

May 19, 2023

Marilyn Underwood, PhD
Director of Environmental Health
Santa Clara County Environmental Health
Hazardous Materials Compliance Division
1555 Berger Drive, Building 2, Suite 300
San Jose, California 95112-2716

Dear Dr. Underwood:

During June 2022 through April 2023, CalEPA and the state program agencies conducted a performance evaluation of the Santa Clara County Environmental Health, Hazardous Materials Compliance Division 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 (July 28, 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 the CalEPA Team Lead, Tim Brandt, at 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

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.

Sincerely,



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

Enclosures

cc sent via email:

Ms. Jennifer Kaahaaina
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cc sent via email:

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cc sent via email:

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Mr. John Paine
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Mr. Garrett Chan
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California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

Ms. Jessica Snow
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Santa Clara County Environmental Health, Hazardous Materials Compliance Division

Evaluation Period: June 2022 through April 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron
- **CalEPA:** Garrett Chan
- **State Water Board:** Tom Henderson
- **CAL FIRE-OSFM:** 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

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.

The first Evaluation Progress Report submittal date is: **July 28, 2023**

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
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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.

1. FREE TRAINING FOR HAZARDOUS WASTE GENERATOR (HWG) PROGRAM:

Since 2018, the CUPA has provided 30 Hazardous Waste Training sessions at no cost for members of the regulated community. Trainings take place every other month for regulated Small Quantity Generator (SQG) facilities. Between January 1, 2018, and December 31, 2022, SQG training courses organized by the CUPA were attended by 711 members of the regulated community.

The CUPA maintains records of attendance and issues training certificates for attendees. In the past, the CUPA has also provided training to the regulated community relative to Hazardous Material Business Plans (HMBPs), dry cleaners, and Hazardous Waste Generators (in Spanish).

2. CUPA TECHNICAL SUPPORT FOR DTSC AND THE HWG PROGRAM:

The CUPA has been an essential participant in the Lean Six Sigma response process, led by the DTSC Policy Unit. The CUPA has been instrumental in providing research in response to several regulatory issues identified as needing to be addressed statewide through the Hazardous Waste TAG process, from a local regulator perspective, under the Unified Program Administration and Advisory Group (UPAAG).

The CUPA routinely works with DTSC to develop guidance in response to regulatory questions and to provide feedback on actual inspection and field implementation of the HWG Program.

The CUPA is proactively engaged in the CUPA Forum Board Bay Area Region Hazardous Waste Technical Advisory Group (TAG).

The CUPA has partnered with DTSC in the development and delivery of various presentations at the annual Unified Program training conference on specific HWG Program topics.

3. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM SUPPORT:

The CUPA has actively participated and continues to participate in, and support, the overall implementation of the APSA Program, including:

- Fulfilling the co-chair role of the CUPA Forum Board's APSA Technical Advisory Group (TAG)
- Instruction of the Virtual APSA Basic Inspector Training course and participation in the revision of the APSA Basic Inspector Training course exam in 2021
- Instruction of the APSA track session at the 2020 annual Unified Program training conference

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- Fulfilling the APSA track coordinator role for the 2023 annual Unified Program training conference, including identification of needed sessions and instructors, as well as review and approval of session abstracts
 - Development of new and revision of old APSA violations for the Unified Program violation library
 - Development of language and participation in workgroups for proposed rulemaking
-

4. COMMITMENT TO HELP THE COMMUNITY AND OTHER REGULATING AGENCIES:

The CUPA and the Santa Clara County Central Fire Protection District Participating Agency (PA) have consistently contributed to the course development and presentation of sessions at the annual Unified Program training conference. The ability of the CUPA and the Santa Clara County Central Fire Protection District PA to balance the commitment to the implementation of the Unified Program while simultaneously assisting regulated facilities and the fellow CUPA community is appreciated.

5. 2018 CUPA PERFORMANCE EVALUATION DEFICIENCIES CORRECTED:

Upon closure of the 2018 CUPA Performance Evaluation, the CUPA continued to work towards improving Unified Program implementation by fulfilling the corrective actions for deficiencies identified as remaining uncorrected, and applicable to the 2022 CUPA Performance Evaluation. In conducting the assessment for the 2022 CUPA Performance Evaluation, the following deficiency previously identified as uncorrected upon closure of the 2018 CUPA Performance Evaluation is now considered corrected and no longer requires any further action:

- The CUPA, the Santa Clara County Fire Department PA and the City of Mountain View Fire Department PA are not consistently and correctly reporting inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information to the California Environmental Reporting System (CERS), relative to the Underground Storage Tank (UST) Program.

The City of Mountain View Fire Department PA is not consistently and correctly reporting significant operational compliance (SOC) criteria in CERS when UST violations are cited during annual UST compliance inspections.

6. CORONAVIRUS (COVID-19), STAFFING, AND WILDLAND FIRE RESPONSE IMPACTS:

CUPA inspection and enforcement efforts were impacted when field work restrictions were put in place as a result of COVID-19. Staff were only authorized to conduct routine field inspections for the UST program between March 2020 and May 2021. The Santa Clara County Department of Environmental Health, Hazardous Materials Compliance Division (HMCD) was also obligated to provide CUPA staff in support of Disaster Service Work (DSW) within Santa Clara County, including COVID-19 testing and vaccination, as well as the enforcement of local health orders. A total of 4.3 full-time equivalent (FTE) years of Hazardous Materials Specialist staff and 2.8 FTE years of Hazardous Materials Technician staff were diverted from Unified Program implementation to support DSW duties across 2020, 2021, and 2022.

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Subsequent to the 2018 CUPA Performance Evaluation, the HMCD lost three field inspectors, followed by the loss of another field inspector, two Senior Hazardous Materials Specialists, and a Supervising Hazardous Materials Specialist shortly after the start of the COVID-19 pandemic. The vacant Senior and Supervising Hazardous Materials Specialist positions were temporarily filled for approximately one year with staff working out of class in roles that included more administrative duties and less time for direct field work.

In addition, HMCD diverted staff time from three CUPA inspectors equating to approximately 1.3 FTE years in 2020 to support recovery efforts related to the Santa Clara Unit (SCU) Lightning Complex wildfire.

7. UNIFIED PROGRAM IMPLEMENTATION WITH VARIOUS PARTICIPATING AGENCIES (PAs)

The CUPA coordinates implementation of the Unified Program with three entities.

The Mountain View Fire Department PA administers the following Unified Program elements within the jurisdiction of the City of Mountain View:

- APSA Program: Permit issuance, Billing and Collection
- HWG Program: Permit issuance, Billing and Collection
- Acutely Hazardous Materials, California Accidental Release Prevention (CalARP) Program: Permit issuance, Billing and Collection
- UST Permit Program: Inspection, Enforcement, Permit issuance, Billing and Collection
- HMBP and Hazardous Materials Management Program (HMMP)/Hazardous Materials Inventory Statement (HMIS): Inspection, Enforcement, Permit issuance, Billing and Collection
- Onsite Hazardous Waste Treatment (Conditionally Exempt, Conditionally Authorized, Permit-By-Rule): Inspection, Enforcement, Permit issuance, Billing and Collection
- Minimal storage sites (short form permits): Inspection, Enforcement, Permit issuance, Billing and Collection

The Palo Alto Fire Department PA administers the following Unified Program elements within the jurisdiction of the City of Palo Alto:

- APSA Program: Inspection and Enforcement
- HMBP and Hazardous Materials Management Program (HMMP)/Hazardous Materials Inventory Statement (HMIS): Inspection and Enforcement
- Minimal storage sites (short form permits): Inspection, Enforcement

The Santa Clara County Central Fire Protection District administers the following Unified Program elements within the jurisdiction of Santa Clara County not otherwise regulated by a PA (including the cities of Campbell, Cupertino, and Los Gatos):

- UST Permit Program: Inspection and Enforcement
- HMBP and Hazardous Materials Management Program (HMMP)/Hazardous Materials Inventory Statement (HMIS): Inspection and Enforcement

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- Minimal storage sites (short form permits): Inspection and Enforcement

The established PA agreements with each agency allow for the CUPA to conduct Administrative Enforcement Orders (AEOs) in coordination with any PA.

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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.

1. DEFICIENCY:

The CUPA is not inspecting each HWG facility per the varying inspection frequencies established in the Inspection and Enforcement (I&E) Plan.

The CUPA is not inspecting each Tiered Permit (TP) facility within the first two years of operations and every three years thereafter, as required by statute.

Review of facility files and CERS CME information between July 1, 2017, and June 30, 2022, and additional information provided by the CUPA finds:

- 248 of 274 (91%) HWG facilities that generate between 25 and 2,000 or more tons of hazardous waste per year were not inspected every two years.
- 219 of 313 (70%) HWG facilities that generate between 5 and less than 25 tons of hazardous waste per year, are a Certified Appliance Recycler, are a recycle only Household Hazardous Waste antifreeze, batteries, oil, and paint (ABOP) Collection Facility, or are a Universal Waste Household were not inspected every three years.
- 1,525 of 2,979 (51%) HWG facilities that generate less than 100 kilograms or less than 5 tons of hazardous waste per year or are used oil only generators were not inspected every four years.
- 425 of 677 (63%) HWG facilities that generate less than 10 gallons of hazardous waste per were not inspected every five years.
Overall, 2,417 of 4,243 (57%) total HWG facilities were not inspected within the last five years.
- 46 of 86 (53%) TP facilities were not inspected within the first two years of operations and every three years thereafter.

Note: This deficiency was identified during the 2012, 2015, and 2018 CUPA Performance Evaluations, as documented in the Final Summary of Findings issued April 4, 2022, regarding HWG facility inspection frequency and remains uncorrected.

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:

During the evaluation, it was clarified that the initial inspection of a TP facility must take place after the facility's initial approved TP submission in CERS rather than upon the initial discovery of the facility and issuance of a comprehensive inspection report detailing the requirements for facility compliance. The CUPA provided a revised I&E Plan that correctly reflects the initial inspection is to be conducted at a TP facility within the first two years of operations and every

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three years thereafter. The CUPA will begin to apply the correct inspection frequency for TP facilities immediately.

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility is inspected per the inspection frequency established in the I&E Plan, and each TP facility is inspected within the first two years of operations and every three years thereafter as required by statute. The action plan will include, at a minimum:

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that has not been inspected per the inspection frequency established in the I&E Plan and each TP facility that has not been inspected within the first two years of operations and every three years thereafter. For each HWG facility and each TP facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - Applicable inspection frequency, and
 - Date of the last routine inspection.
- A schedule to inspect those identified HWG and TP facilities, prioritizing the most delinquent inspections to be completed within an expedited period of time based on risk.
- Future steps to ensure that all HWG facilities will be inspected per the inspection frequency established in the I&E Plan and each TP facility will be inspected within the first two years of operations and every three years thereafter; for example, a list of HWG facilities and/or a list of TP facilities and the anniversary date(s) of the next routine inspection(s), per the applicable established inspection frequency.

By the 2nd 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 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

By the 5th Progress Report, the CUPA will have inspected each delinquent HWG facility, and each delinquent TP facility identified in the spreadsheet provided with the 1st Progress Report.

2. DEFICIENCY:

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

Review of CERS CME information between January 1, 2020, and December 31, 2022, finds:

- 2,635 of 3,724 (71%) facilities subject to HMBP requirements were not inspected within the last three years.

Note: This deficiency was identified during the 2012, 2015, and 2018 CUPA Performance Evaluations, as documented in the Final Summary of Findings issued April 4, 2022, and remains uncorrected.

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

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

CORRECTIVE ACTION:

By the 1st 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 analysis and explanation as to why the triennial inspection frequency for each HMBP facility 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 sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected within the last three years. For each HMBP facility listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID; and
 - Date of the last routine inspection
- A schedule to inspect those HMBP facilities, prioritizing the most delinquent inspections to be completed within an expedited period of time based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years; for example, the generation of a list of all HMBP facilities and the anniversary date of the next routine HMBP inspection for each listed facility.

Note: The action plan does not need to include HMBP facilities subject to only the local reporting requirement.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

By the 5th Progress Report, the CUPA will have inspected each facility subject to HMBP requirements at least once in the last three years.

3. DEFICIENCY:

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

The CUPA is not inspecting other APSA tank facilities at least once every three years per the inspection frequency established in the I&E Plan.

The CUPA is not ensuring the City of Palo Alto Fire Department PA is inspecting each APSA tank facility once every year in accordance with the I&E Plan.

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DEFICIENCIES REQUIRING CORRECTION

Review of CERS CME information on February 3, 2023, and review of CME information from the CUPA's data management system indicates:

- 36 of 77 (47%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.
- 182 of 275 (66%) other APSA tank facilities have not been inspected within the last three years.
- 21 of 38 (55%) APSA tank facilities within the jurisdiction of the City of Palo Alto Fire Department PA have not been inspected within the last year.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA, in coordination with the City of Palo Alto Fire Department PA, will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility is inspected in accordance with the applicable established inspection frequency. The action plan will include at minimum:

- An analysis and explanation as to why the inspection frequency for the APSA 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 sortable spreadsheet exported from the CUPA's and/or City of Palo Alto Fire Department PA's data management system or CERS, identifying each APSA tank facility that has not been inspected within the established frequency. For each APSA tank facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - Category of APSA tank facility [such as 10,000 gallons or more, 1,320-9,999 gallons, tank in an underground area (TIUGA) with less than 1,320 gallons] and
 - Date of the last routine inspection.
- A schedule to inspect those tank facilities, prioritizing the most delinquent inspections to be completed within an expedited period of time based on a risk analysis of all APSA tank facilities (i.e., large volumes of petroleum, proximity to navigable water).
- Future steps to ensure each APSA tank facility will be inspected in accordance with the applicable established frequency.

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

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By the 5th Progress Report, the CUPA and the City of Palo Alto Fire Department PA will have inspected each APSA tank facility identified on the spreadsheet provided with the 1st Progress Report in accordance with the established frequency.

4. DEFICIENCY:

The CUPA is not consistently following-up and documenting RTC information in CERS for the HWG Program.

Review of CERS CME information, and information from the CUPA's data management system between July 1, 2013, and June 30, 2022, finds there is no documented RTC for the following HWG Program violations:

- 1,330 of 3,645 (36%) cited between July 1, 2019, and June 30, 2022
- 4,100 of 16,744 (24%) cited between July 1, 2013, and June 30, 2019

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations, as documented in the Final Summary of Findings issued April 4, 2022, and remains uncorrected.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)
HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[DTSC]

CORRECTIVE ACTION:

By the 1st 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 HWG facility with open violations (no RTC) cited between July 1, 2013, and June 30, 2022:

- 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 applied informal and formal enforcement actions 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.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

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DEFICIENCIES REQUIRING CORRECTION

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with 3 HWG facility records, as requested by DTSC, that include RTC documentation, or a description of the applied enforcement taken by the CUPA in the absence of RTC.

5. DEFICIENCY:

The CUPA is not consistently following up and documenting RTC information in CERS for APSA tank facilities cited with violations.

The CUPA is not ensuring the City of Palo Alto Fire Department PA is consistently following-up and documenting RTC information in CERS for APSA tank facilities cited with violations.

Review of CME information from the CUPA's data management system between July 1, 2014, and June 30, 2022, indicates there is no documented RTC for the following APSA Program violations cited by the CUPA:

- 153 of 335 (46%) cited between July 1, 2021, and June 30, 2022
 - including 2 violations for not having, or failure to prepare, an SPCC Plan
- 11 of 31 (35%) cited between July 1, 2020, and June 30, 2021
- 15 of 193 (8%) cited between July 1, 2019, and June 30, 2020
 - including 1 violation for not having, or failure to prepare, an SPCC Plan
- 61 of 460 (13%) cited between July 1, 2018, and June 30, 2019
 - including 3 violations for not having, or failure to prepare, an SPCC Plan
- 100 of 288 (35%) cited between July 1, 2017, and June 30, 2018
- 57 of 244 (23%) cited between July 1, 2016, and June 30, 2017
- 46 of 186 (25%) cited between July 1, 2015, and June 30, 2016
 - including 1 violation for not having, or failure to prepare, an SPCC Plan

Review of CERS CME information between July 1, 2021, and June 30, 2022, indicates there is no documented RTC for the following APSA Program violations cited by the City of Palo Alto Fire Department PA:

- 4 of 5 (80%) cited between July 1, 2021, and June 30, 2022
 - including 1 violation for not having, or failure to prepare, an SPCC Plan

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation relative to the APSA Program within the jurisdiction of the CUPA, as documented in the Final Summary of Findings issued April 4, 2022, and remains uncorrected.

Note: Upon closing the 2018 CUPA Performance Evaluation and prior to conducting the assessment for the 2022 evaluation, the CUPA obtained RTC for 135 of 145 (90%) of violations cited between July 1, 2014, and June 30, 2015.

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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 1st 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 for each APSA tank facility with open violations (no RTC) cited between July 1, 2015, and June 30, 2022; and
- The City of Palo Alto Fire Department PA's data management system or CERS for each APSA tank facility with open violations (no RTC) cited between July 1, 2021, and June 30, 2022.

The sortable spreadsheet will include, at minimum, the following information for each listed:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier;
- CUPA/PA name; and
- In the absence of obtained RTC, a narrative of the applied informal and formal enforcement actions taken by the CUPA or the City of Palo Alto PA to ensure RTC.

The CUPA, in coordination with the City of Palo Alto Fire Department PA, will prioritize follow-up actions with each facility based on the level of hazard present to public health and the environment.

By the 3rd Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records from the CUPA and two APSA tank facility records from the PA, as requested by OSFM, that include RTC documentation, or a description of the applied enforcement taken by the CUPA or the City of Palo Alto Fire Department PA in the absence of RTC.

By the 4th Progress Report, the CUPA, in coordination with the City of Palo Alto Fire Department PA, will have ensured each APSA tank facility identified in the spreadsheet provided with the 1st Progress Report as having an open violation (no RTC) for not having, or failure to prepare, an SPCC Plan has achieved compliance, or the CUPA or PA will have applied enforcement.

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DEFICIENCIES REQUIRING CORRECTION

6. DEFICIENCY:

The CUPA is not consistently following-up and documenting RTC information in CERS for regulated facilities subject to the HMBP Program.

Review of CERS CME information, and information from the CUPA's data management system between July 1, 2014, and June 30, 2022, finds there is no documented RTC for the following HMBP Program violations:

- 432 of 1,030 (42%) cited between July 1, 2021, and June 30, 2022
- 112 of 270 (41%) cited between July 1, 2020, and June 30, 2021
- 434 of 1,226 (35%) cited between July 1, 2019, and June 30, 2020
- 504 of 1,658 (70%) cited between July 1, 2018, and June 30, 2019
- 401 of 1,024 (39%) cited between July 1, 2017, and June 30, 2018
- 265 of 1,222 (22%) cited between July 1, 2016, and June 30, 2017
- 233 of 851 (27%) cited between July 1, 2014, and June 30, 2015

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued April 4, 2022, and remains uncorrected.

CITATION:

HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a)
[CalEPA]

CORRECTIVE ACTION:

By the 1st 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 HMBP facility with open violations (no RTC) cited between July 1, 2014, and June 30, 2022:

- 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 applied informal and formal enforcement actions 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.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

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By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with 3 HMBP facility records, as requested by CalEPA, that include RTC documentation, or a description of the applied informal and formal enforcement actions taken by the CUPA in the absence of RTC.

7. DEFICIENCY:

The CUPA is not consistently following-up and documenting RTC information in CERS for regulated facilities subject to the CalARP Program.

Review of CERS CME information, and information from the CUPA's data management system between July 1, 2020, and June 30, 2022, finds there is no documented RTC for the following CalARP Program violations:

- 24 of 39 (64%) cited between July 1, 2021, and June 30, 2022
- 4 of 17 (24%) cited between July 1, 2020, and June 30, 2021
- 1 of 2 (50%) cited between July 1, 2016, and June 30, 2017

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued April 4, 2022, and remains uncorrected.

CITATION:

HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a)
[CalEPA]

CORRECTIVE ACTION:

By the 1st 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 CalARP facility with open violations (no RTC) cited between July 1, 2016, and June 30, 2022:

- 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 applied 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.

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By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with 3 CalARP facility records, as requested by CalEPA, that include RTC documentation, or a description of the applied informal and formal enforcement actions taken by the CUPA in the absence of RTC.

8. DEFICIENCY:

The CUPA is not consistently ensuring RTC is obtained within 60 days and is not following up and documenting RTC information in CERS for UST Program facilities cited with violations.

Review of CERS CME information between January 1, 2020, and July 30, 2022, finds the following violations did not obtain RTC within 60 days:

- 108 of 261 (41%) cited between January 1, 2022, through July 30, 2022
- 327 of 635 (51%) cited between January 1, 2021, and December 31, 2021
- 261 of 547 (48%) cited between January 1, 2020, and December 31, 2020

Review of CERS CME information between July 1, 2016, and June 30, 2018, finds there is no documented RTC for the following UST Program violations:

- 561 of 1,154 (49%) cited between July 1, 2017, and June 30, 2018
- 274 of 1,226 (22%) cited between July 1, 2016, and June 30, 2017

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued April 4, 2022, relative to the CUPA not consistently following-up and documenting RTC information for UST Program facilities cited with violations during FYs 2016/2017 and 2017/2018 and remains uncorrected.

CITATION:

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

CORRECTIVE ACTION:

By the 1st 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.

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DEFICIENCIES REQUIRING CORRECTION

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 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 amended I&E Plan or other applicable procedure.

9. DEFICIENCY:

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

Review of HMBPs submitted to CERS between September 19, 2021, and October 19, 2022, by regulated businesses subject to Business Plan reporting requirements finds:

- 1,145 of 3,724 (31%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 1,192 of 3,724 (32%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations, as documented in the Final Summary of Findings issued April 4, 2022, and remains uncorrected

CITATION:

HSC, Chapter 6.95, Sections 25505(a), 25508(a), and 25508.2
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that all regulated businesses subject to Business Plan reporting requirements have annually submitted a complete HMBP or a no-change certification to CERS.

By the 1st 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

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regulated business subject to Business Plan reporting requirements that has not submitted a complete HMBP or no-change certification within the last 12 months:

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

By the 4th Progress Report, the CUPA will follow-up with each regulated business subject to Business Plan reporting requirements identified in the spreadsheet provided with the 1st Progress Report, to ensure a complete HMBP or a no-change certification has been submitted to CERS, or the CUPA will have applied enforcement.

10. DEFICIENCY:

The CUPA is not annually completing a Self-Audit report by September 30th of each year for the preceding FY.

The CUPA did not complete an annual Self-Audit report for FY 2019/2020, FY 2020/2021, nor FY 2021/2022.

Note: This deficiency was identified as an incidental finding during the 2018 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued April 4, 2022, regarding Self-Audit reports for FY 2015/2016, 2016/2017 and 2017/2018.

Note: The CUPA provided a draft of the Self-Audit report for FY 2021/2022, which included incomplete information. The template used to complete the draft Self-Audit report for FY 2021/2022 includes references to all Title 27 requirements.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report or September 30, 2023, (whichever occurs first), the CUPA will provide CalEPA with a completed Self-Audit report for FY 2022/2023 that includes all required components and incorporates a date of completion to demonstrate compilation by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of completion to reflect compilation by September 30th.

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DEFICIENCIES REQUIRING CORRECTION

11. DEFICIENCY:

The CUPA is not consistently applying enforcement as outlined in the I&E Plan.

Review of CERS CME information for UST facilities finds open violations (no RTC) have been repeatedly cited at UST facilities to include facilities owned by the county. The following UST facilities have been cited with repeat violations without obtaining RTC or without applied enforcement since 2016 or prior:

- CERS ID 10072420
 - Last documented enforcement was a Notice of Violation (NOV) issued in 2014.
 - The UST Inspection Report dated November 2021 noted: *“No corrective action documentation has been submitted in response to UST violations noted in Official Notices of Inspection dated 12/01/2020, 12/06/2019, 12/06/2018, 12/07/2017, 11/17/2016, and 11/30/2015. This is a repeat violation from previous years and has been escalated to a Class I violation.”*
- CERS ID 10135492
 - Last documented enforcement was a NOV issued in 2015.
 - The UST Inspection Report dated May 2022 noted: *“Facility has various open violations from a failure to respond to violations cited on Notices of Inspection dated: 12/3/2021, 5/28/2021, 12/30/2020, 6/2/2020, 5/31/2019, 5/29/2018, 8/22/2017, and 5/16/2016. This is cited as a Class I violation due to repeated failure to respond to notices of violation. Digital copies of Notices of Inspection were provided electronically through david.jones@faf.sccgov.org.”*
- CERS ID 10072345
 - No enforcement noted in CERS.
 - Facility closed in 2020.
 - The UST Inspection Report dated November 2019 noted: *“No corrective action documentation has been submitted in response to UST violations noted in the 1/23/2019, 12/7/2017, 11/17/2016, 3/17/2016 and 11/30/2015 official Notices of Inspection. This is cited as a Class I violations due to repeated failure to respond to notices of violation.”*

The Technical Compliance Rate (TCR) reported by the CUPA is significantly lower in comparison to the average TCR for California, indicating the CUPA is not consistently applying enforcement as outlined in the I&E Plan.

- The TCR is a measurement of how a UST facility complies with performance measures as determined by the U. S. Environmental Protection Agency (U.S. EPA)
 - A low TCR indicates a low rate of compliance.
 - A high TCR indicates a high rate of compliance.
- When a CUPA’s TCR is significantly lower than the California TCR average, it is indicative that the CUPA is not applying enforcement.

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The CUPA's TCR information in comparison with the average TCR for California during the specified reporting periods identifies the following trend:

- July – December 2020
 - CUPA: 47%
 - California average: 61%
- January – June 2021
 - CUPA: 31%
 - California average: 59%
- July – December 2021
 - CUPA: 30%
 - California average: 59%
- January – June 2022
 - CUPA: 32%
 - California average: 60%

The CUPA's low TCR compared to the California average is indicative of the CUPA not consistently applying enforcement as outlined in the I&E Plan.

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

Note: The following may be referenced:

- Local Guidance (LG) letter 159 "Annual Underground Storage Tank Compliance Inspection"
- LG letter 164-4, dated June 30, 2020
- State Water Board correspondence dated November 29, 2016, "When to Review Underground Storage Tank Records"
- State Water Board guidance dated July 1995, "Petroleum Underground Storage Tank Financial Responsibility Guide"

CITATION:

HSC, Chapter 6.7, Section 25288(b)
CCR, Title 23, Section 2712(g)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

The CUPA will immediately ensure enforcement actions are pursued for non-minor (Class I and Class II) violations cited at UST facilities. The CUPA will implement the existing I&E Plan, and other applicable procedures, including the CUPA's *Hazardous Materials Program Guidance Document HMPG-044 – UST Red Tags*.

By the 1st Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a complete list of county owned UST facilities with

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non-minor violations. The list will include the following information for each county owned UST facility:

- Identification of all cited violations;
- Applied enforcement to obtain RTC;
- Date RTC is obtained;
- Verification of obtained RTC, whether observed or documented;
- In the absence of obtained RTC, a description of the applied enforcement actions (including escalation of violation classification) taken by the CUPA.

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 the following:

- directing UST inspection staff to apply enforcement and utilize available enforcement tools as outlined in the I&E Plan
- documenting and reporting observed noncompliance in annual UST compliance inspection reports and in CERS
- reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the CERS violation library.

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 will include at minimum, 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 revised 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 will include at minimum, 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 UST facility records, for five UST facilities, as requested by the State Water Board, including at minimum, annual UST compliance inspection reports and associated testing and leak detection documents.

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12. DEFICIENCY:

The CUPA is withholding issuance of the UST operating permit, issued as the “UST Permit to Operate,” from facilities with USTs that are not in full compliance with UST Regulations and HSC.

A CUPA may only withhold a UST operating permit if a facility has a red tag affixed to the UST system and/or the UST facility has an owner or operator who is subject to an enforcement action.

Review of UST facility files finds the following facilities were not issued UST operating permits due to non-compliance:

- CERS ID 10072420
- CERS ID 10135492

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

Note: The following may be referenced:

- “Underground Storage Tank Statutory Provisions of Assembly Bill No. 2902”
- CERS Frequently Asked Questions (FAQ), “When to Issue a UST Operating Permit”

CITATION:

HSC, Chapter 6.7, Section 25285(b)

HSC, Chapter 6.11, Section 25404.2(a)(1)(A)

[State Water Board]

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 permitting process for the issuance of UST operating permits, which will address, at minimum, when the CUPA will withhold a UST operating permit consistent with HSC, Chapter 6.7. 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 CUPA personnel 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 the CUPA personnel 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 were necessary to the I&E Plan, or other applicable procedure, the CUPA will train CUPA personnel 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 the

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CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

With respect to facilities that were not issued a UST operating permit due to non-compliance, the CUPA will immediately issue a UST operating permit to those facilities and will provide the issued permit(s) to CalEPA.

13. DEFICIENCY: CORRECTED DURING EVALUATION

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

Review of CERS CME information between July 1, 2019, and June 30, 2022, finds:

- 4 of 16 (25%) facilities subject to CalARP Program requirements 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: COMPLETED

During the evaluation, the CUPA inspected three additional CalARP facilities. Review of CERS CME information between January 1, 2020, and December 31, 2022, finds 1 of 16 (6%) facilities subject to CalARP Program requirements was not inspected within the last three years.

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

14. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not consistently ensuring APSA tank facilities within the jurisdiction of the City of Palo Alto Fire Department PA 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 indicates:

- 11 of 36 (31%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 12 of 36 (33%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months.

CITATION:

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

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CORRECTIVE ACTION: COMPLETED

During the evaluation, additional APSA tank facilities submitted an HMBP to CERS in lieu of a tank facility statement.

On March 28, 2023, review of HMBP submittals to CERS by APSA tank facilities in lieu of a tank facility statement indicates:

- 7 of 38 (18%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 7 of 38 (18%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months.

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

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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.

1. INCIDENTAL FINDING:

The CUPA is not ensuring the City of Palo Alto Fire Department PA is consistently classifying APSA Program violations properly.

Review of facility files and CERS CME information indicates the City of Palo Alto Fire Department PA is classifying Class I or Class II APSA Program violations as minor violations in the following instance:

- Not having, or failure to prepare an SPCC Plan was cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (US EPA).
 - FY 2021/2022: CERS ID 10885720

Note: The Federal SPCC rule is not delegated to any state. APSA requires consistency and compliance with the SPCC rule for SPCC Plan preparation and implementation, as well as consistency with Federal enforcement guidance.

CITATION:

HSC, Chapter 6.11, Sections 25404(a)(3) and 25404.2(a)(3)-(4)

HSC, Chapter 6.67, Sections 25270.4.1(c) and 25270.4.5(a)

CCR, Title 27, Section 15200(a) and (e)

[OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA, in coordination with the City of Palo Alto Fire Department PA, will ensure the PA trains APSA inspection staff on the following:

- The definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3);
- How to properly classify APSA Program violations during inspections as minor, Class I and Class II;
- Review of the Violation Classification Training Video 2014
 - <https://www.youtube.com/watch?v=RB-5V6RfPH8>
- Review of the 2020 Violation Classification Guidance for Unified Program Agencies
 - <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf>

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- Review of the SPCC violations in the 'U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act', August 1998
 - https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html

The CUPA, in coordination with the City of Palo Alto Fire Department PA, 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 PA inspection staff in attendance.

2. INCIDENTAL FINDING:

Required components of the I&E Plan are inaccurate.

Review of the I&E Plan finds the following:

- Page 53 of the I&E Plan PDF: The inspection frequency for TP facilities is incorrectly identified as once every three years.
- Page 55 of the I&E Plan PDF: The inspection frequency for TP facilities is incorrectly identified as once every three years. The City of Mountain View Fire Department PA inspection frequency for TP facilities is incorrectly identified as once per year.

The mandated inspection frequency for TP facilities requires an initial inspection within two years of operation and every three years thereafter.

CITATION:

CCR, Title 27, Section 15200(a)
[CalEPA, DTSC]

RESOLUTION:

During the evaluation, the CUPA provided a revised I&E Plan and a separate Appendix B document. The inspection frequency table in the Appendix B document accurately reflects the mandated inspection frequency for TP facilities. The revised I&E Plan provided does not reflect the correct TP facility inspection frequency identified in the revised Appendix B document provided.

By the 1st Progress Report, the CUPA will provide CalEPA with:

- an amended I&E Plan that accurately identifies the TP inspection frequencies for the CUPA and the City of Mountain View PA, and/or incorporates the TP inspection frequencies as identified in the revised Appendix B document (previously provided).

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

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

3. INCIDENTAL FINDING:

The CUPA is not conducting complete UST compliance inspections on single-walled UST systems.

Review of UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds the CUPA did not consistently identify violations on single-walled UST systems during annual compliance inspections at the following facilities:

- CERS ID 10344844
 - Monitoring system certification performed on November 19, 2020, failed to test the automatic tank gauge (ATG) monitoring the single-walled UST.
 - An inspection report dated December 20, 2020, did not identify the tank monitoring had not been performed.
- CERS ID 10351513
 - Monitoring system certifications performed on February 26, 2021, and February 11, 2022, failed to test the ATG monitoring the single-walled UST.
 - An inspection report dated February 26, 2021, did not identify the tank monitoring had not been performed. The inspection report dated February 11, 2022, did note in the observations section that the ATG probes were tested during the inspection, however failed to have the UST owner correct the monitoring certification report.

CITATION:

HSC, Chapter 6.7, Sections 25288(b) and 25299
CCR, Title 23, Section 2713(c)(4)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

RESOLUTION:

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 the following:

- directing UST inspection staff to conduct complete annual UST compliance inspections at single-walled UST facilities
- directing UST inspection staff to apply enforcement and utilize available enforcement tools as outlined in the I&E Plan
- reviewing and following up with testing and leak detection documents submitted by UST owners/operators as part of the annual UST compliance inspection
- documenting and reporting observed noncompliance in annual UST compliance inspection reports and in CERS

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- conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components
- conducting annual UST compliance inspections when UST inspection staff are not on-site and cannot witness the monitoring system certification and visually confirm all UST requirements are met
- reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the CERS violation library.

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure for single-walled UST facilities.

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 will include at minimum, 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 revised 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 will include at minimum, 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.

4. INCIDENTAL FINDING:

The CUPA and the Santa Clara County Central Fire Protection District PA are not consistently citing construction violations at existing used oil UST systems, nor requiring the correction of construction violations identified in State Water Board LG 150 dated February 2021.

Review of the CERS Facility/Tank Data Download information finds USTs at the following UST facilities have single-walled vent or tank risers, and do not meet the secondary containment exemption requirements of CCR, Title 23, Section 2636(a) for vent and riser pipe to have overflow prevention equipment meeting the requirements specified in CCR, Title 23, Section 2635(c)(1)(B) or (C):

- CERS Tank ID 10345657-004
- CERS Tank ID 10346146-003
- CERS Tank ID 10344181-003

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Note: State Water Board CUPA Evaluation Guidance Documents, Single-Walled Vent or Riser Piping (<https://www.waterboards.ca.gov/ust/single-walled-vent-riser.html>) and the State Water Board LG 150-3 (https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf) may be referenced.

CITATION:

CCR, Title 23, Section 2631(a), 2636(a) and 2635(c)(1)
[State Water Board]

RESOLUTION:

The CUPA must ensure UST systems are properly constructed meeting the secondary containment requirements of CCR, Title 23, Section 2636(a).

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities which are incorrectly utilizing the overfill prevention equipment exemption. For each UST facility listed, information will include, at minimum:

- CERS ID
- UST Tank IDs

By the 1st Progress Report, the CUPA will draft and provide to CalEPA written correspondence addressed to the UST facility owners/operators to inform the UST owners/operators of the requirement for installation of overfill prevention equipment, or to construct secondary containment for single-walled vent and tank risers. The written correspondence will include language stating that failure to comply with overfill prevention equipment requirements specified in CCR, Title 23, Section 2635(c)(1)(B) or (C), or secondary containment exemptions in CCR, Title 23, Section 2636(a) will lead to applied enforcement, including but not limited to revocation of the UST operating permit and issuance of red tags which will prohibit the deposit and withdrawal of all hazardous substances. The State Water Board will review the draft written correspondence before the CUPA distributes it to the UST facility owners/operators identified as incorrectly utilizing the overfill prevention equipment exemption.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated list, indicating the status of each UST facility listed in obtaining compliance with secondary containment exemption requirements of CCR, Title 23, Section 2636(a).

By the 2nd Progress Report, if revisions are necessary based on feedback from the State Water Board, the CUPA will revise the written correspondence and will provide the revised written correspondence to CalEPA. If no revisions are necessary, the CUPA will finalize the draft written correspondence and distribute it to UST facility owners/operators identified as incorrectly utilizing the overfill prevention equipment exemption. The CUPA will include the State Water Board as a carbon copy recipient on the correspondence.

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By the 3rd Progress Report, if revisions to the written correspondence were necessary, the CUPA will finalize the draft written correspondence and distribute it to UST facility owners/operators identified as incorrectly utilizing the overfill prevention equipment exemption. The CUPA will include the State Water Board as a carbon copy recipient on the correspondence.

By the 3rd Progress Report, if appropriate steps have not been taken by the UST owner/operator to remedy the construction violations, the CUPA will apply enforcement, including but not limited to revocation of the UST operating permit portion of the "Permit to Operate" (issued as the Unified Program Facility Permit) and issuance of red tags which will prohibit the deposit and withdrawal of hazardous substances.

The State Water Board will consider this incidental finding closed but not resolved when red tags are issued, and all hazardous substances are removed from the USTs, or when the CUPA has applied administrative, or other appropriate enforcement. The State Water Board will consider this incidental finding resolved when the UST owner/operator installs the correct overfill prevention equipment, or secondarily contains the vent and fill piping.

5. INCIDENTAL FINDING:

The "Environmental Health Permit," issued as the Unified Program Facility Permit (UPFP) does not consolidate all permitted program elements.

Review of UST facility file information for the following facilities finds the "Environmental Health Permit" does not reflect issuance of a UST operating permit, or "UST Permit to Operate":

- CERS ID 10351513
- CERS ID 10351843

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

CITATION:

CCR, Title 27, Section 15190(b)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised "Environmental Health Permit" template, which is issued as the Unified Program Facility Permit (UPFP), that indicates issuance of the "UST Permit to Operate, when applicable.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised "Environmental Health Permit" template based on feedback from CalEPA, and will provide the amended template to CalEPA. If no amendments are necessary, the CUPA will provide CalEPA with three "Environmental Health Permits," which indicate issuance of the "UST Permit to Operate", that have been issued to UST Program facilities using the revised "Environmental Health Permit" template.

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By the 3rd Progress Report, if amendments to the revised “Environmental Health Permit” template were necessary, the CUPA will provide CalEPA with three “Environmental Health Permits,” which indicate issuance of the “UST Permit to Operate,” that have been issued to UST Program facilities using the amended “Environmental Health Permit” template.

Note: The “UST Permit to Operate” is issued on a five-year cycle. The “Environmental Health Permit” is issued on an annual cycle. Issuance of the “Environmental Health Permit” is in association with annual assessment of applicable Unified Program state surcharges and the CUPA single fee and should reflect issuance of the five-year “UST Permit to Operate.”

6. INCIDENTAL FINDING:

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

Review of APSA facility files indicates CME information was not reported consistently or correctly to CERS for the following APSA tank facilities:

- CERS ID 10125709:
 - An “other” inspection report, dated September 10, 2019, cites two violations, and an “other” inspection report, dated September 26, 2019, cites two violations.
 - The facility file contains RTC documentation, dated November 21, 2019, for each of the violations cited during the two “other” inspections.
 - CERS does not reflect the violations cited during the September 10, 2019, “other” inspection or the September 26, 2019, “other” inspection, nor the RTC information.
 - An “other” inspection report, dated August 20, 2019, cites violations.
 - The facility file contains RTC documentation, dated September 19, 2019, for three violations cited during the “other” inspection.
 - CERS does not reflect RTC information for the violations.
 - An “other” inspection report, dated August 15, 2019, cites violations.
 - The facility file contains RTC documentation, dated July 16, 2019, for two violations cited during the “other” inspection.
 - CERS does not reflect RTC information for the violations.
- CERS ID 10348789:
 - A “routine” inspection report, dated March 27, 2019, cites five violations.
 - The facility file contains RTC documentation, dated April 11, 2019.
 - CERS does not reflect RTC information for the violations.
- CERS ID 10350643:
 - A “routine” inspection report, dated October 12, 2018, cites seven violations.
 - The facility file contains RTC documentation, dated July 28, 2020.
 - CERS does not reflect RTC information for the violations.
- CERS ID 10356895:
 - A “routine” inspection report, dated April 24, 2019, cites four violations.
 - The facility file contains RTC documentation, dated May 24, 2019.
 - CERS does not reflect RTC information for the violations.

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- CERS ID 10822522:
 - An “other” inspection report, dated August 8, 2019, cites two violations, and an “other” inspection report, dated April 8, 2020, cites three violations.
 - The facility file contains RTC documentation, dated September 6, 2019, and May 8, 2020.
 - CERS does not reflect either “other” inspection, the violations cited during each “other” inspection, nor the RTC information.

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

Note: The EnvisionConnect CERS Integration Wizard (CIW) is an effective, but highly complex tool for transmitting CME information to CERS. There are many ways in which data errors can prevent records and record updates from reaching CERS, such as data entry, isolated human-error, or data configuration. The CUPA has an extensive Quality Control (QC) process in place to identify and correct such errors. Most errors can be easily fixed through data correction and inspector retraining.

For the timeframe covered by this evaluation, there is a known, very small error rate, as electronic data transfer (EDT) of violations to CERS through the CIW was successful at a rate of 100% for FYs 2021/2022 and 2020/2021, at a rate of 95% for FY 2019/2020, and nearly a rate of 99% for FY 2018/2019.

For the timeframe covered outside of this evaluation, the CIW is limited in EDT ability due to the large volume of CME records. The CIW generates an error message that prevents CME information from being transmitted, such as an updated RTC status for older violations. The CUPA is working to find a solution to this issue.

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation as documented in the Final Summary of Findings issued April 4, 2022, and corrected during the Evaluation Progress Report process.

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

- 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;

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- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, if applicable, to ensure APSA Program CME information is consistently and correctly reported to CERS;
- Identification of all APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly, 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 to CERS, including CME information for any revised inspection reports; and
- Future steps to ensure all APSA Program CME information is consistently and correctly 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 to CERS.

By the 2nd 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 an inspection report.

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

7. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CalARP Dispute Resolution Process is missing required elements.

Review of the CalARP Dispute Resolution Process finds it is missing the following elements:

- Set procedures and timetables for providing argument and supporting materials to the Unified Program Agency (UPA); and
- Requiring that the UPA render a written decision within 120 days after the owner or operator of a stationary source initiates the dispute resolution process.

CITATION:

CCR, Title 19, Section 2780.1(a)(4)
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided a CalARP Dispute Resolution Process that was revised to include the procedures and timetables for providing argument and supporting materials to the Unified Program Agency (UPA) and requiring the UPA render a written decision within 120 days after the owner or operator of a stationary source initiates the dispute resolution process. This incidental finding is considered resolved. No further action is required.

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8. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The Unified Program administrative procedures have components that are incomplete.

Review finds the following Unified Program administrative procedures are missing the following components:

- Records maintenance
 - Identification of the records maintained
 - Standard retention times for CUPA documents are listed as two years unless otherwise stated. In the list of exceptions, the CUPA does not include the following records that have a five-year minimum retention time:
 - Annual Self-Audit reports
 - Surcharge billing and collection records following closure of any billing period, or until completion of any audit process, whichever is longer.

CITATION:

CCR, Title 27, Section 15180(e), 15185
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided a Records Maintenance procedure that was revised to include the five-year minimum retention time for annual Self-Audit reports and surcharge billing and collection records as identified above. This incidental finding is considered resolved. No further action is required.

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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.

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, through June 30, 2022:

- CERS indicates the following number of HWG facilities:
 - 4,243 facilities self-identified as HWGs
 - 102 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), additionally there are 152 sites that generate large quantities of RCRA waste, of which are "contiguous campus" type settings, and
 - 86 TP facilities.
- Overall, the CUPA has inspected 2,423 of 4,243 (57%) facilities in all categories combined within the last five years.
 - In the 2,423 inspections performed, 3,645 total violations were issued during FYs 2019/2020, 2020/2021 and 2021/2022, consisting of:
 - 4 (0%) Class I violations,
 - 944 (26%) Class II violations, and
 - 2,697 (74%) minor violations.
 - The CUPA has ensured RTC for 2,315 of 3,645 (64%) violations cited.
- The CUPA conducted 1,591 total HWG inspections including "routine" and "other" inspection types.
 - The CUPA conducted 1,321 "routine" HWG inspections, of which 337 (25%) had no violations cited and 984 (75%) had at least one violation cited.
- The CUPA completed three formal enforcements and has one pending formal enforcement as a referral to the District Attorney. Settlements with associated penalties of \$155,000 and \$675,000 were completed and one case resulted in 2 misdemeanor counts and 90 days of jail time with \$11,780 in restitution to damaged parties.
- Inspection reports contain detailed comments that note the factual basis of cited violations and corrective actions for violations cited. Inspection reports indicate consent to inspect was requested and obtained prior to the inspection.
- The CUPA website contains excellent references for many regulatory requirements and various industry specific guides.

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

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RECOMMENDATION:

Continue with the HWG inspection frequencies as established in the I&E Plan and use the requisite timeframes as a basis to conduct regular status checks and make adjustments as needed. Follow up with facilities that have open violations (no RTC) by the scheduled RTC date and apply enforcement per the I&E Plan when facilities do not obtain RTC. Ensure that complete and thorough inspections are conducted to identify all violations at facilities.

Review enforcement processes for structure and compare resource efficiencies and the potential to utilize the Administrative Enforcement Order (AEO) process for formal enforcement.

2. OBSERVATION:

Review of CERS CME information and facility files finds the following inconsistencies between inspection report documentation and CERS CME information:

- CERS ID 10356640
 - A Hazardous Waste Large Quantity Generator (HWLQG) inspection and a Permit-By-Rule (PBR) inspection were conducted at this facility on February 15, 2019.
 - The HWLQG inspection cited five violations.
 - One violation remains without RTC.
 - The PBR inspection cited nine violations.
 - One violation remains without RTC.
 - 10 of 14 (72%) total violations obtained RTC on March 14, 2019, with the RTC qualifier “Unobserved.” However, most of the RTC compliance activities required either a picture or a document to be received and reviewed, including one for a Closure Cost Estimate- Inflation Adjustment. No documentation to demonstrate compliance was found within the facility file.
 - 4 of 14 (28%) total violations remain without RTC.
- CERS ID 10590994
 - PBR inspections were conducted on September 15, 2022, August 16, 2022, and February 19, 2019, with multiple entries for the same day that show no violations cited.
 - The HWLQG inspection report dated February 19, 2019, cites 6 minor violations described as “Minor violations corrected at time of inspection.”
 - 0 of 6 (0%) violations cited on the February 19, 2019, HWLQG inspection report have been reported to CERS.
 - Though the violations were corrected during the inspection, they must still be reported to CERS.

The CUPA has each inspection report reviewed by the appropriate Supervisor.

Note: For CERS ID 10356640, the CUPA made some adjustments to the violations noted above for RTC and some to the HWLQG inspection, but not the Permit By Rule inspection.

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RECOMMENDATION:

Use the term “documented” for the RTC qualifier when records, plans, and documents are to be revised, submitted, created or used to substantiate RTC for identified violations.

While supervisor review of inspection activities is a good practice, develop and implement a process for the correction of CERS data anomalies immediately upon discovery of existence when preparing for an inspection and conducting a preliminary review of CERS information. The process should ensure that supervisory review includes a check of the data documented in the file in comparison with what is available in CERS. If any anomalous data is discovered, corrections should be made immediately during the Supervisor’s review. All cited violations, including minor violations corrected at the time of the inspection, must be reported to CERS.

3. 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 774 routine inspections, of which 275 (36%) had no violations cited and 499 (64%) had at least one violation cited.
 - A total of 1,226 violations were cited, consisting of:
 - 370 (30%) Class II violations.
 - 856 (70%) Minor violations.
 - The CUPA has ensured RTC for 786 of 1,226 (64%) violations cited.
- July 1, 2020, through June 30, 2021
 - The CUPA conducted 137 routine inspections, of which 48 (35%) had no violations cited and 89 (65%) had at least one violation cited.
 - A total of 270 violations were cited, consisting of:
 - 87 (32%) Class II violations.
 - 183 (68%) Minor violations.
 - The CUPA has ensured RTC for 155 of 270 (57%) violations cited.
- July 1, 2021, through June 30, 2022
 - The CUPA conducted routine inspections at 507 facilities, of which 114 (22%) had no violations cited and 393 (78%) had at least one violation cited.
 - A total of 1,029 violations were cited, consisting of:
 - 346 (34%) Class II violations.
 - 683 (66%) Minor violations.
 - The CUPA has ensured RTC for 559 of 1,029 (54%) violations cited.

CalARP Program:

- July 1, 2019, through June 30, 2020
 - The CUPA conducted 2 routine inspections, of which 2 (100%) had at least one violation cited.
 - 6 total violations were cited, consisting of:

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- 1 of 6 (17%) Class II violation.
 - 5 of 6 (83%) Minor violations.
 - The CUPA has ensured RTC for 6 of 6 (100%) violations cited.
- July 1, 2020, through June 30, 2021
 - The CUPA conducted 5 routine inspections, of which 2 (40%) had no violations cited and 3 (60%) had at least one violation cited.
 - 17 total violations were cited, consisting of:
 - 1 of 17 (6%) Class I violation.
 - 13 of 17 (76%) Class II violations.
 - 3 of 17 (18%) Minor violations.
 - The CUPA has ensured RTC for 13 of 17 (76%) violations cited.
- July 1, 2021, through June 30, 2022
 - The CUPA conducted 5 routine inspections, of which 5 (100%) had at least one violation cited.
 - 39 total violations were cited, consisting of:
 - 7 of 39 (18%) Class II violations.
 - 32 of 39 (82%) Minor violations.
 - The CUPA has ensured RTC for 14 of 39 (36%) violations cited.

RECOMMENDATION:

Maintain the three-year HMBP and CalARP inspection frequency, as required by statute. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement for facilities that do not RTC, per the I&E Plan.

4. OBSERVATION:

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

- Page 1: The California Fire Code edition reference is outdated. Either remove the edition reference or insert the current edition (2022).
- There are two pages numbered as Page 20.
- Pages 33-34, Enforcement Tools Table: Could add criminal case as an enforcement option for APSA as allowed under HSC, Section 25270.12.5.

RECOMMENDATION:

Update the I&E Plan as indicated above.

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5. OBSERVATION:

For the CUPA, the CERS reporting requirement is currently set as “APSA Applicable” for 347 APSA tank facilities. The CUPA’s data management system identifies 340 APSA related tank facilities.

- 326 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 21 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.
- 14 facilities identified as APSA related tank facilities in the CUPA’s data management system are not 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.”
- The CUPA uses program element (PE) code 2010 to designate approximately 10 facilities as APSA conditionally exempt tank facilities. Some of these facilities are likely not APSA regulated, and the CUPA should update the CERS APSA reporting requirement to “APSA Not Applicable” and update the CUPA’s local data management system appropriately.

For the City of Palo Alto Fire Department PA, the CERS reporting requirement is currently set as “APSA Applicable” for 37 APSA tank facilities. The PA’s data management system identifies 48 APSA related tank facilities.

- 27 APSA tank facilities are identified in both CERS and the PA’s data management system.
- 10 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the PA’s data management system. Some of these facilities are likely not APSA regulated, and the PA should change the CERS APSA reporting requirement to “APSA Not Applicable” for each facility. Some of these facilities are APSA regulated, and the PA should update the local data management system appropriately.
- 21 facilities identified as APSA related tank facilities in the PA’s data management system are not in CERS. The PA 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 PA’s data management system. Those that are APSA regulated should have the APSA reporting requirement set to “Applicable.”
- There are 5 APSA tank facilities currently designated in CERS with the APSA reporting requirement set to “Not Applicable.” These facilities should be identified as APSA tank facilities in the PA’s data management system and the PA should change the APSA reporting requirement to “Applicable.”

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RECOMMENDATION:

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

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 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.

7. OBSERVATION:

The CUPA's website contains multiple resources for the public and regulated community. The following are suggestions for improvement.

Electronic Reporting webpage (<https://hazmat.sccgov.org/programs-and-services/electronic-reporting>):

- Update the 2009 Unidocs Facility Site Plan/Storage Map since not all required site map elements are identified, such as the emergency response equipment. Also, the site map instructions request the location of each utility emergency shutoff point. However, this site map item should be updated to the location of emergency shutoff, if applicable, and should not be specific to utilities since the statute does not specify the emergency shutoff location to be specific to utilities.

RECOMMENDATION:

Update the website as indicated above.

8. OBSERVATION:

The CUPA completed and submitted the Annual Single Fee Summary Report for FY 2019/2020 after it was due to CalEPA.

Note: Annual Single Fee Summary Reports for FY 2020/2021 and FY 2021/2022 were completed and submitted by September 30th as required.

RECOMMENDATION:

Ensure all Annual Single Fee Summary Reports are completed and submitted to CalEPA by September 30th of the preceding Fiscal Year.

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9. 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:

- County of Santa Clara Environmental Resources Agency Department of Environmental Health CUPA Application, dated December 22, 1995
 - CERS “Summary Regulated Facilities by Unified Program Element” report, generated on November 18, 2022; and
 - CERS “UST Inspection Summary Report (Report 6),” generated on November 18, 2022
 - County of Santa Clara Department of Environmental Health Organizational Chart, Dated August 8, 2022
 - Santa Clara County CUPA draft annual Self-Audit report for FY 2021/2022
- Total Number of **Business Plan** Regulated Businesses and Facilities:
 - In 1995 Application: 300
 - Currently: 3,724
 - An increase of 3,424 facilities
 - Comments: The original application count for HMRRP facilities appears to only include HMRRP-only facilities. Additional facilities reflected in CERS include orphaned/inactive seeded data, sites subject to reporting less than HMBP quantities to the CUPA under the local ordinance, and sites subject to local fire department reporting requirements.
 - Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
 - In 1995 Application: 113
 - Currently: 388
 - An increase of 275 facilities
 - Total Number of Regulated **USTs**:
 - In 1995 Application: 234
 - Currently: 1,012
 - An increase 778 of USTs
 - Note: The current figure includes 976 active petroleum systems and 36 active haz sub systems and excludes 43 closed petroleum systems and 7 closed haz sub systems.
 - Total Number of Regulated **Hazardous Waste Generator** Facilities:
 - In 1995 Application: 3,236
 - Currently: 4,259
 - An increase of 1023 facilities

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- **Total Number of Regulated Household Hazardous Waste (HHW) Facilities:**
 - In 1995 Application: Not specified
 - Currently: 10
 - Comments: The CUPA regulates three permanent and seven recurring temporary HHW facilities. 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 1995 Application: 286
 - Currently: 87
 - A decrease of 199 facilities

- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
 - In 1995 Application: Not specified
 - Currently: 254
 - Comments: 128 of these facilities are part of contiguous campuses. 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 1995 Application: 66
 - Currently: 18
 - A decrease of 48 facilities

- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
 - In 1995 Application: Not applicable
 - Currently: 348

Since the original application for certification was submitted in 1995, 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 3424 (or 1141%), the total number of UST facilities and regulated USTs increased by 275 (or 243%) and 778 (332%), respectively, and the total number of regulated HWG facilities increased by 1023 (or 32%). The incorporation of the APSA program also added another 348 facilities not previously regulated by the CUPA when first certified. Over the same timeframe, the number of regulated facilities for the CalARP program decreased by 48 facilities (or 73%) and the number of TP facilities decreased by 199 (or 70%).

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Additionally, the CUPA absorbed regulated facilities upon the dissolution of the City of San Jose PA Agreement in 2011 and the City of Milpitas PA Agreement in 2018 as well as from the surrender of the UST Program by the City of Palo Alto PA in 2009.

Note: The information above only pertains to Santa Clara County CUPA and does not factor in similar statistics for any current or past PAs.

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 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 County of Santa Clara Environmental Resources Agency Department of Environmental Health CUPA Application, dated December 22, 1995, and recent information provided by the CUPA.

- In 1995 Application
 - 15 staff positions
 - 2 supervisor positions
 - Note: Accurate FTE information could not be determined from the original CUPA application.
- Currently
 - 4.0 budgeted FTEs for 4 technician positions.
 - 15.0 budgeted FTEs for 15 inspector positions
 - Note: The CUPA organizational chart lists two vacant staff positions
 - 5.0 budgeted FTEs for 5 senior inspector positions
 - Note: The CUPA organizational chart lists two vacant senior staff positions
 - 2.0 budgeted FTEs for 2 supervisor positions
 - 1.0 budgeted FTEs for 1 program manager position

Since the CUPA applied for certification in 1995, 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:

Based on the information above, it appears the CUPA has been proactive in adapting staffing resources by acquiring additional budget FTE positions accordingly, in order to meet the changing needs of Unified Program implementation over time; however, significant shortfalls in overall program implementation still exist within some Unified Program elements.

Continue to regularly assess the allocation of current staff assignments and existing resources to ensure adequate implementation of each program element within the Unified Program is obtained. Consider conducting a fee study to determine if additional staffing resources are necessary to meet the changing needs of Unified Program implementation over time.

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10. OBSERVATION:

Review of accepted CERS UST submittals finds there are 50 single-walled UST systems which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05.

The following single-walled UST systems are within the jurisdiction of the CUPA:

- CERS ID 10343896 (Tank IDs 001 and 002);
- CERS ID 10344670 (Tank IDs 001 and 002);
- CERS ID 10344844 (Tank IDs 001, 002, 003);
- CERS ID 10344883 (Tank IDs 001, 002, 003);
- CERS ID 10349218 (Tank IDs 001 and 002);
- CERS ID 10351084 (Tank ID 001);
- CERS ID 10351327 (Tank ID 001);
- CERS ID 10351513 (Tank IDs 001, 002, 003);
- CERS ID 10351843 (Tank IDs 001 and 002);
- CERS ID 10354081 (Tank IDs 001 and 002); and
- CERS ID 10354600 (Tank IDs 001, 002, 003, 004)

The following single-walled UST systems are within the jurisdiction of the Santa Clara County Central Fire Protection District PA:

- CERS ID 10083271 (Tank IDs 001, 002, 003, 004)
- CERS ID 10091371 (Tank IDs 001, 002, 003, 004)
- CERS ID 10121890 (Tank IDs 001 and 002);
- CERS ID 10346206 (Tank IDs 001, 002, 003);
- CERS ID 10346242 (Tank IDs 001 and 002);
- CERS ID 10346257 (Tank IDs 001 and 002);
- CERS ID 10348675 (Tank IDs 001, 002, 003); and
- CERS ID 10349749 (Tank IDs 001, 002, 003);

The following single-walled UST systems are within the jurisdiction of the Mountain View Fire Department PA:

- CERS ID 10343827 (Tank IDs 001 and 002)

RECOMMENDATION:

Continue to provide written and verbal reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Consider providing written notification of the requirement to all applicable UST facility owners or operators. The written notification should inform facility owners or operators that in order to remain in compliance, owners or operators must replace or remove single-walled USTs

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by December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: https://www.waterboards.ca.gov/ust/single_walled.html.

Notify facility owners or operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project USTs. More information on funding sources may be found at:

https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html.
