



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

June 12, 2020

Marilyn Underwood, PhD
Director of Environmental Health
Santa Cruz County Environmental Health
701 Ocean Street, Suite 312
Santa Cruz, California 95060-4073

Dear Dr. Underwood:

During January through June, 2020, CalEPA and the state program agencies conducted a performance evaluation of the Santa Cruz County Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation and 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 (August 14, 2020), 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 Tim Brandt at Timothy.Brandt@calepa.ca.gov, or mail.

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

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

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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Unified Program Manager
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Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: County of Santa Cruz Health Services Agency - Environmental Health Division

Evaluation Period: January 2020 to June 2020

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron
- **Cal OES:** Denise Gibson
- **State Water Board:** Sean Farrow
- **CAL FIRE-OSFM:** Joann Lai

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 CUPA's Unified Program implementation and performance is considered: satisfactory with improvements needed.

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

Timothy Brandt
CalEPA Unified Program
P.O. Box 2815
Sacramento, CA 95812
Phone: (916) 323-2204
E-mail: timothy.brandt@calepa.ca.gov

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

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

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

1st Progress Report: August 14, 2020
3rd Progress Report: February 26, 2021

2nd Progress Report: November 17, 2020
4th Progress Report: May 27, 2021

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA is not inspecting all Aboveground Petroleum Storage Act (APSA) tank facilities, Hazardous Waste Generator (HWG) facilities, and Hazardous Materials Business Plan (HMBP) facilities at least once every year in accordance with their Inspection and Enforcement Program (I&E) Plan.

Note: Santa Cruz County has a local ordinance (SCCC §7.100.240 (D)) which stipulates that inspections of all facilities regulated by the CUPA are to be conducted annually.

Review of facility files, compliance, monitoring and enforcement (CME) data from the California Environmental Reporting System (CERS), and additional information provided by the CUPA indicates:

APSA Program:

- March 24, 2019 - April 24, 2020: 33 of 83 (40%) APSA tank facilities that store 1,320 gallons or more of petroleum were not inspected.

HWG Program:

- January - December 2017: 244 of 601 (41%) HWG inspections were not conducted.
- January - December 2018: 191 of 601 (32%) HWG inspections were not conducted.
- January - December 2019: 125 of 601 (21%) HWG inspections were not conducted.

HMBP Program

- March 1, 2019 - May 1, 2020: 357 of 1113 (32%) HMBP facilities were not inspected annually.

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

CITATION:

Health and Safety Code (HSC), Chapter 6.67, Section 25270.5(b)
HSC, Chapter 6.95, Section 25511(b)
California Code of Regulations (CCR), Title 27, Section 15200(a)(3)
[CalEPA, Cal OES, DTSC, OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all APSA tank facilities, including those that store 10,000 gallons or more of

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DEFICIENCIES REQUIRING CORRECTION

petroleum, all HWG facilities, and all HMPB facilities are inspected at least once every year. The plan will include, at minimum:

- A sortable inspection spreadsheet exported from the CUPA's data management system or CERS, listing each APSA tank facility, each HWG facility, and each HMBP facility that has not been inspected in the last year. For each facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - Facility address,
 - CERS ID, and
 - the date of the last routine inspection.
- A proposed schedule to inspect those facilities, prioritizing the most delinquent inspections to be completed prior to any other inspections based on a risk analysis of all facilities (i.e., large volumes of petroleum or hazardous waste, proximity to navigable water); and
- Future steps to ensure that all APSA tank facilities, HWG facilities, and HMBP facilities are inspected annually and CME data are entered.

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

By the 4th Progress Report, the CUPA will have inspected each facility within the required timeframe.

2. DEFICIENCY:

The CUPA is not consistently following-up and documenting return to compliance (RTC) information in CERS.

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

- Fiscal Year (FY) 2016/2017
 - 12 of 109 (11%) underground storage tank (UST) violations
- FY 2017/2018
 - 31 of 91 (34%) UST violations
- FY 2018/2019
 - 97 of 186 (52%) UST violations
 - 4 of 13 (31%) APSA violations (CERS review conducted April 25, 2020).

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- January 1, 2017 - December 31, 2019
 - 333 of 723 (46%) HWG violations
 - 3 of 8 (38%) Class 1 violations did not return to compliance
 - Examples include: CERS ID 10192210, CERS ID 10398259 and CERS ID 10666825
 - 68 of 142 (48%) Class 2 violations did not return to compliance
 - 262 of 573 (46%) minor violations did not return to compliance

Note: This deficiency was identified and corrected for the APSA and HWG Programs during the 2017 CUPA Performance Evaluation process.

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)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a)

[CalEPA, DTSC, OSFM, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the Inspection and Enforcement (I&E) Plan or other applicable procedure to ensure a delineated process for implementation of appropriate graduated series of enforcement is applied when necessary as a result of facilities with cited violations not returning to compliance within issued timeframes.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of all UST, APSA, and HWG facilities that have open violations. The CUPA will follow-up with the facilities listed in the spreadsheet and prioritize follow-up actions based on the level of hazard presented to human health and the environment. At minimum, the spreadsheet will include:

- Facility name and address;
- CERS ID number;
- Facility ID number (if applicable);
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date;
- RTC qualifier; and
- Follow-up actions taken by the CUPA and the timeframe to obtain compliance.

By the 2nd Progress Report, the CUPA will, if necessary, amend the I&E Plan or other applicable procedure, based on feedback from State Water Board, OSFM, and DTSC and will submit the revisions to CalEPA.

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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 version of the spreadsheet. For each updated spreadsheet, the CUPA will also include any additional facilities with violations that have not returned to compliance and warrant applicable graduated series of enforcement since the previous spreadsheet was submitted with the previous Progress Report.

By the 3rd Progress Report, the CUPA will train personnel on the revised I&E Plan or other applicable procedure and provide training documentation to CalEPA, which will include at minimum, an outline of the training conducted and a list of CUPA personnel attending training. Once training is complete, the CUPA will implement the revised 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 RTC documentation received during the previous three months for up to five UST facilities as requested by the State Water Board, for up to five APSA facilities as requested by OSFM, and for up to five HWG facilities as requested by DTSC. If RTC has not been achieved by a facility, the CUPA will document appropriate follow-up activity and graduated series of enforcement taken to ensure compliance with the facility.

3. DEFICIENCY:

The CUPA is not consistently citing violations for failure to conduct an Overfill Prevention Equipment Inspection. No later than October 13, 2018, all overfill prevention equipment must be inspected.

Review of annual UST compliance inspection reports, associated Overfill Prevention Equipment Inspection Report Forms, and CERS CME information indicates the following Overfill Prevention Equipment Inspections were conducted beyond the October 13, 2018, deadline and the CUPA did not cite violations:

- CERS ID 10133659: Overfill Prevention Equipment Inspection Report Form dated August 22, 2019. The CUPA did not 1) issue the appropriate violation, or 2) provide accurate U.S. Environmental Protection Agency (U.S. EPA) Technical Compliance Rate (TCR) 9b reporting.
- CERS ID 10148213: Overfill Prevention Equipment Inspection Report Form dated April 2, 2019. The CUPA did not 1) issue the appropriate violation, or 2) provide accurate U.S. EPA TCR 9b reporting.
- CERS ID 10192024: Overfill Prevention Equipment Inspection Report Form dated July 30, 2019. The CUPA did not 1) issue the appropriate violation, or 2) provide accurate U.S. EPA TCR 9b reporting.

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

CITATION:

CCR, Title 23, Section 2637.2(a) and 2665(b)
[State Water Board]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with the I&E Plan, or other applicable procedure, to ensure inspection personnel consistently and correctly cite all violations for failure to conduct an Overfill Prevention Equipment Inspection during the annual compliance inspection, on inspection reports, and in CERS.

By the 2nd Progress Report, the CUPA will, if necessary, amend the I&E Plan or other applicable procedure, based on feedback from State Water Board and will submit the revisions to CalEPA.

By the 3rd Progress Report, the CUPA will train inspection personnel on the revised I&E Plan or other applicable procedure and will provide training documentation to CalEPA, which will include at minimum, an outline of the training conducted and a list of CUPA personnel attending training. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 4th Progress Report, the CUPA will provide up to five UST facility records, if not available in CERS, as selected by State Water Board, including annual UST compliance inspection reports and Overfill Prevention Equipment Inspection Report Forms.

4. DEFICIENCY:

The CUPA is not properly classifying HWG violations.

In some cases, the CUPA is citing HWG violations as minor violations that are Class I or Class II violations. The following examples include, but are not limited to:

- Violation for exceedance of authorized accumulation time incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - CERS ID 10192774: inspection report dated March 15, 2018
 - CERS ID 10133494: inspection report dated June 12, 2019
 - CERS ID 10165813: inspection report dated January 24, 2017
 - CERS ID 10192225: inspection report dated April 24, 2019
 - CERS ID 10192288: inspection report dated October 6, 2019
 - CERS ID 10193956: inspection report dated July 6, 2017

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- Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. Since no training has been provided, employees are not familiar with hazardous waste management and handling, as well as how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3).
 - CERS ID 10398259: inspection report dated August 9, 2018
 - CERS ID 10508851: inspection report dated June 27, 2017
 - CERS ID 10193716: inspection report dated August 2, 2018

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

CCR, Title 22, Sections 66260.10 and 66262.34

[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will train personnel on the classification of minor, Class I, and Class II violations, as described in HSC, Chapter 6.5, Sections 25110.8.5, 25117.6 and CCR, Title 22, Section 66260.10. The CUPA will train personnel on when and how to properly classify violations for each program element during inspections and ensure personnel review the following:

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)
(<https://www.youtube.com/watch?v=RB-5V6RfPH8>)
- [Violation Classification Guidance](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/Violation-Classification-Guidance-Document-accessible.pdf)
(<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/Violation-Classification-Guidance-Document-accessible.pdf>)

The CUPA will provide CalEPA with training documentation, which at minimum will include, an outline of the training conducted and a list of CUPA personnel attending the training, to demonstrate that each inspector received training on how to properly classify violations for each program element and has reviewed the Violation Classification Training Video and Guidance.

By the 2nd progress report, the CUPA will provide CalEPA with a copy of an inspection report citing at least one HWG violation, for three HWG facilities that have been inspected after training has been completed. Each inspection report will correctly identify and classify any observed HWG violations.

5. DEFICIENCY:

The CUPA is not consistently pursuing all enforcement options in a graduated series of enforcement when facilities are cited with violations.

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DEFICIENCIES REQUIRING CORRECTION

The CUPA's current I&E plan outlines all available enforcement options including the Administrative Enforcement Order (AEO) for the HWG program. No formal enforcement actions were completed for hazardous waste violations issued January 1, 2017 through December 31, 2019.

Regulated facilities are inspected annually, yet many facilities have the following:

- Ongoing violations that have not returned to compliance and a graduated series of enforcement was not applied:
 - The following are examples of when a minor violation should have been elevated to a Class II:
 - CERS ID 10720981: inspection reports dated April 27, 2017, and March 2, 2017
 - CERS ID 10664842: inspection reports dated February 13, 2019, and April 25, 2017
 - CERS ID 10192327: inspection report dated March 9, 2017, and March 29, 2019
 - CERS ID 10193716: inspection reports dated March 2, 2017, and August 2, 2018
 - CERS ID 10192033: inspection report dated February 23, 2017
 - CERS ID 10663873: inspection reports dated June 26, 2017, and October 8, 2019
- Annual inspections identifying new violations, yet the previous violations noted in the last inspection were never noted as having returned to compliance and were not cited again in the subsequent inspection.
- Violations that have not been resolved and remain open with no indication of follow up enforcement or formal enforcement action initiated.
 - The following are examples of unresolved Class I violations:
 - CERS ID 10192210: inspection report dated October 11, 2019
 - CERS ID 10398259: inspection report dated August 9, 2018
 - CERS ID 10666825: inspection report dated March 7, 2018
 - There are at least 68 unresolved Class II violations

CITATION:

HSC, Chapter 6.5, Section 25187.8(b) and (g)

HSC, Chapter 6.11, Section 25404.1.1

CCR, Title 27, Section 15200(a)(6) and (9)

[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the I&E Plan and revise the processes for tracking and initiating a graduated series of enforcement and for initiating formal enforcement options. The CUPA will provide CalEPA with a copy of the revised I&E Plan.

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DEFICIENCIES REQUIRING CORRECTION

By the 2nd Progress Report, the CUPA will initiate a graduated series of enforcement or formal enforcement against facilities with outstanding violations that have not achieved RTC or those with open Class I violations. The CUPA will provide CalEPA with a list of all facilities that have been cited with violations that have not returned to compliance and that may warrant a graduated series of enforcement. The list should include the following:

- Facility name;
- CERS ID number;
- A description of the enforcement options pursued to date;
- Current compliance status of the facility; and
- Return to compliance date (if available).

With each subsequent Progress Report, the CUPA will provide CalEPA with an updated list on the progress towards implementing a graduated series of enforcement for each facility. The CUPA will also include any additional facilities with violations that warrant a graduated series of enforcement since the previous Progress Report was submitted.

6. DEFICIENCY:

The CUPA is not ensuring that all businesses subject to the HMBP program maintain a complete business plan in CERS.

Review of CERS during the timeframe of March 1st, 2019 - May 1st, 2020 indicates:

- 133 of 1113 (12%) business plan facilities have not submitted a chemical inventory within the past 12 months.
- 151 of 1113 (14%) business plan facilities have not submitted emergency response and employee training plans within the past 12 months.

CITATION:

HSC, Chapter 6.95, Sections 25504(e), 25505 and Section 25508(a)
[Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA a list of all regulated businesses that have not submitted a complete annual HMBP.

With each subsequent Progress Report, the CUPA will update the list with the status of business compliance.

By the 2nd Progress Report, the CUPA will follow-up with each regulated business identified on the list to ensure a complete annual HMBP is submitted (including a chemical inventory and emergency response and employee training plan). The CUPA will initiate appropriate enforcement action(s) against non-compliant businesses.

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DEFICIENCIES REQUIRING CORRECTION

By the 3rd Progress Report, the CUPA will ensure each regulated business has submitted a complete annual HMBP (including a chemical inventory and emergency response and employee training plan), or that appropriate actions were taken to enforce this requirement.

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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's Unified Program Facility Permit (permit) includes the UST Operating Permit, and without having a local ordinance, contains the requirement for the owner/operator to display the permit conspicuously, which is more stringent than the regulatory requirement for the permit to be readily accessible.

CITATION:

CCR, Title 23, Section 2712(i)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with a copy of the permit template that includes the removal of the requirement for the owner/operator to display the permit conspicuously.

By the 2nd Progress Report, the CUPA will have begun using the revised permit template and will provide CalEPA with a copy of five permits that have been issued to facilities.

2. INCIDENTAL FINDING:

The CUPA's Records Maintenance procedures are missing the following required components:

- Procedures that include identification of the records maintained; and
- Procedures that include proper disposal methods.

CITATION:

CCR, Title 27, Sections 15180(e) and 15185(b)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with a copy of the amended Records Maintenance procedures incorporating the missing components identified above. The CUPA will implement and train personnel on the 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.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

3. INCIDENTAL FINDING:

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

- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with a copy of the corrected I&E Plan that includes the component identified above.

4. INCIDENTAL FINDING: RESOLVED

The CUPA is not documenting in sufficient detail whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, tank closure, removal, and soil sampling complies with statute and regulation.

State Water Board review of the CUPA's UST Closure Letter for CERS ID 10207111 finds the letter does not document the CUPA is satisfied that the closure of the UST and associated piping is in accordance with HSC, Chapter 16, Section 25298 and CCR Title 23, Division 3, Chapter 16, Section 2672.

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).

Note: This incidental finding was resolved during the CUPA Performance Evaluation, no further action is needed.

CITATION:

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

RESOLUTION: COMPLETED

The CUPA provided an acceptable UST closure letter template. Moving forward, the CUPA will utilize the accepted UST closure letter template. With respect to facilities which have not been provided adequate UST closure documentation, in the event of a public request for closure documentation, the CUPA will utilize the accepted UST closure letter template and provide the requested documentation to owners/operators.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

The CUPA's webpage at <http://scceh.com/Home/Programs/HazardousMaterialsPrograms-CUPA/AbovegroundPetroleumStorageTanks.aspx> contains various information for its regulated community. The following statement is outdated: "All tank facilities with a storage capacity of 1,320 gallons or more of 'petroleum' in aboveground tanks are subject to the Act." Tank facilities with one or more tanks in underground areas (TIUGAs), regardless of the 1320-gallon petroleum storage capacity, are also regulated under the APSA program.

Also, 'businesses' is used on the CUPA's website in lieu of 'tank facilities'. A business is not defined under APSA and it is not the same as an APSA tank facility.

RECOMMENDATION:

Update the webpage and ensure APSA information is current and accurate.

2. OBSERVATION:

The CUPA has accepted a Spill Prevention, Control, and Countermeasure (SPCC) Plans in CERS for CERS ID 10193854. SPCC Plans are not required to be uploaded into CERS and, therefore, SPCC Plans should not be uploaded into CERS. The APSA documentation upload section in CERS is for providing the annual tank facility statement submittals (unless a business plan has been submitted in lieu of the tank facility statement), or for meeting other local reporting requirements.

RECOMMENDATION:

Reject submittals of SPCC Plans in CERS and inform facility owners/operators that SPCC Plans should not be submitted to CERS.

3. OBSERVATION:

The I&E Plan contains the following outdated or inaccurate information on the APSA and fire code Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) programs:

- Page 3 – Section I-A contains incorrect citation for the HMMP-HMIS program. The appropriate citation is CCR, Title 24, Part 9 (California Fire Code), Sections 5001.5.1 and 5001.5.2, and Appendix H.

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OBSERVATIONS AND RECOMMENDATIONS

- Page 23 – Section 4 contains the following outdated statement, “Facilities that have the storage capacity of at least 1,320 gallons and less than 10,000 gallons of petroleum are only subject to the SPCC requirements.” Tank facilities with TIUGAs and less than 1,320 gallons of petroleum are also regulated under APSA.

RECOMMENDATION:

Update the I&E Plan and ensure information on the APSA and HMMP-HMIS programs are current and accurate.

4. OBSERVATION:

Review of CERS indicates the following facilities with UST systems may require permanent closure by December 31, 2025, in accordance with HSC Chapter 6.7, Section 25292.05:

- CERS ID 10192414: Tank IDs 10192414-001, 002, 003, and 004,
- CERS ID 10192330: Tank IDs 10192330-001, 002, and 003, and
- CERS ID 10192339: Tank IDs 10192339-001, 002, and 003.

Note: The examples above may not include all UST systems subject to the December 31, 2025, Single Walled permanent closure requirements.

RECOMMENDATION:

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

Notify facility owners/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 tanks. More information on funding sources may be found at: http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml.

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5. OBSERVATION:

Review of the UST Facility/Tank Data Download report obtained from CERS on February 21, 2020, finds there are a limited number of instances where CERS monitoring and construction data are incorrect as follows:

- 32 tanks with double-walled pipe with no information for continuous monitoring of pipe;
- 12 tanks with double-wall construction incorrectly indicating not having to conduct periodic secondary containment testing;
- four tanks with under dispenser containment (UDC) with no information for continuous monitoring of UDC; and
- four tanks identified as meeting vacuum, pressure, or hydrostatic monitoring incorrectly indicating having to conduct periodic secondary containment testing.

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

RECOMMENDATION:

Provide refresher training for UST inspection personnel who review CERS UST facility submittals for accuracy and continue to assist facility owners/operators with reporting accurate and complete UST facility submittals with the next CERS submittal, but no later than one year.

6. OBSERVATION:

During the review of facility files, some inspection reports cited Large Quantity Generator and Small Quantity generator violations in the same inspection. This information was also entered into CERS. Depending on how much and what type of hazardous waste is generated within a one month timeframe, HWGs are considered either a Resource Conservation and Recovery Act (RCRA) large quantity generator, a non-RCRA large quantity generator, or a small quantity generator. Incorrectly citing two types of generator violations at one facility can result in an inability to move forward with an enforcement action and inhibits the ability of the information to be correctly uploaded from CERS to the U.S. EPA database for RCRA Information, which tracks violations for all RCRA large quantity generators and small quantity generators throughout the country. Examples where two types of generator violations were cited at one facility are as follows:

- CERS ID 10125607: inspection dated March 7, 2016
- CERS ID 10192288: inspections dated September 10, 2018, October 18, 2018, and September 6, 2019
- CERS ID 10192327: inspection dated March 20, 2019 (Note that the inspections conducted on March 7, 2017, and March 29, 2019, are requiring inspection logs. No inspection logs are required for small quantity generators.)

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RECOMMENDATION:

Determine the correct regulatory status of the HWG before each inspection to ensure correct violations are cited and data is correctly entered in CERS.

7. OBSERVATION:

DTSC has reviewed the CUPA's overall implementation of the hazardous waste generator program. The evaluation considered information regarding the CUPA's operations between January 1, 2017, and December 31, 2019, and included a review of CERS data and facility files. Due to Coronavirus-19 restrictions, DTSC was unable to conduct oversight inspections with the CUPA.

There are 604 hazardous waste generators within the jurisdiction of the CUPA, which includes 11 RCRA large quantity generators, and eight tiered permitted facilities. In the three year evaluation period, the CUPA performed 1,434 total HWG inspections (routine and other). Of those 1,434 inspections, 413 resulted in a total of 723 cited violations. Violations cited included eight Class I violations, 142 Class II violations, and 573 minor violations. Of the 413 inspections, 209 of those hazardous waste generator facilities did not return to compliance. Over 1,000 hazardous waste generator inspections did not result in any violations cited.

Additional observations relative to the CUPA's overall implementation of the hazardous waste generator program include:

- An annual inspection cycle for all regulated facilities; however, the Self-Audit Reports did not indicate the number of annual inspections conducted.
- No formal enforcement actions conducted during the time period evaluated.
- Violations were not identified at a Watsonville Household Hazardous Waste (HHW) facility during multiple inspections. Upon an inspection conducted by DTSC, multiple Class I violations were cited and it was noted that the CUPA never issued a Permanent HHW permit to the facility. The facility has been in operation for approximately 25 years.
- Inspection reports do not always indicate whether consent to inspect the facility was requested prior to conducting the inspection.
- The CUPA's website has adequate information for hazardous waste assistance and compliance information for facilities.

RECOMMENDATION:

Assess the hazardous waste generator program to insure that all facilities are inspected thoroughly, all violations are properly identified and cited, and enforcement actions are initiated when warranted. The CUPA should take all necessary steps to follow up with facilities that have outstanding violations to ensure that facilities return to compliance in an expeditious manner. Consent to conduct an inspection should always be obtained, as not obtaining consent can hinder successful prosecution of an enforcement action. Reference the CalEPA memorandum

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on environmental enforcement: <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/02/CalEPA-Enforcement-Memo-Signed-Final.pdf>

8. OBSERVATION:

State Water Board notes reviewing the CUPA's amended ordinance, Chapter 7.100 *Hazardous Materials – Hazardous Waste – Underground Storage Tanks* with an effective date of November 5, 2019. Review of Chapter 7.100 finds the CUPA did not consult with CalEPA or State Water Board prior to adoption by the Santa Cruz County Board of Supervisors.

RECOMMENDATION:

For future planned amendments to the CUPA's ordinance, Chapter 7.100, State Water Board requests the CUPA to consult with CalEPA or State Water Board. The opportunity to verify Chapter 7.100 before adoption fulfills the responsibility of the CUPA, CalEPA and the State Water Board to ensure implementation is consistent with the CUPA's application and certification approval, as well as ensures provisions are consistent with governance. In addition, amendments to Chapter 7.100 should be addressed in the CUPA's FY 2019/2020 Self-Audit Report in accordance with CCR, Title 27, Section 15280(c)(5).

9. OBSERVATION:

With respect to inspection frequency for HMBP and APSA facilities, the CUPA is meeting the triennial state requirement, however the CUPA is not meeting the annual requirement established by the local Hazardous Materials Ordinance (Santa Cruz County Code 7.100). The local ordinance requires all Unified Program permitted facilities to be inspected annually and to provide secondary containment of all nongaseous hazardous materials. Additionally, all facilities storing less than the State threshold of hazardous materials are required by the local ordinance to submit a HMBP.

RECOMMENDATION:

As part of the FY 2020/2021 Self-Audit Report, perform a fee study to assist in determining if the current fee schedule is sufficient to support and maintain the requirements of the local ordinance and all operational aspects of Unified Program implementation.

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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.

1. COMMUNITY OUTREACH, EDUCATION, AND MEETINGS:

To provide the opportunity for community involvement with the implementation of the County's Hazardous Materials Ordinance, the Board of Supervisors established a Hazardous Materials Advisory Commission. The Hazardous Materials Advisory Commission ensures implementation of the hazardous materials ordinance, including effective methods of public information and education of all matters relating to the use and handling of hazardous materials affecting the County. The Hazardous Materials Advisory Commission is made up of representatives from industry, labor, fire protection, and environmental interest groups and organizations. The Hazardous Materials Program Manager for the Health Services Agency's Environmental Health Services division, which includes the County CUPA Program, serves as administrative secretary to the Commission. All meetings of the Hazardous Materials Advisory Commission are open to the public and are publicly advertised on the website: <http://scceh.com/Home/Programs/HazardousMaterialsPrograms-CUPA/2016MeetingSchedule.aspx>.

2. READILY AVAILABLE PUBLIC ACCESS TO CUPA INFORMATION:

To ensure easy access to "Community Right to Know" information, all HMMPs, (with site maps removed) facility inspection reports, and documents regarding all spill and releases in the County are easily available to the public online through a portal on our website.
