

March 5, 2021

Mr. Lars Seifert  
Environmental Health Director  
County of Santa Barbara Public Health Department  
Environmental Health Services  
225 Camino Del Remedio  
Santa Barbara, California 93110-1334

Dear Mr. Seifert:

During August, 2020, through January, 2021, CalEPA and the state program agencies conducted a performance evaluation of the County of Santa Barbara Public Health Department 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 data.

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 examples of outstanding Unified Program implementation. Enclosed, please find the final Summary of Findings report.

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

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (**May 4, 2021**), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to Sam Porras at [Samuel.Porras@calepa.ca.gov](mailto:Samuel.Porras@calepa.ca.gov).

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

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To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned to Melinda Blum within 30 days. If you would like to have specific comments remain anonymous, please indicate so on the survey.

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

Sincerely,



Jason Boetzer  
Assistant Secretary  
Local Program Coordination and Emergency Response

Enclosures

cc sent via email:

Mr. Aaron Gao  
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cc sent via email:

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Mr. James Hosler, Chief  
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cc sent via email:

Mr. Matt McCarron  
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Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

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

Mr. Sam Porras  
Environmental Scientist  
California Environmental Protection Agency

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

**CUPA: County of Santa Barbara Public Health Department Environmental Health Services**

**Evaluation Period:** August 2020 through January 2021

**Evaluation Team Members:**

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Matthew McCarron
- **Cal OES:** Fred Mehr
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations
- Examples of outstanding program implementation

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 improvements needed.

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

**Samuel Porras**  
CalEPA Unified Program  
Phone: (916) 327-9557  
E-mail: [Samuel.Porras@calepa.ca.gov](mailto:Samuel.Porras@calepa.ca.gov)

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

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

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

**1<sup>st</sup> Progress Report:** May 4, 2021      **2<sup>nd</sup> Progress Report:** August 2, 2021  
**3<sup>rd</sup> Progress Report:** November 1, 2021      **4<sup>th</sup> Progress Report:** January 31, 2022

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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.

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**1. DEFICIENCY:**

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

The following procedure has a component that is inaccurate:

- The Public Information Request procedure, titled “Community Right to Know – File Reviews” is no longer valid as public information requests are no longer processed using paper forms. The procedure does not outline the current process as to how public information requests are now received and processed through the Santa Barbara County website. The requestor must receive a response within 10 days in accordance with the California Public Records Act.

The following procedures have components that are incomplete:

- The Records Maintenance procedure, titled “Collection of Information, Retention of CUPA Records,” does not identify the full list of CUPA-related documents required to be retained for the five-year minimum retention time, and does not clearly delineate the minimum retention times for CUPA-related documents. The list includes Self-Audit reports, records used to produce the summary reports submitted to the state, surcharge billing and collection records, and training records. In addition, archival procedures for electronic documents are discussed, however there is no mention of the archival procedure for paper records, though the procedure language implies documents are shredded if less than five years old. Proper disposal is only mentioned for Underground Storage Tank (UST) Program records.
- The Permitting procedure, titled “Consolidated Permit Plan (UST Facilities),” contains the process for permitting facilities in the UST Program. Procedures for issuance of permits to facilities regulated under the following program elements are missing: Aboveground Petroleum Storage Tank (APSA), California Accidental Release Prevention (CalARP), and Hazardous Waste Generator (HWG) Tiered Permitting.
- The Fee Dispute Resolution Policy does not include a process to resolve fee disputes involving the state surcharge if it cannot be resolved locally. The process must include mechanisms for referring the dispute to CalEPA in writing and including a recommendation for resolution.
- The Public Participation procedures do not include how the CUPA ensures coordination, consolidation, and consistency relative to required local public hearings. The details provided do not delineate the structure of the public hearing meeting nor methods used for facilitation.
- The procedures for providing Hazardous Materials Release Response Plan (HMRRP) information, located within a letter dated October 16, 2020, do not address procedures for

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providing other “emergency response personnel and other appropriate government entities” access to HMRRP information.

- Financial Management Procedures specific to the Single Fee System and Fee Accountability programs do not document procedures in place to ensure consistent and effective implementation, though documents provided do demonstrate implementation of the Single Fee System and Fee Accountability programs.

**CITATION:**

California Code of Regulations (CCR), Title 27, Sections 15180(e)(1-3), 15185(b), 15190 and 15210(k)(1)  
[CalEPA]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a copy of the revised Unified Program administrative procedures that address the identified inaccurate and incomplete components.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with a copy of 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 an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised administrative procedures.

By the 3<sup>rd</sup> Progress Report, if amendments 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 an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended administrative procedures.

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**2. DEFICIENCY:**

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

Review of facility files and communication with the CUPA indicates 12 of 31 (38%) CalARP facilities were not inspected within the last three years.

**CITATION:**

Health and Safety Code (HSC), Chapter 6.95, Section 25537(a)  
CCR, Title 19, Section 2775.3  
[Cal OES]

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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

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

- An explanation as to why the triennial inspection frequency for the CalARP program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each CalARP facility that has not been inspected within the last three years. For each CalARP facility listed, the spreadsheet will include, at minimum:
  - Facility name;
  - CERS ID;
  - date of the last inspection
- A schedule to inspect those CalARP facilities, prioritizing the most delinquent inspections to be completed prior to any other CalARP inspection based on risk.
- Future steps to ensure that all CalARP facilities will be inspected at least once every three years.

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

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to demonstrate the number of CalARP facility inspections that have been conducted during the previous three months.

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

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**3. DEFICIENCY:**

The CUPA is not consistently documenting in sufficient detail whether the Underground Storage Tank (UST) owner or operator has demonstrated to the satisfaction of the CUPA, UST closure, removal, and soil and/or water sampling complies with CCR, Title 23, Chapter 16 (UST Regulations), and HSC, Chapter 6.7.

The following is an example:

- CERS ID 10180225: No closure documentation was provided to the owner or operator.

Additionally, the CUPA is not properly following the Consolidated UST Closure Procedure, which includes the closure letter template to be used in the event of UST closures.

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

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Note: This deficiency was identified as an Incidental Finding and corrected during the 2017 CUPA Performance Evaluation process.

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

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop and provide CalEPA with, a process that establishes consistent use of the UST Closure letter template included in the Consolidated UST Closure Procedure. In addition, the CUPA will provide CalEPA with a list of USTs removed or closed in place on or after August 21, 2018, and copies of each UST closure letter issued to the owner/operator.

By the 2<sup>nd</sup> Progress Report, the CUPA will draft and provide to CalEPA, revised UST closure letters using the UST Closure letter template, included in the Consolidated UST Closure Procedure, for all facilities issued an inadequate letter on or after August 21, 2018.

By the 3<sup>rd</sup> Progress Report, the CUPA will provide the revised UST closure letters to facilities with USTs removed or closed in place on or after August 21, 2018. In addition, the CUPA will train UST inspection staff on consistently using the UST closure letter template included in the Consolidated UST Closure Procedure, and will provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training.

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**4. DEFICIENCY:**

Review of the CUPA's local ordinance, Chapter 18C, Article III, sections 18C-31 through 18C-53, finds inconsistencies with UST Regulations and HSC. The inconsistencies include, but are not limited to, the following:

- Section 18C-46.2 does not address changes made to HSC, Section 25285, effective January 1, 2019, stating permits may be issued to facilities out of compliance. However, permits may not be issued to facilities that are currently red tagged, undergoing enforcement, or that have not paid permit fees.
- Section 18C-47 does not clarify what Unified Programs may be granted variances. UST facilities can only be granted a variance from the Regional Water Quality Control Boards.
- Section 18C-49 is less stringent than penalties set forth in HSC, Section 25299, which states UST violations are subject to penalties of no less than \$500 and no more than \$5,000 per day, per UST, per violation.

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**CITATION:**

HSC, Chapter 6.7 Section 25285 and 25299  
CCR, Title 23, Section 2681  
[State Water Board]

**CORRECTIVE ACTION:**

Effective immediately, the CUPA will no longer implement provisions of the local ordinance that are less stringent, or other provisions that may be inconsistent, with UST Regulations and HSC.

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt the local ordinances to be consistent with UST Regulations and HSC. The plan shall include, at minimum, a timeline for drafting and adopting the ordinance, provisions for the CUPA to provide legal analysis of the ordinance to CalEPA and the State Water Board, and a draft of the revised local ordinance.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the plan for revision and adoption of the local ordinance, based on feedback from the State Water Board and CalEPA.

Considering the length of time required to draft and adopt local ordinances, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided the revised plan as outlined above. During implementation of the plan, State Water Board and CalEPA must have an opportunity to review the CUPA's draft local ordinance. This opportunity allows the State Water Board and CalEPA to work with the CUPA to establish that the local ordinance is consistent with UST Regulations and HSC, the CUPA certification approval, and meets all other legal requirements.

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**5. DEFICIENCY:**

Review of the Unified Program Facility Permit (UPFP), which includes the UST operating permit and permit conditions, finds inconsistencies with UST Regulations and HSC.

The following information is inconsistent:

- The UPFP states "This form must be displayed conspicuously on the premises," which is more stringent than UST Regulations and HSC, and where no local ordinance authority exists. UST Regulations require a paper or electronic copy of the UPFP to be readily accessible at the facility.
- Permit conditions indicate the UPFP is the property of the Santa Barbara County EHS, however, the State Water Board has the authority to take enforcement actions against the owner or operator apart from the CUPA, therefore, the UPFP is not the sole property of the CUPA. The CUPA may consider using the following language: "this permit is issued by the Santa Barbara County EHS and may be revoked or withheld in accordance with HSC, section 25299."

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

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Note: Reference State Water Board correspondence dated April 7, 2017, "Amended Requirements for Unified Program Facility Permits Effective January 1, 2017."

**CITATION:**

CCR, Title 23, Section 2712(c) and (i)  
CCR, Title 27, Section 15190(h)  
[State Water Board]

**CORRECTIVE ACTION:**

The CUPA provided a revised UST operating permit, and revised permit conditions issued under the UPFP for review. The State Water Board acknowledged the revisions were consistent with UST Regulations and HSC on February 18, 2021.

By the 1<sup>st</sup> Progress Report, the CUPA will have begun using the revised UPFP template, and will provide CalEPA with a copy of five UPFPs issued to UST facilities.

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**6. DEFICIENCY:**

The Consolidated UST Closure Procedure is inconsistent with UST Regulations and HSC.

The inconsistencies include, but are not limited to, the following:

- The "Sampling" section and the "Requirements for the Removal of Underground Hazardous Materials Storage Tanks," Section 11, must include water sampling if water is found in the excavation pit of a UST.
- Reference to "SW-846" in the "Sampling" section is not defined and lacks clarity.
- Reference to the "CUPA UST Closure" letter must be updated to include that UST closure occurred in accordance with UST Regulations and HSC.
- The "Requirements for the Removal of Underground Hazardous Materials Storage Tanks," Section 6. Tank Cleaning, indicates UST(s) may be removed with material still inside the UST(s), which is less stringent than UST Regulations.

**CITATION:**

HSC, Chapter 6.5  
CCR, Title 23, Section 2672  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review, revise, and provide CalEPA with a copy of the Consolidated UST Closure Procedure, which will address inconsistencies including, but not limited to, those identified above.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend and provide CalEPA a copy of the revised Consolidated UST Closure Procedure, based on feedback from the State Water Board. If no amendments are necessary, the CUPA will train UST inspection staff on the revised Consolidated UST Closure Procedure and provide training documentation to CalEPA which will

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include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training. Once training is complete, the CUPA will implement the revised Consolidated UST Closure Procedure.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised Consolidated UST Closure Procedure were necessary, the CUPA will train UST inspection staff on the amended Consolidated UST Closure Procedure and provide training documentation to CalEPA which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training. Once training is complete, the CUPA will implement the amended Consolidated UST Closure Procedure.

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**7. DEFICIENCY:**

The CUPA is not issuing UST operating permits, issued under the UPPF, in accordance with the UST Permit to Operate Issuance Procedure.

UST operating permits, issued under the UPPF, are not issued prior to or upon the expiration date of the existing permit.

UST operating permits, issued under the UPPF, are valid from April 1, 2020, to March 31, 2021, however, the UST operating permits are being issued substantially beyond the start date identified on the permit. The following are examples:

- CERS ID 10211911: permit issued April 6, 2020; the permit has a valid date of April 1, 2020, to March 31, 2021.
- CERS ID 10211263: permit issued June 23, 2020; permit has a valid date of April 1, 2020, to March 31, 2021.
- CERS ID 10209097: permit issued July 7, 2020; the permit has a valid date of April 1, 2020, to March 31, 2021.

Additionally, the UST Permit to Operate Issuance Procedure is inconsistent with UST Regulations and HSC as follows:

- The CUPA will not issue UST operating permits to facilities that are not in compliance with UST Regulations and HSC. HSC only allows permits to be withheld or not issued if the UST facility has a red tag affixed to a UST, subject to enforcement action, or has not paid the permit fees.

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

**CITATION:**

HSC, Chapter 6.7, Section 25285  
[State Water Board]

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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review, revise, and provide to CalEPA a copy of the UST Permit to Operate Issuance Procedure, which will address inconsistencies including, but not limited to, those identified above.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised UST Permit to Operate Issuance Procedure, based on feedback from State Water Board, and will submit the amendments to CalEPA. If no amendments are necessary, the CUPA will train CUPA personnel and UST inspection staff on the revised UST Permit to Operate Issuance Procedure and provide training documentation to CalEPA which will include, at minimum, an outline of the training conducted and a list of CUPA personnel and UST inspection staff attending training. Once training is complete, the CUPA will implement the revised UST Permit to Operate Issuance Procedure.

By the 3<sup>rd</sup> Progress Report, if amendments were necessary, the CUPA will train UST inspection staff on the amended UST Permit to Operate Issuance Procedure and provide training documentation to CalEPA which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training. Once training is complete, the CUPA will implement the amended UST Permit to Operate Issuance Procedure. Additionally, the CUPA will have begun using the revised UPFP template, and permit conditions and provide CalEPA with a copy of five UPFPs issued to facilities.

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**8. DEFICIENCY: CORECTED DURING EVALUATION**

The CUPA is not consistently requiring UST facilities with double walled USTs within a 1,000-foot radius of a public drinking water well to implement one-time ELD testing. State Water Board sent a Notice of Noncompliance to the owner or operator and the CUPA, on April 30, 2008, indicating that ELD testing is required.

Review of UST facility files finds the following UST facility has not completed the one-time ELD testing:

- CERS ID 10209376

Note: The examples provided above are intended to contextualize the deficiency.

Note: Local Guidance Letter (LG) 161 notifying Local Agencies of Senate Bill (SB) 989 requirements for ELD Testing was provided to CUPAs on September 18, 2001. Updates to ELD requirements were provided to CUPAs in LG 161- 2; May 15, 2003, LG 161- 3; October 23, 2006, LG 161-4; June 12, 2007, and LG-161- 5; March 25, 2008.

**CITATION:**

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

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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION: COMPLETED**

The CUPA provided ELD test results for the facilities listed above. No further action is required.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

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

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**1. INCIDENTAL FINDING:**

The Inspection and Enforcement (I&E) Plan is missing the following component:

- Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.

Note: This incidental finding was identified and corrected during the 2017 CUPA Performance Evaluation process.

**CITATION:**

CCR, Title 27, Section 15200(a)(13)  
[CalEPA, DTSC]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a copy of the revised I&E Plan that addresses the identified missing component.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary, based on feedback from CalEPA or DTSC, the CUPA will provide CalEPA with a copy of the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3<sup>rd</sup> Progress Report, if amendments to the I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

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**2. INCIDENTAL FINDING:**

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

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

- APSA Program inspection and violations were reported incorrectly in CERS:
  - CERS ID 10152347: A multiday inspection was performed. CERS has a record for the first inspection day dated September 26, 2017, but CERS does not have a record for the final inspection day dated September 28, 2017, on which an inspection report identifies four APSA violations.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

- CERS ID 10211797: A routine inspection report, dated July 24, 2018, cited four violations (H089, H003, H037, and H039). However, CERS indicates one violation (H039) occurred on May 24, 2018. Return to Compliance (RTC) documentation signed by the facility owner/operator on August 22, 2018, indicated the four violations cited on July 24, 2018, were corrected. CERS records all four violations achieved RTC on August 24, 2018.

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

**CITATION:**

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

**RESOLUTION:**

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

- Review and revision if necessary, of the existing CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure CME information is consistently and correctly reported to CERS. If revisions are made to a procedure other than the Data Management Procedure, the I&E Plan must be revised to incorporate reference to the revised procedure;
- Identification of APSA Program CME information that was not previously reported to CERS, or reported to CERS incorrectly, dating back to July 1, 2017, through June 30, 2020;
- A process for reporting APSA Program CME information identified as not being previously reported to CERS or reported incorrectly to CERS, and
- Future steps to ensure all APSA CME information is reported consistently and correctly to CERS.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a copy of an inspection report for an inspection conducted during the previous three months or RTC documentation obtained during the previous three months for up to three APSA Program facilities as requested by OSFM. In the absence of RTC documentation, the CUPA will provide CalEPA with a narrative of the informal or formal graduated series of enforcement applied to ensure facilities cited with violations return to compliance.

By the 3<sup>rd</sup> Progress Report, the CUPA will consistently and correctly report all APSA Program CME information to CERS.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**3. INCIDENTAL FINDING: RESOLVED DURING EVALUATION**

The CUPA is utilizing an internal template to remit the quarterly Surcharge Transmittal Report to CalEPA and is not submitting a copy of the current quarterly Surcharge Transmittal Report template to CalEPA.

Note: A copy of the current quarterly [Surcharge Transmittal Report](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT_1819.pdf) template can be found at: [https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT\\_1819.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/SURCHARGE-TRANSMITTAL-REPORT_1819.pdf).

**CITATION:**

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

**RESOLUTION: COMPLETED**

The CUPA provided a copy of the current quarterly Surcharge Transmittal Report to CalEPA. Please continue to use the current quarterly Surcharge Transmittal Report moving forward. No further action is required.

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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.

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**1. OBSERVATION:**

The CUPA has demonstrated a clear precedence of completing and submitting a Formal Enforcement Summary Report to CalEPA for each formal enforcement case that has received final judgement. The CUPA has provided 28 Formal Enforcement Summary Reports from FY 2017/2018 through FY 2019/2020. The CUPA completed a Formal Enforcement Summary Report for CERS ID: 10209955, but did not submit the report to CalEPA, until notified during the course of the evaluation process.

**RECOMMENDATION:**

Continue to complete and submit the Formal Enforcement Summary Reports to CalEPA using the Instructions available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions.pdf>, and provide the Formal Enforcement Summary Report to CalEPA via email at: [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov), within 30 days of the formal case receiving final judgement.

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**2. OBSERVATION:**

The FY 2019/2020 Self-Audit Report is missing components:

- A report of deficiencies with a plan of correction;
- An explanation of any discrepancies on the annual and quarterly reports of program activities submitted to CalEPA pursuant to section 15290 and the Unified Program requirements for those activities;
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program; and
- A summary of new programs being included in the Unified Program, if applicable.

Note: The Self-Audit Reports for FY 2017/2018 and 2018/2019 included the above components, however the date of completion was not included.

**RECOMMENDATION:**

In the Self-Audit Report for FY 2020/2021, ensure the above components are included, even if there are no changes, and incorporate a date of completion to demonstrate completion by September 30<sup>th</sup> of each year.

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**3. OBSERVATION:**

The information provided below summarizes a comparison of the regulated community and the necessary and reasonable resources for implementation of the Unified Program upon certification with the current regulated community and the current resources available to the CUPA. The information is sourced from the following:

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- Information provided by Santa Barbara County Fire Department 1995 CUPA Application for Certification
- CERS “Summary Regulated Facilities by Unified Program Element Report,” generated on November 9, 2020
- CERS “UST Inspection Summary Report (Report 6),” generated on November 9, 2020
  
- Total Number of Regulated Businesses and Facilities:
  - In 1995: **1,840**
  - Currently: **2,348**
  - An increase of **508** facilities
  
- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:
  - In 1995: **1,355**
  - Currently: **1,922**
  - An increase of **535** facilities
  
- Total Number of Regulated UST Facilities:
  - In 1995: **263**
  - Currently: **145**
  - A decrease of **118** facilities
  
- Total Number of Regulated USTs:
  - In 1995: **685**
  - Currently: **409**
  - A decrease of **276** USTs
  - Comments: The number of USTs generated when CUPA was certified may also reflect abandoned USTs.
  
- Total Number of Regulated HWG Facilities:
  - In 1995: **1,187**
  - Currently: **1,277**
  - An increase of **90** facilities
  
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
  - In 1995: none specified
  - Currently: **13**
  - An increase of **13** facilities
  - Comment: Three of the identified facilities are permanent HHW facilities.

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- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
  - In 1995: **121**
  - Currently: **15**
  - A decrease of **106** facilities
  - Comment: As noted by the CUPA, the facility count of 121 provided in the 1995 Application for Certification likely included silver only facilities (HSC 25143.13) as the majority of the CA and CE facilities were photographic waste generators that treated waste fixer containing silver onsite. In 2000, these facilities became exempt from having to obtain a tiered permit in order to treat silver waste onsite (Health and Safety Code 25143.13).
  
- Total Number of RCRA LQG Facilities:
  - In 1995: none specified
  - Currently: **47**
  - Comment: RCRA LQG Facilities were regulated under the Unified Program upon certification, though no count was provided in the Application for Certification. The difference between the current and historic number of facilities can't be determined at this time.
  
- Total Number of RMPP or CalARP Program Facilities:
  - In 1995: **26**
  - Currently: **31**
  - An increase of **5** facilities
  
- Total Number of Regulated APSA Tank Facilities:
  - In 1995: N/A
  - Currently: **248**
  - An increase of **248** facilities

**CUPA Personnel:**

- Inspection and other Staff
  - In 1995:
    - **7** Staff, each at a Full Time Equivalent = **7** Full Time positions
  - Currently:
    - **13** Staff, each at a Full Time Equivalent = **13** Full Time positions
      - Comments: Of the 13 Staff positions, one position is vacant and two positions are administrative positions that are not tasked with conducting either hazardous waste inspections or CERS reviews.

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- Supervisory and Management Staff

- In 1995:
  - 1 Staff at a Full Time Equivalent = 1 Full Time position
- Currently:
  - 2 Staff, each at a Full Time Equivalent = 2 Full Time position

The total number of regulated facilities and total Unified Program elements have changed since the initial certification of the CUPA. There have been substantial increases throughout each of the program elements including the addition of program elements that were not part of the Unified Program in 1995, such as the APSA Program and RCRA LQG Program. The number of UST facilities, USTs, and TP facilities (including PBR, CA, and CE) has decreased. Overall there has been an increase of 674 facilities regulated by the CUPA. Staffing appears to have doubled relative to inspectors and supervisory positions.

#### **RECOMMENDATION:**

Continue to implement all aspects of the Unified Program with the existing staff and resources. The ability to apply each aspect of inspection, compliance, monitoring and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large.

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#### **4. OBSERVATION:**

Review of overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, data provided by the CUPA and Self-Audit Reports for January 1, 2016 – December 31, 2019, is summarized below:

- There are 1,315 HWG facilities, 47 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), and 27 Tiered Permitted (TP) facilities.
- The three-year inspection frequency for all facilities is being met.
- 1,695 inspections were performed, of which 617 (36%) had at least one cited violation.
  - Of the 617 inspections with violations, the CUPA issued a total of 1,350 violations
    - 24 Class I violations issued
    - 620 Class II violations issued, and
    - 706 minor violations issued.
  - The CUPA has ensured RTC for 1,287 of 1,350 (95%) issued violations.
- Formal enforcement actions were completed for six facilities with hazardous waste violations, having a cumulative penalty amount of \$103,470.00.
- Inspection reports contain detailed comments that note the factual basis of cited violations, however inspection reports do not indicate whether consent to inspect was requested prior to the inspection.
- The CUPA's website has basic information for HWGs to find regulatory assistance. Some links are broken in the Permanent State ID Number Application linked document in the Resources section.
- A review of files indicated that RTC submittals are largely by the facility signing and returning the inspection report affirming that the violations is resolved. No additional

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details, such as a photograph or other supporting documentation, is attached in most cases. For example:

- CERS ID 10208914 had multiple violations, but there was no specific information indicating how each violation was resolved. The RTC qualifier description in CERS indicates RTC for some violations as documented and some as observed.
- CERS ID 10208992 had an observation in an inspection report that states the owner takes oil to a facility next door and puts into a tank. No facility can take waste that is generated at the facility to another location for disposal in such a manner.
- DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

**RECOMMENDATION:**

Obtain additional information from facilities indicating how violations are resolved beyond the signature of a facility representative stating corrective actions have been completed. For example, facilities can provide a photograph of a label on a drum, training documentation, etc. to physically demonstrate correction of a violation. Ensure that correct information regarding proper waste management is conveyed to facilities.

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**5. OBSERVATION:**

The Semi-Annual Report 6 (Report 6) for July - December 2017, was submitted beyond the required deadline.

**RECOMMENDATION:**

By March 1<sup>st</sup> of every year, submit the July – December Report 6 to the State Water Board.

By September 1<sup>st</sup> of every year, submit the January – June Report 6 to the State Water Board.

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**6. OBSERVATION:**

Review of CERS identifies the following USTs or UST systems as having single-walled components which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05. Below are a few examples:

- CERS ID 10127596 (Tank IDs 1 - 4);
- CERS ID 10208869 (Tank IDs 1 - 2); and
- CERS ID 10210678 (Tank IDs 1 - 2).

As a courtesy, State Water Board will, prior to the CUPA Performance Evaluation exit briefing, provide the CUPA with a complete list of USTs/UST systems with single-walled components, as identified in CERS, which may require permanent closure by December 31, 2025.

**RECOMMENDATION:**

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

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December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: [http://waterboards.ca.gov/water\\_issues/programs/ust/single\\_walled/](http://waterboards.ca.gov/water_issues/programs/ust/single_walled/).

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

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**7. OBSERVATION:**

The I&E Plan contains information on the APSA and fire code hazardous materials management plans-hazardous materials inventory statement (HMMP-HMIS) programs that is incomplete or may benefit from improvement.

- Page 2, the Unified Program elements list does not include the fire code HMMP-HMIS program element. The HMMP-HMIS program is consolidated with the Hazardous Materials Business Plan Program to streamline the regulatory requirements for regulated businesses.
- Page 4, the minimum mandated inspection frequency for APSA is shown as “every 3 years” per HSC 25270.5(a). The minimum inspection frequency is applicable to tank facilities that are required to prepare an SPCC Plan under APSA and has 10,000 gallons or more of petroleum.
- Page 6, the APSA training requirement shows, “All personnel assigned inspection responsibilities for facilities that store more than 1,320 gallons of petroleum in ASTs are required to complete the Aboveground Petroleum Storage Act Training Course...” This statement does not incorporate APSA tank facilities with a tank in an underground area and has less than 1,320 gallons of petroleum.
- Page 10, the APSA RTC timeframe is shown as 30 calendar days after the date of the inspection. For clarity, although there are no established times under APSA, Unified Program regulated facilities cited with a minor violation have 30 days from the date of the notice to comply, in accordance with HSC 25404.1.2(c)(1).

**RECOMMENDATION:**

Update the I&E Plan to incorporate the HMMP-HMIS information and ensure APSA program information is incorporated accurately.

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**8. OBSERVATION:**

The CUPA regulates some farms. 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.

The OSFM 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 under the Federal

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SPCC rule may be found on the U.S. Environmental Protection Agency 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 tank facilities at farms, verify if the total oil storage capacity meets the WRRDA thresholds, and determine if they are still regulated as conditionally exempt tank facilities under APSA.

Farms that are no longer regulated under APSA due to SB 612 oil applicability thresholds should be identified in CERS as APSA Not Applicable. The CUPA is encouraged to change the CERS APSA facility reporting requirement from Applicable to Not Applicable for such farms.

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**9. OBSERVATION:**

The CERS reporting requirement is currently set as APSA applicable for 246 facilities. The CUPA's database identifies 219 APSA facilities.

The CUPA's database designates a significant number of farm facilities and some oil production facilities as APSA regulated, including some facilities whose CERS reporting requirement is currently set as APSA Not Applicable. The CERS reporting requirement is currently set as APSA Applicable for many farm facilities, some of which are probably not APSA regulated, due to WRRDA exclusions. The CERS reporting requirement is currently set as APSA Not Applicable for some farm facilities that are probably APSA regulated. The CUPA database could be improved by adding a PE code to designate conditionally exempt facilities.

**RECOMMENDATION:**

Complete the reconciliation of the Envision Connect database to CERS for APSA program information to ensure that all APSA regulated facilities are included in both systems, including facilities that store 10,000 gallons or more of petroleum. Update the CERS reporting requirement to Not Applicable for facilities that are not APSA regulated, and update the CERS reporting requirement to Applicable for facilities that are APSA regulated.

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**10. OBSERVATION:**

The webpage at: <https://countyofsb.org/phd/ehs/cupa.sbc> contains various resources for the public and regulated community, however, the following APSA program information is incorrect:

“A facility is required to prepare a Spill Prevention Control and Countermeasure (SPCC) Plan if a single AST containing a petroleum-based product or the aggregate quantity of petroleum-based products in multiple ASTs or 55 gallon drums exceeds 1,320 gallons.”

The above statement does not include other tank facilities that are subject to APSA, such as tank facilities that are subject to the SPCC rule, or tank facilities with one or more tanks in an underground area (TIUGA) and a storage capacity of less than 1,320 gallons of petroleum. Also, not all tank facilities are required to prepare an SPCC Plan under APSA.

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**RECOMMENDATION:**

Correct the SPCC Plan information on the website. Consider providing a link to the OSFM webpage at: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/> for information on the APSA program, and a separate link to the U.S. EPA website at: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations> for information on SPCC requirements.

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**11. OBSERVATION:**

Multiple APSA tank facilities last submitted HMBPs using the 2011 emergency response and training plans template, which has an obsolete phone number for OSFM, when an HMBP was provided in lieu of the APSA tank facility statement.

The 2017 version of the consolidated emergency response and training plans template contains the current OSFM phone number.

**RECOMMENDATION:**

Encourage APSA tank facilities to use the 2017 version of the consolidated emergency response and training plans template as part of the HMBP submittal, when an HMBP is provided in lieu of the tank facility statement. The 2017 consolidated emergency response and training plans template is available in CERS.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

Examples of outstanding program implementation highlight efforts and activities of the CUPA that are considered above and beyond the standard expectations for implementation of the Unified Program.

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**1. PROGRAM IMPLEMENTATION:**

The CUPA has made strides in improving implementation of the Unified Program since the 2017 CUPA Performance Evaluation. The CUPA has experienced numerous challenges over the last several years, such as the dispatch of CUPA personnel to assist with recovery efforts in the Wheeler and Thomas Fires as well as a high turnover in staff, including the retirement of long time knowledgeable staff. Despite the numerous challenges, the CUPA has improved implementation of the Unified Program across different program elements such as the HWG and APSA Programs. In addition, the CUPA has implemented a well-documented and robust fee accountability program, which incorporates annual review and updating of the variances between revenues and program costs under each of the program elements. The CUPA reviews and adjusts its resources and staffing on an annual basis, allowing the CUPA to maintain cost-effective operations, which have improved its performance over the years.

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