



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

July 8, 2020

Mr. Brent Hayward
Fire Chief
Santa Fe Springs City Fire Department
11300 Greenstone Avenue
Santa Fe Springs, California 90670-4619

Dear Mr. Hayward:

During January through June, 2020, CalEPA and the state program agencies conducted a performance evaluation of the Santa Fe Springs City Fire Department 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 (October 9, 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 Sam Porras at Samuel.Porras@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.

Mr. Brent Hayward
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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:

Mr. Tom Hall
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cc sent via email:

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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: Santa Fe Springs City Fire Department

Evaluation Period: January 2020 through June 2020

Evaluation Team Members:

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Matthew McCarron
- **Cal OES:** Fred Mehr
- **State Water Board:** Laura Fisher, Jessica Botsford, Wesley Franks (*shadowing*)
- **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:

Samuel Porras
CalEPA Unified Program
P.O. Box 2815
Sacramento, CA 95812
Phone: (916) 327-9557
E-mail: 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 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: October 9, 2020

3rd Progress Report: April 16, 2021

2nd Progress Report: January 14, 2021

4th Progress Report: July 20, 2021

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES AND CORRECTIVE ACTIONS

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 certifying to Cal OES every three years that complete review of the area plan has been conducted and any necessary revisions have been made.

CITATION:

Health and Safety Code (HSC), Chapter 6.95, Section 25503(d)(2)
[Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will certify to Cal OES that a complete review of the area plan has been conducted and any necessary revisions have been made.

By the 2nd Progress Report, the CUPA will provide CalEPA with a copy of the revised area plan.

2. DEFICIENCY:

The CUPA is not consistently ensuring all APSA tank facilities annually submit a complete Hazardous Materials Business Plan (HMBP), when a HMBP is provided in lieu of a tank facility statement to the California Environmental Reporting System (CERS).

Review of HMBPs submitted in lieu of a tank facility statement in CERS indicates:

- 17 of 67 (25%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 20 of 67 (30%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with a list of all APSA tank facilities that have not submitted a complete HMBP to CERS in lieu of a tank facility statement. The CUPA will follow-up with each APSA tank facility identified on the list to ensure a complete HMBP is submitted, when a HMBP is provided in lieu of a tank facility statement to CERS. For those APSA tank facilities that have not complied, the CUPA will initiate appropriate enforcement.

With each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated list to demonstrate the status of APSA tank facility compliance.

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PRELIMINARY SUMMARY OF FINDINGS REPORT**

DEFICIENCIES AND CORRECTIVE ACTIONS

By the 3rd Progress Report, the CUPA will have ensured that each APSA tank facility has submitted a complete HMBP, when a HMBP is provided in lieu of a tank facility statement to CERS, or the CUPA will have taken appropriate enforcement.

3. DEFICIENCY:

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

During the 45-day review process the CUPA must:

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

CERS data indicates that 16 of 45 (36%) PBR Onsite Hazardous Waste Treatment Notifications were not reviewed by the CUPA within 45 days. Examples include:

- CERS ID 10152047: notification submitted February 28, 2018, accepted November 15, 2019
- CERS ID 10152267: notification submitted March 5, 2019, accepted October 23, 2019
- CERS ID 10151775: notification submitted May 24, 2019, not accepted October 22, 2019

CITATION:

California Code of Regulations (CCR), Title 22, Section 67450.3(d)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide inspectors with Tiered Permit training regarding how to review, process, and authorize Onsite Hazardous Waste Treatment Notifications. 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.

By the 2nd Progress Report, the CUPA will review and process all pending Onsite Hazardous Waste Treatment Notification in CERS and notify CalEPA of the progress. The CUPA will follow-up with CERS ID 10152267 to obtain an Onsite Hazardous Waste Treatment Notification, if required.

By the 3rd Progress Report, the CUPA will review and process each Onsite Hazardous Waste Treatment Notification to ensure that annual notification submittals are done accurately and represent the actual waste treatment systems used at the notifying facility.

UNIFIED PROGRAM PERFORMANCE EVALUATION
PRELIMINARY SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS AND RESOLUTIONS

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 Inspection and Enforcement (I&E) Plan has the following incomplete information:

- The CUPA Complaint Response Policy, dated 2012 in Appendix F, includes provisions for how the CUPA addresses the receipt of a complaint. The provisions should also include the investigation, enforcement, and closure of the complaint. These provisions should include the above elements whether the complaint is received through the CalEPA complaint referral system or any other mechanism by which the CUPA may receive a complaint.
- Though a procedure and process for conducting an annual review of the I&E Plan is provided, there is no indication that it has been annually reviewed and updated as necessary since Fiscal Year (FY) 2018/2019.

Note: The I&E Plan references the [2008 Guidance Document for Inspection and Enforcement](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-IEguide-accessible.pdf) (https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-IEguide-accessible.pdf), which may be outdated due to the addition and revision of regulations that have taken place since the Guidance was developed.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a copy of the revised section of the I&E Plan that incorporates the incomplete components identified above.

2. INCIDENTAL FINDING:

The Single Fee System does not include a plan to resolve fee disputes that arise between a regulated business and the CUPA. Though the I&E Plan does include a dispute resolution process, it does not specifically address fee disputes.

CITATION:

CCR, Title 27, Sections 15180(e)(5) and 15210(k)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with revised Financial Management Procedures that include a plan to resolve fee disputes that arise between a regulated business and the CUPA as part of the Single Fee System.

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UNIFIED PROGRAM PERFORMANCE EVALUATION
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3. INCIDENTAL FINDING:

The Public Participation Procedures do not address receipt and consideration of comments from regulated businesses or the public aside from those received in regards to changes to program fees or the City Code.

CITATION:

CCR, Title 27, Section 15180(e)(1)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with Public Participation procedures that ensure receipt and consideration of comments from regulated businesses and the public.

4. INCIDENTAL FINDING:

The permit conditions of the Unified Program Facility Permit (UPFP), which includes the UST Operating Permit, are inconsistent with UST statutes and regulations.

Review of the UPFP and the UST Operating Permit conditions finds the following information should be made consistent with UST statutes and regulations:

- Item 2: update to identify the owner or operator must notify the CUPA 30 days prior to a change in substance stored.
- Item 5: update to reflect all required documentation can be maintained and readily accessible either electronically or hard copy.

CITATION:

HSC, Chapter 6.7, 25404.2(a)
CCR, Title 23, Section 2632(d)(1), 2711(c), and 2712
CCR, Title 27, Section 15190(b)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the UPFP template to address the inconsistencies identified above and will provide CalEPA with a copy of the revised UPFP template.

By the 2nd Progress Report, the CUPA will have issued the revised UPFP and will provide CalEPA with a copy of five UPFPs that have been generated from the revised UPFP template and issued to facilities.

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INCIDENTAL FINDINGS AND RESOLUTIONS

5. INCIDENTAL FINDING:

CUPA local ordinance Section 97.340 was amended effective November 20, 2018. This amendment was not reported during the CUPA's annual self-audit report as required by California Code of Regulation (CCR), Title 27, Section 15280(c)(5).

Pursuant to Health and Safety Code (HSC), Chapter 6.7, Section 25299.2, a local agency may adopt and enforce an ordinance with respect to USTs only if that ordinance is consistent with, equally or more stringent than the requirements of Chapter 6.7. State Water Board review finds however, the CUPA local ordinance is not consistently or equally stringent as Chapter 6.7.

State Water Board review finds the CUPA's local ordinance is not prepared in such a way that it precisely identifies what was specifically adopted with the inclusion of the Underground Storage Tank Change of Ownership/Permit Transfer Package in Section 97.340 (A), and Standard for Annual Spill Container Testing in Section 97.340(C). There is nothing that prohibits the CUPA from incorporating a document by reference in an ordinance, however it must be done so in such a way as to be clear exactly what is being incorporated. The CUPA's local ordinance does not provide reference to the version of the document in place at the time the ordinance was adopted or include the reference document in an appendix or other type of attachment to the local ordinance.

State Water Board finds that the CUPA's local ordinance Section 97.340(C) includes Standards for Annual Spill Container Testing. The requirements outline accelerated testing once every three years, however the ordinance does not specify information regarding the type of the accelerated method that is required to be used. The details of the accelerated testing method were removed from the ordinance in November of 2018 as part of the Standard for Secondary Containment Testing of Underground Storage Tank Systems. The ordinance lacks clarity on use of accelerated testing. Additionally, the Standards for Annual Spill Container Testing outlines in the Application section that variations to the Standards may be requested in writing and subject to the approval of the Fire Code Official. Because the Annual Spill Container Testing outlines requirements from CCR, Title 23 and the ordinance does not limit the approval of the Fire Official to only those variations that are more strict than CCR, Title 23, the ordinance thereby allows the Fire Code Official to approve variations that may be less stringent than CCR, Title 23.

CITATION:

HSC, Chapter 6.7 Section 25299.2, 25299.3

CCR, Title 23, Section 2620(c), 2637.1

CCR, Title 27, Sections 15100(b)(1)(C), 15160, 15330(a)(1) and (a)(2), 15280(c)(5) and 15150(c)(2)
[CalEPA, State Water Board]

RESOLUTION:

Effective immediately, the CUPA will cease using any local ordinance provisions where requirements are less stringent than Statute and Regulations. The CUPA will coordinate with CalEPA and State Water Board on future Unified Program and UST local ordinance amendments. The 2019/2020 Self-Audit Report will include all the required components of

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adopting or amending a local ordinance, including but not limited to when there are changes in local ordinances, resolutions, and agreements affecting the Unified Program.

By the 1st Progress Report, the CUPA will provide CalEPA with a timeline and plan to revise and adopt the CUPA local ordinance, which includes proper referencing and amending to no longer allow for less stringent provisions than CCR, Title 23.

By the 2nd Progress Report, the CUPA will provide CalEPA with a revised draft local ordinance ensuring standards and published guidelines are properly incorporated into the local ordinance.

By the 3rd Progress Report, the CUPA will, if necessary, amend the draft local ordinance, based on feedback from State Water Board.

By the 4th Progress Report, the CUPA will implement the plan to revise and adopt the local ordinance. Verification that the local ordinance has been revised and adopted will be made during the next triennial CUPA Performance Evaluation.

6. INCIDENTAL FINDING:

The CUPA is not consistently or correctly reporting all APSA Program inspection, violation, and enforcement information, also known as compliance, monitoring and enforcement (CME) information to CERS.

The following are examples:

- CERS ID 10604254: An APSA and HMBP inspection was conducted on September 6, 2017. Facility was cited for not having submitted their annual HMBP to CERS, indicating the facility was also not in compliance with the annual APSA tank facility statement reporting to CERS. The facility was not cited a violation for APSA, and CERS has no record of the APSA inspection.
- CERS ID 10649929: An APSA inspection was conducted on April 26, 2019, citing four violations. CERS indicates violations cited on May 1, 2019. RTC documentation for the four violations was dated in the facility file as June 25, 2019, CERS indicates RTC was achieved on July 5, 2019.
- CERS ID 10638331: An APSA inspection was conducted on October 10, 2018, citing four violations. CERS indicates only three violations. RTC documentation for one violation is dated December 17, 2018, and stamped by the CUPA as “received by February 15, 2019”. Additional RTC documentation for three violations is dated December 10, 2019, including a violation previously corrected on December 17, 2018. CERS shows only one violation achieved RTC on February 15, 2019.

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

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CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Section 15290(b)
[CalEPA, OSFM]

RESOLUTION:

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

- Revision to the existing APSA Program CME component of the data management procedures to address the root causes of missing or incorrect APSA Program CME information in CERS, if needed;
- Identification of APSA Program CME information that was not reported, or reported incorrectly, to CERS as required dating back to January 2017 through present;
- A process for reporting APSA Program CME information that was not reported to CERS as required; and
- Future steps to ensure that all APSA Program CME information is reported to CERS as required.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a copy of inspection reports and/or documentation of RTC for up to three facilities as requested by OSFM.

By the 5th Progress Report, the CUPA will have consistently reported all APSA Program CME information to CERS that was not previously consistently reported as required.

7. INCIDENTAL FINDING:

The CUPA is not properly classifying hazardous waste generator (HWG) violations.

The CUPA cited a HWG violation as a minor violation that was a Class I or II violation. The following examples of this instance 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 Health and Safety Code, section 25404(a)(3).

16 of 59 (27%) cited violations for exceedance of authorized accumulation time were classified as minor in CERS. Examples include:

- CERS ID: 10483732, inspection report dated May 3, 2017
- CERS ID: 10600180, inspection report dated November 11, 2017

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- CERS ID: 10419502, inspection report dated November 13, 2017
- CERS ID: 10450270, inspection report dated January 25, 2018
- CERS ID: 10640140, inspection report dated May 10, 2018
- CERS ID: 10707565, inspection report dated October 23, 2019

Note: It is understood that the CUPA is updating the local data management system in order to send out inspection information to the facility. The CUPA will use the 2020 version of the ["Violation Classification Guidance for Unified Program Agencies"](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf) (https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf), drafted by CalEPA and the CUPA Forum Board as a guide for default classifications. The updated local data management system will default to correct violation classifications, however, it is ultimately the responsibility of the inspector to correctly identify and classify observed violations. When necessary, the inspector should be able to override any default classification of the local data management system.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6
CCR, Title 22, Sections, 66260.10, 66262.34
[DTSC]

RESOLUTION:

This finding was limited to one instance in which a certain violation was misclassified.

By the 2nd Progress Report, and after the new inspection software has been implemented, the CUPA will provide CalEPA with a copy of three inspection reports for facilities cited with hazardous waste violations that were inspected within the last three months.

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

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:

Both Appendix E (Environmental Emergency Response Policy) and Appendix G (Standby Policy) of the I&E Plan comply with CCR, Title 27, Section 15180(e)(4) in addressing how the CUPA provides Hazardous Materials Release Response Plan (HMRRP) information to emergency personnel and appropriate government entities.

RECOMMENDATION:

Rename the policy in Appendix G to more specifically identify its applicability and overall purpose, such as "Environmental Emergency Response Standby Policy."

2. OBSERVATION:

Under 11.3.1 Minimum Retention Times of the Standard Operation Procedures, states all "CUPA related documents" are kept for the five year minimum retention time. Information required to be retained for a minimum of five years is not specifically identified as specified in CCR, Title 27, Section 15185(b).

RECOMMENDATION:

List out all records retained and retention times for those records including, but not limited to: Self-Audit Reports, inspection reports, enforcement files, all records related to hazardous waste enforcement actions, and training records.

3. OBSERVATION:

There is no completion date on the Self-Audit Report.

RECOMMENDATION:

Incorporate a completion date in the Self-Audit Report.

4. OBSERVATION:

The Standard Operating Procedure (SOP) contains inaccurate and missing information for the APSA Program:

- Page 20 inaccurately states, "Facilities that store petroleum products in aboveground storage tanks or in containers which have a capacity equal to or in excess of 55 gallons with a cumulative storage capacity of 1,320 gallons or more on site, they must have a Spill Prevention Control and Countermeasure Plan (SPCC), as mandated by Chapter 6.67 of the CH&S Code and Chapter 97 of the City Code." Tank facilities with one or more tanks in underground areas with a shell capacity of 55 gallons or more, regardless of the 1320-gallon petroleum storage capacity must prepare an SPCC Plan.

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PRELIMINARY SUMMARY OF FINDINGS REPORT**

OBSERVATIONS AND RECOMMENDATIONS

- Appendix K has missing applicability information for tanks in underground areas in the summary section. Tank facilities with one or more tanks in underground areas, regardless of the 1320-gallon petroleum storage capacity, are also now applicable to the APSA program.

RECOMMENDATION:

Update the SOP with current APSA Program information, including tanks in underground areas.

5. OBSERVATION:

The CUPA has cited the following APSA tank facilities for the lack of training documentation/records:

- CERS IDs 10504654, 10589746, 10638331, and 10668859

Per the United States Environmental Protection Agency (U.S. EPA) and the federal Spill Prevention Control and Countermeasures (SPCC) Rule, training documentation is not explicitly required for training requirements [40 CFR 112.7(f)]. However, if the tank facility's SPCC Plan requires training to be documented, then the CUPA has the authority to cite the facility for not implementing the SPCC Plan per HSC 25270.4.5(a).

RECOMMENDATION:

Ensure the violation cited is enforceable and use other means to verify appropriate training has been conducted by the tank facilities.

6. OBSERVATION:

Most APSA tank facilities submit a hazardous materials business plan (HMBP) in lieu of the tank facility statement in CERS. However, the CUPA is not consistently ensuring that the HMBP submittals contain all applicable required elements.

Review of CERS indicates eight of 13 APSA tank facilities did not address evacuation staging areas on their site maps for the following facilities: CERS ID 10642216, 10668859, 10589746, 10509175, 10504654, 10504165, 10478029, and 10483444.

RECOMMENDATION:

Ensure future HMBP submittals in lieu of the APSA tank facility statement are thoroughly reviewed and contain all the required elements.

7. OBSERVATION:

The [CUPA's Environmental Protection Fact Sheets](https://www.santafesprings.org/cityhall/fire_rescue/environmental_protection/environmental_protection_fact_sheets)

([https://www.santafesprings.org/cityhall/fire_rescue/environmental_protection/environmental_protection_fact_sheets.asp](https://www.santafesprings.org/cityhall/fire_rescue/environmental_protection/environmental_protection_fact_sheets)) website contains various resources for its community; however, some APSA and fire code information is outdated or may benefit from improvement:

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OBSERVATIONS AND RECOMMENDATIONS

- The link to the CAL FIRE APSA fact sheet is no longer valid.
- The summary on Page 1 of the Aboveground Storage Tank installation fact sheet is outdated and does not address tank facilities with less than 1,320 gallons of petroleum and at least one stationary 55-gallon tank in an underground area. Also on Page 1, it would be beneficial to clarify that conditionally exempt tank facilities are exempt from having to prepare an SPCC Plan. The fact sheet contains outdated fire code references on Page 2; chapters and sections are no longer consistent with the current edition of the fire code.

RECOMMENDATION:

Update the website and ensure APSA and fire code information is current and accurate.

8. OBSERVATION:

The Area Plan contains APSA or fire code information that is outdated or incorrect.

- Fire code references in Item 2-f on Page 2 are outdated. The fire code Hazardous Materials Management Plan (HMMP)-Hazardous Materials Inventory Statement (HMIS) requirements are now found in California Fire Code Chapter 50, Sections 5001.5.1 and 5001.5.2, and Appendix H.
- Item 6 on Page 17 is incorrect and outdated. APSA regulates a tank facility if it is subject to the federal SPCC rule (has greater than 1,320 gallons of oil and has potential threat of discharge to U.S. navigable water or adjoining shoreline), has 1,320 gallons or more of petroleum (regardless of location to navigable water), or has less than 1,320 gallons of petroleum and at least one stationary 55-gallon petroleum tank in an underground area. Also, not all APSA tank facilities are required to prepare an SPCC Plan.
- HSC Section 25270.7 no longer exists but is referenced on Page 88.
- The outdated Uniform Fire Code is referenced on Page 131.

RECOMMENDATION:

Update the Area Plan to ensure APSA and fire code information is current and accurate.

9. OBSERVATION:

The Inspection and Enforcement (I&E) Plan contains incorrect information and may benefit from additional clarification.

- The APSA information on Page 3 is incorrect; it states, “regulated facilities that store in excess of 10,000 gallons of petroleum be inspected at least once every three years.” APSA requires CUPAs to inspect tank facilities that meet or exceed 10,000 gallons of petroleum storage capacity per HSC 25270.5(a). Although tank facilities with less than 10,000 gallons are not required to be inspected, the I&E Plan also states the CUPA inspects tank facilities that store in excess of 1,320 gallons of petroleum; this statement appears to exclude tank facilities with 1,320 gallons of petroleum, which are also regulated under APSA.

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OBSERVATIONS AND RECOMMENDATIONS

- The 2016 edition of the fire code is referenced on Page 28. The current fire code is the 2019 edition.

RECOMMENDATION:

Update the I&E Plan and ensure APSA and fire code information is current and accurate.

10. OBSERVATION:

Review of overall implementation of the HWG Program, including CERS data, facility file information and Self-Audit Reports between January 1, 2017, and December 31, 2019, is summarized below:

- There are 646 facilities, 39 Resource Conservation and Recovery Act Large Quantity Generators, and 27 Tiered Permitted facilities.
- The three-year inspection frequency for all HWG facilities has a current rate of 98% (CERS reflects 635 of 646 facilities inspected).
- 965 inspections were performed, of which 504 (52%) had at least one cited violation. Of the 504 inspections with violations, 472 (93%) facilities returned to compliance.
- In the 965 inspections performed, 26 Class I violations were issued, 364 Class II violations were issued, and 471 minor violations were issued.
- The CUPA completed 11 formal enforcement actions for Hazardous Waste related violations with Administrative Enforcement Orders totaling \$94,425.00.
- Inspection reports contain detailed comments that note the factual basis of cited violations as well as documentation that consent to inspect was obtained.
- The inspection reports utilize a shared checklist covering seven programs and various types of hazardous waste generator violations. The checklist does not include all potential relevant violations for different sizes of generators.
- The CUPA's website has basic information regarding hazardous waste management to aid generators seeking regulatory assistance.
- The CUPA proactively sends annual notification letters to regulated facilities via U.S. mail, including reminders to recyclers for completion of the biennial recycler forms through CERS, and closure cost updates to all PBR & CA facilities.

DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

RECOMMENDATION:

Continue with the three-year inspection frequency effort and address the facilities that were not inspected during the last cycle as a priority. DTSC applauds the CUPA's enforcement efforts and encourages continuing to take enforcement actions for cited Class I violations. Utilize the various CUPA Forum Board Checklists to provide more accurate potential violations for citing.

11. OBSERVATION:

As a Fire Department CUPA, administration and implementation of the Unified Program is done in unison with administration and implementation of the California Fire Code (CFC). Separation of

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the hazardous materials requirements under the CUPA disclosure laws (HSC, Chapter 6.95) and the maximum allowable quantity limits (CFC, Chapter 50) leads to confusion among inspectors, as well as the regulated community, as inspectors for each of the different programs wear the same uniform. Beginning in 2016, CUPA inspectors were provided training on hazardous materials storage and use sections of the California Fire Code (CFC) to broaden their abilities to identify hazardous materials storage violations under the CFC, Chapter 50 and alleviate the need to delegate such inspections and violations to a Fire Prevention inspector. This also provides further clarity to regulated businesses in the application of HSC, Chapter 6.95 and the CFC, Chapter 50 as there is consistency in enforcement of, and returning to compliance, for all hazardous materials storage laws under the CUPA and prohibited quantities of hazardous material storage under Fire Prevention. This change in practice has greatly improved the Fire Code hazardous material storage compliance timeline and operational safety. Firefighters, site workers, and the health and safety of the community and environment are better protected.

RECOMMENDATION:

Continue to apply a holistic and harmonized approach in the enforcement and implementation of Fire Prevention and CUPA programs for the better protection of the health and safety of the community and environment, so long as the administration and implementation statutory and regulatory requirements of the Unified Program can continue without implications.

12. OBSERVATION:

On Monday March 2, 2020, the State Water Board observed the CUPA inspector conduct an annual UST compliance inspection for CERS ID 10408579. The CUPA inspector conducted a complete inspection, obtaining permission to inspect, checked for valid International Code Council (ICC) certifications, physically observing the conditions of the UST system, reviewing alarm history, ensuring the sensors tested functioned as required, etc.

The CUPA's Standard Operating Procedure (SOP), section 4.3.5, for the annual UST compliance inspection identifies that the inspection report will indicate if an inspected element is or is not in compliance, however, the final issued inspection report did not indicate on the inspection report which elements were in compliance.

RECOMMENDATION:

Either provide formal training to inspection personnel consistent with the SOP or revise the SOP to remove the notation that states the inspection report will indicate if an inspected element is or is not in compliance.

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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. CUPA HAZARDOUS WASTE TRAINING FOR GENERATORS:

The CUPA offers free Hazardous Waste Training classes in both English and Spanish to regulated businesses and a fee reduction to Small Quantity Generators that qualify. Qualified Small Quantity Generators that attend at least one Basic Hazardous Waste Training class and conduct a self-audit will receive a discount on the annual permit fee. The Annual Self-Audit Program Checklist (SAP checklist) must be completed and returned at the specified deadline each year to receive the annual permit fee discount. All participants receive a certificate of training at the conclusion of each training.

The CUPA conducts a three- to four-hour training that covers hazardous waste determination, container management, labeling, recordkeeping, and common violations. The training has helped hazardous waste handlers have a better understanding of the hazardous waste requirements and improve compliance. The CUPA has noticed that, for facilities with staff that have attended the class, facilities are more prepared for inspections, keep better records, and facility staff have a better understanding about HWG compliance issues.

- FY 2017/2018: There were 40 attendees present at Hazardous Waste Training classes, and 60 qualified small businesses received the annual permit fee discount.
 - FY 2018/2019: There were 49 attendees present at Hazardous Waste Training classes, and 53 qualified small businesses received the annual permit fee discount.
 - FY 2019/2020: There were 44 attendees present at Hazardous Waste Training classes, and 59 qualified small businesses received the annual permit fee discount.
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