



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

September 21, 2020

Mr. Ross E. Kelly
Deputy Fire Chief
City of Bakersfield Fire Department
2101 H Street
Bakersfield, California 93301-3921

Dear Mr. Kelly:

During October 2018, through March, 2019, CalEPA and the state program agencies conducted a performance evaluation of the City of Bakersfield Fire Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System data, and oversight inspections.

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

CalEPA recognizes the delayed issuance of this final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in December 2020, there is sufficient time for submittal and review of one Evaluation Progress Report, although corrective actions and resolutions prescribed extend beyond submittal of the first Evaluation Progress Report. The CUPA is required to submit the Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report. The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in subsequent Progress Reports have been finished in advance

Please submit an Evaluation Progress Report within 60 days from the date of this letter (to CalEPA by November 30, 2020). Please submit the Evaluation Progress Report to Sam Porras at Samuel.Porras@calepa.ca.gov.

Air Resources Board • Department of Pesticide Regulation • Department of Resources Recycling and Recovery • Department of Toxic Substances Control Office of Environmental Health Hazard Assessment • State Water Resources Control Board • Regional Water Quality Control Boards

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

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

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Howard H. Wines, III
Prevent Services Director
City of Bakersfield Fire Department
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Ms. Annalisa Kihara
Supervising Water Resource Control Engineer
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Ms. Laura Fisher
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Ms. Maria Soria
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cc sent via email:

Mr. James Hosler, Chief
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Ms. Jennifer Lorenzo
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cc sent via email:

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: City of Bakersfield Fire Department

Evaluation Period: October 2018 through March 2019

Evaluation Team Members:

- **CalEPA Team Lead:** Kareem Taylor, Samuel Porras
- **DTSC:** Matthew McCarron
- **Cal OES:** Denise Gibson, Jack Harrah
- **State Water Board:** Sean Farrow
- **CAL FIRE-OSFM:** Joann Lai, 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 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

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CalEPA recognizes the delayed issuance of this final Summary of Findings report. Consequently, as the next CUPA Performance Evaluation is scheduled to begin in December 2020, there is sufficient time for submittal and review of one Evaluation Progress Report, although corrective actions and resolutions prescribed extend beyond submittal of the first Evaluation Progress Report. The CUPA is required to submit the Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report. The CUPA is strongly encouraged to provide an update detailing as much progress made as possible in accomplishing the corrective actions and resolutions for each identified deficiency and incidental finding, particularly if steps for corrective actions and resolutions outlined for completion in subsequent Progress Reports have been finished in advance.

The 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. The Evaluation Progress Report is due on **November 30, 2020**.

Upon review of the Progress Report, the Evaluation Team will determine whether deficiencies can be considered corrected and whether incidental findings can be considered resolved. Deficiencies that remain uncorrected and incidental findings that remain unresolved will carry through to the 2020 CUPA Performance Evaluation.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA is not ensuring that personnel involved with Unified Program implementation meet the applicable minimum training requirements.

There are insufficient training records to indicate that Unified Program personnel completed training in the following areas:

- Hazardous materials and hazardous waste permitting, inspection and enforcement duties, and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;
- Inspection techniques and scheduling including: evidence collection, chain of custody, sample preservation, and interviewing;
- Administration practices within a hazardous materials and hazardous waste program;
- Monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis; and
- Field staff health and safety training including: planning field inspections, safety equipment, on-site procedures, decontamination, and hazard recognition and avoidance.

Note: This deficiency was identified during the 2016 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15260
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will establish and implement an action plan to ensure CUPA personnel meet the minimum training requirements. At minimum, the plan will include steps and timelines for existing CUPA personnel to meet minimum training requirements.

Upon completion of the training, the CUPA will provide CalEPA with documentation to demonstrate CUPA personnel have met the minimum education requirements. Training documentation will include at minimum, an outline of the training conducted and a list of CUPA personnel attending training.

2. DEFICIENCY:

The CUPA is not consistently following up and documenting return to compliance (RTC) information in the California Environmental Reporting System (CERS) for facilities cited with violations in inspection reports.

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

DEFICIENCIES REQUIRING CORRECTION

Review of compliance, monitoring, inspection and enforcement (CME) information in CERS and inspection reports indicates there is no documented return to compliance (RTC) information for the number of violations cited during the following Fiscal Years (FYs):

- FY 2017/2018
 - Hazardous Materials Business Plan (HMBP): 58 of 108 violations (54%)
 - California Accidental Release Prevention (CalARP): 14 of 14 violations (100%)
 - Hazardous Waste Generator (HWG): seven of 36 violations (19%)
- FY 2016/2017
 - HMBP: 149 of 312 (48%) violations
 - HWG: 47 of 108 (44%) violations
- FY 2015/2016
 - HWG: 18 of 237 (8%) violations

CITATION:

Health and Safety Code (HSC), Chapter 6.5, Section 25187.8(g)
HSC, Chapter 6.7, Section 25288(d)
HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a)
[Cal OES, DTSC]

CORRECTIVE ACTION:

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

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

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

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with RTC documentation received during the past three months, for up to 10 facilities from each program element (CalARP, HMBP and HWG) as requested by Cal OES and DTSC. In the absence of RTC documentation, the CUPA will document appropriate follow-up activity and report to CalEPA all progress towards ensuring compliance with each facility.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

3. DEFICIENCY:

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

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

- Violation for exceedance of authorized accumulation time incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in Health and Safety Code, Section 25404(a)(3).
 - CERS ID 10022626: inspection date March 10, 2016
 - CERS ID 10024696: inspection date May 26, 2017
 - CERS ID 10023850: inspection date May 22, 2017
 - CERS ID 10025398: inspection date May 2, 2017
 - CERS ID 10117852: inspection date March 27, 2017

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

CCR, Title 22, Sections 66260.10 and 66262.34

[DTSC]

CORRECTIVE ACTION:

Beginning immediately, inspectors will ensure violations are correctly classified and that appropriate enforcement actions are pursued for non-minor violations.

By the 1st Progress Report, the CUPA will train personnel on the classification of minor, Class I, and Class II violations, as defined in HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, HSC Chapter 6.11, Section 25404(a)(3), and CCR, Title 22, Section 66260.10. The CUPA will train personnel on how to properly classify HWG violations during inspections and ensure personnel review the following:

- Violation Classification Training Video 2014
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
- Violation Classification Guidance Document
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>

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

By the 3rd Progress Report, the CUPA will provide CalEPA with a copy of inspection reports citing at least one HWG violation, for three HWG facilities that have been inspected after training has been completed and within the last six months. Each inspection report will contain observations,

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DEFICIENCIES REQUIRING CORRECTION

factual basis, and corrective actions to correctly identify and classify each observed HWG violation.

4. DEFICIENCY:

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

Review of UST facility files and the State Water Board ELD well Proximity Notification Database finds the following UST facilities have not completed the required triennial ELD testing:

- CERS ID 10127599:
 - ELD testing completed 2013 and therefore, required to implement triennial ELD in 2016.
- CERS ID 10023271:
 - ELD testing completed 2011 and therefore, required to implement triennial ELD in 2014 and 2017.
- CERS ID 10124221:
 - ELD testing completed 2003 and therefore, required to implement triennial ELD in 2006, 2009, 2012, 2015 and 2018.

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities which have not implemented ELD testing. In addition, the CUPA will draft and provide CalEPA correspondence to notify UST facility owners or operators they are required to implement triennial ELD testing within 60 days. The draft correspondence shall also include language stating failure to implement triennial ELD testing within 60 days will lead to administrative or other formal enforcement measures including but not limited to permit revocation.

By the 2nd Progress Report, the CUPA will, if necessary, revise the draft correspondence based on feedback from the State Water Board and will submit the revised correspondence to CalEPA.

By the 3rd Progress Report, the CUPA will issue the correspondence to UST facility owners or operators.

By the 4th Progress Report, if triennial ELD testing has not been conducted, the CUPA shall initiate progressive enforcement. In addition, the CUPA will revise and provide to CalEPA the Inspection & Enforcement (I&E) Plan, or other applicable procedure. The I&E Plan or other

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DEFICIENCIES REQUIRING CORRECTION

applicable procedure will include, at minimum, language for ensuring UST facilities implement triennial ELD testing.

By the 5th Progress Report, the CUPA will, if necessary, revise and provide to CalEPA the I&E Plan, or other applicable procedure, based on feedback from the State Water Board.

By the 6th Progress Report, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure and provide training documentation to CalEPA which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

Once ELD testing has occurred, the CUPA will provide CalEPA with a copy of each facility's ELD testing results.

5. DEFICIENCY: CORRECTED

The UST Operating Permit, issued by the CUPA under the consolidated Unified Program Facility Permit (UPFP), is being issued to facilities with USTs that are not in compliance.

Note: This deficiency/incidental finding was identified during the 2016 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.7, Section 25285(b)
HSC, Chapter 6.11, Section 25404.2(a)(1)(A)
CCR, Title 23, Section 2712(c) and (e)
[CalEPA, State Water Board]

CORRECTIVE ACTION: COMPLETED

During the 2019 CUPA Performance Evaluation, the CUPA provided documentation including, but not limited to, UST Operating Permits issued under the consolidated UPFPs, annual UST compliance inspection reports, and UST testing documents, which demonstrated the UST Operating Permit, issued under the consolidated UPFP, is being issued to facilities with compliant USTs. This deficiency is considered corrected during the 2019 CUPA Performance Evaluation.

6. DEFICIENCY: CORRECTED

The CUPA is not consistently requiring UST facilities to implement a program of ELD testing, as required by Health and Safety Code, Sections 25292.4 and 25292.5; based on a facility's proximity to public drinking water wells.

Note: This deficiency was identified during the 2016 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

HSC, Chapter 6.7, Section 25292.4 and 25292.5
CCR, Title 23, Section 2644.1
[State Water Board]

CORRECTIVE ACTION: COMPLETED

During the 2019 CUPA Performance Evaluation, the CUPA provided documentation including, but not limited to, well proximity ELD test results and inspection reports for UST removal, demonstrating UST facilities have completed initial ELD testing. This deficiency is considered corrected during the 2019 CUPA Performance Evaluation.

7. DEFICIENCY: CORRECTED

The Inspection and Enforcement (I&E) Plan has inaccurate or incomplete information or is missing required components.

The following information is inaccurate or incomplete:

- Procedures for addressing complaints do not include the enforcement and closure of a complaint.
- Page 9: The Inspection Frequency table incorrectly references HSC, Section 2527.5(a) for the Aboveground Petroleum Storage Act (APSA) inspection frequency. HSC, Section 25270.5(a) requires a CUPA to inspect storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum at least once every three years. As the CUPA inspects APSA tank facilities with 10,000 gallons or more of petroleum at least once every two years, HSC, Section 25270.5(b) should be referenced instead.
- Page 26: The following statements are outdated and inaccurate:
 - “Facilities that have the storage capacity of at least 1,320 gallons and less than 10,000 gallons of petroleum are only subject to the SPCC requirements. Facilities with a storage capacity of 10,000 gallons or more are subject to both the SPCC and inspection requirements.” Tank facilities currently subject to the APSA Program include tank facilities subject to the Federal Spill Prevention, Control and Countermeasure (SPCC) rule (Code of Federal Regulations, Title 40, Part 112), tank facilities with 1,320 gallons or more of petroleum, and tank facilities with one or more tanks in underground areas (regardless of total petroleum storage capacity). With the exception of conditionally exempt tank facilities, all other APSA tank facilities are subject to SPCC Plan requirements. Facilities with a storage capacity of 10,000 gallons or more of petroleum are subject to an inspection per HSC, Section 25270.5(a).

The following information is missing:

- Provisions for ensuring the analysis of any samples shall be performed by a state certified laboratory.
- Pages 17 – 18: APSA Program information is missing in the Availability of Records section. All APSA tank facilities are required to annually submit a tank facility statement (or an HMBP in lieu of a tank facility statement) to CERS. Excluding conditionally exempt tank facilities, all other APSA tank facilities are required to prepare and implement an

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SPCC Plan, which must be maintained at the facility if the facility is normally attended at least four hours per day, or at the nearest field office if the facility is not so attended.

Note: OSFM recommends that the CUPA include reference HSC, Section 25270.12.1 for civil and administrative penalties and HSC, Section 25270.12.5 for misdemeanors in the Program Specific Enforcement Authorities section on Page 26.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the 2019 CUPA Performance Evaluation, the CUPA provided an updated I&E Plan that addressed the inaccurate, incomplete, and missing components identified in this deficiency. This deficiency is considered corrected during the 2019 CUPA Performance Evaluation.

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The CUPA is not utilizing the current Annual Single Fee Summary report template nor the quarterly Surcharge Transmittal report template in Title 27, Appendix C for submittal to CalEPA.

Review of the following submitted Annual Single Fee Summary and quarterly Surcharge Transmittal reports indicates the current report templates in Title 27, Appendix C were not utilized:

- FY 2015/2016: each quarterly Surcharge Transmittal Report
- FY 2016/2017: each quarterly Surcharge Transmittal Report
- FY 2017/2018: each quarterly Surcharge Transmittal Report and the Annual Single Fee Summary report

Revisions to CCR, Title 27 on July 1, 2018, includes changes to the information required to be reported on the Annual Single Fee Summary Report and quarterly Surcharge Transmittal Report templates.

CITATION:

CCR, Title 27, Sections 15250(b) and 15290(a)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA two quarterly Surcharge Transmittal reports for Fiscal Year 2020/2021 utilizing the current template in Title 27, Appendix C, available at: <https://calepa.ca.gov/cupa/publications/>.

By the 1st Progress Report, the CUPA will have submitted to CalEPA the Annual Single Fee Summary Report for Fiscal Year 2019/2020 utilizing the current template in Title 27, Appendix C available at: <https://calepa.ca.gov/cupa/publications/>.

The CUPA will utilize the current report templates in Title 27, Appendix C to report all subsequent quarterly Surcharge Transmittal reports and all subsequent Annual Single Fee Summary Reports.

2. INCIDENTAL FINDING:

UST Program information reported in Semi-Annual Report 6 (Report 6) for significant operational compliance (SOC) criteria, red tag issuance and the number of UST compliance inspections conducted is not consistent with CERS data.

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FINAL SUMMARY OF FINDINGS REPORT**

INCIDENTAL FINDINGS REQUIRING RESOLUTION

Review of UST compliance inspection information for the following FYs indicates:

- FY 2017/2018:
 - Report 6 indicates 24 instances in compliance with release prevention (RP), while CERS indicates 23.
 - Report 6 indicates 100 instances in compliance with RP and release detection (RD) criteria, while CERS indicates 104.
- FY 2016/2017:
 - Report 6 indicates 91 instances in compliance with RP and RD while CERS indicates 94.
- FY 2015/2016:
 - Report 6 indicates 38 instances in compliance with RP, while CERS indicates 39.
 - Report 6 indicates 38 instances in compliance with RP and RD, while CERS indicates 64.
 - Report 6 indicates 46 instances with no RP nor RD compliance; while CERS indicates 19.

Review of reported red tag issuance finds the following instances where red tag information is not consistent between Report 6 and CERS data:

- FY 2017/2018:
 - CERS ID 10023823: Red tag identification numbers 4052 and 4053 are reported in CERS and are not reported in Report 6.
 - CERS ID 10132186: Red tag identification number 2552 is reported in CERS and is not reported in Report 6.
 - 1400 Golden State Avenue: Red tag identification numbers 2470 and 2555 are reported in Report 6 are not reported in CERS.
- FY 2016/2017:
 - CERS ID 10132180: Red tag identification number 2548 is reported in CERS and is not reported in Report 6.
 - CERS ID 10124221: Red tag identification number 2596 is reported in Report 6 and is not reported in CERS.
- FY 2015/2016:
 - CERS ID 10124221: Red tag identification number 2547 is reported in CERS and is not reported in Report 6.

Review of reported annual UST compliance inspections finds the following instances where inspection numbers differ between Report 6 and CERS data:

- FY 2017/2018:
 - Report 6 indicates the CUPA conducting 147 UST compliance inspections while CERS data indicates 150.
- FY 2016/2017:
 - Report 6 indicates the CUPA conducting 141 UST compliance inspections while CERS data indicates 144.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

Note: As of October 1, 2018, SOC criteria reporting has been changed to technical compliance rate (TCR) criteria reporting. For the reporting period of July 1, 2018, through September 30, 2018, the CUPA will be reporting SOC criteria in Report 6 and CERS. For the reporting period of October 1, 2018, through December 31, 2018, and subsequent reporting periods, the CUPA will be reporting TCR criteria in Report 6 and CERS.

CITATION:

CCR, Title 23, Section 2713(c)(4) and (5)
CCR, Title 27, Section 15290(a)(3) and (4)
[State Water Board]

RESOLUTION:

The CUPA will consistently report UST Program information in the different reporting formats, including Report 6 and CERS.

By the 1st Progress Report, the CUPA will perform an analysis of the Data Management Procedure, or other applicable procedure, and identify the logic as to how reported UST Program information differs between Report 6 and CERS. Based on the analysis, if applicable, the CUPA will provide CalEPA with a revised Data Management Procedure, or other applicable procedure, that ensures consistent reporting of UST Program information between Report 6 and CERS.

By the 2nd Progress Report, the CUPA will, if necessary, provide CalEPA with a revised Data Management Procedure, or other applicable procedure, based on feedback from the State Water Board.

By the 3rd Progress Report, the CUPA will train UST inspection staff on the revised Data Management Procedure, or other applicable procedure, and provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training. Once training is complete, the CUPA will implement the revised procedure.

To demonstrate correction of this finding, the CUPA will consistently report UST Program information in Report 6 and CERS for two consecutive reporting periods.

3. INCIDENTAL FINDING:

The CUPA is not consistently ensuring UST related information in CERS is accurate and complete.

Review of the following UST submittal data in CERS obtained from the UST Facility/Tank Data Download report on November 1, 2018, indicates the following:

- Four USTs incorrectly show a liquid filled tank interstitial with either the primary or secondary constructed as steel.
- 13 single-wall steel USTs incorrectly show having no interior lining installed when interior tank lining is required.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

- Six USTs with single-walled pressurized product pipe incorrectly show having mechanical line leak detectors when an electronic line leak detector is required to be installed.
- Seven USTs with double-wall pressurized product pipe incorrectly show having no mechanical or electronic line leak detector installed.
- Six USTs incorrectly show no spill container/spill buckets installed when installation is required.
- Six USTs incorrectly show not having to conduct annual spill container testing.
- 58 USTs incorrectly show having no striker plate/bottom protectors installed when installation is required.
- 17 USTs installed after July 1, 2004, incorrectly show having to conduct secondary containment testing every 36 months when testing is not required.
- One UST installed after July 1, 2004, incorrectly shows having single-wall under dispenser containment installed when double-wall containment is required.
- One UST installed after July 1, 2004, incorrectly shows having to conduct periodic enhanced leak detection testing when testing is not required.
- Three USTs installed after July 1, 2004, incorrectly show having single-wall turbine containment sumps installed when double-wall containment is required.
- 12 USTs installed between January 1, 1984, and June 30, 2004, with double-wall product pipe incorrectly show having no continuous interstitial monitoring when continuous monitoring is required.

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

Note: Reference the following CERS FAQs: “General Reporting Requirements for USTs”; “When to Issue a UST Operating Permit”; “Common CERS Reporting Errors”; “Setting Accepted Submittal Status”; and “Which Forms Require Uploading to CERS.” Reference State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records.”

CITATION:

HSC, Chapter 6.7, Sections 25286 and 25288(a)
CCR, Title 23, Sections 2632(d)(1), 2634(d)(2) and 2641(g) and (h)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide to CalEPA the Data Management Procedure, or other applicable procedure, to ensure UST Program information in CERS is accurate and complete.

By the 2nd Progress Report, the CUPA will, if necessary, provide CalEPA with a revised Data Management Procedure or other applicable procedure, based on feedback from the State Water Board.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

By the 3rd Progress Report, the CUPA will train UST inspection staff on the revised procedure. Once training is complete, the CUPA will implement the revised Data Management Procedure or other applicable procedure.

With respect to submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete submittals when the next submittal is made, but no later than the next annual UST facility compliance inspection.

4. INCIDENTAL FINDING: RESOLVED

The CUPA is not consistently classifying Aboveground Petroleum Storage Act (APSA) violations correctly.

Not having a Spill Prevention, Control, and Countermeasure (SPCC) Plan was cited as a minor violation. Not having an SPCC Plan is not considered a minor violation as defined in HSC Section 25404(a)(3) as a minor violation does not include the following: (1) a violation that presents a significant threat to human health or the environment; or (2) a violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.” In addition, issuing a minor violation for not having an SPCC Plan is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (U.S. EPA) Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act.

Review of CERS violation data indicates CERS violation library code #4010001 (failure to prepare or have an SPCC Plan) was incorrectly classified as a minor violation in the following instances:

- FY 2016/2017: Two of two (100%)

Note: All four instances of violation #4010001 cited during FY 2015/2016 were correctly classified.

CITATION:

HSC, Chapter 6.67, Sections 25270.4.1(c), 25270.12, 25270.12.1, and 25270.12.5
HSC, Chapter 6.11, Sections 25404(a)(3), 25404.2(a)(3) and (4)
CCR, Title 27, Section 15200(a) and (e)
[OSFM]

RESOLUTION: COMPLETED

During the 2019 CUPA Performance Evaluation, the CUPA trained inspectors on how to properly classify violations during inspections as minor, Class I, and Class II, as defined in HSC Chapter 6.11, Section 25404(a)(3). Inspector training consisted of review of the Violation Classification Training Video 2014 (<https://www.youtube.com/watch?v=RB-5V6RfPH8>). The CUPA provided training documentation and three inspection reports, including CERS IDs, for facilities that were inspected during the evaluation process and cited with properly classified APSA violations. Therefore, this finding is considered corrected during the 2019 CUPA evaluation process.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

The CUPA inspects professional engineer (PE)-certified SPCC Plan APSA facilities using an inspection checklist that contains 34 violations. The inspection checklist does not include a section to identify the inspector conducting the inspection.

The CERS APSA violation library contains more than 90 APSA violations. There are more than 80 violations applicable to PE-certified SPCC Plan facilities in the CERS violation library.

RECOMMENDATION:

Review all APSA violations listed in the current CERS violation library and incorporate applicable full plan facility violations into the CUPA's APSA inspection checklist. Include a section on the APSA inspection checklist to identify the inspector conducting the inspection.

The CUPA may utilize the comprehensive APSA inspection checklists, such as those developed by the APSA Technical Advisory Group for use when inspecting the four different types of APSA facilities: Conditionally Exempt, Tier I Qualified, Tier II Qualified, and Full PE-certified SPCC Plan. Ensure the APSA inspection checklist used to conduct the inspection is applicable to the type of tank facility being inspected.

2. OBSERVATION:

SPCC Plans were accepted as part of the CERS APSA submittal from the following facilities:

- CERS ID: 10124221
- CERS ID: 10128724
- CERS ID: 10157325

The APSA documentation upload section in CERS is intended for providing the annual tank facility statement as part of the APSA submittal, unless an HMBP is submitted in lieu of an annual tank facility statement, and for other local reporting requirement documents.

RECOMMENDATION:

Reject CERS APSA submittals that contain an SPCC Plan.

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3. OBSERVATION:

DTSC staff attended two HWG inspections with the CUPA inspector on December 11, 2018.

The first HWG inspection was conducted at CERS ID 10024642. The facility repairs radiators for mostly commercial engines and has had a Tiered Permit for treating waste water since 1999. The inspector was well-prepared, obtained consent, and built a rapport with the facility. The inspector identified all HWG violations, including inspection of emergency equipment, labeling of waste drums, training, operating logs, labeling tanks and equipment, classifying and managing sand blast grit, and keeping stacks of flammable materials (cardboard) away from hazardous waste and welding tanks. There was no history of previous violations at the facility. The facility owner was unaware that written training plans were needed, as well as a log to track treated waste.

The second HWG inspection was conducted at CERS ID 10023010. The facility is an automotive dealership with vehicular service bays. The inspector was well-prepared, obtained consent, and built a rapport with the facility. The inspector identified all HWG violations during the walkthrough and conducted a complete paperwork review. During the walkthrough, the inspector noted some oil that was spilled by the used oil hauler who had picked up oil from the tanks that morning. The facility expected the oil hauler to update hazardous waste labels; however, the hauler did not. DTSC staff assisted with the review of the tank assessment and found the assessment to be incomplete and not signed by a Professional Engineer. Violations were cited for the following elements: training plan, training records, tank assessment, open containers, labeling (containers and tanks), and maintenance of emergency equipment.

For each HWG inspection detailed above, the inspector did not take photographs of violations or of spills on the ground. The inspector did not provide a written summary of identified violations to the facility owner/operator upon the conclusion of each inspection, however, the inspector did return to each facility a few days later to provide the written inspection checklists and to provide additional assistance with returning to compliance for the cited HWG violations.

RECOMMENDATION:

Take photographs of violations and contamination issues and provide a written summary of cited violations to the facility owner/operator at the end of each inspection. Unless the inspector is continuing or conducting a multi-day inspection, the inspector must provide a written summary of violations at the end of each inspection, as required by HSC, Section 25185(c).

4. OBSERVATION:

The HWG inspection reports in reviewed facility files includes a check box section for indicating consent to conduct the inspection was obtained and a section to include the name of the individual providing consent, most often, each is rarely filled out.

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There are three different HWG inspection checklists being used by different inspectors, during the same timeframe, to conduct the same type of HWG inspections. One HWG inspection checklist uses Envision Connect violation codes and does not include the statutory or regulatory reference with each violation. The second HWG inspection checklist includes CCR, Title 22 references with each violation. And the third HWG inspection checklist used is an outdated checklist developed by the CUPA Forum Board that has outdated violations. One of the Large Quantity Generator (LQG) inspection checklists does not include a section for violation notes.

The LQG inspection checklist has no space to provide a description of the violations cited.

RECOMMENDATION:

Document that consent is obtained to conduct the inspection and the name of the individual conducting the inspection. As well as, violation details observed. Ensure inspectors utilize the same inspection checklist for all hazardous waste inspections based on inspection type, e.g. Small Quantity Generator, LQG and Tiered Permitting.

5. OBSERVATION:

The City of Bakersfield website includes a web link to the fire department webpage (https://bakersfieldcity.us/gov/depts/fire/fire_prevention.htm). The fire department webpage includes a link to the "BFD Forms webpage" (https://bakersfieldcity.us/gov/depts/fire/bfd_forms.htm).

There is no information on the various CUPA programs elements on the website.

RECOMMENDATION:

Include additional details on the Bakersfield Fire Department web page regarding the six Unified Program elements.

6. OBSERVATION:

The Small Quantity Hazardous Waste Generator inspection checklists reference incorrect regulatory citations for issuing violations. For example:

- The violation for "Generator has an EPA ID number" is listed as HSC, Chapter 6.5, Section 25143.13, the correct citation is CCR, Title 22, Section 66262.12.
- The violation for "Hazardous waste determination made for all wastes" lists CCR 66262.40, the correct citation is CCR, Title 22, Section 66262.11.
- The violation for "Bills of Lading/receipts available" lists CCR 66262.40(a), which is the citation requiring generators to maintain copies of manifests for three years. The correct citation is HSC, Chapter 6.5, Section 25160.2(b)(3) and (4).
- The violation for "Empty containers are empty" cites CCR 66262.34(f), the correct citation is CCR, Title 22, Section 66261.7.

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RECOMMENDATION:

Ensure correct citations are used when issuing violations.

7. OBSERVATION:

The SB-989 Secondary Containment Testing policy and procedure does not accurately reflect requirements. The following are examples:

- Policy indicates testing shall be completed by either a licensed tank tester, licensed installer, or any person meeting the requirements. California Code of Regulations indicates Service Technicians are required to conduct secondary containment.
- Policy states, “Individuals employed by persons performing installation, repair, maintenance, calibration or annual certification of monitoring equipment for the purpose of conducting this work shall meet the requirements.” Persons working directly under the direct supervision of individuals qualified to complete work do not need to also have same certificates and licenses.
- Policy contains language which is specific to conducting annual monitoring certifications such as the monitoring certification form, submitting the form to the CUPA within 30-days, and notification requirements. The CUPA’s SB-989 Secondary Containment Testing policy and procedure references secondary containment testing, not annual monitoring certifications.
- Procedure requires pre-testing and specifically, requires pressure washing of components before testing. Pressure washing of components is not recommended.
- Procedure requires individual conducting testing to contact CUPA if vacuum cannot be applied for interstitial testing. Typically, if vacuum or testing cannot be completed, it is noted as a failure in test results, which are submitted to the CUPA within 30-days of completion.
- Procedure requires the use of an electronic device to conduct secondary containment testing. The use of an electronic device is not the only option available to test secondary containment.
- Procedure includes a form identified as Secondary System Certification Form. CCR, Title 23, Section 2637(e) specifically requires the use of Appendix VII, Underground Storage Tank Secondary Containment Testing Report Form when submitting secondary containment test results.

NOTE: Review of CERS indicates the CUPA has not reported violations based on the SB-989 Secondary Containment Testing policy and procedure.

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RECOMMENDATION:

Review and revise the SB-989 Secondary Containment Testing policy and procedure to ensure California Code of Regulations, manufacturer's guideline or standards, and Petroleum Equipment Institute Recommended Practices are accurately reflected.

8. OBSERVATION:

Review of annual UST compliance inspections finds one out of three Fiscal Years (FYs) where the CUPA did not inspect all regulated UST facilities.

- FY 2015/2016 – Eight of 137 (6%) of UST facilities were not inspected.

RECOMMENDATION:

Review annual UST compliance inspection data and continue to ensure regulated UST facilities are inspected annually.

9. OBSERVATION:

Review of CERS for the last three Fiscal Years finds a limited number of instances where reported UST violations have taken more than 90-days to return to compliance (RTC). The following are examples:

- CERS ID 10022425: violation date October 2, 2017. Violation reported is for Response Plan Approval (violation number 2010014). RTC was reported 260 days later, as June 19, 2018.
- CERS ID 10023790: violation date February 16, 2018. Violation reported is for Lined Tank Recertification (RP) (violation number 2030029). RTC was reported 202 days later, as September 6, 2018.
- CERS ID 10127599: violation date November 15, 2017. Violation reported is for Annual Leak Detection Equipment Maintenance (violation number 2030002). RTC was reported 184 days later, as May 18, 2018.

RECOMMENDATION:

Review the Inspection & Enforcement Plan to ensure inspection personnel are implementing appropriate graduated series of enforcement to obtain timely RTC.

10. OBSERVATION:

Review of CERS compliance, monitoring and enforcement (CME) data finds the following instances when the CUPA utilized the "general" violation number 2010 from the CERS violation library to report UST violations when a correct CERS violation number should have been used:

- CERS ID 10118047: violation date June 29, 2018, comments indicate no valid Board of Equalization (BOE) number. The correct CERS violation number is 2010010, "Failure to

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submit a complete and accurate application for a permit to operate a UST, or for renewal of the permit.”

- CERS ID 10123120: violation date May 24, 2017, comments indicate incorrect line leak detector installed. The correct CERS violation number is 2030025, “Failure of the line leak detector (LLD) monitoring pressurized piping to meet one or more of the following requirements: Monitor at least hourly. Be capable of detecting a release of 3.0 gallons per hour at 10 p.s.i.g. Restrict or shut off the flow of product through the piping when a leak is detected,” or 2030043, “Failure of the leak detection equipment to be installed, calibrated, operated, and/or maintained properly.”
- CERS ID 10022770: violation date September 7, 2016, comments indicate failure to install correct leak detection equipment. The correct CERS violation number is 2030043, “Failure of the leak detection equipment to be installed, calibrated, operated, and/or maintained properly.”

RECOMMENDATION:

Review Data Management Procedures or other applicable procedures to ensure UST inspection staff are directed to utilize the correct CERS violation number when reporting UST violations in CERS. Ensure UST inspection staff are trained to utilize CERS violation library numbers when reporting UST violations.

11. OBSERVATION:

Review of CERS indicates the following USTs or UST systems as having single-walled components which may require permanent closure by December 31, 2025, in accordance with Health and Safety Code, Chapter 6.7, Section 25292.05.

- CERS ID 10124221
- CERS ID 10134223
- CERS ID 10134208
- CERS ID 10232770

Note: The examples provided above may not reflect all USTs or UST systems with single-walled components which may require permanent closure by December 31, 2025, in accordance with Health and Safety Code, Chapter 6.7, Section 25292.05.

RECOMMENDATION:

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

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information regarding single-walled UST closure requirements may be found at:
http://waterboards.ca.gov/water_issues/programs/ust/single_walled/.

Notify facility owners/operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project tanks. More information on funding sources may be found at:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml.

12. OBSERVATION:

Review of the UST Inspection Standard Operating Procedure, Section 4.0 finds the issuance of UST Operating Permits under the consolidated Unified Program Facility Permit (UPFP) are withheld for UST noncompliance.

NOTE: Effective January 1, 2019, Health and Safety Code, Chapter 6.7, Section 25285 was amended to specify the UST operating permit shall only be withheld for those USTs that are red tagged and undergoing enforcement.

RECOMMENDATION:

Review and revise UPFP and UST Operating Permit permitting procedures for the UST program to ensure consistency with UST statutory and regulatory requirements, specifically, the recent revisions to Health and Safety Code, Chapter 6.7, Section 25285 regarding issuance and renewal of permits for UST facilities.

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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. APSA ADVISORY COMMITTEE:

A staff from the Bakersfield City Fire Department CUPA is part of the APSA Advisory Committee that meets quarterly or as necessary to provide coordinated and consistent interpretation and guidance on the APSA Program throughout the State of California. As an alternate member of the APSA Advisory Committee, the staff participates in discussions regarding proposed APSA regulations, APSA Program implementation and APSA Program developments.

2. CUPA TRAINING CONFERENCE PRESENTER:

During the 2018 annual CUPA Training Conference, an inspector presented in the UST System Components class. The inspector has tremendous knowledge of components installed at UST facilities due to previous experience as a licensed California Tank Tester and ICC certified Service Technician. The inspector was able to effectively communicate personal experiences to the audience during the presentation regarding the various UST components and common failure points of components.