treatment first.
 - Discuss the CUPAs program before and after the oversight inspections.
- Review facility files, inspection documentation and return to compliance information, violation descriptions and codes cited and compare to CERS data.

DTSC Evaluation Process



- Review I and E Plan
- Review Self Audits
- Review Complaints
- Review Enforcement Actions
- Ensure Training requirements are met

DTSC Evaluation Process



- CERS data information review
 - Reports Tab
 - Download CME data for all HW programs
 - Compliance Tab
 - Violations listing
 - Enforcement listing
 - Inspections listing
 - List of facilities
 - List of submittals (PBR submittals)

- **Export info to Excel and sort for Hazardous Waste**

CERS Regulator



Submittals

Facilities

Businesses

Regulators

Compliance

Responders

Reports

Reports

[Home](#) » [Reports](#)

Instructions/Help

If you have an idea/suggestion for a report, please review the proposed/scheduled [CERS Enhancements Listing](#). If you don't see it there, click the CERS Enhancement Request Submit button on that page to offer your suggestion to the CERS change management governance process.

General Reports

Regulator Reports

[Unified Program Local Reporting Requirements Listing](#)

View/search/download local reporting requirements for all CUPAs statewide.

[CUPA Electronic Reporting Status](#)

This report summarizes by CUPA the count of facilities in CERS and how many have reported on various submittal elements during a specified time period. CUPAs and Cal/EPA can use this report to evaluate CUPA progress toward meeting the electronic reporting mandates.

[Regional Inventory Materials Search](#)

This report allows UPAs to search for specific materials in the last submitted inventories for all facilities in the user's CUPAs (or statewide for statewide viewers/regulators).

[New Facilities Added To CERS](#)

View/search/download Facilities added to CERS within the last 30 days, or custom date range.

[Facility Reporting Status](#)

View the Reporting Requirements for all facilities in the selected CUPA, and search for facilities that have not reported to CERS since a specified date.

[CME Data Download](#)

Download Compliance, Monitoring, and Enforcement information including RCRA Large Quantity Generator facilities.

"Business Plan" Reports

[Hazardous Material Inventory Download](#)

Download a set of the latest accepted or submitted hazardous material inventories for facilities regulated by your regulatory agency.

[Accepted Facility Information Download](#)

Download a set of the latest accepted facility information for facilities regulated by your regulatory agency.

Evaluation Reports

[Summary Regulated Facilities by Unified Program Element Report](#)

This report replaces the facility count portions of the legacy 'Report 2' and 'Report 3'.

[Summary Enforcement Report](#)

This report replaces the legacy 'Report 4'.

[Summary Regulated Facility Inspection Report](#)

This report replaces the Inspection related portion of the legacy 'Report 3'.

CERS Regulator



Submittals

Facilities

Businesses

Regulators

Compliance

Responders

Reports

Regulator Home

Home

Instructions/Help

Welcome to the CERS Regulator Portal. Review the Dashboard and Action Required Panels below for submittals and requests requiring attention by your agency. Select the links across the top of the page to access other CERS data. New users may wish to review the [Regulator Portal Questions and Answers Page](#).

I would like to...

- [View/Search My Agency's Submittals](#)
- [View All Actions Needed](#)
- [Search Inspections](#) (New Inspection)
- [Search Enforcements](#) (New Enforcement)

Other Tasks

- [All CERS Regulator Reports...](#)
- [Register with another Regulator](#)
- [CERS Enhancement Listing](#)

Dashboard

Process Submittals

Search Submittals

Activity	Total	New (<10 days)	Older (>30 days)
Unreviewed Submittal Elements Awaiting Review ("Submitted")	0	0	0
Submittal Elements with status "Under Review"	0	0	0

My Regulator Action Required Item (None)

View All...

Regulator Notifications

View All Notifications

The short list of most recent Regulator Notifications has been removed to improve the speed of the Regulator Home Page. You can view [All Notifications](#), or select a facility, business, or regulator and select the Notifications link on the left to see Notifications specific to that entity.



What do we find?



DTSC Evaluation Process



- Outstanding efforts
- Observations with recommendations for improvement
- Incidental Findings requiring corrections
- Deficiencies in program elements
 - Corrective actions taken to remedy a program deficiency

Common Deficiencies



- **#1 Inspection frequency for generators and tiered permitting.**
 - I and E Plan sets inspection frequency for generators
 - Use the Reports: CERS Summary Inspection Report and Facilities data export inspection information for evaluation period and compare to Self Audit info.
 - Self Audit often uses “in-house” data and can differ from CERS information.
- ❖ **Corrective action is a plan to achieve I and E Plan inspection frequency requirements (and avoid repeating deficiency in next evaluation period).**

Common Deficiencies



➤ #2 Return to Compliance

- Review violation listings and CME data for RTC information
- Compare to violations with no RTC.
- ❖ **Corrective action is a plan to achieve greater than 90% RTC for violations in the evaluation period.**
 - ❖ **RTC is the facility's responsibility. CUPA should document follow up actions in the facility file to demonstrate efforts in returning the facility to compliance.**

Common Deficiencies



➤ #3 Violation Classification.

➤ Review of CME data, facility file information, and I and E Plan description of proper violation classification.

❖ **Corrective action typically includes training and submittal of inspections reports with properly classified violations.**

Common Deficiencies



➤ #4 Compliance Monitoring and Enforcement (CME) data.

- Done in conjunction with CalEPA, we review Self audits, facility file info and data quality. CERS CME reports to include inspection program type, violation codes, descriptions of violations, enforcement, and completeness of inspection data.
- Compare information to see if there are missing elements.
- ❖ **Corrective action required to correct missing data.**

Common Deficiencies



➤ #5 Inspection and Enforcement Plan.

- I and E plan review - required elements from 27 CCR 15200(a) (1-14)
 - Complaints
 - Sampling processes and capabilities (new since 7/1/2018)
 - Inspection frequency
 - Inspection and Enforcement process
 - Violation classification

- **Corrective action to update I and E Plan to meet regulatory requirements.**

Common Deficiencies



➤ #6 Complaints

- Check CalEPA database for referred complaints and compare to complaint and disposition information provided from CUPA.
- Check to see if CUPA followed up on complaints.
- ❖ **Corrective action is to request the CUPA to address complaints and/or review internal processes to respond to complaints and provide feedback to CalEPA.**
 - ❖ New database beginning April 2016, older complaints being uploaded to database for tracking. Need to check CUPA contacts info if there was turnover in who receives complaints.

Common Deficiencies



➤ #7 Permit By Rule Submittals.

- PBR on-site treatment facilities must notify annually and CUPA must accept or reject in 45 days (22 CCR 676450.3(d)).
- Check CERS Submittal listing and review dates for PBR submittals and approval or denial by CUPA.
 - Were the annual notifications submitted?
 - Did the CUPA accept or reject PBR submittal in 45 days?

❖ **Corrective action to address PBR submittal deficiencies along with training.**

Common Deficiencies



- **#8 Incomplete Inspection – Oversight Inspection.**
 - DTSC staff accompanies CUPA inspector during inspection: evaluates preparation, walk through, document review and violations noted and correctly cited.
 - Deficiency noted if inspector unable to correctly identify and classify violations, does not conduct complete inspection, inspection report/NOV doesn't include violation details and required corrective actions.

❖ **Corrective action is additional training for staff.**

Common Deficiencies



➤ #9 Factual Basis and Observations.

- Did the inspector provide a factual basis and corrective action for a violation?
- Check CERS CME data, inspection report and I and E Plan details.
 - DTSC checks violations to see if violation descriptions are blank or if the default language adequately describes the violation.
 - Generic Codes should not be used when there is a specific violation to cite.
- ❖ **Corrective action includes staff training and require facility inspection report submittals to show changes.**

Common Deficiencies



- **#10 CUPA not identifying/regulating all generators or on-site treatment facilities.**
 - Review HWTS data for facilities in CUPA jurisdiction and check against CUPA facilities inventory.
 - Is the CUPA regulating CESQGs and farms as appropriate?
 - How does the CUPA track new and closing businesses?
 - CESQGs that bring their waste to HHW facility or oil drop off need to be in the CUPA program.
- ❖ **Corrective action is a plan to identify all generators and TP facilities within jurisdiction and ensure they're regulated.**

Common Deficiencies



- **#11 Enforcement and Graduated Series of Enforcement.**
 - I and E plan details inspection and enforcement process. Does the CUPA follow the I and E Plan? 27CCR 15200(a) 1-14
 - Upgrading minor violations that are chronic or violator is recalcitrant.
 - All CUPAs should have ability to pursue formal enforcement.
- ❖ **Corrective action is ensuring formal enforcement is conducted when following the CUPA's I and E Plan.**

Common Deficiencies



➤ #12 Training.

- Review hazardous waste specific training in conjunction with CalEPA.
- Ensure specific training meets 27 CCR section 15260 requirements for basic, program specific and 100 hour training for enforcement.

❖ **Corrective action is to implement a training plan that meets 27 CCR requirements.**

Common Deficiencies



➤ #13 Incorrect Violation Citations.

- Review generator status and see if correct violation was cited for the correct size generator. Ensure violation was cited correctly in CME data.
- Small Quantity Generators are often incorrectly cited with Large Quantity Generator violation codes and vice versa.
 - Can have negative impact on enforcement efforts. Often see this when using wrong checklist or combo checklist that is not appropriate.
- ❖ **Corrective action includes a training plan for CUPA staff, updating checklists and submission of inspection reports with violations.**

Evaluations can be helpful !!

- Helps the CUPA demonstrate their efforts.
- Assists the CUPA to develop the tools they need to implement the program.
- Results can be valuable in transitioning to a new manager.
- Improves program implementation to strengthen the CUPA Program.



TIP

- Progress reports incorporate changes made, that correct deficiencies and ensure the same deficiencies are not repeated.
- Use the Self Audit process to stay ahead and or correct issues in mid-cycle to avoid deficiencies.



Last words

- With all of the CUPA's internal planning, data checking, self audits and I an E Plan updates, there should not be any supprises in what we are going to find in the evaluations.



Questions?



➤ **What can DTSC do to help you?**

Contacts



- Asha Arora: 510-540-3874 asha.arora@dtsc.ca.gov
- Matthew McCarron: 510-540-3828
matthew.mccarron@dtsc.ca.gov
- Kevin Abriol: 510-540-3852 kevin.abriol@dtsc.ca.gov
- Elizabeth Brega: 510-540-3898
elizabeth.brega@dtsc.ca.gov

- Diana Peebler (Supervisor): 510-540-3866
diana.peebler@dtsc.ca.gov
- Maria Soria (Program Manager): 510-540-3883
maria.soria@dtsc.ca.gov