



Gavin Newsom  
Governor

Yana Garcia  
Secretary for Environmental Protection

April 14, 2023

Mr. Larry Fay  
Interim Director  
Merced County Community and Economic Development Department  
Division of Environmental Health  
260 E. 15<sup>th</sup> Street  
Merced, California 95341-6216

Dear Mr. Fay:

During April 2022 through December 2022, CalEPA and the state program agencies conducted a performance evaluation of the Merced County Community and Economic Development Department Division of Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System information.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. The report also includes acknowledgement of accomplishments and challenges, as well as examples of outstanding Unified Program implementation. Enclosed, please find the final Summary of Findings report.

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as satisfactory with improvement needed.

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (June 17, 2023), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to Tim Brandt at [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov).

Thank you for your continued commitment to the protection of public health and the environment through the implementation of the Unified Program.

To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned

Mr. Larry Fay  
Page 2

to Melinda Blum within 30 days. If you would like to have specific comments remain anonymous, please indicate so on the survey.

If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov).

Sincerely,



Jason Boetzer, REHS  
Assistant Secretary  
Local Program Coordination and Emergency Response

Enclosures

cc sent via email:

Ms. Amanda Duran  
Deputy Director  
Merced County Community and Economic Development Department  
Division of Environmental Health  
260 E. 15<sup>th</sup> Street  
Merced, California 95341-6216

Ms. Cheryl Prowell  
Supervising Water Resource Control Engineer  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, California 95812-2231

Mr. Tom Henderson  
Engineering Geologist, UST Unit Coordinator  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, California 95812-2231

Ms. Julie Pettijohn  
Environmental Program Manager  
CUPA Enforcement Branch  
Department of Toxic Substances Control  
700 Heinz Avenue  
Berkeley, California 94710-2721

Mr. Larry Fay  
Page 3

cc sent via email:

Ryan Miya, Ph.D.  
Senior Environmental Scientist, Supervisor  
Department of Toxic Substances Control  
700 Heinz Avenue  
Berkeley, California 94710-2721

Ms. Jennifer Lorenzo  
Senior Environmental Scientist, Supervisor  
CAL FIRE - Office of the State Fire Marshal  
P.O. Box 944246  
Sacramento, California 94244-2460

Ms. Jenna Hartman, REHS  
Environmental Scientist  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, California 95812-2231

Ms. Kaitlin Cottrell  
Environmental Scientist  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, California 95812-2231

Ms. Char'Mane Robinson  
Environmental Scientist  
State Water Resources Control Board  
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Mr. Matt McCarron  
Senior Environmental Scientist, Specialist  
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700 Heinz Avenue  
Berkeley, California 94710-2721

Ms. Mia Goings  
Environmental Scientist  
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Mr. Larry Fay  
Page 4

cc sent via email:

Mr. Glenn Warner  
Senior Environmental Scientist, Specialist  
CAL FIRE - Office of the State Fire Marshal  
P.O. Box 944246  
Sacramento, California 94244-2460

Ms. Denise Villanueva  
Environmental Scientist  
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Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

Mr. John Elkins  
Environmental Program Manager  
California Environmental Protection Agency

Ms. Melinda Blum  
Senior Environmental Scientist, Supervisor  
California Environmental Protection Agency

Ms. Elizabeth Brega  
Senior Environmental Scientist, Supervisor  
California Environmental Protection Agency

Ms. Esme Hassell-Thean  
Environmental Scientist  
California Environmental Protection Agency

Mr. Tim Brandt  
Environmental Scientist  
California Environmental Protection Agency

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

**CUPA:** Merced County Community and Economic Development Department  
Division of Environmental Health

**Evaluation Period:** April 2022 through December 2022

### Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron, Mia Goings
- **CalEPA:** Esmé Hassel-Thean
- **State Water Board:** Kaitlin Cottrell
- **CAL FIRE-OSFM:** Denise Villanueva, Glenn Warner

This Final Summary of Findings includes:

- Accomplishments, Examples of Outstanding Implementation, and Challenges
- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered satisfactory with improvement needed.

Questions or comments regarding this evaluation should be directed to the CalEPA Team Lead:

**Tim Brandt**

CalEPA Unified Program

Phone: (916) 323-2204

E-mail: [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov)

The CUPA is required to submit an Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report, and every 90 days thereafter, until all deficiencies and incidental findings have been acknowledged as corrected or resolved.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead and must include a narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report.

Evaluation Progress Report submittal dates for the first year following the evaluation are:

- 1<sup>st</sup> Progress Report:** June 17, 2023      **2<sup>nd</sup> Progress Report:** September 18, 2023  
**3<sup>rd</sup> Progress Report:** December 18, 2023      **4<sup>th</sup> Progress Report:** March 18, 2024

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

Various accomplishments, outstanding efforts, and challenges that impact and/or enhance the overall ability of the CUPA to implement the Unified Program. Recognition of aspects such as response to local emergency declarations and statewide recovery efforts, which illustrate the accomplishments and challenges the CUPA manages in the efforts to continue implementation of the Unified Program.

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#### 1. OUTREACH AND TRAINING PROVIDED FOR THE REGULATED COMMUNITY:

The CUPA has partnered with NES Global to provide environmental compliance training webinars to the regulated community. Courses offered are free of charge and cover a wide range of Unified Program topics related to program elements, such as hazardous waste management, reporting in the California Environmental Reporting System (CERS), responsibilities of facility owners and operators, and statutory and regulatory requirements. The following courses were held during the last half of 2022 and were attended as follows:

- Hazardous Materials Business Plan (HMBP) and CERS, held on July 15, 2022, and attended by representatives from 12 facilities
- Hazardous Waste, held on August 8, 2022, and attended by representatives from 11 facilities
- Spill Prevention, Control, and Countermeasure plans (SPCC) plans, held on October 11, 2022, and attended by representatives from 7 facilities.

The CUPA promotes the training webinars via the County of Merced website (<https://www.countyofmerced.com/DocumentCenter/View/29531/2022-Merced-County-CUPA-WEBINARS-Flyer---Qtrs-3--4?bidId=>).

Additional training webinars made available during 2022 include:

- Universal Waste Management, held on September 6, 2022
  - Underground Storage Tank (UST) Owner/Operator, held on November 14, 2022
  - Advanced Hazardous Waste Management, held on December 12, 2022
- 

#### 2. ENFORCEMENT AND ENVIRONMENTAL JUSTICE:

The CUPA's pursuit of recalcitrant facilities where violations impact or threaten drinking water sources within minority, low income, and Native American communities aligns with the Water Boards' commitment to Environmental Justice initiatives. The CUPA, in collaboration with the State Water Board Office of Enforcement, addressed a particularly difficult UST facility. The support of the CUPA for the Office of Enforcement to intervene quickly resolved a longstanding violation.

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#### 3. STAFFING SHORTAGES AND CORONAVIRUS (COVID-19) STAFF REASSIGNMENTS:

During the time span evaluated for the 2022 CUPA Performance Evaluation, the CUPA experienced reduced staffing for implementation of the Unified Program due to reassignments and departures on several occasions. In 2020 and 2021, CUPA staff were reassigned to the Merced

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES**

County COVID Strike Team and Public Information Outreach to assist with the effects and recovery efforts of the COVID-19 pandemic.

The CUPA operated without a full-time supervisor from October 2018 to August 2021, and from November 2021 to March 2022. In 2021, two Registered Environmental Health Specialist (REHS) inspectors departed from the CUPA for alternative employment. Then, in May 2022, the Environmental Health Consumer Protection Unit supervisor resigned, which was followed by the resignation of the Environmental Health Deputy Director in June 2022 and the resignation of the Land and Water Unit supervisor in July 2022. This series of supervisory and director resignations resulted in the only filled internal management position for all Merced County Division of Environmental Health units residing within the CUPA/Hazmat unit.

Since September 2022, several of the vacant supervisory and managerial positions within the Merced County Division of Environmental Health units have been filled.

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**4. ANNUAL ACCIDENTAL RELEASE PREVENTION DRILLS AT REGULATED FACILITIES**

The CUPA/Hazmat staff participate annually in multi-agency emergency response drills at various California Accidental Release Prevention (CalARP) Program regulated facilities within Merced County. These CalARP Program facility specific events simulate hazardous material release scenarios and response efforts and involve coordination with Merced County Fire, CalFire, ambulance and emergency management services, and law enforcement, in addition to facility personnel. CUPA staff primarily fill the role of "technical references," to stimulate the most real-life situations possible.

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# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

Program deficiencies identify specific aspects regarding inadequate implementation of the Unified Program. The CUPA must complete the corrective action indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute.

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#### 1. DEFICIENCY:

The CUPA is not inspecting each Hazardous Waste Generator (HWG) facility once every three years, per the inspection frequency established in the Inspection and Enforcement (I&E) Plan.

Review of facility files, inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from CERS between July 1, 2019, and June 30, 2022, and additional information provided by the CUPA finds:

- 260 of 832 (31%) HWG facilities were not inspected once every three years.

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

Note: The ability for the CUPA to inspect each HWG facility once every three years was impacted by the reassignment of CUPA staff to assist the Environmental Health Department in response to the COVID-19 pandemic.

#### CITATION:

California Code of Regulations (CCR), Title 27, Section 15200(a)(3)(A)  
Health and Safety Code (HSC), Chapter 6.5, Section 25201.4(b)(2)  
[DTSC]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility is inspected once every three years. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency for the HWG program is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that has not been inspected once every three years. For each HWG facility listed, the spreadsheet will include, at minimum:
  - Facility name,
  - CERS ID, and
  - Date of the last routine inspection.
- A schedule to inspect those HWG facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

- Future steps to ensure that all HWG facilities will be inspected once every three years. For example, the generation of a list of all HWG facilities and the anniversary date of the next routine HWG inspection for each listed facility.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from DTSC. The CUPA will provide the revised action plan to CalEPA.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet and a brief narrative of how the CUPA is continuing to ensure all HWG facilities will be inspected at least once every three years.

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each delinquent HWG facility identified in the spreadsheet provided as part of the action plan with the 1<sup>st</sup> Progress Report.

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**2. DEFICIENCY:**

The CUPA is not ensuring all regulated businesses subject to the Business Plan reporting requirements annually submit a complete HMBP or a no-change certification to CERS.

On August 18, 2022, review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 453 of 1,236 (37%) regulated business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 462 of 1,235 (37%) regulated business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

**CITATION:**

HSC, Chapter 6.95, Sections 25505(a) and 25508(a)  
[CalEPA]

**CORRECTIVE ACTION:**

During the evaluation the CUPA sent an HMBP submittal reminder to each HMBP facility. In response to the large number of inventory and site map submittals received and processed by the CUPA, on March 8, 2023, review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 224 of 1,230 (18%) regulated business plan facilities had not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 241 of 1,227 (20%) regulated business plan facilities had not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

### UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

#### DEFICIENCIES REQUIRING CORRECTION

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that all business plan facilities annually submit an HMBP or a no-change certification to CERS. The action plan should include when and how the CUPA will send the HMBP submittal reminder to each HMBP facility, and steps to follow up with rejected HMBP submittals that are not complete.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP containing all required components or a no-change certification within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
  - Recent review, acceptance, and rejection of incomplete HMBPs or no-change certifications; and
  - applied enforcement taken by the CUPA to ensure regulated businesses annually submit a complete HMBP or no-change certification to CERS

By the 4<sup>th</sup> Progress Report, the CUPA will follow up with each business plan facility identified in the spreadsheet provided with the 2<sup>nd</sup> Progress Report, to ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP or a no-change certification to CERS, or the CUPA will have applied enforcement.

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### 3. DEFICIENCY:

The CUPA is not inspecting each facility subject to HMBP requirements at least once every three years.

On August 18, 2022, review of CERS CME information between July 1, 2019, and June 30, 2022, finds:

- 446 of 1,236 (36%) HMBP facilities were not inspected within the last three years.

#### CITATION:

HSC, Chapter 6.95, Section 25503(e), Section 25511(b)  
[CalEPA]

#### CORRECTIVE ACTION:

During the evaluation, the CUPA developed a detailed inspection schedule identifying the facility name, address, program element, designated inspector, and current, prior, and tentative scheduled inspection dates. On November 11, 2022, review of CERS CME information between October 1 2019, and September 30, 2022 finds 371 of 1,236 (30%) HMBP facilities were not inspected within the last three years. On March 8, 2023, review of CERS CME information

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

between January 1, 2020, and December 31, 2022, finds 375 of 1,230 (30%) HMBP facilities were not inspected within the last three years.

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to HMBP requirements is inspected at least once every three years. The action plan will include, at minimum:

- An updated detailed inspection schedule spreadsheet identifying each HMBP facility that has not been inspected within the last three years. In addition to the facility name, address, program element, designated inspector, and current, prior, and tentative scheduled inspection dates, the detailed inspection schedule spreadsheet will include the CERS ID for each facility, and ensure prioritization of the most delinquent inspection to be completed prior to any other HMBP inspection based on risk; and
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated detailed inspection schedule spreadsheet and a brief narrative of how the CUPA is continuing to ensure that all HMBP facilities will be inspected at least once every three years.

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each HMBP facility at least once in the last three years.

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**4. DEFICIENCY:**

The CUPA is not ensuring submitted HMBPs are thoroughly reviewed and contain all required elements before being accepted in CERS.

Review of the last accepted HMBP submittal to CERS by the following regulated businesses subject to Business Plan reporting requirements finds HMBP submittals were accepted with missing or incomplete components:

- CERS ID 10157633
  - Site Map submitted on March 9, 2022, and accepted on March 9, 2022
    - Missing required site map components such as clearly identified hazardous material handling and storage areas.
  - Emergency Response and Training Plans submitted on March 9, 2022, and accepted on March 9, 2022
    - Missing required training plan elements such as provisions for training to be documented electronically or by hard copy made available for a minimum of three years.
- CERS ID 10492129
  - Site Map submitted on April 4, 2022, and accepted on April 4, 2022
    - Missing required site map components such as north orientation (loading areas, storm and sewer drains, and emergency shutoffs).

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

### UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

#### DEFICIENCIES REQUIRING CORRECTION

- Emergency Response and Training Plans submitted on April 4, 2022, and accepted on April 4, 2022
  - Missing required emergency response plan elements such as procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment, and evacuation plans and procedures, including immediate notice, for the business site.
- CERS ID 10495141
  - Site Map submitted on August 31, 2020, and accepted on September 1, 2020
    - Missing required site map components such as access and exit points.
  - Emergency Response and Training Plans submitted on August 31, 2020, and accepted on September 1, 2020
    - Missing required training plan elements such as provisions for trainings for all new employees, and yearly refresher courses for all employees.
- CERS ID 10495363
  - Site Map submitted on February 8, 2022, and accepted on February 9, 2022
    - Missing required site map components such as evacuation staging areas and emergency response equipment.
- CERS ID 10495894
  - Site Map submitted on December 15, 2021, and accepted on December 16, 2021
    - Missing required site map components such as adjacent streets.
  - Emergency Response and Training Plans submitted on December 15, 2021, and accepted on December 16, 2021
    - Missing required emergency response plan elements such as procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment.
    - Missing required training plan elements such as provisions for trainings for all new employees, and yearly refresher courses for all employees.
- CERS ID 10496242
  - Site Map submitted on May 6, 2021, and accepted on May 6, 2021
    - Missing required site map components such as access and exit points
- CERS ID 10499266
  - Site Map submitted on November 11, 2020, and accepted on November 11, 2020
    - Missing required site map components such as evacuation staging areas (internal roads, and storm and sewer drains.
- CERS ID 10499311
  - Site Map submitted on February 25, 2022, and accepted on March 4, 2022
    - Missing required site map components such as access and exit points, and emergency response equipment.
  - Emergency Response and Training Plans submitted on February 25, 2022, and accepted on March 4, 2022
    - Missing required emergency response plan elements such as evacuation plans and procedures, including immediate notice, for the business site.

Note: The examples provided above may not represent all instances of this deficiency.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

**CITATION:**

HSC, Chapter 6.95, Sections 25505(a) and 25508(a)  
[CalEPA]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS. The action plan will include steps to follow up with rejected HMBP submittals that are not complete.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP containing all required components within the last 12 months:

- Facility name;
- CERS ID; and
- Follow-up actions including:
  - Recent review, acceptance, and rejection of incomplete HMBPs; and
  - the applied enforcement taken by the CUPA to ensure regulated businesses annually submit a complete HMBP to CERS.

By the 4<sup>th</sup> Progress Report, the CUPA will follow up with each business plan facility identified in the spreadsheet provided with the 2<sup>nd</sup> Progress Report, to ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP to CERS, or the CUPA will have applied enforcement.

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**5. DEFICIENCY:**

The CUPA is not inspecting each facility subject to CalARP Program requirements at least once every three years.

On August 18, 2022, review of CERS CME information between July 1, 2019, and June 30, 2022, finds:

- 13 of 25 (52%) CalARP facilities were not inspected within the last three years.

**CITATION:**

HSC, Chapter 6.95, Section 25537(a)  
CCR, Title 19, Section 2775.3  
[CalEPA]

**CORRECTIVE ACTION:**

During the evaluation, the CUPA developed a detailed inspection schedule identifying the facility name, address, last inspection date, current RMP date, tentative scheduled inspection date, and

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

program level. On November 11, 2022, review of CERS CME information between October 1, 2019, and September 30, 2022, finds 10 of 25 (40%) CalARP facilities were not inspected within the last three years. On March 8, 2023, review of CERS CME information between January 1, 2020, and December 31, 2022, finds 6 of 25 (29%) CalARP facilities were not inspected within the last three years.

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to CalARP Program requirements is inspected at least once every three years. The action plan will include, at minimum:

- An updated detailed inspection schedule spreadsheet identifying each CalARP Program facility that has not been inspected within the last three years. If a facility is no longer regulated as a CalARP facility, provide a brief explanation regarding the closure of the facility and de-registration pursuant to CCR, Title 19, Section 2745.10 (c) or (d). In addition to the facility name, address, last inspection date, current RMP date, tentative scheduled inspection date and program level, the detailed inspection schedule spreadsheet will include the CERS ID for each facility and ensure prioritization of the most delinquent inspections to be completed prior to any other CalARP Program facility inspection based on risk; and
- Future steps to ensure that all CalARP Program facilities will be inspected at least once every three years.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated detailed inspection schedule spreadsheet and a brief narrative of how the CUPA is continuing to ensure that all CalARP Program facilities will be inspected at least once every three years.

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each CalARP Program facility at least once in the last three years.

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**6. DEFICIENCY:**

The CUPA is not ensuring each stationary source in the CalARP Program reviews and updates the Risk Management Plan (RMP) every five years.

The following 4 of 25 (15%) stationary sources have not updated the RMP in the last five years:

- CERS ID 10496632 – RMP last updated December 16, 2014
- CERS ID 10414504 – RMP last updated April 5, 2016
- CERS ID 10811116 – no RMP
- CERS ID 10497370 – no RMP

**CITATION:**

HSC, Chapter 6.95, Section 25533(d)  
CCR, Title 19, Sections 2745.10(a)(1) and 2780.2  
[CalEPA]

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each stationary source regulated under the CalARP Program has reviewed and updated the RMP every five years. If a facility is no longer regulated as a CalARP facility, provide a brief explanation regarding the closure of the facility.

By the 2<sup>nd</sup> Progress Report, the CUPA will provide a statement to CalEPA confirming that each stationary source has an updated RMP, or has submitted a de-registration pursuant to CCR, Title 19, Section 2745.10 (c) or (d).

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**7. DEFICIENCY:**

The CUPA is not consistently following up and documenting return to compliance (RTC) information in CERS for Aboveground Petroleum Storage Act (APSA) tank facilities cited with violations.

Review of CERS CME information indicates there is no documented RTC for the following violations:

- Fiscal Year (FY) 2020/2021
  - 3 of 7 (43%) violations

**CITATION:**

HSC Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)

[OSFM]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each APSA tank facility with open violations (no RTC) cited between July 1, 2020, and June 30, 2021:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the appropriate enforcement taken by the CUPA to ensure RTC.

The CUPA will prioritize follow-up actions with each facility based on the level of hazard present to public health and the environment.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

By the 3<sup>rd</sup> Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM, that include RTC documentation, or a narrative of the applied enforcement taken by the CUPA in the absence of RTC.

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#### 8. DEFICIENCY:

The CUPA is not submitting Quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter when state surcharge revenues are remitted.

The following Quarterly Surcharge Transmittal Reports were not received by the required due date:

- FY 2019/2020
  - The 1<sup>st</sup> Fiscal Quarter (FQ) report was due October 30, 2019, and submitted December 23, 2019
  - The 4<sup>th</sup> FQ report was due July 30, 2020, and submitted October 27, 2020
- FY 2020/2021
  - The 1<sup>st</sup> FQ report was due October 30, 2020, and submitted October 14, 2021
  - The 2<sup>nd</sup> FQ report was due January 30, 2021, and submitted October 14, 2021
  - The 3<sup>rd</sup> FQ report was due April 30, 2021, and submitted November 10, 2021
  - The 4<sup>th</sup> FQ report was due July 30, 2021, and submitted November 10, 2021
- FY 2021/2022
  - The 1<sup>st</sup> FQ report was due October 30, 2021, and submitted May 11, 2022
  - The 2<sup>nd</sup> FQ report was due January 30, 2022, and submitted June 15, 2022
  - The 3<sup>rd</sup> FQ report was due April 30, 2022, and submitted September 2, 2022
  - The 4<sup>th</sup> FQ report was due July 30, 2022, and submitted August 26, 2022

#### CITATION:

CCR, Title 27, Section 15250(b)(1) and (2)  
[CalEPA]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will have submitted to CalEPA the 3<sup>rd</sup> Quarterly Surcharge Transmittal Report for FY 2022/2023 by the required due date using the current Quarterly Surcharge Transmittal Report template.

Thereafter, the CUPA will ensure that state surcharge remittance and each Quarterly Surcharge Transmittal Report are provided to CalEPA no later than 30 days after the end of each FQ during which the state surcharge was collected.

Note: Effective June 25, 2021, CalEPA increased the Unified Program Oversight Surcharge by a total of \$35, from \$49 to \$84. The \$35 increase includes a \$27 allocation to fund the CERS NextGen Project support staff and resources for minimizing the risk of failure of the current CERS system and for the statewide transition to the CERS 3.0 system. CalEPA has revised the

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

Quarterly Surcharge Transmittal Report template to reflect the increased CUPA Oversight state surcharge, which became effective July 1, 2021, and includes an assessment for the CERS NextGen Project. The revised Quarterly Surcharge Transmittal Report template is available at: [https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf) and should be submitted to [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov). Each line item on the Surcharge Transmittal Report template should be completed, including the check number.

Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, the July 1, 2018, version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27.

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**9. DEFICIENCY:**

The CUPA is not consistently implementing UST closure requirements.

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672(d) (UST Regulations) and HSC, Division 20, Chapter 6.7, Section 25298(c).

Review of UST facility files finds the following examples:

- CERS ID 10200013
- CERS ID 10407757

Note: The examples provided above may not represent all instances of this deficiency.

Note: State Water Board UST Program Leak Prevention Frequently Asked Question 15 ([https://www.waterboards.ca.gov/ust/leak\\_prevention/faq15.shtml](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml)) may be referenced.

**CITATION:**

HSC, Chapter 6.7, Section 25298(c)  
CCR, Title 23, Section 2670 and 2672(d)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the UST closure procedure or other applicable procedure, to ensure the establishment of a process, which will include at minimum, how the CUPA will:

- Provide UST closure documentation to the UST owner or operator, which demonstrates, to the satisfaction of the CUPA, that UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC.
- Document identification of each UST removed from the site. UST identification can include the size of the UST, the contents of the UST, the UST CERS ID, and/or the construction of the UST (i.e., single-walled, double-walled, what the UST is made of).

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

### UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

#### DEFICIENCIES REQUIRING CORRECTION

- Maintain UST closure documents to demonstrate UST owners or operators closed in place or removed USTs correctly.

Additionally, the CUPA will review and revise the UST “No Further Action Required” closure letter template for sites with and without contamination if separate letters are issued for those scenarios. The CUPA will remove the phrase “No Further Action Required” from the closure letter template. The CUPA may consider including the following items in the UST closure letter template:

- Title of the UST Closure Letter
- Site Address
- CERS tank IDs
- Date(s) of removal or permanent closure
- UST identification (i.e., single-walled, double walled, what the UST is made of)
- Identification of any remaining UST(s), if applicable
- Confirmation that UST(s) have been permanently closed. The following language is an example: “The Merced County CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Section 2670 and 2672 and HSC, Chapter 6.7, Section 25298(c).”

The CUPA will provide the revised UST closure procedure, or other applicable procedure, and the revised UST closure letter template(s) to CalEPA.

By the 2<sup>nd</sup> Progress report, if amendments to the revised UST closure procedure or other applicable procedure and/or amendments to the UST closure letter template(s) are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST closure procedure or other applicable procedure and/or amended UST closure letter template(s). If no amendments to the revised UST closure procedure or other applicable procedure and/or no amendments to the revised UST closure letter template(s) are necessary, the CUPA will train UST inspection staff on the revised UST closure procedure or other applicable procedure and the revised UST closure letter template(s). The CUPA will provide training documentation to CalEPA, which, at minimum, will include the date the training was conducted, an outline of training conducted, and a list of UST inspection staff in attendance. Once training is complete the CUPA will implement the revised UST closure procedure or other applicable procedure and/or the revised UST closure letter template(s).

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST closure procedure or other applicable procedure and/or amendments to the revised UST closure letter template(s) were necessary, the CUPA will train UST inspection staff on the amended UST closure procedure or other applicable procedure and/or the amended UST closure letter template(s). The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended UST closure procedure or other applicable procedure and/or the amended UST closure letter template(s).

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the revised or amended UST closure letter template and will provide the updated closure documentation upon request.

For the next two UST closures, and until considered corrected, the CUPA will provide CalEPA with the UST closure documentation, including sampling results, that demonstrates to the satisfaction of the CUPA that UST permanent closure and/or groundwater sampling complies with UST Regulations and HSC.

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**10. DEFICIENCY:**

The UST operating permit and permit conditions, issued under the Unified Program Facility Permit (UPFP), as the “Health Permit to Operate,” are inconsistent with UST Regulations and HSC requirements.

Review of UST operating permits and permit conditions finds the following inconsistencies with UST Regulations and HSC:

- The “Health Permit to Operate” states a requirement to comply with federal regulations, however the CUPA does not have authority to implement federal rule.
- The UST operating permit references HSC, Chapter 6.75.
  - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite Chapter 6.75. The correct citations are as follows:
    - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.

**CITATION:**

HSC, Chapter 6.7, Section 25297.01(b)  
CCR, Title 23, Section 2712(i)  
CCR, Title 27, Sections 15110(q) and 15190(h)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will revise the UST operating permit and permit conditions template (issued as the “Health Permit to Operate” under the UPFP) to be consistent with UST Regulations and HSC. The CUPA will provide the revised UST operating permit and permit conditions template to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST operating permit and permit conditions template, based on feedback from the State Water Board, and will provide the amended UST operating permit and permit conditions template to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST operating permit and permit conditions as the “Health Permit to Operate” under the UPFP. The CUPA will provide CalEPA with the “Health Permit to Operate” issued under the UPFP to five UST facilities using the revised UST operating permit and permit conditions template.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

By the 3rd Progress Report, if amendments to the revised UST operating permit and permit conditions template were necessary, the CUPA will begin to issue the amended UST operating permit and permit conditions as the “Health Permit to Operate” under the UPPF and will provide CalEPA with the “Health Permit to Operate” issued under the UPPF to five UST facilities using the revised UST operating permit and permit conditions template.

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**11. DEFICIENCY:**

The CUPA is not ensuring UST Program related information in CERS is accurate and complete.

Review of the UST Facility/Tank Data Download report obtained from CERS on June 8, 2022, finds UST construction and leak detection information are incorrect as follows:

- 21 of 344 (6%) tanks are listed with no Striker Plate/Bottom Protector
- 3 of 21 (14%) single-wall USTs are incorrectly listed with secondary containment construction
- 27 of 67 (40%) continuous vacuum, pressure, or hydrostatic (VPH) Systems indicate having to conduct Enhanced Leak Detection (ELD) Testing
- 25 of 67 (37%) VPH Systems indicate having to conduct secondary containment testing
- 4 of 4 (100%) systems with single-walled pressurized piping list having mechanical line leak detection
- 4 of 4 (100%) systems with single-walled pressurized piping list having pipeline integrity testing
- 2 of 5 (40%) single-walled UST systems list a form of secondary containment
- 5 of 21 (24%) single-walled tanks list continuous electronic monitoring
- 12 of 21 (62%) single-walled UST systems indicate containing motor vehicle fuel that is not marked as “Steel+Internal Lining.”

Note: The examples provided above may not represent all instances of this deficiency.

**CITATION:**

HSC, Chapter 6.7, Sections 25290.1  
CCR, Title 23, Sections 2632(d)(1), 2634(d), 2711(d)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to review CERS UST submittal information regarding construction and leak detection requirements for accuracy and completeness based on the UST installation date, which will, at minimum include the following:

- When UST CERS submittal information is identified as incorrect, the CUPA will either:
  - accept UST CERS submittals with minor errors utilizing a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

- not accept UST CERS submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When the UST CERS submittal is not corrected and resubmitted within the time specified by the CUPA, the CUPA will apply enforcement per the I&E Plan.

The CUPA will provide the revised/amended Data Management Procedure, or other applicable procedure to CalEPA.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised Data Management Procedure, or other applicable procedure.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended Data Management Procedure, or other applicable procedure.

With respect to UST Program submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete UST Program submittals when the next submittal is made, but no later than the next annual UST compliance inspection.

By the 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review five UST submittals accepted by the CUPA in CERS, subsequent to UST inspection staff receiving training on the Data Management Procedure, or other applicable procedure.

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**12. DEFICIENCY:**

The CUPA is not consistently ensuring RTC for UST testing and leak detection violations is obtained within 60 days and documented in CERS.

Review of CERS CME information finds UST facilities did not obtain RTC for testing and leak detection violations within 60 days for the following FYs:

- FY 2018/2019
  - 25 of 164 (15%)
  - The following are examples:

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

### UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

#### DEFICIENCIES REQUIRING CORRECTION

- CERS ID 10402969: "Owner/Operator did not properly install, calibrate, operate and/or maintain leak detection equipment. The following floats and chains did not trigger the shear valve to close when tested: #5/6 - 87 grade, #7/8 - 87 and 91 grades, and #11/12 - 91 grade. The monitoring panel was going into alarm during the Annual Monitoring Certification inspection; however, the panel was not printing the alarm report for each alarm triggered."
- CERS ID 10497538: "The 12/18/18 secondary containment test results indicate a failure at the 87 N STP, 87 S STP, UDC 1/2, and UDC 3/4. All secondary containment for the UST system must be tight and confirmed by testing."
- FY 2019/2020
  - 42 of 180 (23%)
  - The following is an example:
    - CERS ID 10495636: "Failure of the functional line leak detector (LLD) monitoring pressurized piping to meet one or more of the following requirements: Monitored with the capability of detecting a release of 3.0 gallons per hour leak at 10 pounds per square inch within an hour and restrict or shut off the flow of product through the piping when a leak is detected."
- FY 2020/2021
  - 27 of 154 (18%)

Review of CERS CME information finds testing and leak detection violations for the following UST facilities with single walled components have no documented RTC:

- CERS ID 10609945
  - Violation Date: November 12, 2019
  - "Failure to comply with one or more of the following requirements for the cathodic protection system: Install corrosion protection for USTs and/or the field-installed cathodic protection system to meet the consensus standards..."
- CERS ID 10497448
  - Violation date: February 17, 2021
  - "OBSERVATION: Owner/Operator did not properly install, calibrate, operate and/or maintain leak detection equipment. At the time of inspection, the Veeder-Root Monitoring Panel backup battery failed when conducting the "Power Out" test, and a reboot/cold start was performed to reprogram the panel."
- CERS ID 10609945
  - Violation date: July 29, 2021
  - "OBSERVATION: Owner/Operator did not have a properly qualified service technician test leak detection equipment every 12 months (VPH, sensor, LLD, ATG, etc.). The last annual monitoring certification test took place on October 16, 2017, and indicated multiple failures."

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

- CERS ID 10410586
  - Violation date: October 1, 2021
  - “OBSERVATION: Owner/Operator failed to maintain a system that is fail-safe and capable of shutting down the pump when a leak is detected and a monitoring system capable of shutting down the pump or stops the flow (flow restriction) when a leak is detected in the under dispenser containment.”
- CERS ID 10497448
  - Violation date: February 16, 2022
  - “OBSERVATION: Repeat Violation. Owner/Operator failed to properly maintain the cathodic protection system. At the time of inspection, records of the most recent cathodic protection test results were not found on-site and although the cathodic protection equipment was turned on, the system was not working and had a reading of zero (0) amps.”

Note: The examples provided above may not represent all instances of this deficiency and only include testing and leak detection violations.

**CITATION:**

HSC, Chapter 6.7, Section 25288(d)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review the I&E Plan, or other applicable procedure, and revise as necessary, to ensure a process has been established for UST inspection staff to document:

- follow-up actions taken by the CUPA to ensure RTC is achieved within 60 days by UST facilities cited with violations
- RTC in CERS for facilities that obtain RTC within 60 days, and
- any applied enforcement.

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 1<sup>st</sup> Progress Report the CUPA will provide RTC or documentation of applied enforcement for CERS IDs 10609945 and 10497448.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

By the 3<sup>rd</sup> Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

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**13. DEFICIENCY:**

The CUPA is not correctly reporting CME information to CERS for the UST Program.

Review of UST compliance inspection reports, associated monitoring certifications, and CERS CME information finds the “General” CERS violation type number was used to report UST Program violations when a specific CERS violation type number was available and should have been used.

As a result, United States (U.S.) Environmental Protection Agency (EPA) Technical Compliance Rate (TCR) reporting is inaccurate.

The following are examples:

- CERS ID 10146177: The CUPA cites “General” CERS violation type number 2010 for failure to “... conduct overfill prevention testing by October 13, 2018, per California Code of Regulations Title 23, Division 3, Chapter 16, section 2637.2.” The correct CERS violation type number is 2030036.
- CERS ID 10200091: The CUPA cites “General” CERS violation type number 2010 for “Overfill equipment testing was not conducted per the California Code of Regulations Title 23 chapter 16, section 2337.2. The overfill prevention equipment was to be tested by October 13, 2018, and every 36 months thereafter.” The correct CERS violation type number is 2030036.
- CERS ID 10418710: The CUPA cites “General” violation type number 2010 for “Overfill equipment testing was not conducted per the California Code of Regulations Title 23 chapter 16, section 2337.2.” The correct CERS violation type number is 2030036.

Note: The examples provided above may not represent all instances of this deficiency.

Note: The UST Inspection Report template includes a “Summary of Violations,” which has an “Overall Inspection Comments” section that denotes Significant Operational Compliance (SOC) is to be reported to the State Water Resources Control Board (SWRCB) and U.S. EPA. The “Overall Inspection Comments” section should be revised to reflect TCR as the current U.S. EPA reporting requirement.

**CITATION:**

CCR, Title 23, Section 2713(c)

CCR, Title 27, Section 15290(a)(3)

[State Water Board]

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

### UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

#### DEFICIENCIES REQUIRING CORRECTION

##### **CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to correctly cite all UST violations on UST compliance inspection reports, report all UST violations in CERS, and provide accurate TCR reporting. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with the annual UST compliance inspection report and Overfill Prevention Equipment Inspection Report Form for five UST facilities, as requested by the State Water Board, that have received an overfill prevention equipment inspection after training of UST inspection staff has been completed. For each UST facility that is not in compliance with overfill prevention equipment inspection requirements, the CUPA will provide CalEPA with a narrative of the applied appropriate enforcement, which may include, but not be limited to, affixing red tags to non-compliant USTs.

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#### **14. DEFICIENCY: CORRECTED DURING EVALUATION**

The CUPA is not consistently ensuring APSA tank facilities annually submit an HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement.

Review of HMBP submittals to CERS by APSA tank facilities in lieu of a tank facility statement on November 16, 2022, indicates:

- 102 of 288 (35%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months, including 6 APSA tank facilities that do not have a submittal in CERS.
- 103 of 288 (36%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months, including 6 APSA tank facilities that do not have a submittal in CERS.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

**CITATION:**

HSC, Chapter 6.67, Section 25270.6(a)  
[OSFM]

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, a sufficient number of APSA tank facilities that had not submitted a chemical inventory and site map or emergency response and employee training plans within the last 12 months did submit an HMBP to CERS, in lieu of a tank facility statement.

Review of HMBP submittals to CERS by APSA tank facilities, in lieu of a tank facility statement on January 27, 2023, indicates:

- 34 of 281 (12%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 38 of 280 (14%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months, including 6 APSA tank facilities that do not have a submittal in CERS.

This deficiency is considered corrected. No further action is required.

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**15. DEFICIENCY: CORRECTED DURING EVALUATION**

The CUPA is not inspecting each APSA tank facility that stores 10,000 gallons or more of petroleum for compliance with the SPCC Plan requirements of the APSA Program at least once every three years.

Review of facility files, CERS CME information, and information provided by the CUPA indicates:

- 16 out of 70 (23%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.

**CITATION:**

HSC, Chapter 6.67, Section 25270.5(a)  
[OSFM]

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, the CUPA completed additional APSA tank facility inspections.

Review of facility files, CERS CME information and information provided by the CUPA on January 27, 2023, indicates:

- 12 of 70 (17%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.

This deficiency is considered corrected. No further action is required.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

Incidental findings identify specific incidents or activities regarding implementation of the Unified Program. Though incidental findings do not rise to the level of program deficiencies or inadequate implementation of the Unified Program, the CUPA must complete the resolution indicated as required by regulation or statute.

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**1. INCIDENTAL FINDING:**

The 2022 area plan is missing required elements.

Review of the area plan last updated on May 10, 2022, finds the following required elements are missing:

- Provisions for training of emergency response personnel in the following areas:
  - Health and safety procedures for response personnel
  - Identification of medical facilities capable of providing treatment appropriate for hazardous material incidents, to include pesticide drift exposure incidents
  - First-aid procedures for hazardous material incidents, including pesticide exposure
  - Procedures for informing the public during emergencies
  - Psychological stress that may be encountered during disaster operations
- Provisions for evacuation plans that provide for the following elements:
  - Possible release scenarios
  - Ingress and egress routes and alternatives
  - Procedures for post-emergency period population recovery

**CITATION:**

HSC, Chapter 6.95, Section 25503(d)(2)  
CCR, Title 19, Article 3, Sections 2645 and 2646  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised area plan that includes all required elements.

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**2. INCIDENTAL FINDING:**

The CUPA is not correctly or consistently reporting CME information to CERS for the APSA Program.

Review of CERS CME information, inspection reports, and other information provided by the CUPA indicates the following inspections were incorrectly categorized:

- CERS ID 10595728: An inspection dated April 25, 2019, is categorized as “routine” on the inspection report and as “other” in CERS.
- CERS ID 10498282: An inspection dated May 31, 2019, is categorized as “routine” on the inspection report and as “other” in CERS.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### INCIDENTAL FINDINGS REQUIRING RESOLUTION

- CERS ID 10492306: An inspection dated July 18, 2022, is categorized as “routine” on the inspection report. Duplicates of the same inspection are in CERS as “other” and “routine.”

Review of CERS CME information, inspection reports, and other information provided by the CUPA indicates the following violations and inspections were inconsistently reported:

- CERS ID 10500400: An inspection dated June 7, 2019, has no violations observed on the inspection report and one violation in CERS.
- CERS ID 10492306: An inspection dated May 8, 2019, has 7 violations observed on the inspection report and 8 violations in CERS.
- CERS ID 10492402: An inspection dated September 20, 2019, has 3 violations observed on the inspection report and 4 violations in CERS.
- CERS ID 10840702: The facility inspection spreadsheet provided by the CUPA indicates an inspection on April 20, 2022. CERS has no record of the inspection.
- CERS ID 10499224: The facility inspection spreadsheet provided by the CUPA indicates an inspection on August 23, 2019. CERS has no record of the inspection.

Note: The examples provided above may not represent all instances of this finding.

#### **CITATION:**

HSC, Chapter 6.11, Section 25404(e)(4)  
CCR, Title 27, Sections 15187(c) and 15290(a)(3) and (b)  
[OSFM]

#### **RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan for reporting APSA Program CME information correctly and consistently to CERS. The action plan will include, at minimum, the following:

- Identification and correction of the cause(s) of missing or incorrect APSA Program CME information reported to CERS, including any data transfer from the CUPA’s data management system to CERS;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure APSA Program CME information is correctly and consistently reported to CERS;
- Identification of all APSA Program CME information that was not previously reported to CERS, or reported to CERS incorrectly or inconsistently, between July 1, 2018, and June 30, 2022;
- A process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly or inconsistently to CERS, including CME information for any revised inspection reports; and
- Future steps to ensure all APSA Program CME information is correctly and consistently reported to CERS. This may generate the need for a comparison of APSA Program CME information in the CUPA’s data management system with CERS to identify CME information not being reported or being reported incorrectly or inconsistently to CERS.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM, that include an inspection report or RTC documentation.

By the 3<sup>rd</sup> Progress Report, the CUPA will correctly and consistently report all current and prior APSA Program CME information to CERS. The CUPA will provide a statement confirming the completion of reporting all prior APSA Program CME information to CERS that was not previously reported, or previously reported incorrectly to CERS between July 1, 2018, and June 30, 2022.

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**3. INCIDENTAL FINDING:**

The Self-Audit Reports for FYs 2019/2020, 2020/2021, and 2021/2022 have missing components.

- The following components are missing:
  - A report of deficiencies with a plan of correction
  - An indication that each report was completed before September 30<sup>th</sup> of the preceding fiscal year

Note: This incidental finding was identified in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

**CITATION:**

CCR, Title 27, Section 15280(c)  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, or September 30, 2023, (whichever occurs first), and with each subsequent year, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of compilation to demonstrate the report was compiled by September 30<sup>th</sup>.

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**4. INCIDENTAL FINDING:**

Required components of the I&E Plan are incomplete.

Review of the I&E Plan finds the following component is incomplete:

- Red Tag Procedures (USTs Only)
  - Section (5)(A) states, “No owner or operator of a UST system may deposit or allow for the deposit of any petroleum product into a tank which has a red tag affixed.”
    - The correct citation from HSC, Division 20, Chapter 6.7, Section 25292.3(c)(1)(c), effective January 1, 2019, states, “A person shall not input into or withdraw from an underground storage tank system that has a red tag affixed...”

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT**

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**CITATION:**

HSC Chapter 6.7, Section 25292.3(c)(1)(c)  
[State Water Board]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise the I&E Plan to accurately incorporate all required components. The CUPA will provide the revised I&E Plan to CalEPA.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train personnel, including UST inspection staff, on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train personnel, including UST inspection staff, on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan.

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**5. INCIDENTAL FINDING:**

The CUPA is not inspecting all UST facilities at least once every 12 months.

Review of Semi-Annual Report (Report 6) in CERS finds the following UST facilities were not inspected at least once every 12 months:

- FY 2019/2020
  - 90 of 113 (80%)
- FY 2020/2021
  - 52 of 115 (45%)
- FY 2021/2022
  - 112 of 117 (95%)

Note: The impacts of COVID-19 significantly affected the ability of the CUPA to conduct UST inspections in FY 2019/2020. There has been a substantial improvement in the number of UST inspections conducted between FYs 2020/2021 and 2021/2022.

**CITATION:**

HSC, Chapter 6.7, Section 25288(a)  
[State Water Board]

**RESOLUTION:**

By the 1st Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with annual UST compliance inspection reports until all UST facilities have been inspected within the last 12 months.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

Observations and recommendations identify areas of Unified Program implementation that could be improved and provide suggestions for improvement. Though the CUPA is not required by regulation or statute to apply the recommendations provided, the CUPA would benefit in applying the recommendations provided to improve the overall implementation of the Unified Program.

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#### 1. OBSERVATION:

The information below is a summary of the overall implementation of the HWG Program and the CUPA's hazardous waste related activities based upon review of policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between July 1, 2019, and June 30, 2022:

- CERS indicates 830 facilities self-identified as HWGs, 10 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, and 4 Tiered Permitted facilities.
- The three-year inspection frequency for all HWG facilities is currently not being met.
- The CUPA conducted 724 total HWG inspections including "routine" and "other" inspection types.
  - The CUPA conducted 602 "routine" HWG inspections, of which 332 (55%) had no violations cited and 270 (45%) had at least one violation cited.
    - In the 270 inspections performed with at least one violation, 592 total violations were cited, consisting of:
      - 5 Class I violations,
      - 148 Class II violations, and
      - 439 minor violations.
    - The CUPA has ensured RTC for 536 of 592 (91%) violations cited.
- The CUPA completed no formal enforcement actions for hazardous waste related violations.
- Inspection reports show dramatic improvement since the 2019 CUPA Performance Evaluation. Inspection reports contain detailed comments that note the factual basis of cited violations and corrective actions as well as indicate consent to inspect was requested prior to the inspection.
- During the evaluation, some coding issues for on-site treatment were identified in CERS and the CUPA was able to work with regulated businesses to ensure the information entered by the businesses on the Business activities page was correct.
- The CUPA's website (<https://www.countyofmerced.com/1830/CUPA-Hazardous-Materials-Waste-Info.html>) has information on hazardous waste for obtaining a U.S. EPA ID.

DTSC was unable to conduct oversight inspections due to COVID-19 restrictions.

#### RECOMMENDATION:

Continue with the three-year HWG inspection frequency and applied enforcement efforts in addition to generating quality inspection reports. Continue to check for correct information entered by businesses on the CERS Business activities page and in CERS submittals. Review

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

the most common violations cited during HWG inspections and provide outreach on the CUPA website such as information regarding how to comply with those common violations and links to the DTSC website (<https://dtsc.ca.gov/generators/>).

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#### 2. OBSERVATION:

The following is a summary of inspection and violation information based on review of facility files and CERS CME information for the HMBP and CalARP Programs:

##### HMBP Program:

- July 1, 2019, through June 30, 2020
  - The CUPA conducted 338 “routine” inspections, of which 124 (37%) had no violations cited and 214 (63%) had at least one violation cited.
  - A total of 683 violations were cited during “routine” inspections, consisting of:
    - 59 (9%) Class II violations
    - 624 (91%) minor violations
  - The CUPA has ensured RTC for 671 of 683 (98%) violations cited.
- July 1, 2020, through June 30, 2021
  - The CUPA conducted 253 “routine” inspections, of which 93 (37%) had no violations cited and 160 (63%) had at least one violation cited.
  - A total of 422 violations were cited during “routine” inspections, consisting of:
    - 3 (<1%) Class I violations
    - 56 (13%) Class II violations
    - 363 (86%) minor violations
  - The CUPA has ensured RTC for 407 of 422 (96%) violations cited.
- July 1, 2021, through June 30, 2022
  - The CUPA conducted 208 “routine” inspections, of which 111 (53%) had no violations cited and 97 (47%) had at least one violation cited.
  - A total of 349 violations were cited during “routine” inspections, consisting of:
    - 1 (<1%) Class I violations
    - 82 (23%) Class II violations
    - 266 (76%) minor violations
  - The CUPA has ensured RTC for 296 of 349 (85%) violations cited.

##### Cal ARP Program:

- July 1, 2019, through June 30, 2020
  - The CUPA conducted 7 “routine” inspections, of which 1 (1%) had no violations cited and 6 (99%) had at least one violation cited.
  - A total of 27 violations were cited during “routine” inspections, consisting of:
    - 1 (4%) Class I violations
    - 3 (11%) Class II violations
    - 23 (85%) minor violations
  - The CUPA has ensured RTC for 23 of 27 (85%) violations cited.
- July 1, 2020, through June 30, 2021
  - The CUPA conducted 3 “routine” inspections, of which 1 (33%) had no violations cited and 2 (67%) had at least one violation cited.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

- A total of 9 violations were cited during “routine” inspections, consisting of:
  - 9 (100%) minor violations.
- The CUPA has ensured RTC for 8 of 9 (89%) violations cited.
- July 1, 2021, through June 30, 2022
  - The CUPA conducted 2 “routine” inspections, of which 0 (0%) had no violations cited and 2 (100%) had at least one violation cited.
  - A total of 29 violations were cited during “routine” inspections, consisting of:
    - 2 (7%) Class I violations
    - 7 (24%) Class II violations
    - 20 (69%) minor violations.
  - The CUPA has ensured RTC for 3 of 29 (10%) violations cited.

**RECOMMENDATION:**

Maintain the three-year inspection frequency for all HMBP and all CalARP facilities, as required by statute. Ensure complete and thorough inspections are conducted to identify all violations at facilities. Maintain detailed inspection reports that include factual basis and proper citation for each cited violation. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan when facilities do not obtain RTC.

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**3. OBSERVATION:**

The CERS reporting requirement is currently set as “APSA Applicable” for 288 APSA tank facilities. The CUPA’s data management system identifies 275 APSA related tank facilities.

- 264 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 24 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system. Some of these facilities are likely not APSA regulated, and the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable” for each facility. Some of these facilities are APSA regulated, and the CUPA should update the local data management system appropriately.
- 11 tank facilities identified as APSA related tank facilities in the CUPA’s data management system are not identified in CERS. The CUPA should determine if the facilities are APSA facilities. Those that aren’t, should have the APSA reporting requirement set to “Not Applicable,” and should not be identified as APSA tank facilities in the CUPA’s data management system. Those that are APSA regulated should have the APSA reporting requirement set to “Applicable.”

**RECOMMENDATION:**

Complete the reconciliation of the APSA Program information in the CUPA’s data management system with CERS to ensure all APSA tank facilities are included in both systems.

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**4. OBSERVATION:**

SPCC Plans were submitted to CERS by APSA tank facilities as part of the APSA CERS submittals.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

SPCC Plans are not required to be provided as part of an APSA CERS submittal; therefore, SPCC Plans should not be uploaded to CERS. The APSA documentation upload section in CERS is for facilities to provide an annual tank facility statement, unless an HMBP is provided in lieu of a tank facility statement, or for providing other local reporting requirement documents.

**RECOMMENDATION:**

Utilize the regulator comments field in CERS to advise APSA tank facility owners and operators that SPCC Plans should not be included in future CERS submittals.

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**5. OBSERVATION:**

The I&E Plan contains information that is inaccurate or may benefit from improvement.

- Pages 4, 5, 6, 7, 27, and 44: The APSA program is referred to as “AST” or “Above Ground Storage Tank.”
- Page 28: Replace “AST” with “SPCC Plan” or “SPCC Rule.”
- Page 30: The matrix of enforcement options table could include the option of criminal case for APSA, per HSC, Section 25270.12.5.

**RECOMMENDATION:**

Update the I&E Plan as indicated above.

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**6. OBSERVATION:**

Some APSA tank facilities submitted an HMBP to CERS in lieu of a tank facility statement using an outdated emergency response and training plans template, which contains obsolete information.

**RECOMMENDATION:**

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template as part of the HMBP submittal to use the current 2022 version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available in CERS.

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**7. OBSERVATION:**

The CUPA’s website (<https://www.countyofmerced.com/1830/CUPA-Hazardous-Materials-Waste-Info>) contains resources and information for the public and regulated community that may benefit from improvement.

- Replace “Aboveground Storage Tank” or “Aboveground Storage” with Aboveground Petroleum Storage Act (APSA) or Aboveground Petroleum Storage Tanks.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

- The “Breakdown of SPCC Plans” document (<https://www.countyofmerced.com/DocumentCenter/View/21722/Breakdown-of-SPCC-Plans>) contains information that is inaccurate or may benefit from improvement.
  - In the first paragraph:
    - update the broken OSFM links to the current OSFM APSA website.
    - The statement regarding any facility with 1,320 gallons or more of petroleum having to prepare and implement an SPCC Plan is incorrect. The paragraph should clarify that certain tank facilities are exempt from preparing an SPCC Plan under APSA if certain conditions are met.
    - include all three types of tank facilities that are regulated under APSA for clarity
      - tank facilities that are subject to the SPCC rule,
      - tank facilities with 1,320 gallons or more of petroleum, and
      - tank facilities with one or more tanks in underground areas.
  - In the second paragraph:
    - Under ‘Which Plan Do I Need to Implement?’ replace the “APSA program” with the “SPCC rule.”
    - The statement on professional engineer (PE) certified SPCC Plans having to be recertified every 5 years is incorrect; recertification is required if there are technical amendments to the PE-certified SPCC Plan. All SPCC Plans must be reviewed by the owner or operator at least every five years.
  - In the “Tier I [Qualified Facility] SPCC Plan,” “Tier II [Qualified Facility] SPCC Plan,” and “Non-qualified Facilities” sections, replace all references to “**petroleum** storage capacity” with “**oil** storage capacity.”
  - In the “Non-qualified Facilities” section, update the reportable discharge information as follows: “Within any 12-month period, three years prior to the [SPCC] Plan certification date, or since becoming subject to the SPCC rule if in operation of less than three years, **there has been...**”
  - In the “Conditionally Exempt from APSA Requirements” section, replace the header with “Conditionally Exempt Tank Facilities.” Certain tank facilities are exempt from preparing an SPCC Plan under APSA if certain conditions are met, but the facilities are still required to meet all other APSA requirements (such as annual submittal of a tank facility statement, or HMBP in lieu of a tank facility statement, and payment of all applicable fees, including the APSA state surcharge).
  - The “Oil Production Facilities” section contains information that is incorrect. Update the information to be consistent with the 2014 Memorandum of Agreement (MOA) between the Geologic Energy Management Division (CalGEM, formerly the Division of Oil, Gas, and Geothermal Resources) and OSFM. Separation of authority between CalGEM and OSFM is outlined in this MOA. Tanks and pipelines located with the lease areas of oil and gas fields, and integrally associated with oil and gas production, are generally ‘attendant to’ oil and gas production, and, therefore, under CalGEM’s jurisdiction. Standalone tanks on the lease, not connected to the wellhead by physical pipeline, are considered integrally associated with oil and gas production.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

**RECOMMENDATION:**

Update the website and the “Breakdown of SPCC Plans” document.

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**8. OBSERVATION:**

The CUPA regulates several farms under the APSA Program. Effective January 1, 2016, Senate Bill (SB) 612 aligned the applicability threshold for farms with that of the Federal SPCC rule, which has increased to 2,500 gallons of oil or 6,000 gallons of oil (with no reportable discharge history) per the Federal Water Resources Reform and Development Act (WRRDA) of 2014.

Information on APSA and farms is available at: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/>.

More information on farms regulated under the Federal SPCC rule may be found on the U.S. EPA website at: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>.

**RECOMMENDATION:**

Review the list of conditionally exempt APSA tank facilities at farms, verify if the total oil storage capacity at each tank facility meets the WRRDA thresholds, and determine if each facility is still regulated as a conditionally exempt tank facility under APSA.

Farms that are no longer regulated under APSA due to SB 612 and WRRDA oil applicability thresholds should be identified in CERS as “APSA Not Applicable” by changing the CERS APSA facility reporting requirement from “Applicable” to “Not Applicable” for such farms.

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**9. OBSERVATION:**

Review of CERS finds the following facilities have UST systems with single-walled components which require permanent closure by December 31, 2025, in accordance with HSC Chapter 6.7, Section 25292.05:

- CERS ID 10402969
- CERS ID 10410586
- CERS ID 10491472
- CERS ID 10494973
- CERS ID 10495327
- CERS ID 10497448
- CERS ID 10497538
- CERS ID 10609945
- CERS ID 10426336
- CERS ID 10453819

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

**RECOMMENDATION:**

Continue to provide verbal and written reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirement for permanent closure of single-walled USTs.

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**10. OBSERVATION:**

The information below is a comparison of the total number of regulated facilities within each Unified Program element upon certification of the CUPA with present-day circumstance and the degree to which the number of regulated facilities has increased or decreased. The information is sourced from the following:

- Merced County Department of Public Health CUPA Application, dated November 4, 1996;
  - CERS “Summary Regulated Facilities by Unified Program Element” report, generated on October 7, 2022;
  - CERS “UST Inspection Summary Report (Report 6),” generated on October 7, 2022; and
  - Merced County Community and Economic Development Department Division of Environmental Health Review of Fee Accountability Program FY 2020-2021.
- Total Number of **Business Plan** Regulated Businesses and Facilities:
    - In 1996 Application: 755
    - Currently: 1238
    - An increase of 483 facilities
  - Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
    - In 1996 Application: 195
    - Currently: 121
    - A decrease of 74 facilities
  - Total Number of Regulated **USTs**:
    - In 1996 Application: 573
    - Currently: 347
      - The count of 347 includes 344 active petroleum systems and 3 active hazardous sub systems and does not include 6 petroleum systems and 3 hazardous sub systems that are considered “closed” in CERS.
    - A decrease of 226 USTs
  - Total Number of Regulated **Hazardous Waste Generator** Facilities:
    - In 1996 Application: 138
    - Currently: 829
    - An increase of 691 facilities

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

- **Total Number of Regulated Household Hazardous Waste (HHW) Facilities:**
  - In 1996 Application: Not specified
  - Currently: 3
  - Comments: HHW facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
  
- **Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
  - In 1996 Application: 23
  - Currently: 0
  - A decrease of 23 facilities
  
- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
  - In 1996 Application: Not specified
  - Currently: 11
  - Comments: RCRA LQG facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
  
- **Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
  - In 1996 Application: 19
  - Currently: 25
  - An increase of 6 facilities
  
- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
  - In 1996 Application: Not applicable
  - Currently: 288

Since the original application for certification was submitted in 1996, the CUPA has seen some fluctuations in the number of regulated facilities in nearly all Unified Program elements. In particular, the total number of regulated HMBP facilities increased by 483 (or 64%), the total number of RMPP/CalARP facilities increased by 6 (or 32%), and the total number of regulated HWG facilities increased by 691 (or 501%). The incorporation of the APSA program also added another 288 facilities not previously regulated by the CUPA when first certified. Over the same timeframe, the number of regulated facilities for the UST program decreased by 74 facilities (or 38%), the total number of regulated USTs decreased by 226 (or 39%), and the number of TP facilities decreased by 23 (or 100%).

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

### UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

#### OBSERVATIONS AND RECOMMENDATIONS

with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the Merced County Department of Public Health CUPA Application, dated November 4, 1996, and recent information provided by the CUPA.

- In 1996 Application
  - 6.71 budgeted FTEs for 8 staff positions
    - 1 Supervising Environmental Health Specialist (EHS) (0.66 FTE)
    - 5 EHS Inspectors (4.05 FTEs)
    - 2 Hazardous Materials Specialist (HMS) Inspectors (2 FTEs)
  - The application indicates a total of 2,301 staff hours and 900 managerial hours are required for implementation in FY 1996/1997, which equates to 1.1 FTE for staff and 0.43 FTE for management. The application also indicates one of the five EHS inspector positions as being “1/20” time, and the supervisor position as being “2/3” time.
- Currently
  - 5.03 budgeted FTEs for five positions (approx. 1.0 FTE for each position)
    - 1 EHS & HazMat Supervisor
    - 1 Registered Environmental Health Specialist (REHS) Inspector
    - 1 EHS Inspector
    - 2 HMS Inspectors
      - Note: At the time of this evaluation, one of the HMS Inspector positions was vacant.
  - Review of the Fee Accountability Program by the CUPA states 8,383 hours are required for program implementation. Utilizing a standard of 2,080 staff hours equal to 1 FTE, this is a total of 4.03 FTEs.

Since the CUPA applied for certification in 1996, an expansion of responsibilities in the HMBP, HWG, and APSA programs has occurred, increasing the workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. Additionally, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms to the implementation of electronic data reporting through local data management systems and CERS.

#### **RECOMMENDATION:**

Though the overall number available inspection staffing resources have decreased slightly over the last 27 years, the total number of regulated facilities has increased and number of regulated facilities within each Unified Program element have significantly changed, increasing the demands of the CUPA to ensure adequate regulatory oversight and implementation of the Unified Program.

Reevaluating the allocation of staff time and resources necessary to ensure adequate implementation of each program element, particularly with regard to the nature of the regulated community which has changed since certification, may assist in addressing and improving areas found to be deficient during this CUPA Performance Evaluation. Additionally, filling the vacant

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

Environmental Health Specialist position indicated on the provided CUPA organizational chart as quickly as possible will assist with obtaining adequate resources for implementation.

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**11. OBSERVATION:**

The CUPA is not registering Conditionally Exempt Small Quantity Generators (CESQGs).

Review of the Self-Audit report for FY 2020/2021 finds CESQGs are not registered.

- Page 4 states the CUPA "...is not registering Conditionally Exempt Small Quantity Generators (CESQG's). This program has been phased out years ago."

Very Small Quantity Generators (VSQGs) are also referred to as CESQGs, and both are subject to inspection and oversight under the Unified Program. CESQGs must be identified and inspected.

Note: Page 4 also references inspection information for FY 2017/2018 in items 2, 3a and 3b.

There is no regulatory exemption for the inspection of CESQGs, or VSQGs. In a letter addressed to DTSC, dated May 8, 2001, the California CUPA Forum Board requested an exemption to overseeing CESQGs and limiting CESQG facility oversight activities to encompass 5% of CUPA resources to inspect and regulate the facilities.

- Page 6 of the I&E Plan states a CESQG inspection frequency of once every three years, and includes a footnote referring to the May 8, 2001, CUPA Forum Board letter.

**RECOMMENDATION:**

Review the DTSC letter on oversight and regulation of CESQG facilities ([https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/11/CESQG\\_October\\_2021.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/11/CESQG_October_2021.pdf)).

Utilize the Hazardous Waste Tracking System (HWTS) to identify generators that are actively shipping hazardous waste either through a manifest, as part of a consolidated manifest, or drop off to local Household Hazardous Waste CESQG/VSQG collection programs and inspect the identified facilities. If CUPA staff require assistance in accessing and/or reviewing the requested information, DTSC can assist on an as needed basis. The CUPA should ensure the establishment of a process for regularly reviewing businesses within the jurisdiction of the CUPA to determine those that have opened or closed.

Remove the footnote on Page 6 of the I&E Plan, as it was never applicable.

Review and update the inspection information on Page 4 of the Self-Audit report for FY 2020/2021 regarding items 2, 3a and 3b.

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