

March 19, 2021

Mr. Rick Bandelin
CUPA Manager
Ventura County Division of Environmental Health
800 South Victoria Avenue
Ventura, California 93009-1730

Dear Mr. Bandelin:

During July 2020, through February 2021, CalEPA and the state program agencies conducted a performance evaluation of the Ventura County Division of Environmental Health 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 inspections.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. The report also includes 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 18, 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, or mail.

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

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

Mr. Rick Bandelin
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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

Enclosures

cc sent via email:

Ms. Annalisa Kihara
Supervising Water Resource Control Engineer
State Water Resources Control Board
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Ms. Laura Fisher
Senior Environmental Scientist, Supervisor
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Ms. Maria Soria
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Mr. James Hosler, Chief
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
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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: Ventura County Division of Environmental Health

PA: City of Ventura Fire Department

Evaluation Period: July 2020 through February 2021

Evaluation Team Members:

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Matthew McCarron
- **Cal OES:** Jack Harrah
- **State Water Board:** Wesley Franks
- **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

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:

1st Progress Report: May 18, 2021

2nd Progress Report: August 16, 2021

3rd Progress Report: November 15, 2021

4th Progress Report: February 14, 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.

1. DEFICIENCY:

The Unified Program Facility Permit (UPFP) does not consolidate all Unified Program elements or include all permit requirements:

- The UPFP does not include the Hazardous Waste Generator (HWG) and Underground Storage Tank (UST) programs.
- The UPFP contains the requirement to “Post in public view,” which is more stringent than the regulatory requirement, and for which there is no local ordinance authority.
- The UST operating permit is not issued to UST facilities under the consolidated UPFP.

The UST operating permit, issued by the CUPA and its Participating Agency (PA) is inconsistent with UST Regulations and Health and Safety Code (HSC).

Review of issued UST operating permits finds the following inconsistencies with UST Regulations and HSC:

- The UST operating permit indicates the requirement to maintain monitoring plans, response plans, and plot plans on-site, which is more stringent than the regulatory requirement to have a paper or electronic copy of the monitoring site plan, response plan, and the plot plan, readily accessible at the facility. No local ordinance authority exists for this more stringent requirement.
- The UST operating permit indicates the requirement to “Post in public view,” which is more stringent than the regulatory requirement. No local ordinance authority exists for this more stringent requirement.

Note: Effective January 1, 2017, Title 23, Section 2712(c) includes revisions for UST operating permit conditions, including allowance of the UST operating permit to be retained electronically or physically at the facility and requiring the facility CERS identification number to be on the UST operating permit. Reference State Water Board correspondence dated April 7, 2017, “Amended Requirements for Unified Program Facility Permits Effective January 1, 2017” for further information.

CITATION:

HSC, Chapter 6.7, Section 25298(c)
California Code of Regulations (CCR), Title 23, Section 2712(c) and (i)
CCR, Title 27, Section 15190(b) and (h)(6)
[CalEPA, State Water Board]

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CORRECTIVE ACTION:

The CUPA provided CalEPA with a revised UPFP template which includes an addendum for documenting permit conditions for each applicable element of the Unified Program and reflects the applicable program element(s) for which a permit is being issued under the consolidated UPFP, including the HWG and UST programs. The requirement to “Post in public view,” which is more stringent than the regulatory requirement, has been removed from the UPFP template.

The CUPA provided CalEPA with a revised UST operating permit portion of the UPFP template to address inconsistencies with UST Regulations and HSC requirements.

By the 1st Progress Report, the State Water Board will review the revised UST operating permit portion of the UPFP template and provide feedback to the CUPA.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will amend the revised UST operating permit portion of the UPFP template based on feedback from the State Water Board and will provide the amended template to CalEPA. If no further amendments are necessary to the UST operating permit portion of the UPFP template, the CUPA will provide CalEPA with the UPFP issued to three UST facilities using the amended UPFP template. The CUPA will ensure the amended UPFP template is used by the PA for issuance to UST facilities.

2. DEFICIENCY:

Required components of the Inspection and Enforcement (I&E) Plan are inaccurate, missing or incomplete.

The following components are inaccurate:

- The I&E Plan does not reflect the HSC, Chapter 6.7, provisions of the red tag authority which prevents the withdrawal of fuel from a UST. Beginning January 1, 2019, no person shall withdraw fuel from an UST that has a red tag affixed to its fill pipe, except to empty the UST pursuant to a directive from the CUPA or State Water Board.
- Contents of the Penalty Matrix specify a penalty less than \$500, when the minimum UST penalty is no less than \$500.

The following components are missing:

- Identification of all available enforcement options;
 - Page 17, the evaluation criteria used to determine the type of enforcement options that may be employed is delineated, however the CUPA is required to identify any, and all, enforcement actions that may be taken to bring a facility into compliance.
- A description of the graduated series of enforcement actions based on the severity of the violation;
 - Page 16, a flowchart depicting a general overview of the enforcement process is provided, but does not adequately detail the application of a graduated series of enforcement. A description should accompany the flowchart to further detail the application of a graduated series of enforcement.

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The following components are incomplete:

- Provisions for receiving complaints;
 - Page 16, the discussion regarding complaints does not address how the CUPA will ensure the closure of a complaint, for example, if a complaint was received from the CalEPA Environmental Complaint System database, it should also be closed out in the CalEPA Environmental Complaint System database.

CITATION:

HSC, Chapter 6.7, Sections 25285(b) and 252952.3(a)(2)(A) and (c)(1)(C)
CCR, Title 23, Sections 2712(c) and 2713(c)
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a copy of the revised I&E Plan that addresses the identified inaccurate, missing, and incomplete components.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, DTSC, or the State Water Board, the CUPA will provide CalEPA with a copy of the amended I&E Plan. If no amendments are necessary, the CUPA, and the PA in coordination with the CUPA, will train appropriate CUPA and PA personnel and UST inspection staff on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of the CUPA and PA personnel and UST inspection staff in attendance. Once training is complete, the CUPA and the PA will implement the revised I&E Plan.

By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA, and the PA in coordination with the CUPA, will train appropriate CUPA and PA personnel and UST inspection staff on the amended I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of the CUPA and PA personnel and UST inspection staff in attendance. Once training is complete, the CUPA and PA will implement the amended I&E Plan.

3. DEFICIENCY:

The CUPA did not complete a Self-Audit Report for FY 2018/2019.

The Self-Audit Reports for Fiscal Years (FYs) 2016/2017 and 2017/2018 are missing the following components:

- An indication that there has been an annual review and update of the fee accountability program. The CUPA has compiled a list of single fee invoice sheets and billing statements, however there is no comprehensible manner to verify the CUPA has completed a review of the Fee Accountability program on an annual basis.
- A Self-Audit Report is required to be completed by September 30 of each year for the preceding FY; however, a date of completion is not included.

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Note: The Self-Audit Reports for FYs 2016/2017 and 2017/2018 contain extraneous information that is not relevant to the requirements pursuant to CCR, Title 27, Section 15280(c), such as CUPA billing lists, facility letters and notices, which should not be included in future Self-Audit Reports.

CITATION:

CCR, Title 27, Section 15280(c)
[CalEPA]

CORRECTIVE ACTION:

By the 3rd Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2020/2021, which will have addressed the missing components identified in this finding. The CUPA will complete a Self-Audit Report by September 30 for each subsequent FY.

4. 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 Permit-by-Rule laws and regulations; or,
- Notify the owner/operator that the notification submittal is inaccurate or incomplete.

California Environmental Reporting System (CERS) data indicates that 19 of 33 (58%) PBR Onsite Hazardous Waste Treatment Notifications were not reviewed, processed or authorized by the CUPA within 45 days of receipt.

Examples include:

- CERS ID 10332040: notification submitted June 30, 2020, no action as of October 20, 2020
- CERS ID 10331719: notification submitted February 12, 2020, accepted September 28, 2020
- CERS ID 10332040: notification submitted August 23, 2019, accepted October 30, 2019
- CERS ID 10332040: notification submitted February 20, 2018, accepted April 24, 2018
- CERS ID 10152403: notification submitted December 5, 2017, accepted February 28, 2018

CITATION:

CCR, Title 22, Section 67450.3(c)(1) and (d)
[DTSC]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide inspectors with Tiered Permit (TP) program training regarding how to accurately review, process, and authorize Onsite Hazardous Waste Treatment Notifications within the 45-day review process by either:

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

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.

Note: A TP Program training video is available on the California Certified Unified Program Agency Forum Board website at: <https://www.youtube.com/user/orangetreeweb/videos>. Additional TP program training assistance may also be requested from DTSC.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an update to CalEPA on the status of the progress made toward accurately reviewing, processing and authorizing each Onsite Hazardous Waste Treatment Notification to ensure annual notification submittals are accurate, correct, and represent the actual waste treatment systems used at the notifying facility. The CUPA will also follow-up with the facilities listed in this deficiency to obtain an Onsite Hazardous Waste Treatment Notification, if required.

5. DEFICIENCY:

The CUPA is not ensuring its PA is inspecting all Aboveground Petroleum Storage Act (APSA) tank facilities once every three years, per the inspection frequency established in the I&E Plan.

Review of facility files, inspection, violation, and enforcement information, also known as compliance, monitoring and enforcement (CME) information in CERS, and additional information provided by the CUPA for APSA tank facilities within the PA's jurisdiction indicates:

- 16 of 34 (47%) APSA tank facilities that store 1,320 gallons or more (up to 9,999 gallons) of petroleum have not been inspected within the last three years.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a) and (b)
[OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will, in coordination with its PA, develop, implement, and provide CalEPA with an action plan to ensure all APSA tank facilities that are not conditionally exempt are inspected at least once every three years, per the inspection frequency established in the I&E Plan. The action plan will include at minimum:

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- An analysis and explanation as to why the inspection frequency for APSA tank facilities 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 sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each APSA tank facility that has not been inspected at least once every three years, per the inspection frequency established in the I&E Plan. For each APSA facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those APSA facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of APSA facilities (i.e., large volumes of petroleum or proximity to navigable water).
- Future steps to ensure that all APSA tank facilities will be inspected at least once every three years, per the inspection frequency established in the I&E Plan.

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

By the 4th Progress Report, the CUPA will have inspected each APSA facility at least once every three years, per the inspection frequency established in the I&E Plan.

6. DEFICIENCY:

The CUPA is not ensuring its PA is correctly implementing UST temporary closure requirements.

Review of CERS CME information and UST temporary closure documentation in the facility file for CERS ID 10511032, relating to Tank IDs # 1 and #2 finds the PA:

- Allowed the USTs to be placed into temporary closure as a means of postponing permanent closure, in violation of UST Regulation:
 - Communication dated September 23, 2013, indicates that during a September 19, 2013, meeting, the owner and operator were directed to create a UST closure plan by no later than November 23, 2013.
 - Communication dated September 26, 2013, indicates the owner and operator were directed to place the USTs into temporary closure.
 - Communication dated December 15, 2014, indicates the PA witnessed temporary closure on December 9, 2014. The same communication indicates the PA informed the owner and operator of a 12-month timeframe (by December 10, 2015) to either remove one or both of the USTs, or return them to compliance.
 - A CERS inspection dated October 14, 2015, states "Owner provided additional 12 months for temporary closure on both USTs commencing on 10/31/15."
 - A CERS inspection dated March 27, 2017, indicates the USTs were permanently closed on March 28, 2017.

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- Did not require a site assessment to be conducted in accordance with UST Regulations prior to an extension of the duration of temporary closure by an additional 12 months.
- Did not require the owner or operator to conduct quarterly inspections while the USTs were in temporary closure.

UST Regulations allow for USTs to be placed into temporary closure for 12 months, and only for an additional 12 months after a site investigation is conducted and prior approval is obtained by the CUPA. Additionally, USTs are only to be placed into temporary closure if they will return to operation after the duration of temporary closure has ended. USTs are not to be placed into temporary closure as a means of postponing permanent closure.

CITATION:

HSC, Chapter 6.7, Section 25293

CCR, Title 23, Sections 2670 (b), 2671(c), and 2672(d)

[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent progress report until considered corrected, the CUPA, and the PA in coordination with the CUPA, will provide CalEPA with a list of all UST facilities in temporary closure and the following documentation for each UST facility:

- CERS ID
- Facility address
- Date USTs were placed into temporary closure
- Sampling assessment allowing extension of 12 months, if temporary closure extends beyond 12 months
- Annual UST compliance inspection reports,
- Quarterly inspection reports conducted by the owner or operator, and
- Temporary closure permits.

Once the list is provided to CalEPA, the PA, in coordination with the CUPA, will:

- rescind the temporary closure permits for UST facilities that exceed the regulatory requirements,
- require the UST facilities to return to compliance or obtain a UST closure permit, and
- apply informal and/or formal graduated series of enforcement if the owner or operator does not comply.

By the 1st Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with copies of all correspondence from the PA to UST facility owners and operators regarding temporary closure revocation, UST closure permitting, and applied informal and/or formal graduated series of enforcement.

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for the CUPA and PA to correctly implement UST temporary closure requirements, which will include, at minimum, the following:

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- Issuing a temporary closure extension of no more than an additional 12 months only after the CUPA or PA reviews and approves a site assessment conducted by the owner or operator.
- Requiring documentation from the owner or operator to show inspections were conducted at least once every three months while USTs are in temporary closure,
- Reviewing quarterly inspections during the UST compliance inspection to ensure the owner or operator is complying with the temporary closure permit requirements, and
- Correctly reporting USTs in temporary closure in CERS and Report 6, including the date in which the USTs were put in temporary closure.
- Putting only those USTs into temporary closure that are intended to be brought back into operation.

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the amended I&E Plan or other applicable procedure.

If no amendments are necessary, the CUPA, and the PA in coordination with the CUPA, will train appropriate CUPA and PA personnel and UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of the CUPA and PA personnel and UST inspection staff in attendance. Once training is complete, the CUPA and the PA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments were necessary to the I&E Plan or other applicable procedure, the CUPA, and the PA in coordination with the CUPA, will train appropriate CUPA and PA personnel and UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of the CUPA and PA personnel and UST inspection staff in attendance. Once training is complete, the CUPA and the PA will implement the amended I&E Plan or other applicable procedure.

The State Water Board will consider this deficiency closed, not corrected, when the CUPA and PA have rescinded temporary closure permits that exceed the regulatory requirements and have issued directives for UST owners and operators to return to operational status or permanently close the USTs. The State Water Board will verify compliance status during the next CUPA performance evaluation.

Note: To comply with the December 31, 2025, single-walled UST closure regulatory deadline, the CUPA may not issue temporary closure permits for USTs or UST systems with single-walled components on or after December 31, 2024. Temporary closure permits may only be issued to USTs or UST systems that will be brought back into operation. The State Water Board strongly recommends CUPAs not issue temporary closure permits to USTs or UST systems with single-

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walled components on or after December 31, 2023, to help mitigate the potential of UST abandonment.

7. DEFICIENCY:

Review of the CUPA's local ordinance, Chapter 5, Article 1.2, finds inconsistencies with UST Regulations and HSC.

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

- Section 4524(7) provides provisions that permits to operate are subject to suspension or revocation for failure of an owner or operator to comply with Article 3 of Chapter 6.7 of Division 20 of the Health and Safety Code at all times commencing with the date three months after the date on which the owner or operator first became subject to Article 3, which is less stringent than HSC.
- Sections 4521, 4525, 4526, 4527(e), 4528(b) and (c) provide provisions for corrective actions on the cleanup of leaking USTs. Starting on July 1, 2013, only State Water Board certified Local Oversight Programs (LOPs) can implement corrective actions for the cleanup of leaking USTs. The CUPA is not a State Water Board certified LOP and, therefore, does not have the authority to implement corrective actions for the cleanup of leaking USTs.

Review of the PA's local ordinance, Chapter 14.050, Storage of Hazardous Materials, finds inconsistencies with UST Regulations and HSC.

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

- Sections 14.050.220(5), 14.050.230, 14.050.310, 14.050.320(c), 14.050.320(c)(4) and (5), 14.050.320, 14.050.330, 14.050.330(3 – 5), 14.050.340(C), 14.050.350(A), 14.050.360(B), 14.050.630(2), and 14.050.850 provide provisions for granting the fire chief authority to exercise independent authority on UST Program related decisions, including variances, which allows for implementation of the UST Program that is less stringent than, or otherwise inconsistent with, UST Regulations and HSC.
- Section 14.050.230 provides provisions to require a permit as required in HSC, section 25280(m), in accordance with section 25280(c) which subsequently after adoption of the ordinance has been renumbered.
- Section 14.050.320 provides provisions for "New storage facilities" without defining what "new" means. Likewise, Section 14.050.330 provides provisions for "Existing storage facilities" without defining what "existing" means. There is nothing that prohibits the local ordinance from incorporating this terminology, however it must be clear as to what "new" and "existing" mean. Lack of clarity in defining key phrases allows for less stringent, or otherwise inconsistent, implementation of statute and regulation.
- Sections 14.050.320(c)(4) and (5) provide provisions for "variance", which grants the PA authority that allows for implementation of secondary containment, and/or construction and monitoring requirements. Variance can only be allowed pursuant to UST Regulations and HSC, and/or prior approval by the Regional Board.

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- Section 14.050.320(D), states “Means of overfill may be required for any primary container.” The use of the word “may” implies that means of overfill “may not” be required for any primary container, which is less stringent than UST Regulations and HSC.
- Section 14.050.330(6) states that facilities may remain open while out of compliance and without a permit, which is less stringent than UST Regulations and HSC. Section 14.050.340(B) states that “Storage facilities which are temporarily out of service, and are intended to be returned to use, must continue to be monitored and inspected.” A UST may not be placed into temporary closure unless it returns to operation. Further, the section implies that if a UST in temporary closure is not intended to return to operation, then it does not need to be monitored and inspected, which is less stringent than UST Regulations and HSC.
- Section 14.050.630 provides provisions that are missing key requirements of UST Regulations in regard to the reporting of unauthorized reporting and, therefore, allow for less stringent, or otherwise inconsistent, implementations of the UST Program. Further, section 14.050.630(1)(d) provides provisions for not recording or reporting an authorized discharge, which is less stringent than UST Regulations.
- Section 14.050.750 provides provisions that all records must be maintained by the permittee for a period not less than three years, while the regulatory requirement for record keeping is greater. In regard to when said records shall be made available to the fire chief, the phrase “reasonable notice,” is used, which lacks clarity and, therefore, allows for less stringent interpretations of statute and regulation.
- Section 14.050.820(B) and the subsequent paragraph provide provisions for the PA to require its permit applicants and permittees to fill out standardized forms based on forms prepared by the State Water Board as specified in HSC, Section 25283.2, and for the PA to forward these forms to the State Water Board. This code citation has been removed from HSC, chapter 6.7, and the provisions of this section have changed.
- Sections 14.050.860 and 14.050.870 provide provisions for temporary and provisional permits, which are not permissible under UST Regulations and HSC.
- Section 14.050.1220 states that civil penalties do not exceed \$500, while the regulatory requirement is for penalties to be no less than \$500 and no more than \$5000.
- Section 14.050.1340(4) provides provisions for HSC, Sections 25284 and 25284.1, to take precedent and govern if the local ordinances otherwise become out-of-date, however, the section is limited in scope and, therefore, inconsistent with UST Regulations and HSC.

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

CITATION:

HSC, Chapter 6.7 Section 25299.2, 25299.3, 25299.7

CCR, Title 23, Section 2620(c), 2650, 2651, 2652, 2710, 2711, 2712

CCR, Title 27, Sections 15100(b)(1)(C), 15160, 15330(a) (1) and (a)(2), 15280(c)(5) and 15150(c)(2)

[State Water Board]

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

Effective immediately, the CUPA and the PA will no longer implement provisions of the local ordinance that are less stringent, or inconsistent with UST Regulations and HSC. This includes, but is not limited to, all provisions granting the fire chief authority to exercise independent authority on UST Program related decisions, and provisions of variance for the implementation of secondary containment, and/or construction and monitoring requirements.

By the 1st Progress Report, the CUPA, and the PA in coordination with the CUPA, will provide CalEPA with a detailed plan to revise and adopt the revised local ordinances. The plan shall include, at minimum, a timeline for drafting revised ordinances, provisions for the CUPA to provide legal analysis of the local ordinances to CalEPA and the State Water Board to ensure consistency with UST Regulations and HSC and to provide the opportunity for the State Water Board to provide feedback on the revised local ordinances, the CUPA certification approval, and meets all other legal requirements and adoption of the revised local ordinances.

Additionally, the CUPA will provide CalEPA with a list of all instances where the fire chief has exercised the above referenced independent authority, including variances. This list will include, at minimum, the CERS ID, facility address, and the provisions that do not conform with UST Regulations or HSC. The State Water Board will review the material provided by the CUPA and the PA in coordination with the CUPA, will provide direction and a timeline to require UST owners and operators to comply with UST Regulations and HSC. The CUPA will then notify the UST owners and operators of the requirement to comply with UST Regulations and HSC, or obtain a UST closure permit. The CUPA will provide CalEPA with copies of the compliance notification correspondence sent to UST owners and operators. The CUPA will implement a graduated series of enforcement if the UST owner or operator does not comply. The CUPA will provide copies of all correspondence as they are provided to the owner or operator with each Progress Report until considered corrected.

By the 2nd Progress Report, the CUPA and the PA will, if necessary, amend the plan for revision and adoption of the revised local ordinances, based on feedback from the State Water Board.

Considering the length of time required to draft and adopt local ordinances, the State Water Board will consider this deficiency closed, but not corrected when the CUPA has provided an acceptable plan for the revision and adoption of the revised local ordinances as outlined above, and when the CUPA has notified all UST owners and operators of the requirement for USTs which do not meet the UST Regulations or HSC to return to compliance. During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinances were adopted, and timely compliance was achieved for those UST facilities identified as not meeting UST Regulations or HSC as a result of the initial ordinances.

8. DEFICIENCY:

The CUPA is not inspecting each facility subject to the California Accidental Release Prevention (CalARP) Program requirements at least once every three years.

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DEFICIENCIES REQUIRING CORRECTION

Review of CERS CME information and additional information provided by the CUPA finds 3 of 18 (17%) facilities subject to CalARP Program requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

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

- An analysis and explanation as to why the inspection requirement 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 sortable 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;
 - Facility address;
 - CERS ID; and
 - 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 2nd 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 conducted during the previous three months.

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

9. DEFICIENCY:

The CUPA is not ensuring that its PA is regulating all businesses subject to Business Plan reporting requirements.

Review of CERS data indicates:

- 170 of 498 (34%) regulated businesses within the jurisdiction of the PA have not submitted a chemical inventory (including a site map) or a no-change certification within the last year.

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DEFICIENCIES REQUIRING CORRECTION

- 181 of 498 (36%) regulated businesses within the jurisdiction of the PA have not submitted emergency response and employee training plans or a no-change certification within the last year.
- 157 of 498 (32%) regulated businesses within the jurisdiction of the PA have not been inspected within the last three years.

CITATION:

HSC, Chapter 6.95, sections 25505(a)(1) and (2), 25508(a)(2) and (3), and 25511(b)
[Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA, and the PA in coordination with the CUPA, will develop, implement, and provide CalEPA with an action plan to ensure that the PA adequately implements the business plan program by ensuring:

- each facility subject to HMBP Program requirements within the jurisdiction of the PA is inspected at least once every three years,
- each facility has submitted a HMBP or a no-change certification to CERS, and
- each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS.

The action plan will include, at minimum:

- An analysis and explanation as to why the inspection requirement for HMBP facilities 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 sortable spreadsheet obtained from the CUPA's local data management system or CERS, identifying each HMBP facility that has not been inspected within the last three years and/or has not submitted an HMBP containing all required components within the last 12 months. For each HMBP facility listed, the spreadsheet will include, at minimum:
 - Facility name;
 - Facility address;
 - CERS ID;
 - date of the last inspection, and
 - Follow-up actions including:
 - recent review, acceptance, and rejection of HMBPs
 - for those businesses that have not complied, the applied graduated series of enforcement taken by the PA to ensure a complete HMBP is annually submitted to CERS.
- A schedule to inspect those HMBP facilities, prioritizing the most delinquent inspections to be completed prior to any other HMBP inspection based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

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DEFICIENCIES REQUIRING CORRECTION

By the 2nd Progress Report, the CUPA in coordination with its PA, will, if necessary, revise the action plan based on feedback from Cal OES. If no revisions to the action plan are necessary, the CUPA, in coordination with its PA, will begin implementation of the action plan.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet obtained from the CUPA's local data management system or CERS to demonstrate the number of HMBP facility inspections that have been conducted during the previous three months and the number of HMBPs submitted to CERS.

By the 3rd Progress Report, if revisions to the action plan were necessary, the CUPA will provide the revised action plan to CalEPA. If no amendments to the revised action plan are necessary, the CUPA, in coordination with its PA, will begin implementation of the action plan.

By the 3rd Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with up to three HMBP facility inspection reports.

By the 4th Progress Report, the CUPA in coordination with its PA, will ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP or no-change certification to CERS, or the PA will have applied the appropriate graduated series enforcement action.

By the 5th Progress Report, the CUPA will ensure the PA has inspected each HMBP facility at least once in the last three years.

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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 has not established nor implemented all Unified Program administrative procedures.

Unified Program administrative procedures have components that are incomplete.

The following administrative procedure has not been established nor implemented:

- Financial Management procedures which include a Fee Accountability Program.
 - The CUPA provided financial documentation and Fee Accountability Program (Policy 3.2), neither of which address how the Fee Accountability Program is implemented as required by CCR, Title 27, Sections 15220 and 15180(e)(5).

The following administrative procedures have components that are incomplete:

- The Public Participation Procedure (Policy 2.2) does not address how the public can access and submit a public records request. The procedure does not contain a copy of the public information request form that is referenced. In addition, a timeline for responding to a public records request is not specified.
- The Forwarding HMRRP Information Procedure (Policy 2.6) does not include any provisions for providing HMRRP information to other appropriate government entities in accordance with HSC Section 25504(c). The second sentence in the first bullet point entry can be rewritten to strengthen the language as follows: “Emergency response personnel *and other appropriate government entities* may contact EHD on-call staff directly or through the Ventura County Fire Dispatch Center to obtain Business Plan information.”
- The Records Maintenance Policy (Policy 2.1) does not identify the full list of CUPA-related documents required to be retained for the five-year minimum retention time. The list includes Self-Audit reports, enforcement files, records used to produce the summary reports submitted to the state, surcharge billing and collection records, and training records.
- The “Records Request Policy” document does not include the specific requirements for the CalARP program, as outlined in CCR, Title 19, Section 2775.5.
- The Consolidated Permit Application and Issuance Procedure (Policy 3.1) does not clearly identify the permitting cycle for issuance of UPFPs for the HWG and UST programs. In addition, the procedure states the CUPA issues an Annual Hazardous Waste Producers License.

CITATION:

CCR, Title 27, Sections 15180(e)(1-5) and 15220
[CalEPA, Cal OES]

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

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

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with 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. Once training is complete, the CUPA will implement the revised Unified Program administrative procedures.

By the 3rd Progress Report, if amendments were necessary, the CUPA will train CUPA personnel on the amended Unified Program administrative procedures. Once training is complete, the CUPA will implement the amended Unified Program administrative procedures.

2. INCIDENTAL FINDING:

The CUPA and its PA are not consistently 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 inspections were not reported or were reported incorrectly in CERS:

- CERS ID 10334071:
 - An inspection report, dated August 1, 2018, documents four APSA violations; however, two of the four violations are relative to the HMBP program, citing HSC, Chapter 6.95. CERS has no record of the inspection or violations.
- CERS ID 10223506:
 - An inspection report, dated July 16, 2019, documents three APSA violations. Return to compliance (RTC) documentation, dated August 13, 2019, states the facility corrected the three violations on July 1, July 23, and August 7, 2019. CERS indicates RTC for the three violations on August 7, 2019.
- CERS ID 10002046:
 - A “spot check” inspection report, dated June 20, 2019. CERS indicates the June 20, 2019, inspection as “routine.”
 - There is no RTC documentation in the facility file related to three violations cited on the March 28, 2018, inspection report, although CERS records RTC for two of the three violations on June 20, 2019.
- CERS ID 10151773:
 - A “spot check” inspection report, dated August 8, 2019. CERS indicates the August 8, 2019, inspection as “routine.”

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Note: A “spot check” or follow-up inspection is not a routine inspection. A non-routine inspection is documented as an “other” inspection in CERS. A routine inspection is documented as a “routine” inspection in CERS.

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 1st Progress Report, the CUPA will, in coordination with its PA, develop and provide CalEPA with an action plan for consistently reporting complete and accurate APSA CME information to CERS. The action plan will include, at minimum, the following:

- Identification and correction of the cause(s) of missing or incorrect APSA Program CME information reported to CERS, including any data transfer from the local data management system or portal to CERS to ensure all CME information is reported accurately to CERS;
- Revision of the existing CME reporting component of the data management procedure, or other applicable procedure, to ensure complete and accurate APSA Program CME information is 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 not previously reported to CERS, or reported incorrectly to CERS from July 2017, through present;
- A process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports;
- A comparison of APSA Program CME information in the local CUPA data management system with CERS to identify any APSA Program CME information not being reported, or being reported incorrectly to CERS through electronic data transfer (EDT); and
- Future steps to ensure all APSA Program CME information is reported consistently, and correctly to CERS.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with 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 tank facilities as requested by OSFM.

By the 3rd Progress Report, the CUPA, in coordination with its PA, will consistently report all complete and accurate APSA Program CME information to CERS. The CUPA will provide a statement confirming the completion of all prior APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, from July 2017, through present, as currently and correctly being reported to CERS.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

3. INCIDENTAL FINDING:

The CUPA and the PA are not correctly citing and reporting UST violations in CERS.

The CUPA cites a “General” CERS violation number to report UST violations when a specific CERS violation number is available.

The following are examples:

- CERS ID 10152565: The CUPA cites “General” CERS violation number 2015 for failure to keep liquid and/or debris out of the secondary containment of UST systems. The correct CERS violation number is 2030008.
- CERS ID 10334236: The CUPA cites “General” CERS violation number 2010 for UST equipment being inoperable, damaged, removed, or missing. The correct CERS violation number is 2060015.
- CERS ID 10331521: The CUPA cites “General” CERS violation number 2010 for UST equipment being inoperable, damaged, removed, or missing. The correct CERS violation number is 2060015.

The PA cites a “General” CERS violation number to report UST violations when a specific CERS violation library number is available.

The following are examples:

- CERS ID 10334947: The CUPA cites “General” CERS violation number 2015 for failure to maintain monitoring records for release detection and/or maintain records of appropriate follow-up actions. The correct CERS violation number is 2030001.
- CERS ID 10335178: The CUPA cites “General” CERS violation number 2015 for failure to submit current owner information. The correct CERS violation number is 2010010.
- CERS ID 10335070: The CUPA cites “General” CERS violation number 2015 for triennial overfill alarm test results not available on site. The correct CERS violation number is 2030036.

A review of CERS indicates the PA reported a Fire Code violation utilizing the “General – Local Ordinance” violation number, which is intended to be used for violations of an UPA’s local ordinance, regarding a Unified Program element, and when a specific CERS violation number for the violation is not in the CERS Violation Library. The CERS Violation Library indicates, to use “General” violations, the CUPA “...must include violation description, proper statute and regulation citation in the “comment” section.” The CERS violation library is limited to UST Program authorities pursuant to HSC, Chapter 6.7, and UST Regulations. The following is an example:

- CERS ID 10334632: The CUPA cites “General” CERS violation number 2010 for failure to comply with SB Municipal Code 14.010 for being compliant with Operational Permit requirements of Fire Code.

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Note: Including a comment in CERS for each corresponding violation to document why a “General” violation was used is helpful to demonstrate the authority for citation of the violation.

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

CITATION:

HSC, Chapter 6.7, Sections 25288(b), 25299, and 25299.2(a)
CCR, Title 23, Sections 2712(c), (e), (g) and 2713(c) and (d)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

RESOLUTION:

Effective immediately, the CUPA will ensure the PA ceases reporting Fire Code violations in CERS.

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to correctly cite and report all UST violations in CERS. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA, and the PA in coordination with the CUPA, will ensure appropriate CUPA and PA UST inspection staff are trained on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of CUPA and PA UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments were necessary to the I&E Plan or other applicable procedure, the CUPA, and the PA in coordination with the CUPA, will ensure appropriate CUPA and PA UST inspection staff are trained on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of CUPA and PA UST inspection staff in attendance. Once training is complete, the CUPA and the PA will implement the amended I&E Plan or other applicable procedure.

4. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA and its PA are not properly classifying APSA violations.

Review of CERS CME information indicates the CUPA and its PA are citing failure to prepare a Spill Prevention Control and Countermeasure (SPCC) Plan as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment, and may benefit economically from noncompliance either by reduced costs or by competitive

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

advantage. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). Classifying the violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency.

CUPA: FY 2017/2018 - FY 2019/2020

- 8 of 19 (42%) violations for not having an SPCC Plan were classified as minor.

PA: FY 2017/2018 - FY 2019/2020

- 2 of 2 (100%) violations for not having an SPCC Plan were classified as minor.

Note: The Federal SPCC rule is not delegated to any state; however, APSA requires consistency and compliance with the Federal SPCC Rule for SPCC Plan preparation and implementation, as well as consistency with Federal enforcement guidance.

CITATION:

HSC, Chapter 6.11, Section 25404.2(a)(3) and (4)
HSC, Chapter 6.67, Sections 25270.4.1(c) and 25270.4.5,
[OSFM]

RESOLUTION: COMPLETED

During the evaluation the CUPA's IT department implemented a Class II default classification for the APSA violation for not having an SPCC Plan.

5. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not ensuring its PA is consistently following-up and documenting return to compliance (RTC) information in CERS for APSA tank facilities cited with violations.

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

FY 2017/2018

- 4 of 5 (80%) APSA violations, including one violation for not having an SPCC Plan.

CITATION:

HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a)
[OSFM]

RESOLUTION: COMPLETED

During the evaluation, RTC was obtained for the four remaining APSA violations cited during FY 2017/2018.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

6. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA did not provide CalEPA with a Formal Enforcement Summary Report for each formal enforcement case that received a final judgement.

A Formal Enforcement Summary Report was not provided for the following formal enforcement cases:

- CERS ID 10465450: \$20,000 penalty*
- CERS ID 10335913: \$10,435 penalty
- CERS ID 10752790: \$2,500 penalty
- CERS ID 10337251: \$2,500 penalty
- CERS ID 10140315: \$2,375 penalty*
- CERS ID 10338835: \$1,750 penalty*
- CERS ID 10587472: \$1,500 penalty*
- CERS ID 10338094: \$3,350 penalty*
- CERS ID 10337827: \$1,000 penalty*
- CERS ID 10338292: \$2,400 penalty*
- CERS ID 10618654: \$3,000 penalty*
- CERS ID 10711276: \$1,700 penalty*
- CERS ID 10486138: \$27,250 penalty*
- CERS ID 10332712: \$9,500 penalty*
- CERS ID 10337512: \$40,000 penalty

*Multi-jurisdictional settlements involving several regulated facilities within the CUPA's jurisdiction.

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with a Formal Enforcement Summary Report for each formal enforcement case listed.

The CUPA will ensure a Formal Enforcement Summary Report is submitted to CalEPA within 30 days of final judgement for any formal enforcement case.

- The Formal Enforcement Summary Report template is available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template.pdf>
- Instructions for completing the Formal Enforcement Summary Report template are available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions.pdf>

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

7. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not submitting a copy of the current Surcharge Transmittal Report template to CalEPA.

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

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

1. **OBSERVATION:**

The information provided below summarizes a comparison of the regulated community and the necessary and reasonable resources for implementation of the Unified Program upon CUPA certification with the current regulated community and the current resources available to the CUPA for implementation. The facility counts are based on numbers generated from the CUPA's application for certification in 1996, the City of Ventura Fire Department Participating Agency (PA), the Santa Paula Fire Department PA (relinquished obligations to the CUPA in 2015), and from CERS, where applicable. The information is sourced from the following:

- Information provided by Ventura County Division of Environmental Health 1996 Application for Certification
- CERS "Summary Regulated Facilities by Unified Program Element Report," generated on October 23rd, 2020
- CERS "UST Inspection Summary Report (Report 6)", generated on October 23, 2020
- Total Number of Regulated Businesses and Facilities:
 - In 1996: 1,937
 - Current CUPA Count: 2,901
 - Current PA Count: 538
 - An increase of 1,502 businesses and facilities
 - Comments: The total regulated businesses and facilities subject to Business Plan requirements exceeds the total number of regulated businesses and facilities in the CUPA's application for certification, which is likely due to an accounting error when the application was submitted.
- Total Number of Hazardous Materials Release Reporting Inventory and Response Plan (Business Plan) Regulated Businesses and Facilities:
 - In 1996: 1,971
 - Current CUPA Count: 2,301 (including 1,779 facilities and 213 Agricultural Handlers)
 - Current PA Count: 501
 - An increase of 831 businesses and facilities
 - Comments: The total regulated businesses and facilities subject to Business Plan requirements exceeds the total number of regulated businesses and facilities in the CUPA's application for certification, which is likely due to an accounting error when the application was submitted.
- Total Number of Regulated Underground Storage Tank (UST) Facilities:
 - In 1996: 419
 - Current CUPA Count: 162
 - Current PA Count: 49

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OBSERVATIONS AND RECOMMENDATIONS

- A decrease of 208 facilities
- Total Number of Regulated USTs:
 - In 1996: 1,317
 - Current CUPA Count: 617
 - Current PA Count: 215
 - A decrease of 485 USTs
- Total Number of Regulated Hazardous Waste Generators (HWGs):
 - In 1996: 1,182
 - Current CUPA Count: 1,583
 - An increase of 401 facilities
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
 - In 1996: N/A
 - Current CUPA Count: 5
 - An increase of 5 facilities
- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
 - In 1996: 44
 - Current CUPA Count: 34
 - A decrease of 10 facilities
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
 - In 1996: none specified
 - Current CUPA Count: 62
 - Comments: 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 Regulated Risk Management Prevention Plan (RMPP) or CalARP Program Facilities:
 - In 1996: 95
 - Current CUPA Count: 20
 - Current PA Count: 6
 - A decrease of 69 facilities
- Total Number of Regulated APSA Tank Facilities:
 - In 1996: N/A
 - Current CUPA Count: 241
 - Current PA Count: 35
 - An increase of 276 facilities

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OBSERVATIONS AND RECOMMENDATIONS

CUPA Personnel:

- Inspection and Other Staff
 - Upon Certification in 1996:
 - CUPA: **12** Staff, each at a Full or Part Time Equivalent = **12.6** Full Time positions
 - City of Ventura Fire Department PA: **3** Staff, each at a Full or Part Time Equivalent = **2.6** Full Time positions
 - Santa Paula Fire Department PA: **4** Staff, each at a Part Time Equivalent = **0.6** Full Time position
 - Currently:
 - CUPA: **16** Staff, each at a Full Time Equivalent = **16** Full Time positions
 - City of Ventura Fire Department PA: **2** Staff, each at a Full Time Equivalent = **2** Full Time positions
- Supervisory and Management Staff
 - Upon Certification in 1996:
 - CUPA: **1** Staff at a Full Time Equivalent = **1** Full Time position
 - City of Ventura Fire Department PA: **1** Staff, each at a Full Time Equivalent = **1** Full Time position
 - Santa Paula Fire Department PA: **1** Staff, each at a Full Time Equivalent = **1** Full Time position
 - Currently:
 - CUPA: **1** Staff at a Full Time Equivalent = **1** Full Time position
 - City of Ventura Fire Department PA: **1** Staff, each at a Full Time Equivalent = **1** Full Time positions

RECOMMENDATION:

Continue to conduct the annual review and update of the fee accountability program to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing businesses and facilities regulated within each program element. Develop a procedure detailing the efforts expended in conducting the annual review and update of the CUPA's fee accountability program. In coordination with the PA, reevaluate the current budget and expenditures, single fee assessment for each entity, and funding allocation for program services so that, if applicable, the CUPA is able to justify the need to increase fees, staff levels, and other resources as necessary and reasonable to ensure adequate implementation of each program element.

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.

2. OBSERVATION:

The area plan is generally excellent. However, the use of various obsolete terms and citations were observed. The page numbers indicated below are in reference to the pdf document provided by the CUPA, not the page numbers of the area plan.

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- Page 2 of 65 in Part Three: The area plan references the outdated Uniform Fire Code. The current fire code adopted by the state is the California Fire Code, and the 2019 edition became effective January 1, 2020.
- Pages 7, 64, and 129: The term “California Emergency Management Agency” is now “California Office of Emergency Services.”
- Pages 40-41, 145 and 1164: No mention was made of the following Cal OES-sponsored Type II hazmat rigs located within a two-hour response time that are available assets to the CUPA to assist with a major incident:
 - HM-11 (headquartered at LA County Fire)
 - HM-12 (headquartered at LA City Fire)
 - HM-51 (headquartered at Kern County Fire)
 - HM-61 (headquartered at San Diego County Fire), and
 - HM-62 (headquartered at San Bernardino County Fire).
- Pages 64 and 74: “Fish and Game” has become “Fish and Wildlife”.
- Page 65: the California Integrated Waste Management Board is now Cal Recycle, and Forestry and Fire Protection is now Cal Fire.
- Page 79: the “Chemical Emergency Planning and Response Commission (CEPRC)” is now the “State Emergency Response Commission (SERC)”.
- Page 131: the Cal OES url is obsolete and is now www.caloes.ca.gov/cal-oes-divisions/hazardous-materials/spill-release-reporting.
- Pages 135 and 138: For up-to-date chemical inventories, consult CERS rather than the Local Emergency Planning Committee (LEPC). LEPCs work well in the other 49 states, but in California, the repository for chemical inventory information is CERS.

Note: The examples above do not include all instances where obsolete terms and citations were observed.

RECOMMENDATION:

Address the various obsolete terms and citations with the next review and update of the area plan.

3. OBSERVATION:

Review of overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, information provided by the CUPA and Self-Audit Reports for July 1, 2017, through June 30, 2020, is summarized below:

- The number of HWG facilities varies among CERS, information provided by the CUPA, and what is indicated in the I&E Plan:
 - CERS indicates 1,681 HWG facilities
 - The CUPA reports 1,583 HWG facilities, which includes:
 - 42 RCRA LQGs, 37 Tiered Permitted facilities, and 6 Household Hazardous Waste facilities)
 - The I&E Plan reports 1,552 HWG facilities
- CERS indicates 130 facilities do not have a last inspection date.

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- The CUPA inspected 93% of HWG facilities within the last three years. Many facilities had multiple inspections.
 - 3,439 HWG inspections were conducted, including 258 “other” inspections.
 - 2,136 violations were cited during 1,128 facility inspections, including:
 - one Class I violation
 - 1,032 Class II violations, and
 - 1,104 minor violations
 - No violations were cited during 2,311 inspections.
- 2,029 of 2,136 (95%) cited violations returned to compliance. The CUPA is doing well to obtain RTC for cited violations.
- The CUPA participated in 12 statewide enforcement actions and completed three formal hazardous waste enforcement cases.
- The CUPA conducted several sampling events during the evaluation period.
- DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

RECOMMENDATION:

In order to assist HWG compliance, ensure that complete, process based inspections are conducted in order to identify any potential violations, to ensure consistent hazardous waste program implementation. Review data quality accuracy at each inspection in order to reduce discrepancies in counting. Consider incorporating additional description detail on informal enforcement to enhance the application of graduated series of enforcement efforts.

4. OBSERVATION:

The I&E Plan contains APSA program information that is inaccurate, outdated or may benefit from improvement.

- Page 3: The Frequency of Inspections table reflects inaccurate minimum mandated inspections of once every three years and should include additional information that the mandated triennial inspection frequency applies to each APSA tank facility that is required to prepare and implement an SPCC Plan and stores 10,000 gallons or more of petroleum.
- Page 8: A RTC timeframe is not included for the APSA Program. There are no established RTC times for APSA violations; however, when cited with a minor violation, Unified Program facilities have 30 days from the date of the notice to return to compliance, in accordance with HSC 25404.1.2(c)(1).

RECOMMENDATION:

Update the APSA program information in the I&E Plan.

5. OBSERVATION:

The CUPA utilizes the CUPA Forum Board APSA inspection checklists as guide for the inspectors during inspections. The CUPA provides APSA tank facilities a narrative summary of the violations, including comments, identified during the inspection.

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The PA utilizes a Tier II qualified facility inspection checklist, which includes 26 APSA violations. The CUPA Forum Board APSA Tier II qualified facility inspection checklist, based on the current Unified Program violation library in CERS, contains 87 violations.

The PA used a Tier I qualified facility inspection checklist when performing an inspection on October 28, 2019, at CERS ID 10334071, an APSA facility that is required to prepare and implement a professional engineer (PE)-certified SPCC Plan.

RECOMMENDATION:

Utilize the latest version of the CUPA Forum Board APSA inspection checklists for conducting APSA tank facility inspections, and ensure the inspection checklist being utilized is applicable to the APSA tank facility being inspected.

6. OBSERVATION:

SPCC Plans were provided by CERS IDs 10333813 and 10334008 with APSA CERS submittals and were accepted by the CUPA. SPCC Plans are not required as part of an APSA CERS submittal; therefore, SPCC Plans should not be uploaded to CERS.

The APSA documentation upload section in CERS is for providing annual tank facility statement submittals, unless a hazardous materials business plan is already provided, or for providing other local reporting requirement documents.

RECOMMENDATION:

In the event an APSA tank facility provides an SPCC Plan to CERS, the CUPA and its PA should provide feedback (using the regulator comments field), advising the facility to not include the SPCC Plan in future CERS submittals.

7. OBSERVATION:

The CUPA's website contains various resources for the public and regulated community, however, it contains APSA program information that is outdated, incorrect, or may benefit from improvement.

- The CUPA's APSA webpage at: <https://vcrma.org/aboveground-petroleum-storage-tank-program> has an inactive link for the Office of the State Fire Marshal website and an inactive link for the Other Regulatory Links page.
- The APSA document (link provided within the first paragraph on this webpage: <https://docs.vcrma.org/images/pdf/eh/haz-mat/Aboveground-Petroleum-Storage-Act.pdf>) includes an outdated APSA statute, which does not incorporate amendments made by Assembly Bill 2902 (Stats. 2018).

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- The linked SPCC Rule document (<https://docs.vcrma.org/images/pdf/eh/haz-mat/SPCC-Rule.pdf>) does not identify a specific version of the SPCC Rule, which is important because the SPCC Rule has been amended several times. Direct links to current federal regulations, including the SPCC Rule, are available and can be provided via the Electronic Code of Federal Regulations website at: <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=63d4daab7e198debe11197523286ac5c&mc=true&n=pt40.24.112&r=PART&ty=HTML>.
- The “APSA Guide to TIUGAs” document provided via the tanks in underground area link (<https://docs.vcrma.org/images/pdf/eh/haz-mat/Tanks-in-an-Underground-area-guidance.pdf>) is outdated. Current information on TIUGAs is available on the OSFM APSA webpage at: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/>.
- The “OSFM Farm fact sheet” dated January 26, 2016, provided via the Farm Guidance link (<https://docs.vcrma.org/images/pdf/eh/cupa/Farm-guidance.pdf>) has been superseded by the most recent version, issued February 19, 2016.
- The document under the “excluded” tanks link (<https://docs.vcrma.org/images/pdf/eh/cupa/Tanks-excluded.pdf>) refers to an outdated section of the APSA statute (HSC Section 25270.2). HSC Section 25270.2(a)(2) is missing information on storage tanks with a permit by rule authorization from Unified Program Agencies. HSC Section 25270.2(a)(8) on tiny TIUGA (less than 55-gallon shell capacity) is also missing.
- The CUPA’s APSA Program webpage (<https://vcrma.org/aboveground-petroleum-storage-tank-program>) and the “What is Petroleum” linked document (<https://docs.vcrma.org/images/pdf/eh/haz-mat/What-is-petroleum.pdf>) contain the following statement that is inconsistent with current OSFM guidance on petroleum, available on the OSFM APSA webpage (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/petroleum/>):
 - “Synthesized compounds that may contain hydrocarbons as part of the molecule are not considered petroleum. However, a liquid mixture of these compounds with petroleum in any amount would be petroleum under APSA.”
 - “Mixtures that contain any fraction of petroleum are considered to be petroleum and therefore the total mixture must be included when determining the tank facility’s total aggregate storage capacity.”
- The storage capacity and SPCC Plan preparation information on ‘non-qualified facilities’ and qualified facilities are incorrect (<https://vcrma.org/aboveground-petroleum-storage-tank-program>). Qualified facilities may have up to 10,000 gallons of total aboveground oil storage capacity, while facilities that do not meet the qualified facility criteria have more than 10,000 gallons of total aboveground oil storage capacity. All facilities regulated under the SPCC Rule are required to prepare and implement an SPCC Plan; however, conditionally exempt APSA tank facilities are not required to prepare and implement an SPCC Plan under APSA. In addition, only qualified facilities are able to self-certify their SPCC Plan, or have the option to have a PE review and certify their SPCC Plan. Facilities not meeting the qualified facility criteria are required to have a PE-certified SPCC Plan.

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- The “CalEPA APSA Fact Sheet” (<https://docs.vcrma.org/images/pdf/eh/haz-mat/APSA-Fact-Sheet.pdf>) contains information relevant to Assembly Bill 1130 (Laird, Stats. 2007). However, a few other bills have amended the APSA statute since 2007; therefore, it may be beneficial to the regulated community for the CUPA to update this fact sheet, remove it, or provide fact sheets on all other bills that have amended APSA since 2007.
- The “CalEPA SPCC Fact Sheet” (<https://docs.vcrma.org/images/pdf/eh/haz-mat/SPCC-Fact-Sheet.pdf>), dated December 2007, is outdated and does not represent the current requirements of the SPCC Rule.
- The CERS help material “APSA reporting in CERS” (<https://docs.vcrma.org/images/pdf/eh/haz-mat/APSA-reporting-in-CERS.pdf>) on the Hazardous Materials CUPA Program Forms webpage (<https://vcrma.org/hazardous-materials-cupa-program-forms>) is outdated; this document was revised in March 2019, and available on CERS Central at: <https://cers.calepa.ca.gov/about-cers/help-materials/> since April 1, 2019, along with another help material on preparing an APSA submittal in CERS.
- The OSFM Tier II qualified facility SPCC Plan template dated “08/2015” provided via the Tier II link at: https://docs.vcrma.org/images/pdf/eh/haz-mat/Tier-II_SPCC_PlanTemplate.pdf (and the SPCC Tier II template link on the Hazardous Materials CUPA Program Forms webpage at: <https://vcrma.org/hazardous-materials-cupa-program-forms>) is outdated and may not contain all applicable requirements; this template has been superseded by the most recent version dated “09/2018.”
- The online APSA and SPCC Training link to San Diego County CUPA’s website at: https://www.sandiegocounty.gov/content/sdc/deh/hazmat/hmd_apsa/hmd_tier_1_template_course.html is no longer valid.

RECOMMENDATION:

Update the CUPA’s website, including updating or removing outdated documents or broken links and replacing outdated versions of the APSA statute documents with direct links to statute on the California Legislative Information website.

8. OBSERVATION:

The CUPA and its PA may not be regulating all APSA tank facilities.

CERS identifies 238 facilities within the CUPA’s jurisdiction as APSA applicable. However, the CUPA’s local data management system identifies 207 APSA tank facilities.

- There are 203 APSA tank facilities in both CERS and the CUPA’s local data management system.
- 3 APSA tank facilities identified in the CUPA’s local data management system are APSA tank facilities, however, are reported as “APSA not applicable” in CERS.
- 35 APSA tank facilities are not included in the CUPA’s local data management system, however, are reported as “APSA applicable” in CERS.
 - 10 of these 35 APSA tank facilities are APSA tank facilities that should be included in the CUPA’s local data management system;
 - The other 25 APSA tank facilities should have the APSA reporting requirement changed in CERS to “APSA not applicable”.

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- 5 other APSA tank facilities are reported as “APSA not applicable” in CERS, and should be included in the CUPA’s local data management system.

CERS identifies 34 APSA tank facilities within the PA’s jurisdiction as “APSA applicable.” However, the PA’s local data management system identifies 38 APSA tank facilities.

- There are 33 facilities in both the CERS and PA local data management systems.
- 1 APSA tank facility identified in the PA’s local data management system is an APSA tank facility, however it is reported as “APSA not applicable” in CERS.
- 2 other APSA tank facilities are reported as “APSA not applicable” in CERS, and should be included in the PA’s local data management system.

RECOMMENDATION:

Complete the reconciliation of the CUPA’s and PA’s local data management systems with CERS for APSA program information.

9. OBSERVATION:

Multiple APSA tank facilities submitted a hazardous materials business plan (HMBP) in lieu of the APSA tank facility statement using the 2011 emergency response and training plans template with the outdated/invalid phone number for OSFM.

RECOMMENDATION:

Encourage each APSA tank facility to use the current 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 current template is available in CERS.

10. OBSERVATION:

CERS finds 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.

The following are within the jurisdiction of the CUPA:

- CERS ID 10333396: Tank IDs 1 – 3,
- CERS ID 10332952: Tank IDs 1 – 3, and
- CERS ID 10332910: Tank IDs 1 and 2.

The following are within the jurisdiction of the PA:

- CERS ID 10334146: Tank IDs 1 and 2
- CERS ID 10334194: Tank IDs 1 – 3, and
- CERS ID 10335082: Tank IDs 1 – 3.

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RECOMMENDATION:

The State Water Board recognizes the CUPA has been in contact with facility owners or operators, and has informed them in order to remain in compliance, owners or operators must replace or remove single-walled USTs by December 31, 2025.

Continue to provide verbal and written reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. 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 or operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project USTs. More information on funding sources may be found at: https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html

11. OBSERVATION:

The CUPA's website (<https://vcrma.org/cupa>) is generally well organized and provides basic compliance guidance for the HWG Program. However, the following links on the webpage are broken:

- [Hazardous Waste Fact Sheets and Guidance Documents](https://vcrma.org/hazardous-materials-cupa-program-forms) (<https://vcrma.org/hazardous-materials-cupa-program-forms>)
 - Suggested link: <https://dtsc.ca.gov/publications-index/managing-waste-publications/>
- [Generator Requirements](https://docs.vcrma.org/images/pdf/eh/haz-mat/Generator-Requirements.pdf) (<https://docs.vcrma.org/images/pdf/eh/haz-mat/Generator-Requirements.pdf>)
 - Suggested link: <https://dtsc.ca.gov/hazardous-waste-generator-requirements-fact-sheet/>
- [Storage Times](http://docs.vcrma.org/images/pdf/eh/haz-mat/Toxic-Subs-Storage-Times.pdf) (<http://docs.vcrma.org/images/pdf/eh/haz-mat/Toxic-Subs-Storage-Times.pdf>)
 - Suggested link: <https://dtsc.ca.gov/hazardous-waste-accumulation-time-for-generators/>
- [Hazardous Waste Classification Training](http://vcrma.org/envhealth/cupa/pdf/hwdef.pdf) (<http://vcrma.org/envhealth/cupa/pdf/hwdef.pdf>)
 - Suggested link: <https://dtsc.ca.gov/defining-hazardous-waste/>

RECOMMENDATION:

Frequently review the website to ensure functionality of internal and external links to information. Replace the broken links identified above with the suggested links provided.

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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. HAZARDOUS WASTE AND HMBP INSPECTIONS & WILDIRE ASSISTANCE:

The CUPA was able to maintain the HWG and HMBP facility inspection frequencies at least once every three years as stated in the I&E Plan, while simultaneously responding to wildfire incidents in 2017 through 2020, adapting to COVID-19 pandemic limitations, and struggling with high staff turnover. The CUPA was able to conduct over 250 follow-up HWG and HMBP inspections, attaining a 95% compliance rate for facilities with cited violations during the evaluation timeframe from July 1, 2017, to June 30, 2020.

The CUPA is commended for ensuring the HWG program and HMBP program were consistently and successfully implemented even while tasked with response and debris removal activities during the Thomas Fire of 2017, the Woolsey-Hill Fire of 2018 as well as other California wildfires occurring through 2020. The CUPA assisted the county with the cleanup of residences destroyed during the Thomas Fire of 2017 and the Woolsey-Hill Fire of 2018. In addition to working with DTSC and U.S. EPA to remove hazardous waste at more than 1,200 properties during the Phase 1 debris removal, CUPA staff also manned the Local Assistance Centers (LACs) and coordinated the Phase 2 debris removal with CalRecycle.

2. DISPLAY OF POSITIVE LEADERSHIP:

State Water Board recognizes both the CUPA and PA as active participants in the Southern California Technical Advisory Group, resulting in the display of positive leadership. State Water Board staff occasionally draw on the CUPA and PA for technical UST Program input and appreciate the shared collaborative relationship.

3. COVID-19 ASSISTANCE:

The CUPA, working alongside county, city code enforcement staff, and disaster service workers, participated in Ventura County's COVID Ambassador Program, which was implemented early-on amidst the statewide COVID-19 pandemic response efforts. Ambassadors working in the Program, visit each business that has registered online at the Ventura County Recovers business registration webpage (<https://www.venturacountyrecovers.org/business-registration/>). Ambassadors assist CUPA facilities and medical waste facilities by reviewing each facility's COVID-19 Prevention Plan for compliance, ensuring the Social Distancing/Mask Hotline Flyer has been posted by the facility, and are able to answer any questions about facility operation as it relates to the various requirements under different business sectors. The CUPA performed more than 700 COVID compliance inspections, separate from routine CUPA inspections, from March through July of 2020. In addition, ambassadors respond to calls from the public or employees regarding complaints or questions on how businesses are operating and coordinating any enforcement actions with county counsel and the District Attorney's office.
