

June 26, 2023

Mr. Trey Strickland  
Environmental Health Manager  
Solano County Environmental Health  
675 Texas Street, Suite 5500  
Fairfield, California 94553-6341

Dear Mr. Strickland:

During May 2022, through February 2023, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Solano County Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System information.

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

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

To demonstrate progress towards the correction of program deficiencies and resolution of incidental findings identified in the final Summary of Findings report, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter, 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](mailto:Timothy.Brandt@calepa.ca.gov).

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

To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned to Melinda Blum, at [Melinda.blum@calepa.ca.gov](mailto:Melinda.blum@calepa.ca.gov). If you would like to have specific comments remain anonymous, please indicate so on the survey.

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

Sincerely,



Jason Boetzer  
Assistant Secretary  
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Chris Ambrose  
Hazardous Materials Supervisor  
Solano County Environmental Health  
675 Texas Street, Suite 5500  
Fairfield, California 94553-6341

Ms. Cheryl Prowell  
Supervising Water Resource Control Engineer  
State Water Resources Control Board  
P.O. Box 2231  
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Mr. Tom Henderson  
Engineering Geologist, UST Unit Coordinator  
State Water Resources Control Board  
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Ms. Julie Pettijohn  
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Ryan Miya, Ph.D.  
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cc sent via email:

Ms. Jennifer Lorenzo  
Senior Environmental Scientist, Supervisor  
CAL FIRE - Office of the State Fire Marshal  
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Ms. Jenna Hartman, REHS  
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State Water Resources Control Board  
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Mr. Matt McCarron  
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Mr. Brennan Ko-Madden  
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Mr. Glenn Warner  
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Ms. Denise Villanueva  
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Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

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cc sent via email:

Mr. John Elkins  
Environmental Program Manager  
California Environmental Protection Agency

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

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

Mr. Garrett Chan  
Environmental Scientist  
California Environmental Protection Agency

Mr. Tim Brandt  
Environmental Scientist  
California Environmental Protection Agency

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

**CUPA:** Solano County Environmental Health

**Evaluation Period:** May 2022 through February 2023

**Evaluation Team Members:**

- **CalEPA Team Lead:** Timothy Brandt, Samuel Porras
- **DTSC:** Brennan Ko-Madden, Matthew McCarron
- **CalEPA:** Garrett Chan
- **State Water Board:** Kaitlin Cottrell, Sean Farrow
- **CAL FIRE-OSFM:** Denise Villanueva, Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

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

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

**Tim Brandt**

CalEPA Unified Program

Phone: (916) 323-2204

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

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

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at [Timothy.Brandt@calepa.ca.gov](mailto:Timothy.Brandt@calepa.ca.gov), or uploaded to the established SharePoint website. A narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report, and any applicable supporting documentation must be included in each Evaluation Progress Report.

The submittal date for the 1<sup>st</sup> Evaluation Progress Report is: September 1, 2023

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

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

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

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**1. COMMUNITY SAFETY ORGANIZATION:**

The CUPA is an active participant of the Governor's Interagency Refinery Task Force on Refineries that is revising Hazardous Materials Business Plan (HMBP), California Accidental Release Prevention (CalARP) Program, and California Division of Occupational Safety and Health (Cal/OSHA) laws and regulations to address the comments from the Chemical Safety Board and the Governor's Interagency Working Group. As a participant, the CUPA reviews and provides comments on proposed CalARP Program and Process Safety Management regulations that are intended to enhance inspections and training for CUPA staff. Additionally, the CUPA provides comments in response to review of draft revisions to the laws and regulations regarding Area Plans to better improve emergency response.

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**2. SONOMA-LAKE-NAPA UNIT (LNU) LIGHTNING COMPLEX FIRE ASSISTANCE:**

Solano County proclaimed a local health emergency on August 24, 2020, due to the LNU Lightning Complex Fire. CUPA staff resources were redirected to assist with response and recovery cleanup efforts beginning August 2020 and extending through the end of 2022. Solano County CUPA inspectors, as part of Solano County Environmental Health, pivoted to emergency response for 373 fire-damaged properties, including:

- accompanying State-hired contractors to all sites for initial emergency cleanup
  - evaluating each site for additional cleanup requirements
  - reviewing work plans from private contractors
  - spending hundreds of hours making/answering hundreds of phone calls from victims, contractors, and other agencies
  - observing contracted cleanups
  - reviewing completion reports, including soil sample analysis
  - corresponding with parties reluctant to cleanup
  - preparing legal action for additional cleanup
- 

**3. CONTRA COSTA COMMUNITY EMERGENCY RESPONSE AWARENESS AND ASSISTANCE:**

The CUPA attends and participates in quarterly safety summits for the Contra Costa Community Awareness Emergency Response (CAER) group, which also leads to CUPA staff participation in meetings regarding the Contra Costa Community Warning System. The CUPA has deployed assistance efforts in response to the community warning system for various incidents at Valero Benicia Refinery.

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# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

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

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#### 1. DEFICIENCY:

The CUPA has not established nor implemented all Unified Program administrative procedures. Established Unified Program administrative procedures have components that are incomplete.

The following administrative procedures have not been established nor implemented:

- Public participation procedures that:
  - Ensure receipt and consideration of comments from regulated businesses and the public;
  - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element; and
  - Coordinate, consolidate, and make consistent public notices for activities related to any Unified Program element.
- Financial Management Procedures that include a:
  - Single Fee System and
  - Fee Accountability Program.

The following administrative procedures have components that are incomplete:

- The procedure for forwarding Hazardous Materials Release Response Plan (HMRRP) information identified within the “Submission of HMBP Plans to Local Fire Agencies”
  - A process for sharing information with “other appropriate government entities in accordance with Health and Safety Code (HSC) Section 25504(c),” is not addressed.
- The Records Maintenance Procedure addressed in “CUPA Documents”
  - The description regarding proper disposal methods does not adequately address methods used to destroy records and the criteria for making that determination.
  - The retention of the following records for a minimum of five years is not included:
    - Copies of self-audits, inspection reports, and enforcement files;
    - All records related to hazardous waste enforcement actions from the date the enforcement action is resolved;
    - Detailed records used to produce the summary reports submitted to the state;
    - Surcharge billing and collection records; and
    - Training records
- The Permitting Procedure addressed within the “CUPA Documents” policy
  - The following components are not included:
    - Timelines and time limits of appeal processes;
    - Provisions for preliminary check for application completeness;
    - Provisions for technical review of permit applications by the responsible agency; and

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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#### DEFICIENCIES REQUIRING CORRECTION

- A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.
- Note: Many of the details contained in the “CUPA Documents” policy, Fee and State Surcharge Dispute Resolution, Solano County Code, and Self-Audit Reports could be adapted into a separate Permitting Procedure document.
- The “Fee and State Surcharge Dispute Resolution”
  - The procedure does not ensure fee disputes referred to the Secretary include a recommendation for resolution.

#### CITATION:

California Code of Regulations (CCR), Title 27, Sections 15180(e)(1), (e)(2), (e)(3), (e)(5), 15185(b), and 15210(k)(1)(A)  
[CalEPA]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the established and revised Unified Program administrative procedures that adequately incorporate all required components.

By the 2<sup>nd</sup> Progress Report, if revisions to the established Unified Program administrative procedures and/or amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised and/or amended Unified Program administrative procedures. If no amendments and/or revisions are necessary, the CUPA will train CUPA personnel on the established and revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the established and revised administrative procedures.

By the 3<sup>rd</sup> Progress Report, if amendments and/or revisions to the Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended and/or revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended and/or revised administrative procedures.

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## 2. DEFICIENCY:

Required components of the Inspection and Enforcement (I&E) Plan are missing.

The following I&E Plan components are missing:

- Enforcement notification procedures that ensure appropriate confidentiality and coordination and timely notification of appropriate prosecuting agencies.
- Identification of all available enforcement options.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

- Though a flow chart outlining the inspection process with reference to informal and formal enforcement types is provided, it is not clear if this is representative of all enforcement actions applied by the CUPA.
- Provisions ensuring a uniform and coordinated application of enforcement standards.
- Identification of penalties and enforcement actions that are consistent, predictable for similar violations, and no less stringent than state statute and regulations.
- A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.
- Provisions for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
- Provisions for multi-media enforcement, including participation in a multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement, and deterrence of violations affecting more than one environment medium or regulatory scheme.

#### **CITATION:**

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

#### **CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that adequately incorporates and correctly addresses the identified missing components.

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

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

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

**3. DEFICIENCY:**

The CUPA is not inspecting each Hazardous Waste Generator (HWG), Recovery Act (RCRA) Large Quantity Generator (LQG), and Household Hazardous Waste (HHW) facility once every five years, per the inspection frequency established in the I&E Plan.

Review of facility files and inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, in the California Environmental Reporting System (CERS) between July 1, 2017, and June 30, 2022, and additional information provided by the CUPA finds:

- 362 of 1,338 (27%) HWG facilities (including RCRA LQG facilities and HHW facilities) were not inspected once every five years.

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation for the Aboveground Petroleum Storage Act (APSA) and HWG Programs and was corrected during the Evaluation Progress Report process regarding the APSA Program.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility, RCRA LQG facility, and HHW facility are inspected per the inspection frequency established in the I&E Plan. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency for the HWG, RCRA LQG, and HHW facilities is not being met.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG, RCRA LQG, and HHW facility that has not been inspected once every five years. For each HWG, RCRA LQG, and HHW facility listed, the spreadsheet will include, at minimum:
  - Facility name,
  - CERS ID, and
  - Date of the last routine inspection.
- A schedule to inspect each HWG, RCRA LQG, and HHW facility identified as having not been inspected per the inspection frequency established in the I&E Plan. HWG, RCRA LQG, and HHW inspections will be prioritized with the most delinquent inspections to be completed prior to any other HWG Program inspection.
- Future steps to ensure that all HWG, RCRA LQG, and HHW facilities are inspected per the inspection frequency established in the I&E Plan (for example, the generation of a list of all HWG facilities and the anniversary date of the next routine HWG inspection for each listed facility according to the inspection frequency established in the I&E Plan).

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

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

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each HWG, RCRA LQG, and HHW facility identified in the spreadsheet provided with the 1<sup>st</sup> Progress Report.

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#### 4. DEFICIENCY:

The CUPA is not consistently following up and documenting return to compliance (RTC) information in CERS for HWG Program facilities cited with violations.

Review of CERS CME information and the CUPA's data management system between July 1, 2019, and June 30, 2022, finds:

- There is no documented RTC for the following violations:
  - 328 of 454 (72%)
    - 3 of 3 (100%) Class I violations have no RTC
    - 26 of 29 (90%) Class II violations have no RTC
    - 299 of 422 (71%) Minor violations have no RTC
- 123 of 422 (29%) Minor violations obtained RTC
  - 104 of 123 (83%) Minor violations did not obtain RTC within 35 days
- The following facilities were cited with Minor violations that did not obtain RTC and have had no applied enforcement (i.e. no escalation to Class II)
  - CERS ID 10198105: Minor violation cited October 16, 2019
  - CERS ID 10399501: Minor violation cited August 12, 2019

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

#### CITATION:

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

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS that includes at minimum the following information for each HWG facility with open violations (no RTC) cited in fiscal years 2015/2016, 2016/2017, and between July 1, 2019, and June 30, 2022 (current evaluation period):

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- 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.

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

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**5. DEFICIENCY:**

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

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements between August 27, 2021, and September 26, 2022, finds:

- 846 of 2,202 (38%) regulated business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 901 of 2,202 (41%) regulated business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

**CITATION:**

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

**CORRECTIVE ACTION:**

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

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to HMBP reporting requirements that has not submitted an HMBP or no-change certification within the last 12 months:

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#### DEFICIENCIES REQUIRING CORRECTION

- Facility name;
- CERS ID;
- Follow-up actions including:
  - Recent review, acceptance, and rejection of HMBP or no-change certifications; and
  - For those businesses that have not complied, the enforcement applied by the CUPA to ensure a complete HMBP is annually submitted to CERS.

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

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#### 6. DEFICIENCY:

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

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

- 1,270 of 2,202 (58%) facilities subject to HMBP requirements were not inspected within the last three years.

#### CITATION:

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

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will 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 the Coronavirus (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 prior to any other Business Plan inspection based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

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**DEFICIENCIES REQUIRING CORRECTION**

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

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

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

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**7. DEFICIENCY:**

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

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

- Fiscal Year (FY) 2021/2022
  - 25 of 43 (58%) violations
  - Including 4 violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan
- FY 2020/2021
  - 29 of 42 (69%) violations
- FY 2019/2020
  - 3 of 3 (100%) violations
- FY 2018/2019
  - 22 of 41 (54%) violations
- FY 2017/2018
  - 2 violations for not having, or failure to prepare, an SPCC Plan
- FY 2015/2016
  - 3 violations for not having, or failure to prepare, an SPCC Plan
- FY 2014/2015
  - 1 violation for not having, or failure to prepare, an SPCC Plan
- FY 2013/2014
  - 3 violations for not having, or failure to prepare, an SPCC Plan

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

**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]

UNIFIED PROGRAM PERFORMANCE EVALUATION  
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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

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

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

By the 4<sup>th</sup> Progress Report, the CUPA will have ensured each APSA tank facility identified in the spreadsheet provided with the 1<sup>st</sup> Progress Report as having an open violation for not having, or failure to prepare, an SPCC Plan has achieved compliance, or the CUPA will have applied enforcement.

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**8. DEFICIENCY:**

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

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

- 16 of 42 (38%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years
  - Including 4 APSA tank facilities that have never been inspected.

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation for the APSA and HWG Programs and was corrected during the Evaluation Progress Report process regarding the APSA Program.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility that stores 10,000 gallons or more of petroleum is inspected at least once every three years for compliance with the SPCC Plan requirements of APSA. The action plan will include at minimum:

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each APSA tank facility storing 10,000 gallons or more of petroleum that has not been inspected within the last three years. For each APSA tank facility listed, the spreadsheet will include, at minimum:
  - Facility name,
  - CERS ID,
  - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities with 10,000 gallons or more of petroleum (i.e., large volumes of petroleum or proximity to navigable water).
- Future steps to ensure each APSA tank facility storing 10,000 gallons or more of petroleum will be inspected at least once every three years for compliance with the SPCC Plan requirements of APSA and ensure CME information is entered in CERS.

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each APSA tank facility identified on the spreadsheet provided with the 1<sup>st</sup> Progress Report at least once every three years.

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**9. DEFICIENCY:**

The CUPA is not inspecting each Underground Storage Tank (UST) facility subject to UST Program requirements and is not submitting inspection information to CERS at least once every 12 months.

Not ensuring UST facilities are inspected at least once every three years jeopardizes the ability of California to meet the U.S. Environmental Protection Agency (U.S. EPA) certification requirements of the Energy Policy Act of 2005. In addition, not inspecting USTs once every three years may result in a significant threat to human health, safety, or the environment.

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Review of the UST Routine Inspection Frequency Report in CERS and provided facility files finds the following UST facilities did not have a routine inspection in 2019:

- CERS ID 10169797
- CERS ID 10405228
- CERS ID 10470568

Review of the UST Routine Inspection Frequency Report in CERS and provided facility files finds the following UST facilities did not have a routine inspection in 2020:

- CERS ID 10339546
- CERS ID 10448179
- CERS ID 10456342
- CERS ID 10461466
- CERS ID 10470568
- CERS ID 10490749

Review of the UST Routine Inspection Frequency Report in CERS and provided facility files finds the following UST facilities did not have a routine inspection in 2021:

- CERS ID 10169797
- CERS ID 10339546
- CERS ID 10455131
- CERS ID 10448179
- CERS ID 10456342

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

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each UST is inspected at least once every 12 months. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency requirement for the UST 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. The analysis and explanation will also address how staff will ensure UST facility inspection information is consistently and accurately uploaded into CERS.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each UST facility that has not been inspected within the last 12 months,

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including those facilities that have not been inspected since 2019, 2020, and 2021. For each UST facility listed, the spreadsheet will include, at minimum:

- Facility name,
- CERS ID, and
- Date of the last UST compliance inspection.
- A schedule to inspect each identified UST facility, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

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

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

By the 3<sup>rd</sup> Progress Report and with each subsequent Progress Report, until considered corrected, the CUPA will provide CalEPA with annual UST compliance inspection reports until all UST facilities have been inspected within the last 12 months.

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**10. DEFICIENCY:**

UST compliance inspection information and facility inventory in the Semi-Annual Report (Report 6) is inconsistent with CUPA Self-Audit Reports and CERS CME information.

Review of Report 6, CUPA Self-Audit Reports and CERS CME information finds the following inconsistencies in the reported number of UST facilities inspected:

- FY 2018/2019
  - Report 6: 178 of 182 (98%)
  - CUPA Self-Audit Report: 176 of 182 (97%)
  - CERS CME information: 187 of 192 (97%)
- FY 2019/2020
  - Report 6: 91 of 180 (50%)
  - CUPA Self-Audit Report: 191 of 183 (104%)
  - CERS CME information: 191 of 192 (99%)
- FY 2020/2021
  - Report 6: 168 of 188 (89%)
  - CUPA Self-Audit Report: 201 of 194 (104%)
  - CERS CME information: 201 of 192 (104%)

**CITATION:**

HSC, Chapter 6.11, Section 25404(e)(4)  
CCR, Title 23, Section 2713(c)(3)  
CCR, Title 27, Sections 15187(c) and 15290(b)  
[State Water Board]

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**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop and provide CalEPA with an action plan that, at minimum, includes:

- A thorough analysis and explanation as to how Report 6, CUPA Self-Audit Reports and CERS CME information have inconsistent UST compliance inspection information; and
- A strategy to ensure UST compliance inspection information in Report 6, CUPA Self-Audit Reports and CERS will be accurately reported.

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process, which at minimum will address how UST compliance inspection information is accurately reported in Report 6, CUPA Self-Audit Reports, and CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

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

By the 3<sup>rd</sup> Progress Report, if revisions or amendments to the Data Management Procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date 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 or amended Data Management Procedure, or other applicable procedure.

By the 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will accurately report UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

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**11. DEFICIENCY:**

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

Review of CERS CME information for the following FYs finds testing and leak detection violations have no documented RTC:

- FY 2018/2019

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- 270 of 357 (76%)
  - CERS ID 10169797
    - Violation cited November 28, 2018, for “Failure to operate the UST system to prevent unauthorized releases including leaks, spills, and/or overfills.”
- FY 2019/2020
  - 173 of 255 (68%)
    - CERS ID 10397515
      - Violation cited January 13, 2020, for “Failure of the functional line leak detector (LLD) for emergency generator tank systems to monitor with the capability of detecting a release of 3.0 gallons per hour leak at 10 pounds per square inch within an hour and restrict or shut off the flow of product through the piping or triggers a visual and audible alarm.”
- FY 2020/2021
  - 46 of 58 (79%)
    - CERS ID 10396342
      - Violation cited July 27, 2020, for “Failure to maintain the interstitial space such that a breach in the primary or secondary containment is detected before the liquid or vapor phase of the hazardous substance stored in the UST tank is released into the environment, i.e., vapor, pressure, hydrostatic (VPH) monitoring.”
- July 1, 2021, through May 2, 2022
  - 11 of 19 (58%)
    - CERS ID 10169817
      - Violation cited July 8, 2021, for “Failure of the functional line leak detector (LLD) monitoring pressurized piping to meet one or more of the following requirements: Monitored with the capability of detecting a release of 3.0 gallons per hour leak at 10 pounds per square inch within an hour and restrict or shut off the flow of product through the piping when a leak is detected.”

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

#### **CITATION:**

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

#### **CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review the I&E Plan, or other applicable procedure, and revise as necessary, to ensure establishment of a delineated process to:

- Ensure facilities cited with violations obtain RTC through applied enforcement,
- Document follow-up actions taken by the CUPA to ensure RTC, and
- Document RTC in CERS for facilities that obtain RTC.

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

By the 1<sup>st</sup> Progress Report, and with each subsequent progress report until considered corrected the CUPA will provide RTC documentation, or a description of the applied enforcement taken by the CUPA in the absence of RTC for CERS ID 10397515 and CERS ID 10169817.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date 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 3<sup>rd</sup> Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

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**12. DEFICIENCY:**

The UST operating permit and permit conditions, issued under the “Permit to Operate,” as the Unified Program Facility Permit (UPFP), are inconsistent with the CUPA’s Local Ordinance, CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672(d) (UST Regulations) and HSC requirements.

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

- The UST Operating permit template does not contain the State Tank (CERS) ID number.
- The Underground Storage Tank Operating Permit Addendum, page 2
  - The header states “This permit is issued to the underground storage tank owner, shall be kept at the UST location at all times, and shall be renewed on an annual basis.”
    - This is inconsistent with the expiration dates on the operating permit, as well as the CUPA’s Local Ordinance.
  - The header indicates UST owners or operators shall notify the CUPA within 30 days of any significant changes to the facility or operation.
    - The regulatory requirement is to notify the CUPA 30 days prior to any change in substance stored.

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- Underground Storage Tank Operating Permit Addendum, page 3
  - References include HSC, Chapter 6.75 and CCR, Chapter 18.
    - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Chapter 6.75 and CCR, Chapter 18.
    - The correct citations are as follows:
      - CCR, Chapter 16, Sections 2610 through 2717.7.
      - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.
  - Permit condition 3, under “Monthly Checks,” states to conduct Designated Operator (DO) inspections.
    - The regulatory requirement for conducting DO inspections is every 30 days.
  - Permit condition 3, under “Monthly Checks,” states the completed DO inspection checklist shall be kept on site and available for CUPA review.
    - This condition should include the requirement of being kept on site for 36 months.
  - Permit condition 3, under “Every Three Years,” states "Perform an operability check of cathodic protection system ..." every three years.
    - The regulatory requirement is every 60 months.

#### **CITATION:**

CCR, Title 23, Sections 2711(c), 2712(b)(2) and (c), 2716(a) and (f)  
HSC, Chapter 6.7, Sections 25283 (b)(1)(B), 25285 (a), 25297.01(b)  
[State Water Board]

#### **CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise the UST operating permit and permit conditions template issued under the “Permit to Operate” as the UPFP, to be consistent with the CUPA’s Local Ordinance, UST Regulations, and HSC. The CUPA will provide the revised UST operating permit and permit conditions template to CalEPA.

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

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

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**13. DEFICIENCY:**

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

Review of UST facility file information finds the CUPA did not provide the UST Permanent Closure Notification to the owner or operator upon completion of UST closure activities for the following:

- CERS ID 10637893
  - A UST Permanent Closure Notification has not been issued
- CERS ID 10405210
  - A UST Permanent Closure Notification has not been issued
- CERS ID 10638910
  - A UST Permanent Closure Notification has not been issued
- CERS ID 10450279
  - The notification provided to the owner or operator does not include the following:
    - CERS Tank ID
    - Identification of UST's (if any) remaining at the facility
    - Notice that tank closure documents are required to be maintained for 36 months in accordance with CCR, Title 23, Division 3, Chapter 16, Section 2672(f)

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

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

Note: A UST closure letter template is available on the State Water Board website at [https://www.waterboards.ca.gov/water\\_issues/programs/ust/docs/ust-closure-letter-template-final.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/docs/ust-closure-letter-template-final.pdf).

**CITATION:**

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

**CORRECTIVE ACTION:**

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

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- Provide a UST Permanent Closure Notification to the UST owner or operator, which demonstrates to the satisfaction of the CUPA that permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

Additionally, the CUPA will begin to utilize the UST closure letter template provided by the State Water Board, or develop a UST Permanent Closure Notification template for sites with and without contamination, if separate notifications are issued for those scenarios, to include the following:

- Site Address
- CERS tank IDs
- Date(s) of removal or permanent closure; and
- Confirmation that UST(s) have been permanently closed in accordance with UST Regulations and HSC. The following language is an example: “The Solano County Environmental Health CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Section 2670 and 2672 and HSC, Chapter 6.7, Section 25298(c).”

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

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

By the 3<sup>rd</sup> Progress Report, if revisions or amendments to the UST closure procedure or other applicable procedure and/or revisions to the UST Closure Notification template(s) were necessary, the CUPA will train UST inspection staff on the revised or amended UST closure procedure or other applicable procedure and/or the revised UST Closure Notification template(s). The CUPA will provide training documentation to CalEPA, which at minimum, will include the date 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 or amended UST Closure procedure or other applicable procedure and/or utilize the revised UST Closure Notification template(s).

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With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the UST Closure Notification template(s) determined acceptable by the State Water Board and will provide updated closure documentation upon request.

For the next two UST closures, and until considered corrected, the CUPA will provide CalEPA with the UST closure documentation, including sampling results, that demonstrate to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC. If no UST closures have occurred by the 4<sup>th</sup> Progress Report, the State Water Board will consider this deficiency closed but not corrected upon completion of training, and implementation of the developed/revised or amended/revised UST closure procedure or other applicable procedure and the developed/revised or amended/revised UST Closure Notification template(s) determined acceptable by the State Water Board. The State Water Board will verify proper sampling and analysis of soil and/or groundwater occurred during or immediately after UST closure activities with the next CUPA performance evaluation.

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**14. DEFICIENCY:**

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

Review of the UST Facility/Tank Data Download report obtained from CERS on May 2, 2022, finds UST construction and leak detection information is incorrect as follows:

- 6 of 21 (21%) UST systems with single-walled piping list “yes” for continuous secondary monitoring
  - CERS ID 10470568, Tank IDs -002, -003
  - CERS ID 10405219, Tank IDs -001, -002, -003, and -005
- 13 of 16 (81%) UST systems with single-walled product piping are listed as having been built after July 1, 1987
  - CERS ID 10152451, Tank IDs -001, -002
  - CERS ID 10397275, Tank IDs -001, -002
- CERS ID 10504057, Tank ID -0013 of 15 (20%) UST systems with single-walled tanks identify a secondary containment construction
  - CERS ID 10397515, Tank IDs -001, -002
- CERS ID 10466758, Tank ID -004
  - 6 of 29 (21%) UST systems with single-walled piping list secondary containment monitoring
    - CERS ID 10405219, Tank IDs -001, -002, -003, and -005
    - CERS ID 10470568, Tank ID -002

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

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

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#### **CITATION:**

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

#### **CORRECTIVE ACTION:**

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

- When UST CERS submittal information is identified as incorrect, the CUPA will either:
  - accept UST CERS submittals with minor errors utilizing a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;
  - not accept UST CERS submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When the UST CERS submittal is not corrected and resubmitted within the time specified by the CUPA, the CUPA will apply enforcement per the I&E Plan.

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

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

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

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

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

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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.

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**1. INCIDENTAL FINDING:**

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

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

- FY 2021/2022
  - 1<sup>st</sup> Fiscal Quarter: Due October 30, 2021. Submitted March 1, 2022.
  - 2<sup>nd</sup> Fiscal Quarter: Due January 30, 2022. Submitted March 1, 2022.
  - 3<sup>rd</sup> Fiscal Quarter: Due April 30, 2021. Submitted August 18, 2022.

Note: CalEPA has revised the Quarterly Surcharge Transmittal Report template to reflect the increased CUPA Oversight state surcharge, which became effective July 1, 2021, and includes an assessment for the CERS NextGen Project. The revised quarterly Surcharge Transmittal Report is available at: [https://calepa.ca.gov/wp-content/uploads/sites/6/2022/01/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2022/01/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf) and should be submitted to [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov). Each line item on the Surcharge Transmittal Report template should be completed, including the check number. Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, the July 1, 2018, version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27.

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will have submitted to CalEPA the 4<sup>th</sup> quarterly Surcharge Transmittal Report for FY 2022/2023 by the required due date using the current quarterly Surcharge Transmittal Report template.

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

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**2. INCIDENTAL FINDING:**

The CUPA is not properly reviewing, processing, and authorizing each annual Onsite Hazardous Waste Treatment Notification for Permit By Rule (PBR) facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

During the 45-day review process the CUPA must:

- Authorize operation of the FTU; or
- Deny authorization of the FTU in accordance with PBR laws and regulations; or
- Notify the owner/operator that the notification submittal is inaccurate or incomplete.

Review of CERS information finds the following PBR Onsite Hazardous Waste Treatment Notifications submitted between July 1, 2019, and June 30, 2022, were not reviewed, processed, or authorized by the CUPA with 45 days:

- 2 of 4 (50%)
  - CERS ID 10117198
    - Submittal dated January 22, 2020
    - Not Accepted February 18, 2021 (393 days)
  - CERS ID 10117198
    - Submittal dated February 16, 2021
    - Accepted September 28, 2021 (224 days)

**CITATION:**

CCR Title 22, Sections 67450.2(b)(4) and 67450.3(c)  
HSC, Chapter 6.5, Section 25200.3(e)(3) and 25201.5(d)(7)  
[DTSC]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will review all pending PBR notifications for each Onsite Hazardous Waste Treatment Notification with an FTU within 45 calendar days of receipt. The CUPA will review each Onsite Hazardous Waste Treatment Notification to ensure submittals are correct and accurately represent the actual waste streams and treatment systems identified at the facility. The CUPA will provide a narrative update to CalEPA on the status of the progress made toward reviewing PBR submittals, including the submittal for CERS ID 10117198.

By the 1<sup>st</sup> Progress Report, the CUPA will develop and/or review, and revise as necessary, procedures on how to accurately review, process and authorize Onsite Hazardous Waste Treatment Notifications within the 45-day review process by either:

- Authorizing operation of the FTU; or
- Denying authorization of the FTU in accordance with PBR laws and regulations; or
- Notifying the owner/operator that the notification submittal is inaccurate or incomplete.

By the 2<sup>nd</sup> Progress Report, the CUPA will train HWG inspection staff on the procedures for reviewing, processing and authorizing Onsite Hazardous Waste Treatment Notifications within 45 days.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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### INCIDENTAL FINDINGS REQUIRING RESOLUTION

Note: A TP Program training video is available on the California Certified Unified Program Agency Forum Board website at: <https://www.youtube.com/user/orangetreeweb/videos>. Additional TP Program training assistance can be requested from DTSC.

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#### 3. INCIDENTAL FINDING:

The CUPA is not properly classifying HWG Program violations.

Review of CERS CME information indicates the CUPA is classifying Class I or Class II HWG Program violations as minor violations cited between July 1, 2019, and June 30, 2022, in the following instances:

- Violation illegal disposal of hazardous waste incorrectly cited as a minor violation. Hazardous waste improperly treated or disposed of presents a significant risk to human health and the environment. An economic benefit may be gained by the facility in not properly managing hazardous waste nor sending it for legal disposal. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
  - 7 of 7 (100%) illegal disposal violations using CERS violation library number type 3050002 [HSC, Chapter 6.5, Section 25189.5(a)] were cited as minor violations.
    - CERS ID 10149541: inspection dated December 10, 2019
    - CERS ID 10635874: inspection dated February 21, 2020
    - CERS ID 10397266: inspection dated February 24, 2020
    - CERS ID 10447864: inspection dated February 27, 2020
    - CERS ID 10411654: inspection dated July 29, 2020
    - CERS ID 10408582: inspection dated August 7, 2020
    - CERS ID 10422805: inspection dated August 10, 2020
- Violation for exceedance of authorized accumulation time (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of a minor violation as defined in HSC, Section 25404(a)(3).
  - 5 of 7 (71%) accumulation timeframe violations using CERS violation library number types 3030009 and 3030010 were cited as minor violations.
    - CERS ID 10120084: inspection dated March 9, 2022; violation comment states, "Remove all Hazardous Waste older than 1 year and include 15 gallons waste drum."
    - CERS ID 10133812: inspection dated June 29, 2022; violation comment states, "Accumulation date on Hazardous Waste container is dated from 2015. Ensure Hazardous Waste container is picked up once EPA ID number is reactivated. Ensure that Hazardous Waste containers are properly disposed of within 90 days of the accumulation date..." The comment also notes the inspector notified a representative at the facility that Hazardous wastes such as fuel filters, oily debris, and fuel hoses must be stored and disposed of as Hazardous Waste.

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- CERS ID 10166403: inspection dated May 11, 2022; violation comment states, "Remove Waste Antifreeze (old) and "Oily Debris."
  - CERSID 10397515: inspection dated January 13, 2020; no violation comments.
  - CERS ID 10405195: inspection dated January 27, 2020; no violation comments.
- Violation for failure to make a hazardous waste determination incorrectly cited as a minor violation. Failure to make a hazardous waste determination (CCR, Title 22, Section 66262.11) may result in illegal disposal of waste. If waste is misclassified, it may not be treated according to the correct treatment standards to meet land disposal restriction requirements. There may be an economic benefit and avoided costs associated with improper management of hazardous waste, including disposal and treatment. Additionally, failure to perform a waste classification determination may hinder the ability to determine compliance with other applicable local, state, or federal rules, regulations, information requests, orders, variances, permits, or other requirements.
    - 22 of 30 (73%) waste determination violations using CERS violation library number types 3030005, 3130001, 3230087, and 3310010 were cited as minor violations.
      - CERS ID 10166889: inspection dated June 3, 2021; no violation comments
      - CERS ID 10198105: inspection dated October 16, 2019; no violation comments.

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

#### **CITATION:**

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

HSC, Chapter 6.11, Section 25404(a)(3)

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

[DTSC]

#### **RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and Class I, and Class II violations, as defined in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6 and CCR, Title 22, Section 66260.10

The CUPA will train inspection staff on how to properly classify HWG Program violations during inspections as minor, Class I, and Class II. Training should include, at minimum, review of the following:

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)  
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
- [2020 Violation Classification Guidance for Unified Program Agencies](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf)  
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

By the 2<sup>nd</sup> Progress Report, the CUPA will provide CalEPA with a statement that training has been conducted.

By the 2<sup>nd</sup> Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with an inspection report citing at least one HWG Program violation, for three HWG Program facilities, as requested by DTSC, that have been inspected after training has been completed and within the last three months. Each inspection report will contain observations, factual basis, and corrective actions to correctly identify and classify each observed HWG Program violation.

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**4. INCIDENTAL FINDING:**

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

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds the following HMBP submittals were accepted with missing components:

- CERS ID 10454254: Missing required site map components such as access and exit points.
- CERS ID 10490296: Missing required site map components such as north orientation and adjacent streets.
- CERS ID 10439728: Missing required site map components such as north orientation and adjacent streets.

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

**CITATION:**

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

**RESOLUTION:**

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

By the 4<sup>th</sup> Progress Report, the CUPA will provide a statement to CalEPA confirming that each facility identified above has submitted a complete HMBP that has been thoroughly reviewed and accepted.

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**5. INCIDENTAL FINDING:**

The annual CalARP Dispute Resolution is missing a required element.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

Review of the CalARP Dispute Resolution finds the following element is missing:

- Set procedures and timetables for providing argument and supporting materials to the Unified Program Agency (UPA).

**CITATION:**

CCR, Title 19, Section 2780.1(a)(3)  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised CalARP Dispute Resolution that includes all required elements.

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**6. INCIDENTAL FINDING:**

The CUPA is not consistently conducting complete annual UST compliance inspections.

The CUPA is not observing nor documenting noncompliance and is not citing violations observed during UST compliance inspections, in annual UST compliance inspection reports, or in CERS.

Review of UST compliance inspection reports, associated testing and leak detection documents, and CERS information finds the CUPA did not document identified violations for the following facilities:

- CERS ID 10405228
  - Monitoring System Certification dated January 24, 2020, identifies that not all monitoring equipment is operational, and that “Stand Alone VR 001 in Dispenser #1-2 will need to be replaced.”
  - Non-compliance was not observed in the annual UST compliance inspection report.
  - A violation was not reported in CERS for “2030043 - Failure of the leak detection equipment to be installed, calibrated, operated, and/or maintained in accordance with manufacturer’s instructions.”
- CERS ID 10445131
  - Spill Container Testing Report Form dated May 28, 2020, identifies that “the 91 and DSL buckets failed due to not holding 5 gallons.”
  - Non-compliance was not observed in the annual UST compliance inspection report.
  - A violation was not reported in CERS for “2060020 - Failure to meet one or more of the following requirements: Have a minimum capacity of five gallons.”

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

**CITATION:**

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

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to conduct complete UST compliance inspections and document violations observed in UST compliance inspection reports and in CERS.

The I&E Plan or other applicable procedure will, at minimum, address:

- Review and follow-up of submitted UST testing and leak detection documents by the owner or operator as part of the UST compliance inspection;
- Conducting UST compliance inspections when UST Inspection staff are on-site to witness the monitoring system certification and visually confirm all UST required components are in compliance;
- Conducting UST compliance inspections when UST inspection staff are not on-site and cannot witness the monitoring system certification and visually confirm all UST components are in compliance;
- Ensuring violations observed during UST inspections are correctly and consistently cited on the inspection report; and
- Documenting and reporting observed noncompliance in UST compliance inspection reports to CERS.
- Review of the UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HCS, and the CERS violation library.

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

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on feedback from 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. Once training is complete, the CUPA will implement the revised I&E Plan, or other applicable procedure.

By the 3<sup>rd</sup> 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. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

By the 4<sup>th</sup> Progress Report, and in each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records, for five UST facilities, as requested by the State Water Board, including, but not limited to: UST compliance inspection reports, monitoring certifications, testing and leak detection documents, and other associated compliance documentation.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**7. INCIDENTAL FINDING:**

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

Review of HMBP submittals to CERS by APSA tank facilities in lieu of a tank facility statement indicates:

- 84 of 339 (25%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months
  - Including 34 APSA tank facilities that have never submitted to CERS.

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that HMBPs provided in lieu of a tank facility statement by APSA tank facilities are annually submitted to CERS.

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each APSA tank facility that has not annually submitted an HMBP when an HMBP is provided in lieu of a tank facility statement to CERS:

- Facility name;
- CERS ID; and
- A narrative of the applied enforcement taken by the CUPA.

By the 4<sup>th</sup> Progress Report, the CUPA will ensure each APSA tank facility has annually submitted an HMBP to CERS when an HMBP is provided in lieu of a tank facility statement, or the CUPA will have applied enforcement.

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**8. INCIDENTAL FINDING:**

The CUPA is not consistently classifying APSA Program violations properly.

Review of facility files and CERS CME information indicates the CUPA is classifying non-minor APSA Program violations as minor violations in the following instances:

- 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 a minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for

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not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. EPA.

- FY 2017/2018 through 2021/2022
  - 14 violations for not having, or failure to prepare, an SPCC Plan were classified as minor.

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 6.67, Sections 25270.4.1(c) and 25270.4.5(a)  
HSC, Chapter 6.11, Sections 25404(a)(3) and 25404.2(a)(3)-(4)  
CCR, Title 27, Section 15200(a)  
[OSFM]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will train APSA inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and how to properly classify violations during compliance inspections as minor, Class I, and Class II.

The CUPA will train inspection staff on how to properly classify APSA Program violations as minor, Class I, and Class II. Training should include, at minimum, review of the following:

- Violation Classification Training Video 2014
  - <https://www.youtube.com/watch?v=RB-5V6RfPH8>
- 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>
- U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998 for SPCC violations
  - <https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998.html>

The CUPA will provide training documentation to CalEPA, which at minimum will include, the date training was conducted, an outline of the training conducted, and a list of CUPA inspection staff in attendance.

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UNIFIED PROGRAM PERFORMANCE EVALUATION  
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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.

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**1. OBSERVATION:**

The number of regulated businesses reported on the Annual Single Fee Summary Reports for FYs 2018/2019, 2019/2020, and 2020/2021 have significantly changed as follows:

- Businesses assessed the CUPA Oversight Surcharge
  - FY 2018/2019: 1,913
  - FY 2019/2020: 1,860
  - FY 2020/2021: 1,972
- Onsite Hazardous Waste Treatment Facilities: Conditionally Exempt (CE)
  - FY 2018/2019: 15
  - FY 2019/2020: 7
  - FY 2020/2021: 1,972
- RCRA LQG facilities
  - FY 2019/2020: 93
  - FY 2020/2021: 48
- Small Quantity Generator (SQG) facilities
  - FY 2019/2020: 1,520
  - FY 2020/2021: 1,590

The significant changes in the number of regulated facilities were a result of a clerical error when completing the reports.

**RECOMMENDATION:**

When reporting significant changes in the number of regulated businesses and/or facilities during the current year or in the upcoming year with the Annual Single Fee Summary Report, provide a cover letter that accompanies the Annual Single Fee Summary Report that provides an estimate and explanation of the change in the number of regulated businesses and/or facilities.

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**2. OBSERVATION:**

The information provided 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:

- Information provided by Solano County Environmental Health 1995 Application for Certification
- CERS “Summary Regulated Facilities by Unified Program Element Report” generated on October 6, 2022
- CERS “UST Inspection Summary Report (Report 6)” generated on October 6, 2022

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**OBSERVATIONS AND RECOMMENDATIONS**

- Total Number of Regulated Businesses and Facilities:
  - In 1995: **1,180**
  - Currently: **2,404**
  - An increase of **1,224** facilities
  
- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:
  - In 1995: **849**
  - Currently: **2,203**
  - An increase of **1,354** facilities
  
- Total Number of Regulated Underground Storage Tank (UST) Facilities:
  - In 1995: **183**
  - Currently: **193**
  - An increase of **10** facilities
  
- Total Number of Regulated Underground Storage Tanks (USTs):
  - In 1995: **497**
  - Currently: **489**
  - A decrease of **8** Underground Storage Tanks
  
- Total Number of Regulated Hazardous Waste Generator (HWGs) Facilities:
  - In 1995: **849**
  - Currently: **1,299**
  - An increase of **450** facilities
  
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
  - In 1995: None specified
  - Currently: **7**
  - Comments: HHW Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
  
- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
  - In 1995: **15**
  - Currently: **14**
  - A decrease of **1** facility
  
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
  - In 1995: Not specified
  - Currently: **43**

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## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

- Comments: RCRA LQG Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
  - In 1995: **20**
  - Currently: **22**
  - An increase of **2** facilities
- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
  - In 1995: Not Applicable
  - Currently: **336**

Since the CUPA applied for certification in 1995, there have been substantial increases in the number of regulated facilities within the Business Plan, HWG, and APSA Programs. Between 2022 and 1995, there has been a 159% increase in the Business Plan Program, 53% increase in the HWG Program, and a 197% increase in the APSA Program. The total number of regulated facilities and facilities within the jurisdiction of the CUPA has overall increased by 1,224 (104%).

An expansion of responsibilities in the HMBP, HWG, and CalARP programs has also occurred since the CUPA was certified in 1995, 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.

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. The information is sourced from the Solano County Environmental Health 1995 CUPA Application and recent information provided by the CUPA.

#### CUPA Personnel:

- Inspection and other Staff
  - Upon Certification in 1995:
    - 4 Staff, each Part Time = 3.9 FTE
  - Currently:
    - 7 Staff, each Part Time = 6.5 FTE
      - 4 Senior Hazardous Materials Specialists
      - 1 Hazardous Materials Specialist (currently vacant)
      - 1 Hazardous Materials Specialist (Entry)
      - 1 Environmental Health Assistant (extra help)

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#### OBSERVATIONS AND RECOMMENDATIONS

- Supervisory and Management Staff
  - Upon Certification in 1995:
    - 1 Staff, with an unknown specific time allocation towards the implementation of the Unified Program.
  - Currently:
    - 1 Staff, with an unknown specific time allocation towards the implementation of the Unified Program.

The comparison of the implementation of the program upon certification with present-day circumstance reveals there may be a few issues impeding the CUPAs ability to adequately implement the Unified Program within its jurisdiction due to constraints beyond its control. Solano County was heavily afflicted by the 2020 LNU Lightning Complex wildfire that burned over one hundred homes and over 62,000 acres within Solano County alone. Solano County Environmental Health deployed the CUPA to assist with wildfire recovery efforts through the latter half of 2020 affecting the CUPA's ability to conduct routine inspections and enforcement efforts under the Unified Program. Within the last three years, the CUPA has had two retirements for one Supervisor and one Hazardous Materials Specialist resulting in the promotion of one staff member to the Supervisor classification and the hiring of one entry personnel new to Unified Program implementation. Two other personnel underwent extended leave absences to care for family.

Between rapid growth within the city limits and the expansion of the Unified Program elements since its inception, the number of regulated facilities for this CUPA have more than doubled since the CUPA was first certified. As of the most recent evaluation, the CUPA has almost doubled its staff by hiring three additional part-time personnel than when the agency was first certified.

Solano County Environmental Health regularly conducts fee studies assessing the CUPA and other city department fees. The CUPA's fee schedule is adjusted annually at the start of each fiscal year. The CUPA recovers nearly all of its implementation expenditures through single fee assessment and subsidizes the remaining costs, if there are any, using the Solano County general fund.

#### **RECOMMENDATION:**

Continue to conduct the annual review and update of the fee accountability program to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. Reevaluate the current budget and expenditures, single fee assessment for each entity, and funding allocation for program services so that, if applicable, the CUPA is able to justify the need to increase fees, staff levels, and other resources as necessary and reasonable to ensure adequate implementation of each program element. Examine how current CUPA resources are being used to ensure that required program elements are implemented as a priority before supplemental efforts that may not be specifically required.

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**OBSERVATIONS AND RECOMMENDATIONS**

The ability to apply each aspect of inspection, compliance, monitoring, and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large. Once the CUPA has the necessary resources to obtain and maintain an adequate staff, it is likely the issues causing the identified and recurring deficiencies, such as falling short of meeting the mandated inspection frequency for various program elements will be addressed.

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**3. OBSERVATION:**

The Senior Hazardous Materials Specialist job duty statement uses the following language: “Must meet the educational requirements of Title 27, CCR, Section 15260(a)(3)(A)(ii) which includes a bachelor’s degree from an accredited four-year college or university.”

The educational requirements of CCR, Title 27, Section 15260(a)(3)(A)(i) and Section 15260(a)(3)(A)(iii) allow CUPAs to hire personnel under different criteria who do not possess a bachelor’s degree.

**RECOMMENDATION:**

Revise the language in the job duty statement of the Senior Materials Specialist position to remove the citations for CCR, Title 27, Section 15260(a)(3)(A)(i) and Section 15260(a)(3)(A)(iii).

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**4. OBSERVATION:**

Review of facility files and CERS information finds inconsistencies in the inspection and treatment activities of facilities regulated under the TP component of the HWG Program.

Review of CERS information finds the following facility received a PBR inspection but has no PBR submittal:

- CERS ID 10882768
  - CERS reflects a PBR inspection conducted on September 27, 2021, with no cited violations.
  - If the facility is a PBR facility, a violation should be cited for failure to make a PBR submittal.
  - If the facility is not a PBR facility, the CUPA is using an incorrect inspection type in CERS.

Review of CERS information finds the following facilities have self-identified as performing onsite treatment of hazardous waste in the business activities submittal, but have not provided a TP submittal or received a TP inspection:

- CERS ID 10133812
  - The business activities submittal indicates onsite HW treatment and being subject to financial assurance requirements.
  - There are no TP submittals in CERS.
  - There are no TP inspections in CERS; only HW inspections.

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**OBSERVATIONS AND RECOMMENDATIONS**

- CERS ID 10207486
  - The business activities submittal indicates onsite HW treatment.
  - There are no TP submittals in CERS.
  - There are no TP inspections in CERS.
- CERS ID 10455235
  - The business activities submittal indicates onsite HW treatment.
  - There are no TP submittals in CERS.
  - There are no TP inspections in CERS.
- CERS ID 10641763
  - The business activities submittal indicates onsite HW treatment.
  - There are no TP submittals in CERS.
  - There are no TP inspections in CERS.
  - It is recommended to having the facility resubmit business activities with correct information.

**RECOMMENDATION:**

Review the facility files and inspector comments in inspection reports for the facilities identified above to determine whether the facilities are actual TP facilities. If determined not to be a TP facility, remove the incorrect PBR inspection entry from CERS and have the facilities resubmit the business activities in CERS with the correct information.

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**5. OBSERVATION:**

The CUPA does not routinely include violation comments with violations entered in CERS.

Violation comments in CERS are crucial for documenting the observations and factual basis of a cited violation. In addition, violation comments are a useful tool for inspectors to monitor RTC. Having access to observations and factual basis for cited violations in CERS assists facility representatives and inspectors in accurately referencing corrective actions required for obtaining RTC. Violation comments can also list corrective actions or record progress details relative to RTC.

**RECOMMENDATION:**

It is highly recommended to utilize violation comments in CERS to record observations and factual basis for each violation cited. Ensure the detailed factual basis of each violation is included in inspection reports and in CME information electronically transferred to CERS to support any applicable enforcement efforts.

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**6. OBSERVATION:**

Review of overall implementation of the HWG Program, including policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between July 1, 2019, and June 30, 2022, is summarized below:

- There are 1,349 regulated HWG facilities, including 44 RCRA LQG facilities and 11 TP facilities.

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- The CUPA inspected 514 unique HWG facilities and conducted 584 HWG routine inspections. Conducting more HWG routine inspections than there are unique HWG facilities indicates the CUPA inspected some unique HWG facilities more often than the inspection frequency established in the I&E Plan.
  - 361 of 584 (62%) routine inspections had no violations cited.
  - 223 of 584 (38%) routine inspections had at least one violation cited.
    - 454 total violations were cited, consisting of:
      - 3 (1%) Class I violations
      - 29 (6%) Class II violations
      - 422 (93%) Minor violations
    - CERS indicates the CUPA has ensured RTC for 126 of 454 (28%) violations cited.
- CERS reflects no formal enforcement actions for hazardous waste related violations were completed.
- Inspection reports do not always document whether consent to inspect was requested prior to the beginning of the inspection. In addition, not all inspectors are consistently including observations and factual basis for violations in inspection reports. The consistency and detail varied from inspector to inspector. Violation comments are also not being recorded for violations reported in CERS.
- When the CUPA conducts follow-up (i.e. “Other”) inspections to check for RTC, it is recommended that the CUPA refrains from re-citing violations that have not RTC’d from the previous “Routine” inspection. When uncorrected violations from “Routine” inspections are cited again in “Other” inspections it appears as if the CUPA is citing new violations, rather than documenting that the violation remains open.

#### **RECOMMENDATION:**

Consider the recommendations noted above and continue with the HWG inspection frequencies and applied enforcement efforts established per the I&E Plan. Ensure that a detailed factual basis for each violation is included in inspection reports and in the CME information electronically transferred to CERS to support any applicable enforcement efforts. Evaluate current HWG facility inspection checklists to determine if revision is needed to update regulatory citations. Follow up with HWG facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan for those facilities that do not obtain RTC.

Regularly refresh inspector knowledge of violation classification for HWG violations. Ensure inspectors follow the HWG Inspection Procedures found in the I&E Plan and ensure inspectors document consent to inspect in each HWG inspection report prior to conducting the inspection.

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#### **7. 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 – June 30, 2020

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- The CUPA conducted 189 routine inspections, of which 72 (38%) had no violations cited and 117 (62%) had at least one violation cited.
- A total of 407 violations were cited, consisting of:
  - 1 (0%) Class 1 violation
  - 93 (23%) Class 2 violations
  - 313 (77%) Minor violations
- The CUPA has ensured RTC for 172 of 407 (42%) violations cited.
- July 1, 2020 – June 30, 2021
  - The CUPA conducted 180 routine inspections, of which 91 (51%) had no violations cited and 89 (49%) had at least one violation cited.
  - A total of 296 violations were cited, consisting of:
    - 58 (20%) Class 2 violations
    - 238 (80%) Minor violations
  - The CUPA has ensured RTC for 156 of 296 (53%) violations cited.
- July 1, 2021 – June 30, 2022
  - The CUPA conducted 563 routine inspections, of which 232 (41%) had no violations cited and 331 (59%) had at least one violation cited.
  - A total of 1,022 violations were cited, consisting of:
    - 1 (0%) Class 1 violation
    - 47 (5%) Class 2 violations
    - 974 (95%) Minor violations
  - The CUPA has ensured RTC for 535 of 1,022 (52%) violations cited.
- CalARP Program
  - July 1, 2019 – June 30, 2020
    - The CUPA conducted 7 routine inspections, of which 2 (29%) had no violations cited and 5 (71%) had at least one violation cited.
    - A total of 17 violations were cited, consisting of:
      - 8 (44%) Class 2 violations
      - 9 (56%) Minor violations
    - The CUPA has ensured RTC for 3 of 17 (18%) violations cited.
  - July 1, 2020 – June 30, 2021
    - The CUPA conducted 5 routine inspections, of which 4 (80%) had no violations cited and 1 (20%) had at least one violation cited.
    - A total of 3 violations were cited, consisting of:
      - 3 (100%) Minor violations
    - The CUPA has ensured RTC for 3 of 3 (100%) violations cited.
  - July 1, 2021 – June 30, 2022
    - The CUPA conducted 8 routine inspections, of which 7 (88%) had no violations cited and 1 (12%) had at least one violation cited.
    - A total of 3 violations were cited, consisting of:
      - 3 (100%) Minor violations
    - The CUPA has ensured RTC for 3 of 3 (100%) violations cited.

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**RECOMMENDATION:**

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

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**8. OBSERVATION:**

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

SPCC Plans are not required as part of an APSA CERS submittal; therefore, SPCC Plans should not be uploaded to CERS.

The APSA documentation upload section in CERS is for providing an annual tank facility statement, unless an HMBP is already provided, or for providing other local reporting requirement documents.

**RECOMMENDATION:**

Utilize the regulator comments field in CERS to provide feedback and advise APSA tank facilities that SPCC Plans should not be included in future CERS submittals.

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**9. OBSERVATION:**

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

Main webpage

([https://www.solanocounty.com/depts/rm/environmental\\_health/hazmat/default.asp](https://www.solanocounty.com/depts/rm/environmental_health/hazmat/default.asp)):

- Expand the applicability information in the APSA section to not only tank facilities with 1,320 gallons or more of petroleum, but also tank facilities subject to the Federal SPCC rule and tank facilities with less than 1,320 gallons of petroleum and one or more tanks in underground areas (TIUGAs).
- The APSA portion of the website contains broken links to the 'US EPA SPCC Agricultural Fact Sheet' and OSFM website. Update the broken links.
- The 'Final APSA Training' presentation, dated September 2, 2016, is useful and valuable, but should also be updated to be consistent with the current statute and the Federal SPCC rule.
  - Slide 14 – Remove tank facilities conditionally exempt from preparing an SPCC Plan under APSA from the list of 'What is not regulated under APSA.' These tank facilities (farms, nurseries, logging, and construction sites) are still subject to APSA. These tank facilities are not exempt from federal SPCC law; however, the thresholds for farms are now 2,500 gallons or 6,000 gallons (with no reportable discharge history).

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- Slide 15 – Under ‘What is required?,’ include payment of fees, including state surcharge. On preparing and implementing an SPCC Plan, not all APSA tank facilities are required to prepare and implement an SPCC Plan. Add a note about certain tank facilities being conditionally exempt from preparing an SPCC Plan under APSA if certain conditions are met.
- Slide 20 – Under ‘SPCC Plan specifics,’ include clarification or note that a facility diagram is not required for Tier I qualified facility SPCC Plans.
- Slide 27 – Update the reportable discharge history to be consistent with the Federal SPCC rule. A qualified facility has no single discharge exceeding 1,000 U.S. gallons or no two discharges each exceeding 42 U.S. gallons within any 12-month period in the three years prior to the SPCC Plan self-certification date, or since becoming subject to this part if the facility has been in operation for less than three years.
- Slide 28 – On maintaining the SPCC Plan onsite, clarify that this applies if the facility is normally attended at least four hours per day, or at the nearest field office if the facility is not so attended.
- Slides 29-30 – On self-inspections, information appears to be a best management approach or applicable to tank facilities conditionally exempt from preparing an SPCC Plan under APSA. Update the self-inspections to be consistent with the Federal SPCC rule; inspections should be conducted using the schedule/frequency and checklists, if any, as written in the facility’s SPCC Plan.
- Slide 56 – Update the OSFM APSA website.

#### Hazardous Materials Frequently Asked Questions webpage

([https://www.solanocounty.com/depts/rm/environmental\\_health/hazmat/hazmat\\_faq.asp](https://www.solanocounty.com/depts/rm/environmental_health/hazmat/hazmat_faq.asp)):

- “What are the regulatory requirements for Aboveground Petroleum Storage Act?”
  - Update information to include all applicable APSA tank facilities: tank facilities that are subject to the Federal SPCC rule; tank facilities with 1,320 gallons or more of petroleum; and tank facilities with one or more TIUGAs and storing less than 1,320 gallons of petroleum.
  - Include information about conditionally exempt tank facilities, since not all APSA tank facilities must prepare an SPCC Plan if certain conditions are met.
- “What is the Spill Prevention, Control, and Countermeasure (SPCC) Plan for?”
  - Update the reportable discharge history information to be consistent with the Federal SPCC rule, as it is a snapshot in time.

#### Farm Hazardous Materials Frequently Asked Questions webpage

([https://www.solanocounty.com/depts/rm/environmental\\_health/hazmat/farm\\_hazmat\\_faq.asp](https://www.solanocounty.com/depts/rm/environmental_health/hazmat/farm_hazmat_faq.asp)):

- “Aboveground Petroleum Act Brochure” link broken; remove or update link
- “USEPA Info on SPCC for Agriculture” link broken; remove or update link to <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>
- OSFM link broken; update the link with the current OSFM APSA website (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>)

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Hazardous Materials Documents webpage

([https://www.solanocounty.com/depts/rm/documents/hazardous\\_materials.asp](https://www.solanocounty.com/depts/rm/documents/hazardous_materials.asp)):

- “Tier II SPCC template (dated 8/2015) is outdated; replace with the current version dated 5/2021 ([https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm\\_tierii\\_spcc\\_plantemplate\\_05-2021-accessible.pdf](https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf))
- TIUGA Fact Sheet (dated 4/24/2018) is outdated. TIUGAs connected to UST systems are now subject to APSA. Replace the TIUGA fact sheet with OSFM TIUGA website (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/>).

**RECOMMENDATION:**

Update the website as indicated above.

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**10. OBSERVATION:**

Multiple APSA tank facilities submitted an HMBP to CERS in lieu of a tank facility statement using an outdated emergency response and training plans template.

**RECOMMENDATION:**

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template as part of the HMBP submittal, in lieu of the tank facility statement, to use the current 2022 version. The current template is available in CERS Central – Business webpage (<https://cers.calepa.ca.gov/businesses/>) and the CalEPA Unified Program Publications and Guidance webpage (<https://calepa.ca.gov/cupa/publications/>).

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**11. OBSERVATION:**

The area plan contains information that is inaccurate or may benefit from improvement.

- Page 11, Jurisdiction: The list of Unified Program elements is missing the fire code, Hazardous Materials Management Plan, and Hazardous Materials Inventory Statement, which is consolidated with the HMBP Program to streamline the regulatory requirements for regulated facilities.
- Pages 269-270, State Agencies contact: The OSFM main administration and OSFM Pipeline Safety Division phone numbers are obsolete. The current OSFM main administration phone number is (916) 568-3800 and the OSFM Pipeline Safety Division phone number is (916) 263-6300.

**RECOMMENDATION:**

In the next review and revision, update the area plan as indicated above.

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**12. OBSERVATION:**

The I&E Plan shows the inspection frequencies on page 2. While the APSA mandated inspection frequency is correctly shown as “triennially,” the mandated inspections only apply to APSA tank facilities that store 10,000 gallons or more of petroleum. Additionally, these

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mandated inspections apply to APSA tank facilities that are required to prepare and implement an SPCC Plan.

**RECOMMENDATION:**

Update the I&E Plan to clarify the APSA tank facility types the mandated inspection frequency applies to.

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**13. OBSERVATION:**

Review of CERS finds the following 18 UST facilities have single-walled components which require permanent closure by December 31, 2025, in accordance with HSC Chapter 6.7, Section 25292.05:

- CERS ID 10405435
- CERS ID 10884304
- CERS ID 10152453
- CERS ID 10862497
- CERS ID 10477093
- CERS ID 10405219
- CERS ID 10152451
- CERS ID 10397515
- CERS ID 10403269
- CERS ID 10400587
- CERS ID 10442233
- CERS ID 10466758
- CERS ID 10339546
- CERS ID 10397275
- CERS ID 10504057
- CERS ID 10442422
- CERS ID 10470568
- CERS ID 10133161

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

**RECOMMENDATION:**

Provide verbal and written reminders to all applicable UST owners/operators regarding the December 31, 2025, deadline for permanent closure of single-walled USTs.

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**14. OBSERVATION:**

The following inconsistencies were observed when reviewing HWG inspection reports:

- CERS ID 10417012: The CERS submittal for this facility says it is a HHW facility, however there are no HHW inspections in CERS, only HW inspections. Inspections at HHW

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facilities should use the HHW inspection type in CERS. If the facility is not a HHW facility the facility should correct their CERS submittal.

- CERS ID 10425121: The December 30, 2019, inspection report notes two violations that are not in CERS and appears to have an incorrect citation for checklist item “HW26.”
  - The violations are a Class I violation for failure to obtain an EPA ID number and a Class II violation for failure to make a hazardous waste determination.
  - The violation language for checklist item “HW26” appears to not match its checklist description. Item “HW26” corresponds to “HW Status Determination,” while in the violations summary section of the inspection report “HW26” describes a Class II violation for “Failure to keep a copy of each properly signed manifest for at least three years from the date the waste was accepted by the initial transporter [HSC 6.5 25123.3(h), 22 CCR 12 66262.42 (a),(c), (d)].” The inspector likely meant to cite item “HW41” for “Waste determination performed, analysis kept for 3yrs” because it was previously cited in the April 22, 2019, inspection. If this is the case, DTSC would recommend amending the description for item “HW26” to further differentiate it from item “HW41” (ex: Manifest Exception Reporting).
  
- CERS ID 10404856: No HW inspection entry in CERS for inspection report dated March 15, 2022.

**RECOMMENDATION:**

Review the inspection reports and corresponding CERS data for the CERS IDs included in this observation to correct the inconsistencies. Ensure that information between CERS and inspection reports match using the procedures in the I&E Plan and update the I&E Plan as needed.

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