

April 3, 2024

Mr. Robert Kostlivy, Director
Stanislaus County Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, California 95358-9492

Dear Mr. Kostlivy:

During March 2023, through January 2024, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Stanislaus County Department of Environmental Resources Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections.

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. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response, 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
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Alvin Lal
CUPA Manager
Stanislaus County Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, California 95358-9492

Ms. Sarah Yacoub
Sr. HazMat Specialist
Stanislaus County Department of Environmental Resources
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Ms. Stephanie Freier
Sr. HazMat Specialist
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Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board

Mr. Tom Henderson
UST Leak Prevention Unit and
Office of Tank Tester Licensing Manager
State Water Resources Control Board

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cc sent via email:

Ms. Julie Pettijohn
Environmental Program Manager
CUPA Enforcement Branch
Department of Toxic Substances Control

Ryan Miya, Ph.D.
Senior Environmental Scientist, Supervisor
Department of Toxic Substances Control

Ms. Jennifer Lorenzo
Senior Environmental Scientist, Supervisor
CAL FIRE - Office of the State Fire Marshal

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

Ms. Magnolia Busse
Environmental Scientist
State Water Resources Control Board

Mr. Brennan Ko-Madden
Senior Environmental Scientist
Department of Toxic Substances Control

Mr. Pheleep Sidhom
Environmental Scientist
Department of Toxic Substances Control

Mr. Glenn Warner
Senior Environmental Scientist, Specialist
CAL FIRE - Office of the State Fire Marshal

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

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

Mr. Robert Kostlivy
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cc sent via email:

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

Ms. Julie Unson
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: Stanislaus County Department of Environmental Resources

Evaluation Period: March 2023 through January 2024

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden,
Pheleep Sidhom
- **CalEPA:** Julie Unson
- **State Water Board:** Magnolia Busse
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered **satisfactory with improvement needed**. Questions or comments regarding this evaluation should be directed to the CalEPA Team Lead:

Timothy Brandt
CalEPA Unified Program
Phone: (916) 323-2204
E-mail: Timothy.Brandt@calepa.ca.gov

The CUPA is required to submit the first Evaluation Progress Report 60 days from receipt of the Final Summary of Findings Report. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response. For each identified deficiency and incidental finding, the CUPA must complete the corrective action and resolution as indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute. The Evaluation Progress Report process will continue until all deficiencies and incidental findings have been acknowledged as corrected or resolved by each issuing Unified Program state agency.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at 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 the Final Summary of Findings Report, and any applicable supporting documentation must be included with each Evaluation Progress Report.

The submittal date for the 1st Evaluation Progress Report is **June 17, 2024**.

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ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

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

1. HAZARDOUS WASTE GENERATOR (HWG) INSPECTION REPORTS AND SUPPORTING DOCUMENTATION

The CUPA has developed and utilizes unique inspection documents that aid in completing thorough HWG inspections. Inspection reports reviewed for the evaluation assessment excelled in supporting violations through detailed observations and photographs. Inspection reports contained detailed violation observations and corrective actions from inspectors, as well as full regulatory citations with violation classifications. The format of the inspection reports is easy to understand, contains fields for inspectors to document important specifics of the inspection, and includes a suitable amount of checklist items (i.e. violation citations) for conducting HWG inspections. Inspection reports also are accompanied with a photograph log.

The CUPA has also developed a HWG pre-inspection checklist that aids in preparing inspectors for inspections. The pre-inspection checklist directs inspectors to review HWG related information and documentation such as: the Hazardous Waste Tracking System (HWTS), Transporter Quarterly Reports (TQRs), facility related information in the California Environmental Reporting System (CERS), and facility maps. The checklist also includes areas for onsite and post-inspection details.

The CUPA confirms return to compliance (RTC) status for cited violations using a unique "Summary of Return to Compliance Report," which documents all completed corrective actions in one document. In addition, the CUPA has established good procedures for following up with facilities to ensure RTC.

The CUPA also utilizes a "Hazardous Waste Generator Inventory Worksheet," that documents the types of hazardous waste found at a facility, the location of the waste, amount, container type, and waste code, as well as counts the amount of hazardous waste generated to determine whether an HWG is a Small or Large Quantity Generator.

The development and utilization of these thorough inspection reports and supporting documents are viewed as examples of outstanding implementation of the HWG Program.

2. HAZARDOUS WASTE (HW) TRAINING

The CUPA has developed a comprehensive HW training program for new inspectors. The training is divided into various modules with topics including but not limited to Generator Requirements & HW Tank System Requirements. Each module is accompanied by an assessment quiz. The CUPA retains training documentation that demonstrates new inspectors are consistently completing HWG training. The completeness of the training topics covered and the efforts of the CUPA to ensure new inspectors are trained on HWG topics is a unique accomplishment.

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3. FACILITY OUTREACH AND RTC ASSISTANCE

The CUPA provides consistent and helpful outreach to regulated facilities. During inspections, the CUPA provides facility owners or operators with regulatory guidance documents as well as helpful resources to assist in completing corrective actions for cited violations. In addition, the CUPA offers the opportunity for regulated facility owners or operators to schedule one-on-one in person meetings for tasks such as, help with RTC questions, RTC assistance, and CERS submittals.

4. EDUCATION FOR REGULATED COMMUNITY

The CUPA continues to provide training and no-cost workshops to the regulated community on various Unified Program topics and related subjects, which assist in building a relationship with the regulated community and maintaining compliance with Unified Program requirements. Examples of the workshops provided include, but are not limited to:

- 2020:
 - California Accidental Release Prevention (CalARP) Workshops (one in coordination with Condor Earth and a second with Woodbury Consulting)
 - HazMat Fee Workshop
 - Central Valley Chemical Safety Day
 - 2021:
 - Common Hazardous Waste Violations 2021 Workshop
 - CUPA – Assembly Bill (AB) 1429 Workshop
 - CUPA – California Environmental Reporting System (CERS) Walkthrough 2021
 - CUPA – Hazardous Materials Business Plan (HMBP) Presentation
 - HazMat Fee Workshop
 - Medical Waste Management Act Training – CUPA Workshop
 - Central Valley Chemical Safety Day
 - 2022:
 - Aboveground Petroleum Storage Act (APSA) and Spill Prevention, Control, and Countermeasure (SPCC) Overview (in coordination with Condor Earth)
 - APSA/SPCC Tank Integrity Inspections (in coordination with Condor Earth)
 - CERS 101 and AB 1429
 - CalARP Program Requirements (in coordination with Condor Earth)
 - Hazardous Waste 101 and Common Violations
 - HazMat Fee Workshop
 - HMBP 101
 - Central Valley Chemical Safety Day
 - 2023:
 - HazMat Fee Workshop
 - Central Valley Chemical Safety Day
 - CUPA Programs and Stormwater Workshop 2023
-

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5. CALARP PROGRAM DEVELOPMENT AND TRAINING FOR REGULATORS

The CUPA provides ongoing support to the development of the CalARP Program by co-chairing the Unified Program Administration and Advisory Group (UPAAG) CalARP Steering Committee and assisting with ongoing CalARP initiatives. The CUPA also provides training and assistance in program development for other Unified Program Agencies overseeing the CalARP Program, including but not limited to conducting inspections, identifying common deficiencies, and writing violations.

6. EDUCATION FOR FIRST RESPONDERS

The CUPA provides ongoing training for the local fire departments in navigating hazardous materials disclosure information in CERS for preparation and response to chemical-related incidents at regulated facilities. The CUPA also invites the local fire department to witness CUPA field inspections to demonstrate hazardous materials handling, management, and disclosure requirements.

7. REPORTING AND REMITTANCE OF UNIFIED PROGRAM STATE SURCHARGES

In 2019, the Stanislaus County Department of Environmental Resources experienced a complete turnover of staff in the accounting office. New staff had access to minimal remaining personnel and limited procedures to obtain training in the duties and functions of the accounting office relative to supporting the CUPA in fulfilling financial reporting and remittance requirements of Unified Program state surcharges and fees assessed by the CUPA. During the evaluation, the CUPA, the Stanislaus County Department of Environmental Resources accounting office, and CalEPA reviewed expectations for ensuring all Unified Program financial reporting and remittance requirements of the CUPA will be fulfilled. Effective July 1, 2024, for FY 2024/2025 and each subsequent FY, the CUPA will begin billing on a fiscal year cycle to alleviate future inconsistencies and discrepancies in reporting and remittance of collected state surcharges to CalEPA.

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA is not consistently ensuring technicians performing UST testing and/or equipment inspections of UST systems are trained and certified by the manufacturer of the equipment.

Review of UST facility files finds the certification of the technician was expired prior to the date of testing for the following facilities:

- CERS ID 10177485
 - Spill Container Testing performed November 9, 2022, by a technician with certification expired on November 29, 2020.
- CERS ID 10177485
 - Overfill Prevention Equipment Testing performed December 21, 2019, by a technician with certification expired on August 4, 2019.
- CERS ID 10178325
 - Spill Container Testing performed December 22, 2022, by a technician with certification expired on August 26, 2022.
- CERS ID 10176411
 - Spill Container Testing performed March 28, 2023, by a technician with certification expired on March 14, 2023
- CERS ID 10179275
 - Spill Container Testing performed December 18, 2020, by a technician with certification expired on November 9, 2020

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

CITATION:

CCR, Title 23, Section 2715(f)(3) and/or 2638(b)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised Inspection and Enforcement (I&E) Plan, or other applicable procedure, that ensures the establishment of a process for UST inspection staff to confirm valid certification of technicians by the manufacturer of equipment being inspected or tested. The process will include, at minimum, the methods the CUPA will use to confirm the certification of the technician meets the requirements of the manufacturer of equipment being inspected or tested.

By the 2nd Progress Report, if amendments to the 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

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

By the 3rd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA which, 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.

2. DEFICIENCY:

The CUPA is not consistently requiring UST facilities with single-walled UST components within a 1,000-foot radius of a public drinking water well to implement triennial enhanced leak detection (ELD) testing.

Review of UST facility file information, CERS CME information, and information in GeoTracker finds the following UST facilities have not completed subsequent triennial ELD testing:

- CERS ID 10177451: ELD testing was last conducted on March 26, 2018. The triennial ELD testing should have been implemented in 2021.
 - On January 25, 2023, the CUPA cited the following violation for failure to conduct triennial ELD testing, “This testing has not been completed. ELD Testing due 3/26/21. And corrective action immediately schedule this test and provide 48 hours notification to the CUPA. Provide copies of the test results within 3/7/2023.”
 - The 2021 ELD triennial testing results have not been provided to the State Water Board and no further enforcement action has been applied.
- CERS ID 10177591: ELD testing was last conducted on August 1, 2017. The triennial ELD testing should have been implemented in 2020.
 - On December 17, 2020, the CUPA cited the following violation for failure to conduct triennial ELD testing, “Failure of Owner/Operator to conduct triennial ELD testing by due date, 8/31/20. And corrective action schedule triennial ELD testing and submit ELD testing results to the regional water quality control board and the CUPA within 60 days of completion of the test.”
 - The CUPA cited the same violation on September 22, 2021, and September 22, 2022.
 - The 2020 ELD triennial testing results have not been provided to the State Water Board and no further enforcement action has been applied.
 - Note: The subsequent ELD triennial testing is due August 31, 2023.

Note: If a UST owner/operator believes the UST is not within 1,000 feet of a public drinking water well, a Request for Reconsideration (RFR) application must be submitted to the State Water Board. The RFR application form can be found at:

https://www.waterboards.ca.gov/ust/forms/docs/request_rfr_form.pdf. Once the RFR application is received from the UST owner/operator, the State Water Board will make a final determination whether ELD testing is required.

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

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CITATION:

HSC, Chapter 6.7, Section 25292.4
CCR, Title 23, Sections 2640(e), 2644.1, and 2620(e)
[State Water Board]

CORRECTIVE ACTION:

The CUPA will no longer allow USTs to continue to operate without having completed ELD testing.

The CUPA will apply progressive enforcement in instances where there is an open violation (no RTC) for not implementing triennial ELD testing at UST facilities having a UST with single-walled components within a 1,000-foot radius of a public drinking water well.

The CUPA will identify and provide CalEPA with a list of all UST facilities having a UST with single-walled components within a 1,000-foot radius of a public drinking water well that have not implemented subsequent triennial ELD testing.

Additionally, for those facilities with past-due completion of ELD testing, the CUPA will issue written correspondence addressed to UST facility owner(s) or operator(s) having a UST within a 1,000-foot radius of a public drinking water well, to inform the UST owner(s) or operator(s) of the requirement to implement triennial ELD testing every 36 months, and within 60 days of receiving the written correspondence to do so. The written correspondence will include language stating that failure to implement triennial ELD testing every 36 months will lead to applied enforcement, including but not limited to revocation of the "UST Operating Permit" and issuance of red tags, which will prohibit the deposit and withdrawal of fuel. The CUPA will include the State Water Board on the correspondence.

By the 1st Progress Report, for those UST facility owner(s) or operator(s) that have not completed triennial ELD testing every 36 months, or within 60 days of notification from the CUPA to do so, the CUPA will apply enforcement including, but not limited to the revocation of the "UST Operating Permit" and issuance of red tags. For those UST facility owner(s) or operator(s) that have completed triennial ELD testing every 36 months, and within 60 days of notification from the CUPA to do so, the CUPA will provide CalEPA with the ELD test results for each facility.

By the 2nd Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process to notify UST facility owners or operators of the requirement to implement triennial ELD testing every 36 months, at UST facilities with UST components within a 1,000-foot radius of a public drinking water well. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure 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.

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By the 4th Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which 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.

The State Water Board will consider this deficiency corrected when one of the following conditions applies to each UST with single-walled components within a 1,000-foot radius of a public drinking water well:

- Triennial ELD testing has been completed and the CUPA has provided the ELD test results to CalEPA, or
- issuance of a red tag if ELD testing has not been completed, or
- fuel is removed from the tank(s).

3. DEFICIENCY:

The CUPA is not inspecting each HWG facility, each Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facility, nor each Household Hazardous Waste (HHW) facility in accordance with the applicable inspection frequency established in the I&E Inspection and Enforcement (I&E) Plan.

The CUPA is not inspecting each Tiered Permit (TP) facility within two years of notification and every three years thereafter as established by HSC, Section 25201.4(b)(2).

Review of inspection, violation, and enforcement information, also known as CME information, in CERS finds:

- The HWG facilities (excluding RCRA LQG facilities, TP facilities, and HHW facilities) were not inspected once every five years, between April 1, 2018, and March 31, 2023:
 - 317 of 1,211 (26%)
- The RCRA LQG facilities were not inspected once every three years, between April 1, 2020, and March 31, 2023:
 - 16 of 29 (55%)
- The TP facilities were not inspected within two years of notification and every three years thereafter, between April 1, 2020, and March 31, 2023:
 - 2 of 3 (67%)

CITATION:

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

CORRECTIVE ACTION:

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

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- An analysis and explanation as to why the applicable inspection frequency for HWG, RCRA LQG, and TP facilities is not being met.
- A sortable spreadsheet, exported from the CUPA's data management system or CERS, identifying each HWG, RCRA LQG, and TP facility that has not been inspected per the applicable inspection frequency established in the I&E Plan. For each HWG, RCRA LQG, and TP 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 TP facility identified as having not been inspected per the applicable inspection frequency established in the I&E Plan. HWG, RCRA LQG, and TP facility 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 TP facilities are inspected per the applicable 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).

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

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

4. DEFICIENCY:

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

Review of HMBPs submitted to CERS between May 30, 2022, and June 30, 2023, by businesses subject to Business Plan reporting requirements finds:

- 825 of 2,260 (37%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 853 of 2,260 (38%) 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 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all businesses subject to Business Plan reporting requirements annually submit an HMBP or a no-change certification to CERS. The action plan, at minimum, will include steps to how the CUPA will follow up with facilities that have not submitted an HMBP or a no change certification to CERS within the last 12 months.

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

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data management system or CERS, that includes at minimum the following information for each business subject to Business Plan reporting requirements that has not submitted an HMBP or a no-change certification to CERS 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 facility subject to Business Plan reporting requirements identified in the sortable spreadsheet provided with the 2nd Progress Report, to ensure each business annually submits an HMBP or a no-change certification to CERS, or the CUPA will have applied enforcement.

5. DEFICIENCY:

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

Review of CERS CME information between April 1, 2020, and March 31, 2023, finds:

- 914 of 2,260 (40%) 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 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to HMBP requirements is inspected at least once every three years. The action plan will include, at minimum:

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

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be completed prior to any other HMBP facility inspection based on risk. For each facility, the schedule to inspect can reflect an estimated date or date range.

- Future steps to ensure all facilities subject to HMBP requirements will be inspected at least once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet and a brief narrative of how the CUPA is continuing to ensure that all facilities subject to business plan reporting requirements will be inspected at least once every three years.

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

6. 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:

- 34 of 111 (31%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a)
CCR, Title 27, Section 15200(a)
[OSFM]

CORRECTIVE ACTION:

By the 1st 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, and
 - 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 reported to CERS.

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

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

7. DEFICIENCY:

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 HMBPs submitted to CERS by APSA tank facilities in lieu of tank facility statements indicates:

- 84 of 340 (25%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 88 of 340 (26%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HMBP is annually submitted to CERS by an APSA tank facility, when an HMBP is provided in lieu of a tank facility statement.

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 APSA tank facility that has not annually submitted an HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement:

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

By the 4th 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.

8. DEFICIENCY:

The CUPA is not consistently following up and documenting RTC information in CERS for HWG Program facilities, CalARP Program facilities, APSA Program facilities, and UST facilities cited with violations.

Review of CERS CME information and the CUPA's data management system finds the following:

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- HWG Program violations cited between April 1, 2020, and March 31, 2023, have no documented RTC:
 - 287 of 1,382 (21%), consisting of:
 - 30 of 57 (53%) Class I violations
 - 168 of 677 (25%) Class II violations
 - 89 of 648 (14%) Minor violations
 - 559 of 648 (86%) Minor violations obtained RTC, however, 361 of 648 (56%) did not obtain RTC within 35 days.
- CalARP Program violations cited between April 1, 2020, and March 31, 2023, have no documented RTC:
 - 19 of 98 (12%) cited between April 1, 2020, and March 31, 2021;
 - 6 of 29 (31%) cited between April 1, 2021, and March 31, 2022;
 - 26 of 67 (32%) cited between April 1, 2022, and March 31, 2023
- APSA Program violations cited between July 1, 2019, and June 30, 2022, have no documented RTC:
 - 72 of 246 (29%) cited between July 1, 2019, and June 30, 2020
 - 143 of 375 (38%) cited between July 1, 2020, and June 30, 2021
 - including 5 violations for not having, or failure to prepare, an SPCC Plan
 - 32 of 61 (52%) cited between July 1, 2021, and June 30, 2022
 - including 1 violation for not having, or failure to prepare, an SPCC Plan
- Testing and leak detection violations for UST facilities have no documented RTC:
 - 63 of 895 (7%) cited between July 1, 2019, and June 30, 2020
 - 104 of 729 (14%) cited between July 1, 2020, and June 30, 2021
 - 316 of 619 (33%) cited between July 1, 2021, and June 30, 2022
- Testing and leak detection violations for UST facilities did not obtain RTC within 60 days:
 - 392 of 895 (46%) cited between July 1, 2019, and June 30, 2020
 - 206 of 729 (43%) cited between July 1, 2020, and June 30, 2021
 - 221 of 619 (36%) cited between July 1, 2021, and June 30, 2022

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)
HSC, Chapter 6.7, Section 25288(d)
HSC, Chapter 6.11, Section 25404.1.2(c)
HSC, Chapter 6.67, Section 25270.4.5(a)
HSC, Chapter 6.95, Sections 25508(a)(4) and 25533(d)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[CalEPA, DTSC, OSFM, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each HWG facility and each CalARP facility with an open violation (no RTC), cited between April 1, 2020, and March 31, 2023, for each APSA tank facility with an open violation (no RTC) cited

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between July 1, 2019 and June 30, 2022, and for each UST facility with an open testing and leak detection cited between July 1, 2019 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 any applied enforcement or follow-up activity to ensure the facility obtains 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 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HWG facility records, as requested by DTSC, three CalARP facility records as requested by CalEPA, three APSA tank facility records, as requested by OSFM, and three UST facility records, as requested by the State Water Board, that include RTC documentation or narrative of the follow-up activity and any enforcement applied in the absence of RTC.

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the sortable spreadsheet provided with the 1st 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.

9. DEFICIENCY:

The CUPA is not remitting all collected state surcharges to CalEPA.

Review of Annual Single Fee Summary Reports finds the Unified Program CalARP state surcharge was not fully remitted to CalEPA as follows:

- FY 2020/2021: \$11,070.00 in CalARP Program state surcharge
 - The total amount of the CalARP Program state surcharge reported as collected for FY 2020/2021 is \$11, 907, of which \$837 has been remitted to CalEPA.

Note: CUPA Oversight state surcharges collected in the amount of \$534.10 for FY 2019/2020 were remitted with CUPA Oversight state surcharges collected for the 1st quarter of FY 2020/2021.

CITATION:

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

CORRECTIVE ACTION:

During the evaluation, the CUPA confirmed with CalEPA that personnel of the Stanislaus County Department of Environmental Resources accounting office were recently trained in the duties and

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functions relative to supporting the CUPA in fulfilling financial reporting and remittance requirements of Unified Program state surcharges and fees assessed by the CUPA on a fiscal year cycle.

By the 1st Progress Report, the CUPA will remit the remaining \$11,070.00 of the collected CalARP Program state surcharge for FY 2020/2021.

10. DEFICIENCY: CORRECTED DURING EVALUATION

The “Underground Storage Tank Operating Permit” and permit conditions, issued under the Unified Program Facility Permit (UPFP) as the “Operating Permit for Underground Storage Facility,” are inconsistent with California Code of Regulations (CCR), Title 23, Division 3, Chapter 16 (UST Regulations), and Health and Safety Code (HSC), Chapter 6.7 requirements.

Review of Underground Storage Tank (UST) Operating Permits and permit conditions finds the following inconsistency with UST Regulations and HSC:

- The “UST Operating Permit” states, “PERMIT IS ... NOT TRANSFERABLE.”
 - This is more stringent than CCR, Title 23, Section 2712(d) and HSC, Chapter 6.7, Section 25284(b), which allow for the transfer of permits.

CITATION:

HSC, Chapter 6.7, Section 2584(b)
CCR, Title 23, Section 2712(d)
[State Water Board]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA began issuing UST Operating Permits and permit conditions using the revised UST Operating Permit template developed and approved by the State Water Board. Review of the “Operating Permit for Underground Storage Facility,” issued by the CUPA as the UST Operating Permit and permit conditions under the UPFP finds it meets all applicable requirements.

This deficiency is considered corrected during the evaluation.

11. DEFICIENCY: CORRECTED DURING EVALUATION

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:

- Fiscal Year (FY) 2019/2020
 - 1st Fiscal Quarter (FQ):
 - Due October 30, 2019, submitted November 20, 2019.
 - 2nd FQ:
 - Due January 30, 2020, submitted February 7, 2020.
 - 3rd FQ:
 - Due April 30, 2020, submitted July 18, 2020.

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- 4th FQ:
 - Due June 30, 2020, submitted October 13, 2020.
- FY 2020/2021
 - 1st FQ:
 - Due October 30, 2020, submitted November 30, 2020.
 - 2nd FQ:
 - Due January 30, 2021, submitted March 24, 2021.
 - 3rd FQ:
 - Due April 30, 2021, submitted May 5, 2021.
 - 4th FQ:
 - Due June 30, 2021, submitted September 29, 2021.
- FY 2021/2022
 - 1st FQ:
 - Due October 30, 2021, submitted March 21, 2022.
 - 2nd FQ:
 - Due January 30, 2022, submitted March 21, 2022.
 - 3rd FQ:
 - Due April 30, 2022, submitted May 9, 2022.
 - Note: The Quarterly Surcharge Transmittal Report for the 4th FQ was submitted on time.
- FY 2022/2023
 - 4th FQ:
 - Due June 30, 2023, submitted August 8, 2023.
 - Note: The Quarterly Surcharge Transmittal Report for the 1st, 2nd, and 3rd FQs were submitted on time.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA confirmed with CalEPA that personnel of the Stanislaus County Department of Environmental Resources accounting office were recently trained in the duties and functions relative to supporting the CUPA in fulfilling financial reporting and remittance requirements of Unified Program state surcharges and fees assessed by the CUPA on a fiscal year cycle. Subsequent Quarterly Surcharge Transmittal Reports will be submitted within 30 days after the end of each fiscal quarter when state surcharge revenues are remitted.

The Quarterly Surcharge Transmittal Report for the 1st FQ of FY 2023/2024 was submitted to CalEPA on October 23, 2023, in advance of the October 30th due date.

The CUPA will continue to provide each Quarterly Surcharge Transmittal Report to CalEPA within 30 days after the end of each fiscal quarter when state surcharge revenues are remitted. The CUPA will utilize the current Quarterly Surcharge Transmittal Report template, and will provide the Quarterly Surcharge Transmittal Report, along with any state surcharge remittance, to the California Air Resources Board (CARB) via mail at:

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Air Resources Board
Attn: Accounting
P.O. Box 1436
Sacramento, CA 95812

The CUPA will also ensure an electronic copy of each Quarterly Surcharge Transmittal Report is provided to CalEPA via email at cupa@calepa.ca.gov, using the current template.

Note: A revised quarterly Surcharge Transmittal Report template reflecting the \$10 increase in the CUPA Oversight state surcharge effective July 1, 2023, and the \$35 increase in the CUPA Oversight state surcharge, effective July 1, 2021 is available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf.

- The \$10 increase will fund the oversight of Hazardous Materials Business Plan (HMBP) requirements and the California Accidental Release Prevention (CalARP) Program.
 - Once the \$27 allocation for CERS NextGen has been collected for 4 years, the total Oversight Surcharge amount will be \$67.
- The \$35 increase consists of an allocation in the amount of \$27 to fund the CERS NextGen Project, and an allocation of \$8 as a general increase in. The \$27 allocation will be collected for four years.

Each line item on the Surcharge Transmittal Report template should be completed, including the check number. Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, the July 1, 2018, version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The CUPA is not inspecting each 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 (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.

Review of the UST Routine Inspection Frequency Report in CERS finds the following:

- 29 of 205 (14%) facilities did not have an annual inspection in 2020.
- 21 of 215 (10%) facilities did not have an annual inspection in 2022.

Note: All 211 UST facilities had an annual inspection in 2021.

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

CITATION:

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

RESOLUTION:

By the 1st 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 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 to CERS.
- The “UST Routine Inspection Frequency Search” report, exported from CERS identifying each UST facility that has not been inspected within the last 12 months, including those facilities that have not been inspected since 2020 and 2022. In the “Comments” section of the “UST Routine Inspection Frequency Search” report, include 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.

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By the 2nd Progress Report, and with each subsequent Progress Report until considered resolved, the CUPA will provide CalEPA with an updated “UST Routine Inspection Frequency Search” report and inspection schedule.

2. INCIDENTAL FINDING:

The CUPA is not correctly citing nor documenting noncompliance and is not citing UST violations identified during annual UST compliance inspections, in inspection reports and/or is not correctly reporting UST violations to CERS when UST violations are cited, including U.S. EPA Technical Compliance Rate (TCR) criteria.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds the following instances when violations were not identified on the annual UST compliance inspection report and/or not reported to CERS when the annual monitoring certification identified non-compliance:

- CERS ID 10176579
 - Spill Containment Testing Report dated May 10, 2022, identifies “The East Diesel spill bucket failed the 1-hour hydrostatic test.”
 - The violation is not cited on the annual UST compliance inspection report and is not in CERS.
 - Accurate TCR reporting for Unified Program violation library # 2060020 (Spill Container, USEPATCR 9a) was not provided.
- CERS ID 10177451
 - Annual Monitoring Certification Testing dated February 08, 2022, identifies “Leak detectors were not tested because the tank and pumps are not in service.”
 - The violation is not in CERS.
 - Accurate TCR reporting for Unified Program violation library # 2030027 (Release Detection, USEPATCR 9d) was not provided.

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

CITATION:

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

RESOLUTION:

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

The I&E Plan, or other applicable procedure will, at minimum include a process for:

- Review and follow-up of submitted UST testing and leak detection documents by the UST owner or operator as part of the annual UST compliance inspection;

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- Conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components;
- Conducting annual UST compliance inspections when UST inspection staff are not on-site to witness the monitoring system certification and visually inspect all UST required components;
- Ensuring violations observed during annual UST inspections are correctly and consistently cited on the inspection report; and
- Documenting and reporting observed noncompliance in annual UST compliance inspection reports to CERS.
- Review of the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the Unified Program violation library of CERS; and
- Accurate U.S. EPR TCR reporting.

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure. The CUPA will contact the State Water Board for any assistance needed.

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

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

By the 3rd Progress Report, and with 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, at minimum: annual UST compliance inspection reports, and associated testing and leak detection documents.

3. INCIDENTAL FINDING:

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

As of June 30, 2023, review of CERS CME information between April 1, 2020, and March 31, 2023, finds:

- 9 of 53 (17%) facilities subject to CalARP Program requirements were not inspected within the last three years.

Note: This incidental finding was identified during the 2020 CUPA Performance Evaluation and was resolved during the Evaluation Progress Report process.

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CITATION:

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

CORRECTIVE ACTION:

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

- An analysis and explanation as to why the inspection frequency is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each CalARP Program facility that has not been inspected within the last three years. For each facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID;
 - Date of the last routine inspection; and
 - A schedule to inspect each CalARP Program facility that has not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other CalARP Program facility inspection based on risk. For each facility, the schedule to inspect can reflect an estimated date or date range.
- Future steps to ensure all facilities subject to CalARP Program requirements will be inspected at least once every three years.

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

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

4. INCIDENTAL FINDING:

The CUPA is not correctly reporting CME information to CERS for the APSA, HWG, and CalARP Programs.

Review of CERS CME information and facility file information finds duplicate violations are reported for the following APSA, HWG, and CalARP Program inspections:

- CERS ID 10177849
 - A March 8, 2021, APSA inspection report reflects 10 violations.

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- CERS reflects an APSA inspection on March 8, 2021, with 28 violations. Eight violations from the inspection report were entered three times, two violations were entered twice.
- CERS ID 10661443
 - CERS reflects a routine HW inspection on January 9, 2020, with 31 violations. All cited violations have returned to compliance. 22 of 31 violations are duplicate entries.
 - CERS reflects an “Other” inspection on June 8, 2020, with 20 violations. 13 of 20 violations are duplicate entries.
- CERS ID 10177987
 - CERS reflects a routine HW inspection on September 16, 2022, with 16 violations. All cited violations have returned to compliance. 10 of 16 violations are duplicate entries.
- CERS ID 10179067
 - CERS reflects a routine HW inspection on September 14, 2022, with 21 violations. All cited violations have returned to compliance. 14 of 21 violations are duplicate entries.
- CERS ID 10177421
 - CERS reflects a routine HW inspection on September 11, 2022, with 52 violations. No cited violations have returned to compliance. The majority of the violations are duplicate entries.
- CERS ID 10178507
 - CERS reflects a routine CalARP inspection on June 2, 2022, with 17 violations. All cited violations are duplicate entries.
- CERS ID 10179011
 - CERS reflects a routine CalARP inspection on April 5, 2022, with 11 violations. 5 of 6 violations are duplicate entries.
- CERS ID 10178245
 - CERS reflects a routine CalARP inspection on May 3, 2022, with 7 violations. All violations are duplicate entries.

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

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4) and 25404.1.2(c)
CCR, Title 27, Sections 15187(c) and 15290(a)(3) and (b)
[OSFM, DTSC, CalEPA]

RESOLUTION:

During the evaluation, the CUPA initiated contact with IT support from both CalEPA and Accela in an effort to identify and resolve the duplicative violation issue. It was determined that the duplicate violations were resulting from an Accela software error when electronically transferring CME data to CERS. Collectively, the CUPA and IT support from CalEPA have identified all duplicate violations previously reported to CERS cited during APSA, HWG, and CalARP Program inspections conducted between April 1, 2020, and March 31, 2023. The CUPA will continue to work with IT support from both CalEPA and Accela to ensure the correction of duplicate CME information previously reported incorrectly to CERS and to ensure all future CME information is correctly reported to CERS.

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

- A process for reporting APSA, HWG, and CalARP Program CME information being previously reported incorrectly to CERS, including CME information for any revised inspection reports.
- Future steps to ensure all APSA, HWG, and CalARP Program CME information is correctly reported to CERS. This may generate the need for a comparison of APSA, HWG, and CalARP Program CME information in the CUPA's data management system with CERS to identify CME information being reported incorrectly to CERS through electronic data transfer (EDT), or establishment of a quality assurance and quality control process is in place to ensure all CME information is reported to CERS correctly.

By the 2nd Progress Report, the CUPA will provide complete and accurate APSA, HWG, and CalARP Program CME information to CERS and a statement confirming the complete entry of all APSA, HWG, and CalARP Program CME information previously reported incorrectly to CERS between April 1, 2020, and March 31, 2023, has been reported to CERS correctly. If all APSA, HWG, and CalARP Program CME information has not been correctly reported to CERS, the CUPA will provide a narrative update on the progress made towards resolving this incidental finding.

5. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA did not provide CalEPA with a Formal Enforcement Summary Report within 30 days of a judgement being issued or for each formal enforcement case that received a final judgement.

Review of CERS CME information between October 1, 2019, and January 1, 2022, finds that Formal Enforcement Summary Reports were not provided for the following formal enforcement cases:

- CERS ID 10177809, enforcement dated January 8, 2021
- CERS ID 10841419, enforcement dated December 21, 2022
- CERS ID 10909975, enforcement dated February 1, 2023
- CERS ID 10166983, enforcement dated February 9, 2023

CITATION:

CCR, Title 27, Section 15290(a)(5)
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with Formal Enforcement Summary Reports for the formal enforcement cases listed above.

The CUPA will ensure a Formal Enforcement Summary Report is completed and provided to CalEPA within 30 days of any future final judgment being issued. The following information relates to the completion and submittal of a Formal Enforcement Summary Report:

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- The [Formal Enforcement Summary Report template](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template-ADA-05.2019.pdf?emrc=d24388) is available at:
<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template-ADA-05.2019.pdf?emrc=d24388>
- [Instructions for completing the Formal Enforcement Summary Report](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions_9.9.2021.pdf?emrc=dc4518) template are available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions_9.9.2021.pdf?emrc=dc4518
- Completed Formal Enforcement Summary Reports shall be submitted via email to CUPA@calepa.ca.gov

This incidental finding is considered resolved during the 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.

1. OBSERVATION:

Review of CERS finds approximately 60 USTs or UST systems with single-walled components which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05. The following are examples:

- CERS ID 10178333
- CERS ID 10179275
- CERS ID 10451749
- CERS ID 10179293

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

RECOMMENDATION:

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

2. 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 April 1, 2020, and March 31, 2023:

- There are 1,244 regulated HWG facilities, including 29 RCRA LQG facilities, 1 HHW facility, and 3 TP facilities.
- The CUPA inspected 588 HWG, TP, and RCRA LQG facilities and conducted 725 "Routine" or "Other" HWG inspections, of which 361 (50%) had no violations cited and 364 (50%) had at least one violation cited.
 - In the 364 HWG, RCRA LQG and TP inspections conducted having at least one violation, 1,382 total violations were cited, consisting of:
 - 57 Class I violations, 27 (47%) of which have obtained RTC
 - 677 Class II violations, 509 (75%) of which have obtained RTC
 - 648 Minor violations, 559 (86%) of which have obtained RTC
 - The CUPA has ensured RTC for 1,095 of 1,382 (79%) violations cited.
- The CUPA has established procedures for implementing a graduated series of enforcement and follows up with facilities through methods including, written communications (see I&E Plan pages 25 & 40), re-inspections, and offering in person RTC consultation for facilities.

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- Review of CERS CME information finds no enforcement cases were completed for HWG Program violations, resulting in \$0 penalties.
- 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 observations and factual basis for violations, as well as corrective actions.

RECOMMENDATION:

Continue making progress towards meeting the five-year HWG inspection frequency and continue efforts to meet the three-year inspection frequency for RCRA LQG and HHW facilities and the inspection frequency for TP facilities. Continue to ensure the detailed factual basis of each violation is included in inspection reports and in CME information transferred to CERS, including RTC information, to support any enforcement efforts. Carry on with implementation of the procedures established for applied enforcement efforts to ensure facilities RTC or are made aware of outstanding corrective actions. Follow up with HWG and TP facilities that have not obtained RTC by the scheduled RTC date and apply progressive enforcement when facilities do not obtain RTC, as outlined in the I&E Plan. Continue to develop an enforcement program to assess penalties when appropriate.

3. OBSERVATION:

The inspection frequency in the I&E Plan for Certified Appliance Recyclers (CARs) may benefit from review. The sections cited in the I&E Plan do not require CARs to be inspected every three years. Therefore, the CUPA is not required to inspect CAR facilities every three years but may continue to do so.

The inspection frequency in the I&E Plan for RCRA LQGs is stated as once every five years. The actual inspection frequency for RCRA LQGs implemented by the CUPA is once every three years.

RECOMMENDATION:

Remove the reference to HSC, Sections 25211 through 25214 for the CAR inspection frequency specified in the I&E Plan and determine whether or not CAR facilities will continue to have an inspection frequency of every three years, or maintain the reference to HSC, Sections 25211 through 25214, and relocate the reference so that it is adjacent to the section describing CAR facility requirements.

Revise the I&E Plan to reflect the actual inspection frequency implemented by the CUPA for RCRA LQG facilities.

4. OBSERVATION:

Oversight inspections were conducted with the CUPA on June 27 and 28, 2023. The inspections were led by two different lead inspectors from the CUPA. Additional CUPA inspectors attended each inspection as back-up inspectors.

Prior to the inspections, each inspector prepared for the inspection by using both CERS and the HWTS to gather facility information, including the facility's activities, EPA ID number, previous violation history, and hazardous waste shipments. Both inspectors downloaded and printed

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Manifest Data Reports for use during each inspection as well as the Transporter Quarterly Reports (TQRs) to identify shipments of HW on consolidated manifests. The inspectors reviewed the facility inspection files and utilized the pre-inspection checklist. Additional supporting documents such as site maps submitted by each facility as part of meeting Business Plan reporting requirements were also reviewed to assist with identifying the overall facility layout and potential points of HW generation. Overall, the pre-inspection preparation was detailed, thorough, and appropriate for the nature of each facility being inspected.

On June 27, 2023, the oversight inspection was conducted at CERS ID 10178217, a non-RCRA LQG facility. The inspection covered all hazardous waste storage areas and points of generation, such as the auto and body shop. The inspector took notes and photos during the inspection without the need for an inspection checklist as a reference tool to conduct the inspection. During the walkthrough, the inspector asked questions to better understand the facility operations and to better determine compliance. Throughout the inspection the inspector remained focused, in control, and was able to clearly explain HWG requirements and observations when issues of non-compliance arose. The appropriate documents required of LQGs were reviewed or requested. The violations the inspector noted during the oversight inspection were consistent with the violations identified by the DTSC evaluators. Each violation was supported by evidence gathered during the inspection. The inspector reviewed the violations with the facility operator prior to conclusion of the inspection and provided an inspection report to the facility operator via email.

On June 28, 2023, the oversight inspection was conducted at CERS ID 10178321, a Permit By Rule (PBR) Onsite Treatment/non-RCRA LQG facility. The inspection covered all hazardous waste storage areas, points of generation, and HW treatment units. The inspector took notes and photos during the inspection and asked questions to better understand the facility operations and to better determine compliance. The inspector conducted a process-based inspection, remained focused, in control, and was able to clearly explain HWG requirements and observations when issues of non-compliance arose. The appropriate documents required of PBR/non-RCRA LQGs were reviewed or requested, except for HW treatment logs. The violations the inspector noted during the oversight inspection were consistent with the violations identified by the DTSC evaluators. Each violation was supported by evidence gathered during the inspection. The inspector reviewed the violations with the facility operator prior to conclusion of the inspection and provided an inspection report to the facility operator via email.

In terms of understanding HWG requirements, the CUPA inspectors demonstrated they were well versed in the following topics: LQG requirements, used oil, used oil filters, container versus tank determinations, lead-acid automotive batteries, PBR unit requirements, and hazardous waste determinations. The inspection reports documented consent for the inspections, cited violations with the correct regulatory citations & accompanying violation classification (ex: minor, Class II, & Class I), and included detailed corrective actions.

Overall, the inspections were handled professionally and were conducted in a timely manner. Consent to inspect was asked for prior to beginning each inspection and both inspectors established good rapport with the facility operators. The CUPA's procedures are to return to the office to draft the inspection report and then send it to the facility via email. Depending on the length of the report, it may also be completed in the field.

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RECOMMENDATION:

Continue to follow the current pre-inspection and inspection procedures as noted above and ensure HWG violations are reviewed with the facility operator at the conclusion of the inspection or as close to the end of the inspection as possible. To stay proficient on TP requirements, consider conducting regular refresher trainings with inspectors.

5. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 338 APSA tank facilities. The CUPA’s data management system identifies 357 APSA tank facilities.

- 321 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 17 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.
- 36 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 are not APSA regulated should have the APSA reporting requirement set to “Not Applicable” and should not be identified as APSA tank facilities in the CUPA’s data management system. Those that are APSA regulated should have the APSA reporting requirement set to “Applicable.”

RECOMMENDATION:

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

6. OBSERVATION:

The CUPA’s webpages contain multiple resources for the public and regulated community. Review of the CUPA’s Aboveground Petroleum Storage Tank Program webpage (<https://www.stancounty.com/er/hazmat/ast-programs.shtm>) indicates the following information may benefit from improvement.

- The Tier II Qualified Facility SPCC Plan template links to an outdated template (September 2018). Replace the existing link with the link to the current template (May 2021), available at: https://34c031f8-c9fd-4018-8c5a-4159cdf6b0d-cdn-endpoint.azureedge.net/-/media/osfm-website/what-we-do/pipeline-safety-and-hazardous-materials/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf?rev=0f2757843940483c88247338d4a5b31e.
- In the Helpful Resources section, the three links below are not active:
 - Steel Tank Institute list of Certified Inspectors (Shop Fabricated Tanks) (Refer to #9)
 - Steel Tank Institute Monthly and Annual Inspection Checklist Templates (Refer to #5)
 - Steel Tank Institute (STI) Certified Inspectors

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RECOMMENDATION:

Update the website as indicated above.

7. OBSERVATION:

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

RECOMMENDATION:

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

8. OBSERVATION:

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

Information on APSA and farms is available at: <https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/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.

9. OBSERVATION:

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

- Page 7: The APSA Program authority reference to “40 CFR part 112” should be removed since the Federal SPCC rule has not been delegated to any state.
- Page 20: The following statement is incorrect, “A NTC should be issued for all violations...” The NTC return to compliance timeframe is 30 days, which is true for minor violations. Class I and Class II violations are not required to be corrected within 30 days.
- Page 21: The farm discussion needs to be updated to reflect the WRRDA thresholds (2,500 gallons of oil with reportable discharge history or 6,000 gallons of oil with no

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reportable discharge history) that are recognized by APSA. Farms below WRRDA thresholds are not APSA regulated and are not subject to the APSA state surcharge. Farms that meet or exceed the WRRDA thresholds are APSA regulated and are subject to the APSA Program state surcharge. They are also typically regulated as conditionally exempt APSA tank facilities as they are conditionally exempt from preparing an SPCC Plan under APSA. If a farm stores very large amounts of petroleum (a storage tank at the facility exceeds 20,000 gallons and the cumulative storage capacity of the tank facility exceeds 100,000 gallons), it is not conditionally exempt, and it would be required to prepare and implement an SPCC Plan under APSA.

- Page 25: In sentence 3, APSA should be included with all the other programs relative to filing of photographs taken during an inspection. In sentence 6, the NTC return to compliance timeframe is 30 days, which is true for minor violations. Class I and Class II violations are not required to be corrected within 30 days.
- Pages 53 and 54: The Distribution of Penalties discussion could be improved by including a discussion on the APSA Program with reference to HSC, Chapter 6.67, Sections 25270.12 (civil penalty) and 25270.12.1(b) (administrative penalty).

RECOMMENDATION:

Update the I&E Plan as indicated above.

10. OBSERVATION:

The Self-Audit Reports for FYs 2019/2020, 2020/2021, and 2021/2022 include a list of Unified Program elements that is missing the fire code Hazardous Materials Management Plans (HMMP) and Hazardous Materials Inventory Statements (HMIS) Program, which is consolidated with the HMBP Program to streamline the regulatory requirements for regulated facilities.

RECOMMENDATION:

Ensure future Self-Audit Reports include the fire code HMMP and HMIS Program in the list of Unified Program elements.

11. OBSERVATION:

The annual CalARP Performance Audit Report for FYs 2019/2020, 2020/2021, and 2021/2022 has an incomplete required element.

The following element is incomplete:

- A summary of the personnel and personnel years necessary to directly implement, administer, and operate the CalARP Program, per CCR, Title 19, Section 2780.5(b)(7)

RECOMMENDATION:

By the 1st Progress Report, the CUPA will provide CalEPA with the most recent annual CalARP Performance Audit Report, including the missing and/or incomplete elements identified above.

12. OBSERVATION:

On August 8, 2023, an HMBP oversight inspection was conducted at CERS ID 10471342. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving

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at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory, site map, and emergency response plan information and training on site, and effectively communicated technical information to facility operators. The inspector identified and classified all violations and provided guidance templates to the facility operator to achieve compliance.

On August 8, 2023, an HMBP oversight inspection was conducted at CERS ID 10179025. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory, site map, and emergency response plan information and training on site, and effectively communicated technical information to facility operators. The inspector identified recalcitrant violations and effectively communicated graduated enforcement with the facility operator. The inspector provided guidance templates, provided education on business plan reporting requirements, and assisted the facility operators with navigating CERS.

On August 9, 2023, a CalARP oversight inspection was conducted at CERS ID 10177673. The inspector was well prepared for the inspection and reviewed relevant information, including the most current Risk Management Plan (RMP) prior to arriving at the facility, and requested all relevant program specific documents in advance. The inspector was knowledgeable, established rapport with the facility operators, requested and reviewed the most current RMP information, toured the entire site, and effectively communicated technical information to the facility operators. The inspector continued to communicate with the facility following the inspection to address information that was unclear, incomplete, or missing during the onsite visit. The inspector extended assistance and training to the facility operators for familiarity with the CalARP Program requirements.

RECOMMENDATION:

Continue to conduct thorough HMBP and CalARP inspections.

13. OBSERVATION:

On August 17, 2023, a UST oversight inspection was conducted during the monitoring system certification and spill container testing for CERS ID 10177449.

Prior to the inspection, the inspector guided State Water Board staff through the pre-inspection process, which included review of CERS information and facility notes using the internal UST staff inspection checklist. Prior to conducting the inspection, the inspector asked for and obtained consent to inspect. The inspector visually observed UST components and containment areas and reviewed system setup, alarm history, designated operator (DO) training records, and DO monthly inspection reports. The inspector displayed extensive knowledge of UST regulations and statutes, resulting in conducting a complete and thorough annual compliance inspection.

RECOMMENDATION:

Continue to conduct complete annual compliance inspections for consistency and implementation of UST Program requirements.
