

UNIFIED PROGRAM

I. EXECUTIVE SUMMARY

California law consolidates several but not all hazardous material environmental programs in California into a single unified regulatory program referred to as the Unified Program. Under this Unified Program, the California Environmental Protection Agency (Cal/EPA) has delegated the bulk of inspection and enforcement activities for these programs to certified local agencies, called Certified Unified Program Agencies (CUPAs) under the supervision of the Secretary of Cal/EPA. A CUPA is a local agency, generally a local fire department, environmental health agency, or a designated state agency, that is responsible for the implementation of all the unified program elements in a coordinated and consistent manner within the local jurisdiction. Differing from other environmental areas, the Secretary of Cal/EPA is directly responsible for the implementation of the Unified Program. The Secretary certifies Unified Program Agencies, and has oversight of state agency partners who set program element standards and ensure program consistency.

The Unified Program consolidated the administration, permits, inspections, and enforcement activities of the following environmental and emergency management programs. The responsible state agencies for each program element are listed.

- Hazardous Materials Release Response Plans and Inventories (Business Plans) – California Emergency Management Agency (CAL EMA)
- California Accidental Release Prevention (CalARP) Program - (CAL EMA)
- Underground Storage Tank Program – State Water Resources Control Board (SWRCB)
- Aboveground Petroleum Storage Act (APSA) Program - (Cal/EPA)
- Hazardous Waste Generator and Onsite Hazardous Waste Treatment (tiered permitting) Programs – Department of Toxic Substances Control (DTSC)
- California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements – Office of the State Fire Marshal (OSFM)

A CUPA must establish a program that consolidates, coordinates and makes consistent the administrative requirements, permits, inspection activities, enforcement activities, and program fees. A number of CUPAs also work with other local governments that implement one or more of the regulatory programs. These other local governments are referred to as Participating Agencies.

There are now 84 CUPAs and 36 Participating Agencies (PAs) for a total of 120 reporting entities. They are a well-organized group and provide effective management of the local elements of their oversight and regulatory responsibilities. (See <http://www.calcupa.net> for information on the California CUPA Forum).

The California CUPA Forum was formed by the CUPAs to represent all CUPAs or Participating Agencies with a single voice. The Cal-CUPA Forum strives to achieve statewide consistency, consolidation, and coordination in the implementation of the Unified Program. The Cal-CUPA Forum has established Technical Advisory Groups and Work Groups, to further aid the statewide management of the program..

The Unified Program Administration and Advisory Group commonly referred to as UPAAG was created to foster effective working partnerships between local, state and federal agencies. The purpose of the UPAAG is to provide a forum to gather, process, discuss, refine, and develop policy concerning implementation of the State-wide Unified Program. UPAAG serves at the request of the Secretary of Cal/EPA. In the

UPAAG, members of the CUPA Forum work with state and federal agencies on policy decisions, education and problem-solving. UPAAG has established Steering Committees and Work Groups to aid in this undertaking.

A) Major Program Highlights

Assembly Bill 2286 which requires Unified Program electronic reporting was entered into law in 2008. It requires the electronic submittal of Unified Program data from regulated businesses to CUPAs and the state by 2013. The web based reporting programs will allow the regulated community to submit data directly to their local Unified Program Agency (UPA) who will share it with Cal/EPA. Alternatively, multi-jurisdictional businesses will be able to exchange data with Cal/EPA who will in turn share the data with the UPA. Cal/EPA will serve as a virtual data warehouse and have the ability to exchange data with US EPA and create a public access website

In state fiscal year 2007/2008 (July 1, 2007 thru June 30, 2008), the CUPAs completed a total of 507 administrative enforcement orders (AEOs) against regulated entities or individuals that were in violation of environmental laws. This is significant because the statutory law that provides authority to CUPAs for taking such action was only enacted five years ago. Each year has seen a growth in the use of this enforcement tool, from less than 200 actions the first year to over 500 actions the last two consecutive years. Total fines collected in fiscal year 2008 rose to \$7.6 million, an increase of almost 50% from the \$5.4 million that was collected in 2007.

In November 2008, the Sacramento County Environmental Management Department (EMD) reached a settlement with Georgia-Pacific (GP) Chemicals for violations of the State Health and Safety Code relating to the management and treatment of hazardous waste at the company's Elk Grove plant. The agreement includes the payment of \$2.4M in penalties over a 2 year period. The settlement amount is in addition to the annual total for fiscal year 2007/2008 identified in Section II (B) of this chapter because it occurred outside of the fiscal year reporting timeframe, but occurred within the 2008 calendar year.

Implementation of Aboveground Petroleum Storage Act (APSA) commenced as the CUPAs started inventorying above ground storage tanks facilities. In 2008, Cal/EPA coordinated with California Specialized Training Institute and California Emergency Management Agency to develop training modules for certification of CUPA inspectors to meet aboveground stage tank inspection requirements. The APSA inspector certification training has been scheduled to occur and be completed during 2009.

B) What the Reported Data Tells Us

Overall, the CUPAs are generally well staffed by our local government partners and continue to have a high level of activity. Statewide there are about 875 full time CUPA staff working on the Unified Program, including over 500 full time field inspectors. This is the first time that the staffing level of the CUPAs has been measured. In context, prior to 1994, there were a few local governments under agreement with DTSC and limited state staff doing inspections for the hazardous waste program. Similar processes existed for USTs. The hazardous materials disclosure program was being overseen by local Administering Agencies, but no metrics were being gathered on the numbers of site inspections. Having 500 local field inspectors is a major increase and a stable presence for these local programs.

The implementation of an Administrative Enforcement Order Process for the Unified Program in the 2003 (AB 2481) added a formal administrative enforcement tool directly usable by CUPAs to their other referral based formal enforcement options. That means, instead of having to choose between issuing minor violations or convincing a local prosecutor to pursue a case, the CUPA can pursue its own administrative

cases. The number of Administrative Enforcement Orders has steadily risen as more CUPAs use this enforcement option. There are 73 CUPAs, about 87 percent, that have taken some type of formal enforcement action against persons and regulated entities. The use of formal enforcement by CUPAs is slowly growing as more CUPAs become more knowledgeable about these processes.

In 2008, local field inspectors conducted inspections of over 51,000 facilities, up by about 10 percent since 2000. They also pursued over 37,495 informal enforcement actions in 2008, up by 30 percent since 2000, and there were over 2,210 formal local enforcement actions (administrative, civil and/or criminal), almost doubling what was reported in 2007, resulting in the collection of \$7,623,316 in penalties as the result of those activities. Formal enforcement actions are actions that mandate compliance and initiate a civil, criminal, or administrative process which results in an enforceable agreement or order for what are determined to be the most serious types of environmental violations. Informal Enforcement is an action other than a formal enforcement action that notifies the regulated business of its non-compliance and establishes a date by which that non-compliance is to be corrected. Examples include letter, notices of violation and verbal warnings or notices, informal actions do not impose sanctions.

At the end of 2008, there remained 11 CUPAs (Imperial County, Mendocino County, Colusa County, Tehama County, Amador County, Lassen County, Inyo County, Mariposa County, Trinity County, Modoc County, and Alpine County), about 13 percent of the CUPAs, that historically have never used any type of formal enforcement against regulated businesses in the history of their program. These 11 CUPAs are mostly the smallest and most rural programs. These rural jurisdictions with small business bases continue to have major difficulty maintaining staffing levels sufficient to support the required program activities, including enforcement. There are 19 rural county-level CUPAs that have populations fewer than 70,000 and with business bases of fewer than 300 businesses. Most of these CUPAs' program issues relate to inadequate staffing driven by the lack of sufficient fee-based funding, and four of the five CUPAs with unsatisfactory evaluations were in this group. Of note is that of these four CUPAs with unsatisfactory programs at the end of 2008, none of them are receiving State subvention in any manner and one is still struggling with program start-up.

The federal government recently reviewed our state program in 2007 and found it to be strong. US EPA Region 9 completed the Federal Enforcement Evaluation of the RCRA Hazardous Waste Generator program in California in August 2007, also called the [State Review Framework](#). California is scheduled for its next State Review Framework audit to occur in 2010.

C) How the Program Will Use This Information

The Unified Program Administration and Advisory Group met for two days in mid-March 2008 to review and revise the Unified Program Strategic Plan using the information summarized above. The results of that meeting are included in this report in the form of the new prioritized "Ten Strategic Directions" that are included in Section II (B) (1) (e) of this chapter.

Data in 2007 showed that 13 CUPAs have never done formal enforcement, and another 12 CUPAs have done only one (1) or two (2) formal enforcements. Cal/EPA is looking to help those local CUPAs improve. In most cases, these CUPAs are smaller rural jurisdictions with a small number of businesses. However, there are a few medium CUPAs that may need technical training and others that might require more effort to educate local elected officials as to the importance of consistent local enforcement in their jurisdiction.

When the summary enforcement data was analyzed, it became apparent that some larger CUPAs are not taking any formal enforcement action in specific media programs where a significant number of violations were identified. CUPAs that have not taken formal enforcement action will be divided into 3 categories that will take into account their size and risks to the public. Depending on each CUPAs individual underlying reasons Cal/EPA has developed an action plan that will formally address the issue by following defined processes as outlined below:

1. Set meetings with program directors to identify barriers and actions to reduce them.
2. Work with CUPAs, potential mentors and the CUPA Forum Board to broker arrangements and training.
3. The Unified Program manager will report to the Assistant Secretary for Local Programs on a monthly basis on progress on this action plan

Another concern is that most analysis of the inspection data indicates that significant program activity is focused on compliant facilities and does not look at the facilities that operate illegally without government regulation. The Unified Program Administration and Advisory Group's Enforcement Steering Committee is undertaking a project to identify a potentially better model program that would use standardized indicators, other than just inspection activity and the results, to help focus local resources.

II. CAL/EPA UNIFIED PROGRAM'S ENFORCEMENT PROGRAM

A) Overview

The Unified Program's mission is to protect public health and safety, and to restore and enhance environmental quality, and sustain economic vitality through effective and efficient implementation of the hazardous material and waste programs within the Unified Program. The Unified Program's vision is that all participants of the program at the federal, state, and local level will continue to play an active role in policy oversight and implementation of the Unified Program. The vision includes that all Unified Program participants at the federal, state and local level will engage in a quality of communication, to enhance mutual trust, and more effective implementation.

The Unified Program takes its fundamental enforcement structure from the implementing statutes of the six unified program elements. However, the 84 CUPAs introduce a significant level of complexity. Not only is each CUPA's enforcement program governed by the federal and state statutes and regulations, but also by local ordinances and codes. Section II of this chapter focuses on the federal and state requirements as implemented in the Unified Program, not included are any reviews of the local ordinances that might augment these requirements.

Cal/EPA and the CUPAs, working together, finalized a Guidance Document for Inspections and Enforcement that covers the fundamentals of a complete and sound local inspection and enforcement program. The document is an update and expansion of a 2000 version and is intended to establish a broad framework for UPA's inspection and enforcement programs. In addition, this document has included many resources that were developed within the last few years and links to other training, guidance, protocols, and

tools regarding inspection and enforcement topics and concerns. The guidance document is published on the Cal/EPA Unified Program Inspection and Enforcement Resources web site. CUPAs determine or verify compliance utilizing a variety of tools such as inspections, investigations, service requests, complaints, record reviews, and/or surveillance.

Cal/EPA and the CUPAs also developed guidance on penalties and supplemental environmental programs that is published on the Cal/EPA Unified Program Inspection and Enforcement Resources web site (www.calepa.ca.gov/CUPA/Resources). CUPAs use an array of methods for enforcement response, both informal and formal, including but not limited to notices of violation, administrative enforcement orders, civil and criminal case referrals to the city or district attorney.

CUPA programs are evaluated every three years by Cal/EPA and authorized state agencies. In 2008, the Unified Program conducted program evaluations at 26 of the 84 CUPAs. The CUPA evaluation process consists of: 1) on-site records review for completeness and implementation of their Inspection and Enforcement Plans; 2) a review of facility enforcement and compliance files, field oversight inspections to evaluate their actual field inspection process; and 3) reviews of self-audit reports and annual summary report submissions. At the end of the evaluations which are generally a total of 2 days, a final report is prepared summarizing the findings of the evaluation, and the CUPA program receives a rating as either “meets or exceeds program standards,” “satisfactory, with some improvement needed,” or “unsatisfactory, with improvement needed.” Results of CUPA evaluations conducted in 2008 show that 4 met or exceeded program standards, 20 were considered satisfactory with improvements needed, and 2 were unsatisfactory with improvements needed. At the end of 2008, 5 of the 84 CUPAs were still rated as unsatisfactory with improvements needed.

California’s CUPA programs are in a unique position to provide for direct interface with a majority of California’s regulated businesses because of their local ties to the community. They have the advantage of being locally based in comparison to state and federal agencies, and according to surveys, businesses state they feel the most comfortable when dealing with local enforcement agencies for answers to their questions. A requirement of Unified Program’s Inspection and Enforcement Plan provides for public participation procedures that ensure receipt and consideration of comments from regulated businesses.

The Unified Program and the CUPA Forum Board annually evaluate deficiency trends from the data gathered from the CUPA Evaluation reports and use the information to develop and prioritize training courses that are offered at the Annual CUPA Conference. The Annual CUPA Conference is a four day event that has in attendance over 1,200 participants from local, state and federal agencies, businesses, industry representatives, and a growing number of college students who are sponsored through scholarships by the CUPA Forum Board. In addition, outstanding program implementations that are noted in the CUPA Evaluation Reports are used in training courses at the conference to provide examples of innovative projects or resources that individual programs have developed that address key program elements within the CUPA program.

In 2008, approximately half of the 30 CUPA evaluations that were conducted by the Unified Program identified outreach activities as part of their outstanding program implementations. Many local programs have expanded the use of their websites to provide information covering; biodiesel, lead in jewelry, hazard categorization, Aboveground Petroleum Storage Act, compliance at schools, plating shops, underground storage tank facilities and CalARP sites. As an example, the County of San Diego CUPA has a Children’s Community Outreach Program which offers presentations in the classroom or at science fairs to raise

awareness about careers in Environmental Health, to promote Pollution Prevention, and to promote proper managements of hazardous materials and waste. In 2008 they conducted over 30 outreach sessions that reached over 2000 students (elementary, middle and high school) through classroom presentations and table demos at science fairs.

Many CUPAs have started Green Business Programs that recognizes business that have implemented pollution prevention practices as well as meeting and/or exceeding environmental compliance standards. Generally, the businesses involved in the program are in automotive body and repair, printing, hospitals, or businesses that are specific to certain regions such as; wineries or metal plating shops. Businesses that participate in the program receive public recognition, marketing resources, and in some cases qualify for fee reductions for their CUPA fees. There are currently fourteen (14) counties in California with active Green Business Programs. The expansion of Green Business Programs is one of the six key initiatives outlined in Cal/EPA's Green Chemistry Initiative. In 2009, CAL/EPA will begin collecting data on outreach activities provided by CUPAs throughout the state in an effort to quantify the type and availability of outreach activities that are provided throughout the state.

B) Enforcement Program Components

1. Description: Cal/EPA requires that each of the 84 CUPAs develop and maintain an Inspection and Enforcement Plan, which allows each CUPA to operate within its own local enforcement program structure developed in accordance with the guidelines established by Cal/EPA. CUPAs must review the plan annually and update the plan as necessary. Evaluation of each CUPA's program has been measured against these guidelines for the past ten years. The recently published Guidance Document for Inspection and Enforcement includes the following preface, which more specifically describes the requirements.

“Unified Program Agencies (UPA's) are charged under the California Health and Safety Code (Health & Saf. Code) with responsibility for enforcement of the legal requirements of the six underlying environmental and public safety programs. To “...ensure coordinated, efficient, and effective enforcement ...” of these six programs (Health & Saf. Code, § 25404.2), each UPA is required to develop and implement a single unified inspection and enforcement program meeting the specific requirements in both statute and regulation.”

a. Basic responsibilities

The responsibilities are laid out in each program element's statute and regulation and more specifically in the Unified Program statutes and regulations. The Unified Program statute specifies:

- All aspects of the Unified Program related to the adoption and interpretation of statewide standards and requirements are the responsibility of the state agency which is charged with that responsibility under existing law.
- Those aspects of the Unified Program related to the application of statewide standards to particular facilities, including the issuance of Unified Program facility permits, the review of reports and plans, environmental assessment, compliance and correction, and the enforcement of those standards and requirements against particular facilities, shall be the responsibility of the CUPAS and PAs.

Specific Programs

- Hazardous Materials Release Response Plans and Inventories (Business Plans) - California Emergency Management Agency is responsible for providing technical assistance and evaluation of the Hazardous Material Release Response Plan (Business Plan).
- California Accidental Release Prevention (CalARP) Program - California Emergency Management Agency is responsible for providing technical assistance and evaluation of the California Accidental Release Response Plan Programs.
- Underground Storage Tank (UST) Program - 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.
- Aboveground Petroleum Storage Act (APSA) Program - 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.
- Hazardous Waste Generator (HWG) and Onsite Hazardous Waste Treatment (tiered permitting) Programs - The Department of Toxic Substances Control provides technical assistance and evaluation for the hazardous waste generator program including onsite treatment (tiered permitting).
- California Uniform Fire Code Program: Hazardous Material Management Plans and Hazardous Material Inventory Statements - The Office of the State Fire Marshal is responsible for ensuring the implementation of the Hazardous Material Management Plans and the Hazardous Material Inventory Statement Programs. These requirements are covered by the Business Plan Program.

b. Relationship to local counterparts

The Unified Program takes its fundamental enforcement structure from the implementing statutes of the six unified program elements. However, the 84 CUPAs introduce a significant level of complexity. Not only is each CUPA's enforcement program governed by the federal and state statutes and regulations but also by local ordinances and codes.

c. Size of the regulated "universe"

The number of regulated businesses reported by the CUPAs in fiscal year 2007/2008 by program element are:

- Total Regulated Businesses – 139,290
- Business Plan Program – 116, 871
- CalARP Program – 2,500
- Hazardous Waste Program – 89,158
- UST Program – 15,292
- APSA Program – 9,000

Note: the figures above other than the number of total regulated businesses include overlapping program elements, for example, businesses with more than one program element.

d. Relationship to Federal programs

The federal hazardous waste generator program is delegated to DTSC. Through the Unified Program, a large portion of program requirements are further delegated to the CUPAs. There are however, significant portions of this program that remain under DTSC's control such as hazardous waste Treatment, Storage and Disposal facilities, transportable treatment units, hazardous waste transporters, the Brownfields Cleanup programs, the schools sites program, and site cleanup. No other federal programs under the Unified Program are formally delegated to the state. The Unified Program statutes delegate the implementation of the six noted programs to the CUPAs.

1. Delegation/authorization status

In January 1994, a California law restructured six environmental programs in California into a single unified hazardous waste and hazardous materials regulatory program referred to as the Unified Program. Under the Unified Program, the California Environmental Protection Agency (Cal/EPA) has delegated the bulk of inspection and enforcement activities for these programs to local agencies, called Certified Unified Program Agencies (CUPAs)

2. Extent of Unified Program

The six programs implemented by the CUPA are significantly larger in scope than the related federal program. A short description of each follows.

- Hazardous Materials Release Response Plans and Inventories (Business Plans) – This program meets the requirements of the federal Emergency Planning and Community Right-To-Know Act (EPCRA) for disclosure of inventories of hazardous materials. The federal program uses a specific listing of hazardous substances and reporting quantities generally higher than those required by the state. Unlike the federal program, the state program uses characteristics to define a hazardous material. In addition, the state reporting quantities are much lower, which together result in a far larger universe of regulated substances and more regulated businesses.
- California Accidental Release Prevention (CalARP) Program - This program meets the requirements of the federal Risk Management and Prevention Program (RMPP) for manufacturing processes that involve the use of toxic and flammable chemicals on the federal list of Regulated Substances. The state program uses a different list of regulated substances that includes the federal list and more, resulting in a larger regulated business universe.
- Underground Storage Tank (UST) Program – The state program covers about the same universe of regulated businesses as the federal program. The state program has far more stringent requirements for tank monitoring, cleaning up leaking tanks, and requires more information be reported on tanks. All USTs are mandated to be inspected annually.
- Aboveground Petroleum Storage Act (APSA) Program – The state program covers about the same universe of regulated businesses as the federal program.
- Hazardous Waste Generator (HWG) and Onsite Hazardous Waste Treatment (Tiered Permitting) Programs – The state HWG program regulates far more hazardous waste generators than the federal program. The federal program accounts for about 18,000 of the 85,200 reported HWGs. There is no federal equivalent to the Tiered Permitting program. The Tiered Permitting program regulates about 6,000 hazardous waste generators that treat onsite small quantities of specific hazardous wastes using specific technologies.

- California Fire Code Program - The Office of the State Fire Marshall is responsible for ensuring the implementation of the Hazardous Materials Management Plans and the Hazardous Material Inventory Statements by regulated businesses meet the California Fire Code requirements. This program ties in closely with the Business Plan Program.

3. Federal Grant funding /reporting

Environmental Data Exchange: Cal/EPA was awarded a US EPA grant to expand the use of an existing internal cross BDO Environmental Data Exchange Pilot project into a more robust search tool that will make the information from 18 environmental data bases available to CUPAs and other local governments. Project planning started in late 2008, and actual programming work is expected to be completed in late 2009. This unique project will support components of Cal/EPA's Enforcement Initiative Data Projects to ensure consistency of standards, ease of cross-organizational data exchange, and expand public access to environmental performance information, including information about U.S. EPA and state regulatory activities.

4. Comparison State mandated inspection frequencies and federal standards.

State inspection mandates require much more frequent inspections than their corresponding federal counterparts. A comparison of the two follows.

- Hazardous Materials Release Response Plans and Inventories (Business Plans) – There is no federal standard. The state standard is once every three years.
- California Accidental Release Prevention (CalARP) Program - There is no federal standard. The state standard is once every three years.
- Underground Storage Tank (UST) Program – The new federal standard is once every three years. The state standard is once every year.
- Aboveground Petroleum Storage Act (APSA) Program – There is no federal standard. The state standard is once every three years.
- Hazardous Waste Generator (HWG) and Onsite Hazardous Waste Treatment (Tiered Permitting) Programs – There is no federal standard or state standard. State guidelines suggest once every three years.

5. Federal oversight and evaluation

The federal government recently reviewed our state program and found it to be strong. US EPA Region 9 completed the Federal Enforcement Evaluation of the RCRA Hazardous Waste Generator program in California in August 2007, also called the [State Review Framework](#). The next State Review Framework evaluation is scheduled in 2010 for California.

e. Program goals/desired outcomes:

The CUPA Forum and the state agencies, working through the Unified Program Administrative and Advisory Group, developed in 2008 a Unified Program Strategic Plan to guide efforts over the next few

years (July 1, 2009 to June 30, 2013) to develop and improve the Unified Program. This Plan contains the 10 strategic directions listed below in rank order. These projects are as follows:

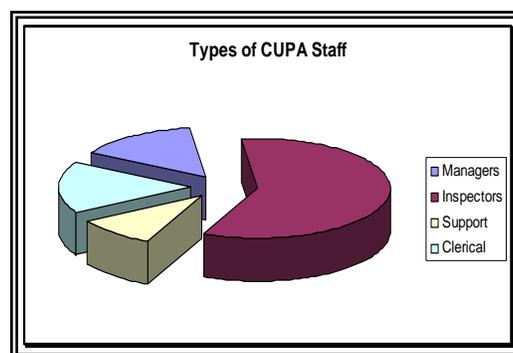
1. Fully implement electronic reporting systems and e-government. The benefits of electronic reporting systems to all Unified Program stakeholders are enormous and impact all aspects of the Unified Program.
2. Level the playing field - all CUPAs fully implemented; streamline compliance. Unified Program success can only be fully realized when a high level of compliance is achieved in all parts of the state.
3. Develop new and effective performance measures. Performance measures are critical to identifying areas of program success and opportunities for program improvement. They are also necessary to communicate program value to policy makers.
4. Improve training delivery. Training is a cornerstone of successful programs, and significant opportunity exists to improve this aspect of the Unified Program.
5. Plan for succession. Program demographics clearly demonstrate that Unified Program agencies are facing a significant amount of attrition in the near future due to retirements. Continued program success relies upon the availability of qualified and interested job applicants.
6. Eliminate single-wall underground storage tanks. Single walled tanks present the highest risk of all underground tanks. It is critical to take into account the challenges faced by tank owners, especially in rural low through put areas, who deal with the cost of tank system replacement.
7. Establish disaster strike teams. Recent incidents, such as the Southern California wildfires, have illustrated the need to have readily available, trained and equipped environmental resources to deal with hazardous materials issues during the recovery phase of these events.
8. Reduce hazardous materials releases. While reduction in releases is one of the primary goals of the Unified Program and its program elements, much of the feasible progress has already been made in this area.
9. Integrate green chemistry into the program. Green chemistry will certainly have a significant impact on the use of chemicals, but it is unclear at this time how it will affect the Unified Program.
10. Foster growing and/or emerging partnerships. Partnerships between Unified Program agencies and other stakeholders are a critical aspect of managing the Unified Program, and many partnerships are in place. As new opportunities arise, they will be explored.

2. Program Component metrics

a. Resources

There are 873 local staff in the 84 CUPAs and Participating Agencies broken down as follows.

- Enforcement Staff – There are 510 field inspectors.
- Supervisors and Management – There are 129 managers or supervisors that are not field staff.
- Technical Support Staff - There are 88 technical support staff that are not field staff.
- Non-Technical Support Staff (Clerical) – There are 146 non-technical support staff



b. Program Component Outputs

Data Characteristics

CUPAs conduct inspections all of the programs noted earlier in the report. The number of inspections mentioned in the executive summary is close to 51,000 routine inspections for all programs per year. Many of these inspections are multimedia and are combined for efficiency, resulting in a total of 34,320 facility inspections conducted in 2008.

Outputs measure activity and while not directly related to outcomes, the following outputs indicate an active and robust program.

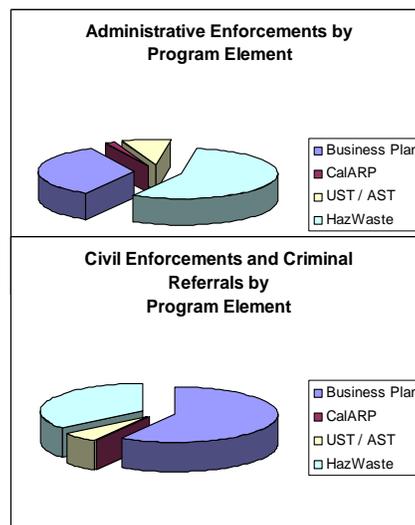
- Business Plan facility routine inspections and follow up inspections – 59,267
- CalARP facility routine inspections and follow up inspections – 1,149
- UST/AST facility routine inspections and follow up inspections – 8,140
- Hazardous Waste Generator routine and follow up inspections – 46,602

Administrative enforcement actions – Total of 507 actions

- Business Plan facility - 155
- CalARP facility - 7
- UST/AST facility - 119
- Hazardous Waste Generator facility –226

Civil enforcement and Criminal Referrals

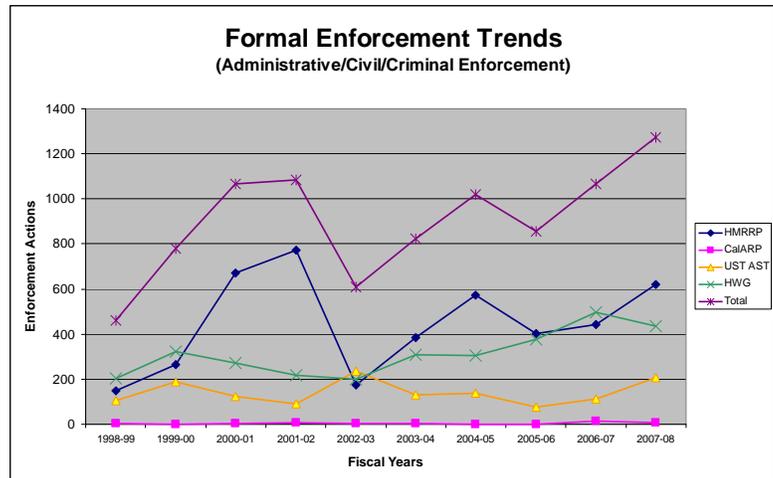
- Total of 709 actions
- Business Plan facility - 415
- CalARP facility - 0
- UST/AST facility - 42
- Hazardous Waste Generator facility – 252



Output Trends

1. Formal Enforcement

The chart below shows a generally increasing trend in formal enforcements overall with a large spike in fiscal years 2000-01 and 2001-02. The spike was created by the enforcement specific to the HMRRP, or Business Plan, program. Additional research shows that a single CUPA may have reported very high levels of activity, in the high two hundreds, for these years in the Civil Enforcement category. This CUPA’s activity for civil enforcement dropped by a factor of ten in 2002-03 into the high twenties. Additionally, only three CUPAs were responsible for the vast majority of activity in this area for these spike reporting years, leading to a significant sensitivity to reporting errors. Finally, these spike reporting years were also the first two years of information gathered for administrative enforcement under the newly enacted Administrative Enforcement Order statutes. If the chart were to be adjusted for this anomaly, there is a generally continuing upward trend in the use of formal enforcement. In 2008, there is a significant rise in formal enforcement action due to a significant increase in the use of local AEO’s as enforcement in the Business Plan program, in addition to increased efforts to identify farming facilities that have should be in the Business Plan Program.

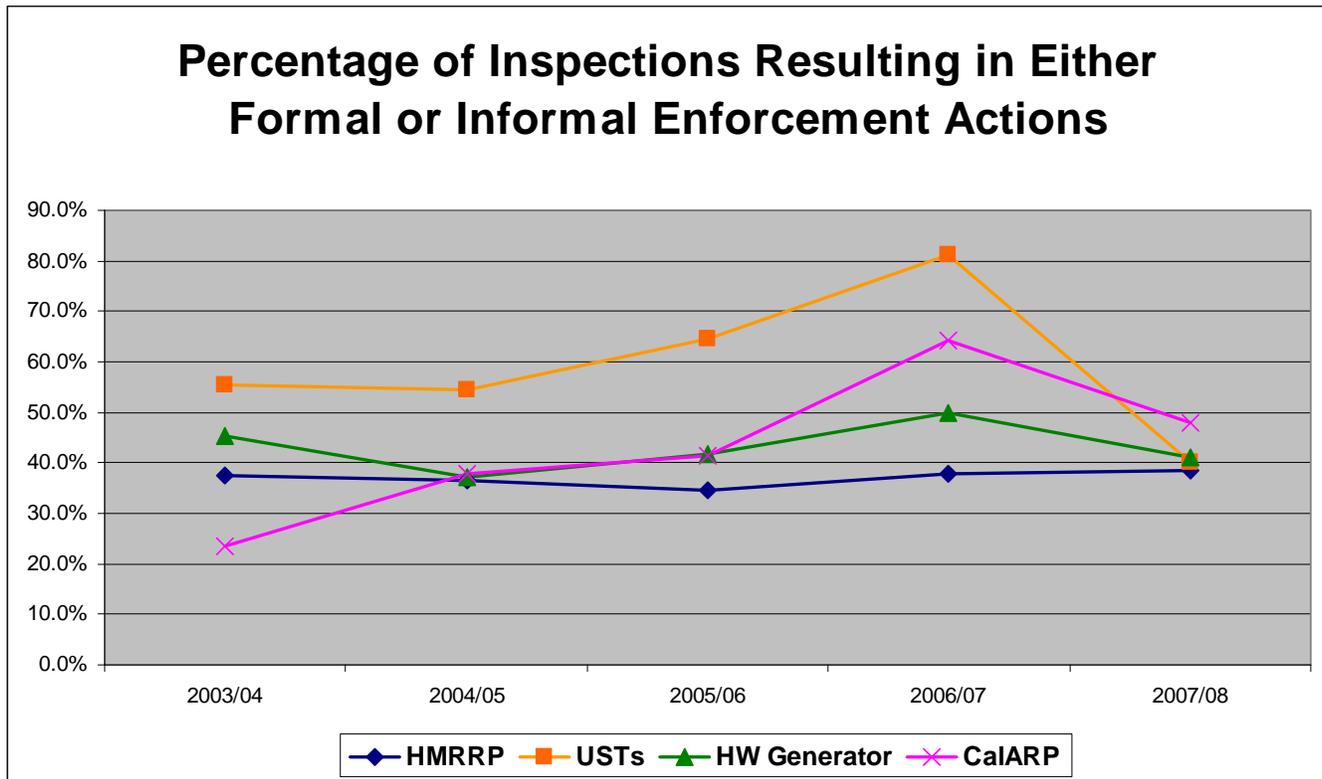


This increased trend in the use of formal enforcement actions by the CUPAs is consistent with the Unified Program goal to increase compliance through the increased use of appropriate enforcement actions.

2. Enforcement Actions as a Percentage of Inspections

The percentage of inspections which result in an enforcement action (informal and formal) shows an increasing trend over the past four years of reported activity in three of the four program elements. This generally shows that CUPAs are more active in finding violations, documenting those violations and taking some type of enforcement in the UST and CalARP program elements. The HW Generator program saw a drop in enforcement initially, but a gradual climb for the past three years. The HMRRP element has remained relatively flat over these years. Of note is the significantly larger percentage of enforcements for the UST program over past years that have recently normalized to a ratio similar to other program elements. All programs either flattened out or showed a slight decrease which may be a result of escalating enforcement numbers from the previous years.

Formal enforcement actions are actions that mandate compliance and initiate a civil, criminal, or administrative process which results in an enforceable agreement or order for what are determined to be the most serious types of environmental violations. Informal Enforcement is an action other than a formal enforcement action that notifies the regulated business of its non-compliance and establishes a date by which that non-compliance is to be corrected. Examples include a letter, notices of violation and verbal warnings or notices. Informal actions do not impose sanctions and are used to address minor violations.

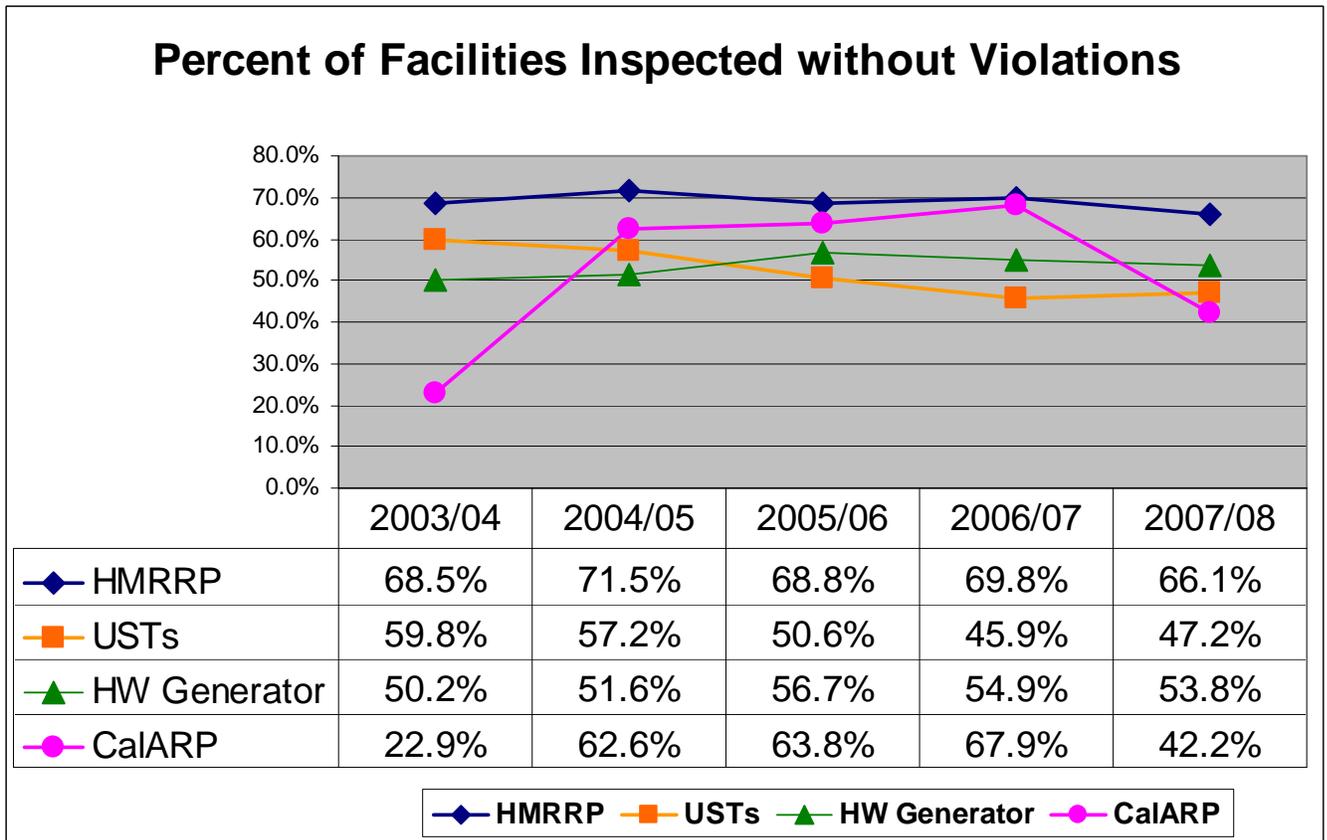


3. Facilities Inspected Without Violations

Cal/EPA collects information on the number of facilities with violations and the number of facilities that are inspected each fiscal year. One measure of program success could be the percent of facilities inspected that did not have any violations. These facilities would be deemed to be fully in compliance with all applicable laws. Since CUPAs track violations that are minor as well as serious violations, there is good reason to believe that this could be a reasonable indicator.

The compliance rate graph below shows that there has been a generally flat trend for the HMRRP and HW Generator programs. The initial rise in the CalARP is consistent with program implementation followed by a flattening. The exception to the flat trend is the UST program. That program show a clear and significant

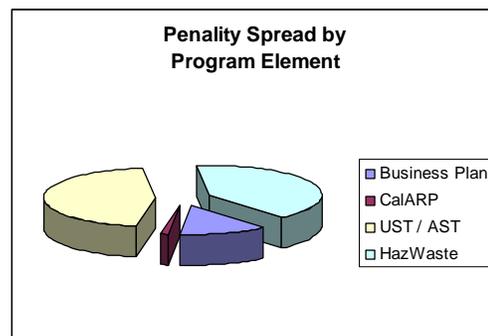
drop in the number of violations over the past four years. This may be related to the previous trend showing an increasing enforcement trend for USTs and be related to the following penalty information showing significantly higher penalties associated with USTs as well.



4. Penalty Information

The Unified Program has not historically accounted separately for the monetary value of supplemental environmental projects (SEPs). Starting with fiscal 2009/10, SEPs will be reported separately. Therefore, the total dollars reported below may contain some SEPs. The total of penalties assessed across all program elements for fiscal year 2007/08 was \$7,623,416. By program element they were:

- Business Plan facilities - \$975,199
- CalARP facilities - \$85,688
- UST/AST facilities – \$3,438,777
- Hazardous Waste Generator facilities - \$3,120,270



5. Major Cases for 2008

In November 2008, the Sacramento County CUPA reached an Administrative Enforcement Order (AEO) agreement with Georgia-Pacific (GP) Chemicals for violations of the State Health and Safety Code relating the management and treatment of hazardous waste at the company's Elk Grove plant. The agreement includes the payment of \$2.4M in penalties over a 2-year period. The penalty amount is believed to be the largest ever paid to a city or county in the nation as a result of an environmental administrative enforcement action.

March Global Port, the developer of former March Air Base property, and the facility's commercial fueling company have paid more than \$100,000 in fines to settle a criminal case brought against them last year for operating a hazardous jet-fueling system. The Riverside County's fire chief shut down the fuel station and called it "absolutely dangerous." Investigation by the Riverside County CUPA resulted in criminal charges being filed by the Riverside DA who obtained a \$100,000 fine and guilty plea to three misdemeanor charges on Global Port Fueling Services. The Global Port fuel-station manager pleaded guilty to two misdemeanor charges for failing to report a spill and improperly storing hazardous material and paid a \$16,300 fine.

The California Department of General Services paid \$93,350 to a Sacramento County CUPA after violating rules that govern the operation of its underground fuel storage tank at the Capitol. Sacramento County's environmental management department said it took the Department of General Services to Sacramento County Superior Court after a review by its inspectors found "multiple violations" of the state's health and safety code as well as other state regulations.

The state Attorney General and eleven county District Attorneys obtained a [civil judgment](#) against Jiffy Lube International, resolving allegations that some of its oil change centers did not follow precautions to protect the environment from oil and antifreeze spills. The company paid \$500,000 in civil penalties, costs and attorney's fees. District Attorneys prosecuting the cases included: Alameda, Los Angeles, Marin, Monterey, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, Solano, Ventura, and City Attorney of Los Angeles City.

c. Program Component Outcomes

The Unified Program Administration and Advisory Group is currently working on developing a set of outcome measures for the Unified Program. Since there are no outcome metrics defined across the Unified Program, this limits the state's ability to only measuring outputs, such as the number of facility inspections and the types of violations, rather than compliance improvement across the Unified Program. In 2009, Cal/EPA will restart meetings of its' the performance measures team/steering committee as an effort to develop enforcement program outcome measures that relate program activities of Cal/EPA, state agencies, and local partner's progress in achievement of program strategic plans.

Compliance Rate for Compliance Monitoring Actions*

Key		Routine Site Inspection
		Undefined site inspections - they may be follow-up, complaints, or referrals.

Time Period	CUPA		column 4	column 5 *	column 6	column 7	column 8 *	column 9
	column 1	column 2						
Sector, facility type or program focus	Compliance Monitoring Actions (CMA)	No. of facilities with CMAs conducted	No. of facilities in each category	No. of facilities with violations	total number of violations	compliance rate (%) for facilities where CMAs were conducted	No. of facilities w/ significant violations	Significant Violation Non-compliance rate (%)
HMRRP	Combined	51384	116871	16242	18419	68.39	1973	3.84
	Routine Site Inspections	47884	116871	16242	18419	66.08	1973	4.12
	Other	11289	116871					
CALARP	Combined	1450	2500	535	444	63.10	9	0.62
	Routine Site Inspections	926	2500	371	444	59.94	9	0.97
	Other	524	524	164		68.70		
UST	Combined	16180	15292	7877	5967	51.32	250	1.55
	Routine Site Inspections	14929	15292	7877	5967	47.24	250	1.67
	Other	6619						0.00
HWG	Combined	38833	85150	16610	14947	57.23	654	1.68
	Routine Site Inspections	37678	85150	16610	1497	55.92	654	1.74
	Other	10176						
LQG	Combined	995	2152	430	317	56.78	16	1.61
	Routine Site Inspections	1031	2152	430	317	58.29	16	1.55
	Other	179						
HWT	Combined	776	1599	305	187	60.70	12	1.55
	Routine Site Inspections	807	1599	305	187	62.21	12	1.49
	Other	295						0.00
HHW	Combined	156	257	76	66	51.28	3	1.92
	Routine Site Inspections	136	257	76	66	44.12	3	2.21

*Compliance monitoring actions for this chart are defined by the actions described below:

- Routine Site Inspections are direct facility visits by an inspector for the purpose of gathering information to determine compliance, including direct observations of facility operations as part of a CUPAs planned inspection frequencies.
- Other inspections are defined as facility inspections that are either follow-up inspections, referrals from state or federal agencies, or as a follow-up investigation to a citizen complaint.

C) Enforcement Program Data Characteristics

The CUPAs' interpretation of reporting requirements continues to be unclear for a number of summary elements. Varied interpretations by the CUPAs lead to data quality issues with the summary data when all CUPA reports are compiled by Cal/EPA.

Cal/EPA is currently building an information exchange system that will ultimately make detailed activity data available to assist in evaluating program effectiveness, and in the development of meaningful performance measures. In 2008, the passage of AB 2286 (Unified Hazardous Waste and Hazardous Materials) provided resources to the Unified Program to develop an automated electronic reporting database for reporting of program information by businesses to the CUPAs, and to relay that information from CUPAs to the state. The three-year project will receive funds starting Fiscal Year 2009/10 to Fiscal Year 2012/13, and the online reporting shall occur in 2013. The added flexibility of the new reporting system will help significantly in providing the detailed data necessary to better measure Unified Program impacts.

D) Enforcement Program Limitations

Regulatory resources within the CUPAs are slow to keep pace with the overall concept of establishing and implementing a uniform and consistent enforcement model among all the programs within the Unified Program. Based upon the data, enforcement and compliance rates vary among CUPAs within California. Consistency among compliance rates and formal enforcement actions as linked to facility inspections, continue to be issues that the program will address.

1. What we do not know.
 - Data – The Unified Program currently does not have identified performance outcome indicators. It continues to use activity counts only.
 - Program – Effects enforcement has on public health and the environment is not measured. It is inferred that the programs are succeeding because of the activity outputs discussed above.
2. What is not being done?
 - CUPA Evaluation Deficiencies – While Cal/EPA is identifying specific deficiencies during the evaluation of CUPAs, it is not currently grouping the specific deficiencies so as to identify program deficiency trends.
 - CUPA Evaluation Outstanding Practices – During the evaluation of a CUPA Cal/EPA identifies what are considered unique and outstanding practices by a CUPA, however, Cal/EPA is not yet publishing the outstanding program portions of the evaluation to provide identified resources to other CUPAs.
 - CUPAs Not Doing Formal Enforcement – There are a number of CUPAs that are not using formal enforcement actions as a normal part of their program. As noted in Section I.B., these CUPAs are generally the smaller more rural CUPAs that have the smallest business densities, presenting less overall risk. When looking at program specific information, there is at least one large CUPA, and perhaps more, that are not doing any formal enforcement in three program elements. Cal/EPA has implemented a formal approach to address this issue, aside from formal correspondence and meetings.

E) Enforcement Program Progress on Key Initiatives

In March 2008, the Unified Program Administration and Advisory Group met to develop a revised strategic plan for the next three to five years, July 1, 2009 to June 30, 2013. In late May 2008, they met to finalize the strategic plan. Out of those meetings came eight specific prioritized strategic directions. They are listed here in priority order.

1. Fully implement an electronic reporting capability that provides for easy efficient data reporting, electronic field-based reporting support, access to data for analysis, access for planning and strategic direction development, and provides for public access.

Cal/EPA's project to move the business to government electronic reporting program called Unidocs to Cal/EPA's control was approved in 2008. The overall project plan is to use the resulting state system for business plan, inventory, underground storage tanks, and hazardous waste onsite treatment reporting, and to expand the existing UP Data System Inspection and Enforcement reporting capability to include all program elements. The state level application is now expected to become available in August 2009.

2. Work with the CUPAs so that CUPAs consistently implement all program elements with an evaluation rating of "meets program requirements."

The Unified Program Administration and Advisory Group established an Evaluation Workgroup comprised of state agency and CUPA representatives to address consistency concerns with the statewide evaluation process. In December 2008, the work group completed its analysis and presented its findings and recommendations to Unified Program Administration and Advisory Group. The recommendations were with recommended actions, which include:

- Recommend that Cal/EPA lead the development and implementation of a Unified Program Evaluation Training Program for all state evaluators.
- Recommend that Cal/EPA lead the development and promulgation of a Unified Program CUPA Evaluation Guidance Manual, which documents all aspects of the CUPA Evaluations.
- Recommend that each Unified Program State Agency be requested to review and analyze the specific program element requirements and standards for CUPA implementation, as identified by the workgroup, to document and confirm their applicability based on state law.
- Recommend that Cal/EPA, as the lead state agency, ensure that:
 - o "Observations/Recommendations" in the Evaluation Summary of Findings are outlined by functional categories established for CUPA performance standards (i.e., data management, reporting, inspections, enforcement, permitting, etc.).
 - o Examples of outstanding CUPA implementation should be documented in the "Examples of Outstanding CUPA Performance" section, these examples should reflect actions that are clearly above and beyond the minimum standards of performance measures expected of CUPAs.

3. Develop effective Performance Measures to measure the impact of the Unified Program on public health and the environment.

The Unified Program has developed a new set of enforcement program review criteria to be used by the evaluation teams to determine the scope and effectiveness of each CUPA's enforcement program. The criteria identify state and federal regulatory requirements of CUPA program elements, in addition to state and federal enforcement policies. The criterion is expected to be incorporated into the existing evaluation process in the beginning of April 2009. Its purpose is to identify key criteria and assure a consistent assessment from one evaluation to the next. The evaluation criteria will provide the Unified Program with specific enforcement metrics that are currently not available from the existing CUPA evaluation reports.

4. Improve training delivery by creating a variety of training venue alternatives that meet state and local staff development and program needs.

This project is currently in the planning phase by the UPAAG.

5. Plan for succession so as to provide continuity with a new diverse and knowledgeable work force.

The CUPA Forum developed a work group to identify short term and long term action items needed for succession planning at the local CUPA level. The work group is currently reviewing the below action items for appropriateness in the existing economic climate in addition to those which may have overlap with other strategic goals such as "Training Delivery."

Short Term (6-24 months):

- Knowledge Transfer
- Recruitment
- Coaching and Mentoring

Long Term (2-5 years)

- Statewide Outreach for Diversity
- Develop a Succession Planning Template
- Implement a Training Track for Supervisors and Managers

6. Eliminate single walled underground storage tanks to reduce releases and enhance environmental protection.

Cal/EPA and the SWRCB continue to work towards resolving issues that have delayed passage of legislation to eliminate single walled tanks.

7. Establish disaster strike teams to increase assets available for mutual aid.

This has been forwarded to the UPAAG Hazmat Technical Advisory Group for discussion; a formal policy recommendation has yet to be formalized to present to the CUPA Forum Board and Unified Program Administration and Advisory Group for approval.

8. Understand the impact of green chemistry on the local program and take advantage of emerging opportunities to integrate green chemistry into all programs.

The California Green Chemistry Initiative identifies six policy recommendations in the report that build upon present environmental protection laws, shift the focus from end-of-pipe cleanup to up-front design and prevention. Of the six policy recommendations made in the California Green Chemistry Initiative, only the "Expansion of Pollution Prevention" element references CUPA activities. Two activities specifically within the "Expansion of Pollution Prevention" that cross-over with the CUPA program are:

- Expansion of the statewide Green Business Programs
- Improvement of pollution prevention planning at CAL/ARP facilities

The Unified Program Agency has an active presence at Green Chemistry Workshops, in addition to discussions with DTSC to outline how CUPA programs can utilize their resources to complement the above Green Chemistry goals. Currently, many of the California Green Chemistry Initiative policy recommendations remain in the early planning phase at this time.

III. WHAT WE ARE GOING TO DO: FUTURE DIRECTIONS

- Develop a risk-based regulatory program plan that outlines actions to be included in a risk-based inspection and enforcement plan. The plan would allow local agencies to develop regulatory programs that most effectively meet the needs of their individual jurisdictions, rather than being strictly required to meet standardized inspection criteria. The UPA is interested in a cooperative effort between expansion of Green Chemistry's Green Business Programs and a risk-based compliance model as a component of this goal.
- Analyze legislation to sunset single walled underground storage tank systems. Single walled tank systems present a more significant environmental threat than do double walled systems. About 10% of the underground storage tank systems in California are partially or entirely single walled. The Unified Program Administration and Advisory Group continue to explore possible avenues for requiring the removal of single walled systems. It is a complex issue, especially in rural areas with few gas stations and small throughputs.
- California Environmental Reporting System - Cal/EPA's project to move the Unidocs system to the state began in earnest in December 2008. The overall project plan is to use the resulting state system for business plan, inventory, USTs, and HW onsite treatment reporting and to expand the existing UP Data System Inspection and Enforcement reporting capability to include all program elements. The state level application is now expected to become available in August 2009. Additionally the development of the California Environmental Reporting System is being coordinated with Cal/EPA's Enforcement Initiative Data Projects to allow the exchange of environmental databases between all Cal/EPA environmental programs.

- Unified Program Data System - There are 25 CUPAs using the web based hazardous waste Large Quantity Generator reporting system to some degree and Cal/EPA continues to enter the paper Large Quantity Generator reports into the system for the other CUPAs. We are now working on expanding the Unified Program Data System to include underground storage tank, and business plan inspections and enforcement. The design work will be completed in winter of 2009, and modifying the application will happen later summer 2010.
- Identify and secure other funding sources, such as US EPA grants.
- Resolve electronic signature issues, both for inspection reports and submission of electronic documents.

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