

August 2, 2023

Ms. Linnea Chandler
CUPA Supervisor
County of San Luis Obispo
Environmental Health Services
2156 Sierra Way, Suite B
San Luis Obispo, California 93401-4556

Dear Ms. Chandler:

During July 2022, through April 2023, CalEPA and the Unified Program state agencies conducted a performance evaluation of the County of San Luis Obispo Environmental Health Services 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 approximately 60 days from the date of this letter, and every 90 days thereafter, until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved by each issuing state agency. An Evaluation Progress Report template will be provided by the CalEPA Team Lead. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead, Tim Brandt, via email at Timothy.Brandt@calepa.ca.gov or uploaded to the established SharePoint website.

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

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to Melinda Blum, at Melinda.blum@calepa.ca.gov. If you would like to have specific comments remain anonymous, please indicate so on the survey.

If you have any questions or need further assistance, please contact Melinda Blum at Melinda.Blum@calepa.ca.gov.

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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Mr. Tom Henderson
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Ms. Elizabeth Brega
Senior Environmental Scientist, Supervisor
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cc sent via email:

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: County of San Luis Obispo Environmental Health Services

Evaluation Period: July 2022 through April 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt, Samuel Porras
- **CalEPA:** Garrett Chan
- **DTSC:** Mia Goings, Kevin Abriol
- **State Water Board:** Jenna Hartman
- **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

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

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

The first Evaluation Progress Report submittal date is: October 5, 2023

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

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

1. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM IMPLEMENTATION:

Since the last evaluation assessment in 2017, the CUPA has been effectively implementing and enforcing the APSA Program. The CUPA meets the mandated triennial inspection frequency for APSA tank facilities storing 10,000 gallons or more of petroleum. In addition, the CUPA also meets the inspection frequency for other APSA tank facilities of at least once every three years as established in the Inspection and Enforcement (I&E) Plan. The CUPA has successfully enforced the APSA Program and obtained compliance from APSA tank facilities that have been cited for violations.

2. UNDERGROUND STORAGE TANK (UST) PROGRAM IMPLEMENTATION:

CUPA staff have consistently contributed to various Unified Program Administration and Advisory Group (UPAAG) workgroups, including the UST Technical Advisory Group, the I&E Plan Guidance Workgroup, and leadership of the UST Steering Committee. The State Water Board appreciates the commitment of the CUPA in balancing Unified Program implementation and responsibilities while assisting the CUPA community.

3. CORONAVIRUS 2019 (COVID-19) RESPONSE AND STAFFING CHANGES:

As a result of the COVID-19 pandemic, CUPA personnel assisted the San Luis Obispo County Health Agency (HA) as follows:

- A CUPA Environmental Health (EH) supervisor was permanently re-tasked within the San Luis Obispo County HA to assist with contact tracing efforts.
- The CUPA supervisor was tasked to assist with the Consumer Protection group within EH, in addition to fulfilling CUPA duties, during the first year of the COVID-19 pandemic and until February 2021, when a new EH supervisor was promoted and appointed to fulfill the CUPA supervisor position.
- CUPA personnel assisted the San Luis Obispo County HA with assessing whether Unified Program regulated businesses followed Health Officer directives.
- CUPA personnel aided the San Luis Obispo County HA as needed in conducting surveys of public swimming pools within the first six months of the COVID-19 pandemic.
- In addition to assisting with response to the COVID-19 pandemic, during 2021 and 2022, CUPA personnel also assisted in the investigation of a local Legionellosis outbreak.

The Hazardous Materials Coordinator/inspector for the San Luis Obispo City Fire Department Participating Agency (PA) retired early in the pandemic. CUPA staff collectively assisted in training the replacement Hazardous Materials Coordinator/inspector from within the PA. The training staff member retired soon after due to a medical issue. As a stop-gap measure, CUPA personnel then performed UST inspections within the jurisdiction of the PA, until the Hazardous

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ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

Materials Coordinator/inspector position was filled again in June 2021 with an inspector from the CUPA. Three recruitments were initiated in order to find a qualified candidate until the CUPA was fully staffed in May 2022.

4. CUPA EMERGENCY RESPONSE:

CUPA personnel assisted the County of Santa Barbara in the fire and flooding assessment phases of disaster response in 2018. Four CUPA personnel were reallocated between two and three weeks to aid in the recovery response efforts for the Thomas Fire and resulting flooding and mudslides. CUPA staff were responsible for assisting with surveying residents and buildings in areas impacted by both disasters.

5. CUPA MENTORING:

Following the assistance provided to the County of Santa Barbara for disaster response in 2018, CUPA personnel mentored Santa Barbara County CUPA staff and provided guidance with the implementation of the Unified Program by the Santa Barbara County CUPA. The mentoring provided by the CUPA positively impacted and significantly contributed to the growth and development of the Santa Barbara County Environmental Health CUPA.

6. COMPLIANCE, MONITORING AND ENFORCEMENT (CME) INFORMATION UNAVAILABLE IN CERS FOR “HAZARDOUS WASTE ONLY” GENERATOR FACILITIES:

Since the onset of the 2013 requirement to electronically report Unified Program information in CERS, a programmatic business rule within the CME module of CERS has prevented the consistent electronic data transfer (EDT) of inspection, violation, and enforcement information, also known as CME information, for “Hazardous Waste Only” generator facilities regulated under the Hazardous Waste Generator (HWG) Program by the San Luis Obispo City Fire Department PA.

The “Hazardous Waste Only” generators regulated by the San Luis Obispo City Fire Department PA have less than reportable quantities of hazardous waste and are not required to provide Hazardous Waste submittal elements to CERS. Thus, the only applicable CERS reporting requirement for the below threshold “Hazardous Waste Only” generators is the “Facility Information” submittal element, which is managed under the oversight of the CUPA. The below threshold “Hazardous Waste Only” generator facilities are regulated by the PA; however, because there is no CERS submittal element for these facilities to provide to be managed under the oversight of the PA, CME information for these facilities cannot be uploaded to CERS by the PA. When there is a PA and a CUPA, the programmatic business rule in CERS does not allow for the “Facility Information” regulator to be changed from the CUPA.

The CUPA has the CME information for the “Hazardous Waste Only” generators from the PA readily available in a Microsoft Excel spreadsheet to be uploaded to CERS, but CERS is not able to accept the CME information from the CUPA as the CERS business rule does not recognize the PA as the regulator for the “Hazardous Waste Only” generator facilities. During the evaluation, the CUPA worked with CalEPA, DTSC, and CERS IT staff to reconcile this issue as follows:

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ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

- Nine “Hazardous Waste Only” generator facilities were identified as needing to be addressed.
- To enable the San Luis Obispo City Fire Department PA to upload CME information for “Hazardous Waste Only” generator facilities, the regulator must be manually changed per facility from the CUPA to the PA.
 - To do this, the PA was assigned as a regulator for the Tiered Permit (TP) component of the HWG Program for each of the nine facilities, however no TP reporting requirements were established for any of the “Hazardous Waste Only” generator facilities regulated by the PA.
- The CUPA applied the fix on July 18, 2023, and all CME data for the nine “Hazardous Waste Only” generator facilities has been reported to CERS.
- CME information for “Hazardous Waste Only” generator facilities regulated under the PA can now be reported to CERS utilizing EDT.
- CERS reflects current CME information, and CME information prior to July 1, 2019, for inspections conducted by the PA at “Hazardous Waste Only” generator facilities.

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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.

1. DEFICIENCY:

The Unified Program administrative procedures have components that are missing or incomplete.

The following administrative procedures have components that are missing:

- Records maintenance
 - Archive procedures
 - Proper disposal methods
- Data Management
 - Collection, retention and management of electronic data and documents in compliance with CCR, Title 27, Section 15185
 - A discussion of retention of both annual CUPA Self-Audit reports and CUPA staff training records.
 - How the PA reports CME information to the CUPA and/or CERS, including which processes and/or procedures should be utilized to ensure information is submitted by the PA in a timely manner and in accordance with the method of submittal agreed upon by the CUPA and the PA

The following administrative procedures have components that are incomplete:

- Public participation procedures:
 - 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
 - Coordinate, consolidate, and make consistent locally required public notices for activities related to any Unified Program Element

CITATION:

CCR, Title 27, Sections 15180(e), 15185, 15187, 15190, 15210 and 15220
[CalEPA]

CORRECTIVE ACTION:

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

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures, are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date the

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DEFICIENCIES REQUIRING CORRECTION

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 Unified Program administrative procedures.

By the 3rd Progress Report, if amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended 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 Unified Program administrative procedures.

2. DEFICIENCY:

The Authorization/Permit to Operate, issued as the Unified Program Facility Permit (UPFP) and the UST operating permit and permit conditions, issued under the Authorization/Permit to Operate, include components that are inconsistent with CCR, Title 23, Division 3, Chapter 16 (UST Regulations) and HSC, Division 20, Chapter 6.7 (HSC) requirements.

Review of the Authorization/Permit to Operate, issued as the UPFP, finds the following inconsistencies with UST Regulations and HSC:

- The Authorization/Permit to Operate states it is nontransferable.
 - This is more stringent than UST Regulations, Section 2712(d) and HSC, Section 25284(b) and the CUPA does not have a local ordinance to enforce this permit condition.
- The Authorization/Permit to Operate references CCR, Chapter 16 and HSC, Chapter 6.7.
 - The CUPA does not have regulatory authority to implement cleanup of USTs and therefore cannot cite corrective action requirements in UST Regulations and HSC. The correct citations are as follows:
 - UST Regulations, Sections 2610 through 2717.7.
 - HSC, Sections 25280 through 25296 and 25298 through 25299.6.
 - Alternatively, the permit condition could identify what sections are excluded from the UST Regulations and HSC reference.

Review of the UST operating permit and permit conditions, issued under the Authorization/Permit to Operate, finds the following inconsistencies with UST Regulations and HSC:

- Permit condition 2 states “The permittee must notify the CUPA within 30 days upon a change in HazMat inventory...”
 - This is inconsistent with UST Regulations, Section 2711(c) which states the owner or operator must notify the CUPA prior to changing the substance stored in the UST.
- Permit condition 7 states “...Owners, operators, or their agents shall ensure that the space available in the tank is greater than the volume of the product to be transferred. The permittee must obtain approval from the CUPA, local fire, and building authorities prior to modifying any UST system.”

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DEFICIENCIES REQUIRING CORRECTION

- This is more stringent than UST Regulations and HSC requirements and the CUPA does not have a local ordinance to enforce this permit condition.
- Permit condition 10 states “The following requirements are for single-wall component systems: a) Provide bi-annual cathodic protection system certification to this CUPA...”
 - This is more stringent than UST Regulations, Section 2635(a)(2)(a) and the CUPA does not have a local ordinance to enforce this permit condition.

CITATION:

HSC, Chapter 6.7, Section 25283(b)(1)(B), 25284(b), & 25297.01(b)
CCR, Title 23, Chapter 16, Section 2635(a)(2)(a), 2711(c), & 2712(d)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, and until considered corrected, the CUPA will coordinate with CalEPA and the State Water Board to revise the Authorization/Permit to Operate template, issued as the Unified Program Facility Permit (UPFP) and the UST operating permit and permit conditions template to be consistent with Title 27, UST Regulations and HSC. The CUPA will provide the revised Authorization/Permit to Operate template and UST operating permit and permit conditions template to CalEPA.

By the 2nd Progress Report, and until considered corrected, the CUPA will begin to issue the revised Authorization/Permit to Operate template and/or the revised UST operating permit and permit conditions template and will provide CalEPA with the Authorization/Permit to Operate and the UST operating permit and permit conditions issued to five UST facilities using the revised templates.

3. DEFICIENCY:

The CUPA is not ensuring UST Program related information in CERS is accurate and/or consistent.

Review of the UST Facility/Tank Data Download report obtained from CERS on October 10, 2022, finds the following single-walled UST and/or piping construction and monitoring information is either inaccurate and/or inconsistent with UST Regulations and HSC requirements:

- 1 of 5 (20%) single-walled tanks are listed with contents other than motor vehicle fuel
- 1 of 1 (100%) single-walled pressurized piping does not conduct pipe integrity testing
- 2 of 3 (67%) single-walled piping listed as having continuous monitoring of pipe secondary containment
- 1 of 3 (33%) single-walled steel USTs with impressed current marked as not maintaining corrosion protection logs
- 2 of 2 (100%) single-walled steel USTs with motor vehicle fuel that are not marked as “Steel+Internal Lining”

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

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

Note: The following CERS Frequently Asked Questions (FAQs) guidance documents and State Water Board correspondence may be referenced, and are available in CERS and at <https://www.waterboards.ca.gov/ust/cers/faqs.html>:

- “Setting ‘Accepted’ Submittal Status” and
- “When to Review UST Records,” dated November 29, 2016

CITATION:

CCR, Title 23, Sections 2632(d), 2634(d)(2), 2641(h), 2662(c), and 2711(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st 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 and monitoring requirements for accuracy and completeness based on the UST installation date which will, at minimum include the following:

- When CERS UST submittal information is identified as incorrect, the CUPA will either:
 - Accept CERS UST submittals with minor errors using a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or
 - Not accept CERS UST submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When CERS UST submittal information 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 CalEPA with the revised Data Management Procedure, or other applicable procedure.

By the 2nd 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 3rd 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.

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DEFICIENCIES REQUIRING CORRECTION

4. 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, Sections 2670 and 2672(d) and HSC, Section 25298(c).

Review of UST facility file information finds the following examples:

- CERS ID 10175617
 - The CUPA provided a Case Summary Form from the Regional Water Quality Control Board, however, the CUPA did not provide a notification of UST closure issued to the owner or operator.
- CERS ID 10403599
 - The notification of UST closure issued to the owner or operator included cleanup terms and/or corrective action requirements, such as the term “No Further Action,” when the CUPA does not have the authority to implement corrective action requirements, per HSC, Section 25283(b)(1)(B).

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

Note: The following may be referenced:

- State Water Board UST Program Leak Prevention Frequently Asked Question 15: (https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml)
- State Water Board CUPA Evaluation Guidance Documents, Notification of UST Closure Template: (https://www.waterboards.ca.gov/water_issues/programs/ust/docs/ust-closure-letter-template-final.pdf)

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B) and 25298(c)
CCR, Title 23, Sections 2670 and 2672(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop a UST closure procedure or other applicable procedure, to ensure the establishment of a process, which will include at minimum, how the CUPA will:

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

Additionally, the CUPA will begin to utilize the UST closure letter template provided by the State Water Board, or revise the notification of UST closure template to include the following:

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DEFICIENCIES REQUIRING CORRECTION

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

The CUPA will provide the developed UST closure procedure, or other applicable procedure and the revised notification of UST closure template to CalEPA.

By the 2nd Progress report, if revisions to the developed UST closure procedure or other applicable procedure and/or amendments to the revised notification of UST closure template are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised UST closure procedure or other applicable procedure and/or amended notification of UST closure template. If no amendments are necessary, the CUPA will train UST inspection staff on the developed UST closure procedure and/or revised notification of UST closure template. 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 developed UST closure procedure and/or revised notification of UST closure template.

By the 3rd Progress Report, if amendments to the revised UST closure procedure or other applicable procedure and/or amendments to the notification of UST closure template were necessary, the CUPA will train UST inspection staff on the amended UST closure procedure and/or amended notification of UST closure template. 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 UST closure procedure and/or amended notification of UST closure template.

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

Opportunities to conduct UST closure activities are limited within the jurisdiction of the CUPA, therefore, to avoid keeping this deficiency unnecessarily open while waiting for USTs to undergo closure, the State Water Board will consider this deficiency corrected upon acceptance of the UST closure procedure, or other applicable procedure, and the notification of UST closure. The State Water Board will verify the CUPA is implementing the accepted UST closure procedure, or other applicable procedure, and using the accepted notification of UST closure template during the next CUPA Performance Evaluation.

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The California Accidental Release Prevention (CalARP) Dispute Resolution Process is missing a required element.

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

- Require that the UPA render a written decision within 120 days after the owner or operator of a stationary source initiates the dispute resolution process.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised CalARP Dispute Resolution that adequately incorporates all required elements.

2. INCIDENTAL FINDING:

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

Review of HMBPs submitted to CERS between August 29, 2021, and September 28, 2022, by regulated businesses subject to Business Plan reporting requirements finds:

- 145 of 1,153 (13%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 166 of 1,152 (14%) 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]

RESOLUTION:

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

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

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

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

3. INCIDENTAL FINDING:

The CUPA is not consistently ensuring HMBPs provided to CERS by APSA tank facilities in lieu of a tank facility statement, are thoroughly reviewed and contain all applicable required elements before being accepted.

Review of CERS indicates the following 5 of 14 (36%) recently accepted HMBP submittals, provided by APSA tank facilities in lieu of a tank facility statement, were missing site map elements:

- CERS ID 10435759: missing evacuation staging area and emergency response equipment.
- CERS ID 10437088: missing evacuation staging area, emergency shutoff, emergency response equipment, access/exit points.
- CERS ID 10001911: missing emergency shutoff and emergency response equipment.
- CERS IDs 10843735 and 10738096: missing emergency response equipment.

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)(2)
California Fire Code (CFC), Chapter 50, Sections 5001.5.1 and 5001.5.2, and Appendix H [OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide an action plan to ensure future HMBPs, provided to CERS by APSA tank facilities in lieu of a tank facility statement, are thoroughly reviewed and contain all applicable required elements before being

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accepted. The action plan will include steps to follow-up with rejected or incomplete HMBP submittals.

By the 2nd 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 had an HMBP submittal reviewed and not accepted for missing applicable required elements, when an HMBP is provided in lieu of a tank facility statement:

- Facility name;
- CERS ID; and
- Follow-up actions, including applied enforcement

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

4. INCIDENTAL FINDING:

The number of UST inspections conducted by the CUPA is inaccurately reported in CERS.

Review of the Semi-Annual Report (Report 6) and CERS CME information finds the following inconsistencies in the reported number of UST facility inspections:

- FY 2021/2022
 - Report 6 indicates 102 inspections with 98 facilities (104%)
 - CERS CME information indicates 100 inspections with 98 facilities (102%)
- FY 2020/2021
 - Report 6 indicates 98 inspections with 98 facilities (100%)
 - CERS CME information indicates 104 inspections with 98 facilities (106%)
- FY 2018/2019
 - Report 6 indicates 104 inspections with 101 facilities (103%)
 - CERS CME information indicates 102 inspections with 101 facilities (101%)

Note: This incidental finding was identified as a deficiency in the 2017 CUPA Performance Evaluation regarding the UST inspections reported by the CUPA, and the UST inspections reported by the San Luis Obispo City Fire Department PA. Since 2017, the CUPA has been actively working with the CalEPA CERS team to identify and correct the discrepancy in the number of routine UST facility inspections reported in CERS. The CUPA and PA were approved for paperless Report 6 reporting in January 2022. The San Luis Obispo City Fire Department PA has consistently reported the number of UST inspections in Report 6 and CERS CME information for FYs 2018/2019, 2020/2021 and 2021/2022. The CUPA has not consistently reported the number of UST inspections in Report 6 and CERS CME information for two consecutive Report 6 reporting periods. As a result of the CUPA's efforts to correct the deficiency identified in the 2017 CUPA Performance Evaluation, the deficiency has been carried forward to the current CUPA Performance Evaluation as an incidental finding.

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CITATION:

CCR, Title 23, Section 2713(c)(3)
CCR, Title 27, Section 15185(a)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered resolved, the CUPA will provide CalEPA with a narrative of the progress made towards addressing and resolving the discrepancy in the number of routine UST facility inspections reported in CERS. If the CUPA has resolved the discrepancy in reporting the number of routine UST facility inspections in CERS, the CUPA will provide a statement confirming the resolution and that inspection information reported in CERS is accurate and/or the CUPA will provide validation from the CalEPA CERS team that the issued has been resolved.

5. INCIDENTAL FINDING:

The I&E Plan and Permit Issuance Procedure are inconsistent with UST Regulations and HSC requirements.

Review of the I&E Plan finds the following inconsistency:

- The UST Program penalty matrix shows the maximum penalty amount as \$2,500. This is inconsistent with HSC, Chapter 6.7, Section 25299, which states an owner or operator is liable for a civil penalty of no more than \$5,000 per day for each UST.

Review of the Permit Issuance Procedure finds the following inconsistency:

- The Permit Issuance Procedure indicates that UST permits for facilities with pending violations are marked and not sent to the facility until the inspector clears the violations. This is inconsistent as HSC, Chapter 6.7, Section 25285 was amended on January 1, 2019.

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

CITATION:

HSC, Chapter 6.7, Sections 25285 and 25299
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan and Permit Issuance Procedure to be consistent with UST Regulations and HSC requirements. The CUPA will provide the revised I&E Plan and Permit Issuance Procedure to CalEPA.

By the 2nd Progress Report, if amendments to the revised I&E Plan and/or Permit Issuance Procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan and/or Permit Issuance Procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan and Permit Issuance

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Procedure. Once training is complete, the CUPA will implement the revised I&E Plan and Permit Issuance Procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan and/or Permit Issuance Procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan and Permit Issuance Procedure. Once training is complete, the CUPA will implement the amended I&E Plan and/or Permit Issuance Procedure.

6. INCIDENTAL FINDING:

The CUPA is not correctly implementing proper construction requirements for UST systems.

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

- CERS ID 10435750, tank ID 10435750-004
- CERS ID 10436122, tank ID 10436122-004

Note: The State Water Board Local Guidance (LG) 150-3 (https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf) may be referenced.

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

CITATION:

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

RESOLUTION:

The CUPA must ensure UST systems are properly constructed to meet the secondary containment requirements of Article 3.

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities which are incorrectly utilizing the overfill prevention equipment exemption.

In addition, the CUPA will draft and provide to CalEPA written correspondence addressed to the UST facility owner(s) or operator(s) to inform the UST owner(s) or operator(s) of the requirement for installation of overfill prevention equipment, or to construct secondary containment for single-walled vent and tank risers. The written correspondence will include language stating that failure to comply with overfill prevention equipment requirements specified in CCR, Title 23, Section 2635(c)(1)(B) or (C), or secondary containment exemptions in CCR, Title 23, Section 2636(a) will lead to applied enforcement. The CUPA will include the State Water Board on the correspondence.

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By the 2nd Progress Report, if appropriate steps have not been taken by the UST owner(s) or operator(s) to remedy the construction violations, the CUPA will apply enforcement. The CUPA will provide CalEPA with documentation of the applied enforcement.

The State Water Board will consider this incidental finding resolved when the CUPA has applied administrative enforcement, or the UST owner or operator installs the correct overfill prevention equipment, or secondarily contains the vent and fill piping.

8. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not ensuring the San Luis Obispo City Fire Department PA has each inspector complete the APSA training program and pass the exam prior to conducting inspections at tank facilities for compliance with the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements of APSA.

Review of CERS information and Self-Audit reports provided by the CUPA indicates five APSA tank facility inspections were conducted between September 2020 and March 2021 by a San Luis Obispo City Fire Department PA inspector who did not complete and pass the APSA training program.

CITATION:

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

RESOLUTION: COMPLETED

The San Luis Obispo City Fire Department PA hired a new inspector in June 2021. The new inspector completed and passed the APSA training program in 2016. Each APSA tank facility within the jurisdiction of the San Luis Obispo City Fire Department PA has now been inspected by a qualified APSA inspector, at the inspection frequency established in the I&E Plan.

9. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The annual CalARP Performance Audit Report is missing required elements.

Review of the CalARP Performance Audit Report for Fiscal Years (FYs) 2019/2020, 2020/2021 and 2021/2022 finds the following elements are missing:

- A summary of the personnel years necessary to directly implement, administer, and operate the CalARP program

CITATION:

CCR, Title 19, Section 2780.5(b)
[CalEPA]

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RESOLUTION: COMPLETED

During the evaluation, the CUPA provided a spreadsheet, which included a summary of the personnel years necessary to directly implement, administer, and operate the CalARP program for FY 2021/2022. This finding is considered resolved.

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

1. OBSERVATION:

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

- Data provided by the CUPA indicates there are 838 HWG facilities, including 14 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), 1 Permit-By-Rule (PBR) treatment facility, 1 Conditionally Exempt treatment facility, and 6 Household Hazardous Waste Collection Facilities.
 - HWG facility counts in CERS and the DTSC Hazardous Waste Tracking System (HWTS) are not significantly different.
- Review of CERS CME information finds the CUPA inspected 724 HWG facilities, conducted 1,357 "Routine" inspections, and 617 "Other" inspections for a total of 1,974 inspections. Of the 1,357 "Routine" HWG inspections conducted, 1,053 (78%) had no violations cited and 304 (22%) had at least one violation cited. In comparison, the State average for HWG "Routine" inspections having at least one violation cited is 40%.
 - The 1,974 Routine and Other inspections resulted in a total of 528 violations consisting of:
 - 0 (0%) Class I violations
 - 23 (3%) Class II violations, 22 (96%) of which have obtained return to compliance (RTC), and
 - 505 (97%) minor violations, 495 (98%) of which have obtained RTC
 - Note: Review of CERS CME information included limited CME information from the San Luis Obispo City Fire Department PA.
- No formal enforcement actions have been pursued for hazardous waste violations within the jurisdiction of the CUPA, or within the jurisdiction of the San Luis Obispo City Fire Department PA.
- Inspection reports contain detailed comments that note the factual basis of cited violations and indicate whether consent to inspect was requested prior to the inspection. The "Violation Comments" in CERS are also detailed in noting corrective actions for the violations cited.
- 4 of 4 (100%) PBR facility submittals were reviewed by the CUPA within 45 days of receipt, as required by statute.

RECOMMENDATION:

Continue inspecting and following up with HWG Program facilities at the current rate. Continue to ensure that detailed factual basis of each violation is included in inspection reports and ensure CME information is transferred to CERS, including violation and RTC information.

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2. OBSERVATION:

The following is a summary of inspection and violation information for the HMBP and CalARP Programs based upon review of facility files and CERS CME information between July 1, 2019, and June 31, 2022

HMBP Program

- July 1, 2019 – June 30, 2020
 - The CUPA conducted 826 “routine” inspections, of which 641 (78%) had no violations cited and 182 (22%) had at least one violation cited.
 - A total of 305 violations were cited, consisting of:
 - 0 (0%) Class I violations,
 - 1 (1%) Class II violation, and
 - 304 (99%) minor violations.
 - The CUPA has ensured RTC for 305 of 305 (100%) violations cited.
- July 1, 2020 – June 30, 2021
 - The CUPA conducted 908 “routine” inspections, of which 757 (83%) had no violations cited and 151 (17%) had at least one violation cited.
 - A total of 236 violations were cited, consisting of:
 - 5 (2%) Class I violations,
 - 1 (1%) Class II violation, and
 - 230 (97%) minor violations.
 - The CUPA has ensured RTC for 235 of 236 (99%) violations cited.
- July 1, 2021 – June 30, 2022
 - The CUPA conducted 890 “routine” inspections, of which 712 (80%) had no violations cited and 178 (20%) had at least one violation cited.
 - A total of 271 violations were cited, consisting of:
 - 0 (0%) Class I violations,
 - 8 (3%) Class II violations, and
 - 263 (97%) minor violations.
 - The CUPA has ensured RTC for 263 of 271 (97%) violations cited.

CalARP Program:

- July 1, 2019 – June 30, 2020
 - The CUPA conducted 8 “routine” inspections, of which 6 (75%) had no violations cited and 2 (25%) had at least one violation cited.
 - A total of 3 violations were cited, consisting of:
 - 0 (0%) Class I violations,
 - 2 (67%) Class II violations, and
 - 1 (33%) minor violation.
 - The CUPA has ensured RTC for 3 of 3 (100%) violations cited.
- July 1, 2020 – June 30, 2021
 - The CUPA conducted 9 “routine” inspections, of which 8 (89%) had no violations cited and 1 (11%) had at least one violation cited.
 - A total of 5 violations were cited, consisting of:
 - 0 (%) Class I violations,

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- 1 (20%) Class II violation, and
 - 4 (80%) minor violations.
- The CUPA has ensured RTC for 5 of 5 (100%) violations cited.
- July 1, 2021- June 30, 2022
 - The CUPA conducted 11 “routine” inspections, of which 10 (91%) had no violations cited and 1 (9%) had at least one violation cited.
 - A total of 1 violation was cited, consisting of:
 - 0 (0%) Class I violations,
 - 0 (0%) Class II violation, and
 - 1 (100%) minor violation.
 - The CUPA has ensured RTC for 1 of 1 (100%) violation cited.

RECOMMENDATION:

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

3. OBSERVATION:

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

- Page 1, Authority
 - Although HSC, Section 25404(c) references the APSA statute, consider adding HSC, Section 25270.2(c)(3).
- Page 15
 - Change ‘Above Ground Storage Tank’ to ‘Aboveground Petroleum Storage Tank’ or ‘Aboveground Petroleum Storage Act’.
 - Although HSC, Section 25404.1.1(a)(5) references HSC, Section 25270.4.5, consider adding HSC, Sections 25270.12 and 25270.12.1 to address other APSA violations.

RECOMMENDATION:

Update the I&E Plan as indicated above.

4. OBSERVATION:

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

The CUPA accepted an SPCC Plan as part of the HMBP emergency response and training plans submittals for CERS ID 10437013. The SPCC Plan and the HMBP emergency response and training plans do not address the same requirements. Other program plan submittals should

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not be accepted for HMBP submittals, unless all applicable required HMBP elements are addressed.

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/>).

5. OBSERVATION:

The CUPA's webpages contain multiple resources for the public and regulated community. Review of the CUPA's webpages indicates the following information is incorrect and may benefit from improvement.

- “CUPA Program (Hazardous Materials and Waste)” webpage ([https://www.slocounty.ca.gov/Departments/Health-Agency/Public-Health/Environmental-Health-Services/CUPA-Program-\(Hazardous-Materials-and-Waste\).aspx](https://www.slocounty.ca.gov/Departments/Health-Agency/Public-Health/Environmental-Health-Services/CUPA-Program-(Hazardous-Materials-and-Waste).aspx))
 - Under the ‘Aboveground Petroleum Storage Tank Program’ section, the webpage states, “The purpose of this program is to protect public health and the environment from a potential source of surface and groundwater contamination by regulating aboveground storage tanks containing **hazardous materials**.” Replace hazardous materials with petroleum.
- “Aboveground Petroleum Storage Tank System Installation Permitting” webpage (<https://www.slocounty.ca.gov/Departments/Health-Agency/Public-Health/Environmental-Health-Services/All-Environmental-Health-Services/Aboveground-Petroleum-Storage-Tank-System-Installa.aspx>)
 - Webpage states, “This service allow[s] you to provide a Spill Prevention Control and Countermeasure Plan (SPCC) prior to construction or modification of an Aboveground Petroleum Storage Tank system...Approval of the plan is necessary to ensure proper equipment and installation in addition to building and fire code requirements.”
 - Not all owners or operators of aboveground petroleum storage tanks are required to prepare an SPCC Plan under APSA if certain conditions are met.
 - Unified Program Agencies (UPAs) are not authorized to ‘approve’ SPCC Plans. According to a letter from the author of Assembly Bill 1130 (Stats. 2007, Chap. 626), which transferred the implementation and enforcement of the APSA Program from the state to UPAs, “[there] is no state or federal approval of SPCC Plans...[an] UPA’s review of an SPCC Plan includes, but is not limited to, the following elements:
 - Determination whether a facility is required to have an SPCC Plan under applicable federal and state law;
 - Determination whether a plan was prepared and is being implemented in compliance with regulations, guidance and legal

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interpretations issued by the federal Environmental Protection Agency; [and]

- Determination that a plan has been updated to reflect changes to the facility or operations over time.”

- “Hazardous Materials Program Reference Documents – Aboveground Petroleum Storage Tank Program” webpage (<https://www.slocounty.ca.gov/Departments/Health-Agency/Public-Health/Environmental-Health-Services/Forms-Documents/Reference-Materials/Hazardous-Materials-Program-Reference-Documents/Aboveground-Petroleum-Storage-Tank-Program.aspx>)
 - ‘AGT-Program-Information’ document
 - First bullet: Insert the following, ‘HSC, Section 25270.4.5(a) with reference to...’ before the Code of Federal Regulations, Title 40 citation.
 - Third bullet: Discussion on the tank facilities that are required to prepare an SPCC Plan is incorrect. Revise for consistency with the statute per HSC, Section 25270.3, which includes tank facilities with one or more tanks in underground areas regardless of the 1,320-gallon petroleum threshold.
 - Fourth bullet: Update the citation HSC, Section 25270 to Section 25270.4.5(b).
 - Update the obsolete OSFM APSA link to <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>.

RECOMMENDATION:

Update the website as indicated above.

6. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 159 APSA tank facilities (143 within the jurisdiction of the CUPA and 16 within the jurisdiction of the San Luis Obispo City Fire Department PA). The CUPA’s data management system identifies 127 APSA tank facilities (110 within the jurisdiction of the CUPA and 17 within the jurisdiction of the San Luis Obispo City Fire Department PA).

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

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reporting requirement set to “Not Applicable,” and should not be identified as APSA tank facilities in the CUPA’s data management system. Those that are APSA regulated should have the APSA reporting requirement set to “Applicable.”

- One facility within the jurisdiction of the PA is identified as an APSA tank facility in the PA’s data management system and is not identified in CERS. The PA should determine if the facility is an APSA tank facility. If it is determined the facility is not subject to APSA, then the APSA reporting requirement should be set to “Not Applicable,” and the facility should not be identified as an APSA tank facility in the PA’s data management system. If the facility is determined to be subject to APSA, then the APSA reporting requirement should be set to “Applicable.”

RECOMMENDATION:

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

7. OBSERVATION:

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

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

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

RECOMMENDATION:

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

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

8. OBSERVATION:

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

- CERS ID 10001911
 - An inspection on July 28, 2020, cites a violation for not preparing an SPCC Plan. The inspection report also states, ‘Please add oil emulsion tank to SPCC Plan and

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verify tank is secondarily contained. Send a copy of updated SPCC Plan sections...by 8/28/2020.' This violation should have been cited as not amending, or failure to amend, an SPCC Plan.

- An inspection on May 19, 2019, states, 'Plan must be recertified every 3 years.' SPCC Plans are required to be reviewed once every 5 years and the review documented.

RECOMMENDATION:

Ensure the appropriate violation is cited on inspection reports.

9. OBSERVATION:

Prior to FY 2020/2021, the CUPA was not consistently submitting completed Quarterly Surcharge Transmittal Reports to CalEPA within 30 days of the end of each reporting quarter.

Review of Quarterly Surcharge Transmittal Reports for FY 2019/2020 finds a combined Quarterly Surcharge Transmittal Report for fiscal quarters 1, 2, and 3 was submitted on May 6, 2020 (or 7 days after the reporting deadline for fiscal quarter 3), and the Quarterly Surcharge Transmittal Report for quarter 4 was submitted on August 21, 2020 (or 22 days after the reporting deadline for fiscal quarter 4). During FYs 2020/2021 and 2021/2022, the CUPA self-corrected and submitted each Quarterly Surcharge Transmittal Report on or before the required due date.

RECOMMENDATION:

Continue ensuring that Quarterly Surcharge Transmittal Reports are submitted on or before the required due date. Utilize the current template, available on the CalEPA website at:

https://calepa.ca.gov/wp-content/uploads/sites/6/2022/01/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf?emrc=45d605.

10. OBSERVATION:

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

- CERS ID 10436035 (tank ID 10436035-001)
- CERS ID 10436044 (tank IDs 10436044-001 and -002)
- CERS ID 10436602 (tank ID 10436602-001)
- CERS ID 10435975 (tank IDs 10435975-001 and -002)

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

RECOMMENDATION:

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

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that in order to remain in compliance, owners or operators must replace or remove single-walled USTs by December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: https://www.waterboards.ca.gov/ust/single_walled.html.

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

11. OBSERVATION:

Review of UST facility files finds the CUPA and the San Luis Obispo City Fire Department PA note comments under the “CORRECTIVE ACTION REQUIRED” section that are not associated with any cited violation in the inspection checklist or CERS. Noting comments under the corrective action section may be misinterpreted as a violation that was observed or discovered during the inspection.

RECOMMENDATION:

Consider adding any notes or observations that are not associated with any cited violations under the “INSPECTION COMMENTS” section on the “SUMMARY OF VIOLATIONS/OBSERVATIONS.”

12. OBSERVATION:

Review of CUPA Self-Audit reports finds the metadata contained within each electronic Self-Audit report document states that the Self-Audit report is developed for Anaheim CUPA.

RECOMMENDATION:

Adjust the CUPA Self-Audit report template to ensure it accurately lists the author as San Luis Obispo CUPA both on the document and within document metadata.

13. OBSERVATION:

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

- San Luis Obispo County Division of Environmental Health CUPA Application, dated September 3, 1996;
- CERS “Summary Regulated Facilities by Unified Program Element” report, generated on January 3, 2023;
- CERS “UST Inspection Summary Report (Report 6),” generated on January 3, 2023; and
- Annual CUPA Self-Audit of San Luis Obispo Environmental Health Services for FY 2021/2022, dated September 30, 2022.

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- Total Number of **Business Plan** Regulated Businesses and Facilities:
 - In 1996 Application: 871
 - Currently: 1156
 - An increase of 285 facilities

- Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
 - In 1996 Application: 165
 - Currently: 98
 - A decrease of 67 facilities

- Total Number of Regulated **USTs**:
 - In 1996 Application: 452
 - Currently: 282
 - A decrease of 170 USTs
 - Comments: The current UST figure includes 277 active petroleum systems and 5 active HazSub systems listed on the most recent Report 6 in CERS.

- Total Number of Regulated **Hazardous Waste Generator** Facilities:
 - In 1996 Application: 508
 - Currently: 823
 - An increase of 315 facilities

- Total Number of Regulated **Household Hazardous Waste (HHW)** Facilities:
 - In 1996 Application: Not specified
 - Currently: 13
 - Comments: HHW facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.

- Total Number of Regulated **Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt)**:
 - In 1996 Application: 20
 - Currently: 8
 - A decrease of 12 facilities
 - Comments: The original CUPA application lists 1 PBR facility and 19 CE facilities.

- Total Number of **Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities**:
 - In 1996 Application: Not specified
 - Currently: 17
 - Comments: RCRA LQG facilities were regulated under the Unified Program upon certification, though no count was provided in the application for

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certification. The difference between the current and historic number of facilities cannot be determined at this time.

- **Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
 - In 1996 Application : 35
 - Currently: 14
 - A decrease of 21 facilities

- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
 - In 1996 Application: Not applicable
 - Currently: 146

Since the original application for certification was submitted in 1996, the CUPA has seen some fluctuations in the number of regulated facilities in nearly all Unified Program elements. In particular, the total number of regulated HMBP facilities increased by 285 (or 33%) and the total number of regulated HWG facilities increased by 315 (or 62%). The incorporation of the APSA program also added another 146 facilities not previously regulated by the CUPA when first certified. The CUPA also saw the total number of regulated UST facilities and total regulated USTs decrease by 67 facilities (or 41%) and 170 tanks (or 38%), respectively. In addition, the total number of TP facilities decreased by 12 (or 60%) and the total number of RMPP/CalARP facilities decrease by 21 (or 60%).

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

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the San Luis Obispo County Division of Environmental Health CUPA Application, dated September 3, 1996, and recent information provided by the CUPA.

- In 1996 Application
 - 3.0 FTEs budgeted for 3 staff inspector positions
 - 0.5 FTEs budgeted for 1 supervisor position
 - Note: The time/task evaluation conducted as part of the application process indicated that 1.0 FTE would be required to adequately implement the supervisor position. At the time the application was accepted by CalEPA, the CUPA was still evaluating the existing budget to accommodate the projected staffing expansion.

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- Currently
 - 4.0 FTEs budgeted for 4 staff inspector positions
 - 1.0 FTE budgeted for 1 supervisor position

The CUPA is overall implementing the inspection and enforcement components of the Unified Program well.

RECOMMENDATION:

Based on the information above, it appears the CUPA has been proactive in adapting staffing resources accordingly to meet the changing needs of Unified Program implementation over time.

Continue to regularly assess the allocation of current staff assignments and existing resources to ensure adequate implementation of each program element within the Unified Program is obtained.

14. OBSERVATION:

The existing Memorandum of Understanding (MOU) between the CUPA and the San Luis Obispo City Fire Department PA has not been updated since it was established in 1996/1997. The MOU does not address how the PA reports CME information to the CUPA and/or CERS. The MOU states in Section 4. City Obligations, "G. Provide the County with all data required by the County to effectively manag (sic) the Unified Program. The data and information shall be submitted in a timely manner and according to a frequency agreed upon by the County and the City. The method of submittal will be agreed upon by the County and the City."

RECOMMENDATION:

Update the MOU to specify how the PA reports CME information to the CUPA and/or CERS, including which processes and/or procedures should be utilized to ensure information is submitted by the PA in a timely manner and in accordance with the method of submittal agreed upon by the CUPA and the PA.