

# Enforcement Program Evaluation Criteria

The Evaluation Team will use the following enforcement program evaluation criteria during all CUPA evaluations. The criteria identify state and federal regulatory requirements of CUPA program elements, in addition to state and federal enforcement policies. The assessment of state and federal policies do not modify existing standards used for the CUPA evaluation process, but serve as indicators for internal measurement data, and to determine whether additional file review would be necessary to ensure state requirements are being met. CUPA's are responsible for initiating enforcement actions when appropriate as defined under California statutes and regulation.

<b>Overall Enforcement Criteria</b>	
<b>1</b>	<p>Verify if the CUPA has a complete Inspection and Enforcement Program Plan that accurately meets all the requirements of CCR Title 27 section 15200. Verify that all of these elements are implemented, workable and make sense.</p> <p>UPA's are required to address the following 12 items within their plan.</p> <ul style="list-style-type: none"><li>• Provisions for administering all program elements, even the specific elements implemented by the PA's.</li><li>• The types of inspections that shall be conducted according to the standards in statute and regulations. [T27 Section 15200 (a) (2)]</li><li>• An inspection frequency schedule.</li><li>• Coordination of inspection efforts between the CUPA and its PA's.</li><li>• Enforcement notification procedures.</li><li>• Identification of all available enforcement options.</li><li>• Uniform and coordinated application of enforcement standards.</li><li>• Identification of penalties and enforcement actions.</li><li>• A graduated series of enforcement actions that may be taken by the UPA's based upon the severity of the violation.</li><li>• Provisions for multi-media enforcement.</li><li>• A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination.</li><li>• Provisions for coordinating enforcement efforts between the CUPA and its PA's.</li></ul> <p>Refer to <a href="#">Guidance Document for Inspection and Enforcement</a>, dated 15 April 2008, approved by Unified Program Administration and Advisory Group for summary of required plan elements.</p> <p>Also use link to view sample: <a href="#">Sacramento County Environmental Management Department Inspection and Enforcement Plan</a></p>

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<b>2</b>	<p>Assess how the CUPA has implemented practices and procedures that ensure there is consistency within the program and specifically across participating agencies (PA's). Verify that the practices and procedures are the same for both agencies.</p> <ul style="list-style-type: none"> <li>• Verify if the Inspection and Enforcement Program Plan addresses the PA or other agency(ies) performing inspections</li> <li>• Is enforcement process for follow-up to violations identified by PA's clearly specified in the CUPA-PA agreement or CUPA Inspection and Enforcement Plan?</li> <li>• Are the PA(s) or the CUPA actually taking the actions required at a frequency that matches the frequency of each violation?</li> <li>• Does the CUPA-PA agreement include procedures for withdrawal or revocation of PA?</li> <li>• Verify if the Inspection and Enforcement Program Plan addresses the PA or other agency (ies) inspection protocols (review and compare inspection reports).</li> <li>• Do Annual Self Audits include an assessment of PA's compliance with CUPA Inspection and Enforcement Plan procedures?</li> <li>• Review closed enforcement cases to identify whether penalties and enforcement are consistent and predictable for similar situations, and no less stringent than state requirements. [T27 Section 15280 (b)]</li> </ul> <p>Inspection and Enforcement: CCR Title 27 Section 15200 (a)(12)</p>
<b>3</b>	<p>Review open enforcement case facility files for the following:</p> <ul style="list-style-type: none"> <li>• Do inspection and compliance summary reports properly document all observations made at a site or facility, are they completed in a timely manner and include accurate description of observations and evidence to support alleged violations. [HSC 25288 (b), HSC 25185 (c)(2)(a)]</li> <li>• Review inspection reports and violation summary reports to determine if the CUPA is properly classifying violations using the <a href="#">Violation Classification Guidance Document</a> as a reference.</li> <li>• Are the violations noted during the file review consistent with Violation Classification Guidance for Unified Program Agencies guidance document for each type of violation? i.e., are major and/or priority violations being noted as such, or as minor violations in reports? State law defines criteria for Class I violations for hazardous waste in addition to types of violations that cannot be classified as minor violations [HSC 25110.8.5, HSC 25117.6 and T22 66260.10]. State laws defines minor violations in general [HSC 25404 (a) (3) and California Water Code (CWC) section 13399 et seq.].</li> <li>• Is there a system to address <a href="#">collecting, tracking, and reporting of all violations?</a></li> <li>• Does CUPA assess when repeat minor violations that establish a pattern of neglect or disregard for compliance should be reclassified as subsequent major or priority violations? Do they follow-up with a graduated series of enforcement? [HSC 25187.8 (g) and T27, 15290 (a)(9)]</li> <li>• Does the CUPA follow Red Tag Procedures defined within HSC 25292.3(a), is the CUPA in compliance with follow up procedures for issuance of NOV's pursuant to T23 section 2717.1 (b)</li> </ul>

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	<ul style="list-style-type: none"> <li>• Is CUPA taking timely formal enforcement by initiating enforcement within 90 days of the completion of the inspection report for Class I and II violations? [T27, 15290 (a)(3)]</li> <li>• Are there sites with violations open more than 240 days and not linked to a formal action? [<i>This is a metric for identifying whether timeliness of enforcement action is within U.S. EPA metrics for review of state programs.</i>]</li> <li>• Verify accuracy of information included in Annual Summary Report 4, does the CUPA maintain accurate records and document information regarding minor violations, major violations, enforcement information, SOC information, etc. for reports 3, 4 and 6. [T27, section 15290 (g), T23, section 2713 (c)]</li> </ul>
4	<p>Review closed enforcement cases from each program element to determine if similar violations received similar enforcement actions/follow up, timeliness of action, penalties or other sanctions, etc.</p> <ul style="list-style-type: none"> <li>• Is appropriate enforcement action taken for all major and/or priority violations to ensure return to compliance within specified timeframes (was compliance achieved within individual program requirements)?</li> <li>• Is documentation available to show if gravity and economic benefit components were considered in the penalty assessment?</li> </ul>
5	<p>Assess if the CUPA tracks cases referred to the district attorney, city attorney, and/or state or federal agencies. The general guideline below identifies basic elements that could be parts of a referral process.</p> <ul style="list-style-type: none"> <li>• A standardized referral process and format;</li> <li>• A requested timeframe in the referral letter, after which the UPA may consider alternative action;</li> <li>• Internal tracking to include the date of the referral;</li> <li>• Ultimate outcome of referrals, with a date; and the alternative action taken if referral was not acted on within a satisfactory timeframe;</li> </ul> <p>Examples: <a href="#">Enforcement referral letter example from Cal/EPA.</a>  <a href="#">San Diego referral letter example.</a></p>
6	<p>Assess if the CUPA is utilizing administrative enforcement actions such as AEO's, Administrative Citations, and Administrative Civil Penalties (typically established under local ordinances) as outlined within their Inspection and Enforcement Plan. Verify that all administrative enforcement options implemented by the CUPA are being reported on the Annual Summary Report 4.</p> <p>See CalEPA Unified Programs website for <a href="#">AEO Forms and Checklist.</a> and <a href="#">AEO Guidance Document</a></p>
7	<p>Evaluation team leader will review the same files as the other evaluators and additional files to obtain an overall perspective of the CUPA's program.</p>

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<b>8</b>	Is RCRA LQG data (inspections, violations and enforcement actions) reported on a quarterly basis to DTSC (RCRAinfo) pursuant to HSC 25187 (m) and T27, 15290 (g).
<b>9</b>	<p>Assess how the CUPA participates in a multi-media enforcement. Are they involved with any activities identified below:</p> <ul style="list-style-type: none"> <li>• Organizes quarterly meetings with other regulatory agencies to determine facilities that are suitable for multi-media inspection.</li> <li>• The CUPA regularly attends and participates in local Environmental Strike Force meetings.</li> <li>• At least once per year the CUPA invites regionally assigned State and Federal regulatory personnel to attend a strategy session.</li> </ul>
<b>10</b>	Are there obstacles or other impediments that prevent the CUPA from fully implementing their Inspection and Enforcement Program?
<b>11</b>	<p>Evaluation team will discuss and prepare a summary report evaluating the following items pertaining to the oversight inspections. Evaluators will utilize existing oversight inspection protocols already established by their individual BDOs and summarize using the outline below:</p> <ul style="list-style-type: none"> <li>• Preparation/Coordination</li> <li>• Inspection Activities</li> <li>• Inspector Knowledge</li> <li>• Inspector Conduct</li> <li>• Inspection Documentation</li> <li>• Follow-Up/Violation Correction</li> <li>• Overall Assessment</li> </ul> <p>See Appendix A for field oversight inspection summary report example.</p>
<b>Appendices</b>	
Appendix A	CUPA Field Oversight Inspection Summary Report