

July 30, 2020

Mr. Amiel Thurston
Interim Fire Chief
Fremont City Fire Department
3300 Capitol Avenue, Bldg. A
Fremont, California 95438-5006

Dear Mr. Thurston:

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

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. The report also includes examples of outstanding Unified Program implementation. Enclosed, please find the final Summary of Findings report.

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as meets Unified Program standards.

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 (September 30, 2020), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to Sam Porras at Samuel.Porras@calepa.ca.gov, or mail.

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

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

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Jay Swardenski
Fire Marshal
Fremont City Fire Department
3300 Capitol Avenue, Bldg. A
Fremont, California 95438-5006

Ms. Annalisa Kihara
Supervising Water Resource Control Engineer
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Ms. Laura Fisher
Senior Environmental Scientist, Supervisor
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Ms. Maria Soria
Program Manager
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Ms. Diana Peebler
Senior Environmental Scientist, Supervisor
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. Amiel Thurston
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cc sent via email:

Mr. James Hosler, Chief
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Ms. Jennifer Lorenzo
Senior Environmental Scientist (Supervisor)
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Larry Collins, Chief
California Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655-4203

Mr. Jack Harrah
Senior Emergency Services Coordinator
California Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655-4203

Ms. Jessica Botsford
Environmental Scientist
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Mr. Wesley Franks
Environmental Scientist
State Water Resources Control Board
P.O. Box 2231
Sacramento, California 95812-2231

Mr. Glenn Warner
Senior Environmental Scientist, Specialist
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. Amiel Thurston
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cc sent via email:

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: Fremont City Fire Department

Evaluation Period: February 2019 through May 2019

Evaluation Team Members:

- **CalEPA Team Lead:** Marc Lorentzen, Samuel Porras
- **DTSC:** Elizabeth Brega
- **Cal OES:** Jack Harrah
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the CUPA's Unified Program implementation and performance is considered to meet Unified Program standards.

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

Samuel Porras
CalEPA Unified Program
P.O. Box 2815
Sacramento, CA 95812
Phone: (916) 327-9557
E-mail: Samuel.Porras@calepa.ca.gov

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

Each Evaluation Progress Report should be submitted to the CalEPA Team Lead and must include a narrative stating the status of all deficiencies and incidental findings identified in this Final Summary of Findings Report.

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

1st Progress Report: September 30, 2020
3rd Progress Report: March 30, 2021

2nd Progress Report: December 30, 2020
4th Progress Report: June 30, 2021

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 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).

- California Environmental Reporting System (CERS) ID 10167481: inspection report dated August 14, 2018
- CERS ID 10168097: inspection report dated May 15, 2018
- CERS ID 10167525: inspection report dated May 9, 2018
- CERS ID 10146321: inspection report dated April 16, 2018
- CERS ID 10167511: inspection report dated November 13, 2017

Violation for releases, leaks, and spills incorrectly cited as a minor violation. Releases, spills, and leaks at a facility do not meet the definition of a minor violation as defined in Health and Safety Code, section 25404(a)(3).

- CERS ID 10167979: inspection report dated January 17, 2018
- CERS ID 10134574: inspection report dated January 24, 2018
- CERS ID 10168017: inspection report dated July 26, 2018
- CERS ID 10169101: inspection report dated January 26, 2017
- CERS ID 10168815: two violations on inspection report dated June 15, 2016

Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. Since no training was provided, employees are not familiar with hazardous waste management and handling, nor how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of a minor violation as defined in Health and Safety Code, section 25404(a)(3).

- CERS ID 10774393: inspection report dated October 10, 2018
- CERS ID 10749118: inspection report dated July 24, 2018
- CERS ID 10168091: inspection report dated July 11, 2018
- CERS ID 10169175: inspection report dated February 22, 2018
- CERS ID 10758817: inspection report dated February 13, 2018

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

Violation for failure to prepare a written estimate of the closure cost estimate incorrectly cited as a minor violation. There is an economic benefit to the facility by not preparing a closure cost estimate or an incorrect closure cost estimate. This does not meet the definition of a minor violation as defined in Health and Safety Code, section 25404(a)(3).

- CERS ID 10134574: inspection report dated January 24, 2018

CITATION:

Health and Safety Code (HSC), Chapter 6.5, Sections 25110.8.5 and 25117.6

HSC, Chapter 6.11, Section 25404(a)(3)

California Code of Regulations (CCR), Title 22, Sections, 66260.10 and 66262.34

[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will train personnel on the classification of minor, Class I, and Class II violations as 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)
(<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)
(<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 that each inspector reviewed the Violation Classification Training Video and Guidance Document and received training on how to properly classify HWG violations.

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

2. DEFICIENCY:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

Review of facility files indicates the CUPA is not documenting, in sufficient detail, to the satisfaction of the CUPA, that tank closure complies with statute and regulations for the following facilities:

- CERS ID 10136122
- CERS ID 10167799
- CERS ID 10168093

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with its UST Closure, or other applicable procedure, that describes how the CUPA will document in sufficient detail whether the owner/operator has demonstrated to the satisfaction of the CUPA that tank closure, removal, and soil sampling complies with statute and regulation (i.e. correspondence, hardcopy, electronic media).

By the 2nd Progress Report, the CUPA will, if necessary, amend the procedure, based on feedback from State Water Board, and will submit the revisions to CalEPA.

By the 3rd Progress Report, the CUPA will train personnel on the plan or procedure and provide training documentation to CalEPA. Training documentation will include, at minimum, an outline of the training conducted and a list of CUPA personnel attending training. Once training is complete, the CUPA will implement the plan or procedure.

With respect to facilities which have not been provided UST closure documentation, in the event of a public request for closure documentation, the CUPA will provide the requested documentation. Closure documentation will demonstrate the CUPA's satisfaction regarding UST closure, removal, and soil sampling complies with statute and regulation.

With the next tank removal or closure in place, all closure records (including documentation demonstrating the CUPA's satisfaction tank closure, removal, and soil sampling complies with statute and regulation) shall be provided to State Water Board within 15 days of the completed closure.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**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 classifying APSA violations properly.

Not having a Spill Prevention, Control, and Countermeasure (SPCC) Plan was cited as a minor violation on several occasions. Not having an SPCC Plan is not considered a minor violation as defined in HSC Section 25404(a)(3) and is inconsistent with the United States Environmental Protection Agency (U.S. EPA) Civil Penalty for Section 311(b)(3) and Section 311(j) of the Clean Water Act. Based on the definition of a “minor violation,” 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.”

Review of facility files and CERS violation data indicates violation #4010001 (not having an SPCC Plan) was incorrectly classified as a minor violation in the following instances:

- FY 2015/2016 and FY 2017/2018 - 4 of 10 (40%)

CITATION:

HSC, Chapter 6.11, Sections 25404(a)(3), 25404.2(a)(3) and 25404.2(a)(4)
HSC, Chapter 6.67, Sections 25270.4, 25270.4.1(c), 25270.4.5, 25270.12, 25270.12.1, and 25270.12.5
CCR, Title 27, Section 15200(a) and (e)
[CalEPA, OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA will train its inspectors on how to properly classify violations during inspections as minor, Class I, and Class II violations as defined in HSC, Chapter 6.11, Section 25404(a)(3) and consistent with the U.S. EPA Civil Penalty Policy for Section 311 of the Clean Water Act, emphasizing that the violation for an APSA tank facility with no SPCC Plan should be classified as a Class I or Class II violation.

Training should include, at minimum, review of:

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)
(<https://www.youtube.com/watch?v=RB-5V6RfPH8>)
- [U.S. EPA Civil Penalty Policy for Section 311\(b\)\(3\) and Section 311\(j\) of the Clean Water Act, August 1998 for SPCC violations](https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_html)
(https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_html)

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

The CUPA will provide CalEPA with training documentation, which will include at minimum, an outline of the training conducted and a list of CUPA personnel attending the training.

2. INCIDENTAL FINDING:

The Inspection and Enforcement (I&E) Plan and Permit Review and Issuance Policy have inaccurate and missing information.

The following information is inaccurate:

- The Permit Review and Issuance Policy does not accurately reflect the provisions of HSC, Chapter 6.7, Section 25285(b).
- The Red Tag enforcement option does not accurately reflect the provisions of HSC, Chapter 6.7, Section 25292.3(c)(1)(C).

The following information is missing from the I&E Plan:

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

CITATION:

HSC, Chapter 6.7, Section 25292.3
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC, State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with a copy of the corrected I&E Plan incorporating the missing, inaccurate, or incomplete information identified. The revised I&E Plan will include the revised Permit Renew and Issuance Policy, which will accurately reflect HSC, Chapter 6.7, Section 25292.3.

By the 2nd Progress Report, the CUPA will implement and train personnel on the revised I&E Plan and the Permit Renew and Issuance Policy and provide training documentation to CalEPA, which will include at minimum, an outline of the training conducted and a list of CUPA personnel attending training.

3. INCIDENTAL FINDING:

In some instances, the CUPA has not ensured that all Hazardous Waste Generator (HWG) facilities cited for Class I or Class II violations have returned to compliance (RTC).

In Fiscal Year (FY) 2017/2018, 17 Class II violations at four facilities have not returned to compliance.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

In FY 2016/2017, two Class I violations and one Class II violation at two facilities have not returned to compliance.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c), 15200(a) and (e)
[CalEPA, DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will follow-up with all facilities with outstanding violations from FY's 2016/2017 and 2017/2018. The CUPA will provide CalEPA with a copy of RTC documentation for each facility.

4. INCIDENTAL FINDING:

The CUPA is not consistently reporting HWG violations correctly in CERS. In some instances, the CUPA uses a "General Use" violation rather than the specific violation from the CERS Violation Library.

In FY 2015/2016 through FY 2017/2018, 99 of 1806 (5.5%) violations were reported as "general" violations in CERS.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will review the CUPA's CERS Data Management Procedure with applicable staff, ensuring the "general" violation should only be used in CERS when a more appropriate violation in CERS does not exist. The CUPA will document and provide CalEPA with a list of staff who completed the Data Management Procedure review.

5. INCIDENTAL FINDING:

The CUPA is not always 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:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

CERS data indicates the following PBR Onsite Hazardous Waste Treatment Notifications were not reviewed, processed, or authorized by the CUPA within 45 days of receipt.

- CERS ID 10168113: submitted November 6, 2018, and was accepted on December 31, 2018.
- CERS ID 10168625: submitted October 10, 2018, and was not accepted on January 14, 2019.
- CERS ID 10212517: submitted February 14, 2017, and was accepted on May 22, 2017.
- CERS ID 10152761: submitted March 1, 2016, and was accepted on July 29, 2016.
- CERS ID 10168909: submitted February 26, 2016, and was accepted on August 5, 2016.
- CERS ID 10168911: submitted February 26, 2016, and was accepted on July 14, 2016.
- CERS ID 10168283: submitted February 25, 2016, and was accepted on July 29, 2016.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will have inspectors review Onsite Hazardous Waste Treatment Notification processes and procedures for PBR facilities with a FTU.

By the 1st Progress Report, the CUPA will review and process all pending Onsite Hazardous Waste Treatment Notifications in CERS and notify CalEPA of the progress.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

Review of the I&E Plan finds that it contains APSA program information that is inaccurate.

- Page 6, in the “Scheduled Frequency of Inspection” table:
 - the triennial statutory inspection frequency applies to APSA facilities storing 10,000 gallons or more of petroleum. It is most accurate to cite HSC 25270.5(a) when referencing these APSA mandated inspections.
 - if the CUPA implements an alternative inspection plan (for example, inspecting all APSA facilities including those storing less than 10,000 gallons of petroleum triennially), then it is appropriate to reference HSC 25270.5(b).
- Page 10, in the Aboveground Petroleum Storage discussion on return to compliance timeframes, the reference to HSC Section 25270.5 should be removed.
- Page 33, the APSA statute referenced in the first sentence of paragraph D should be HSC Section 25270.4, rather than HSC Section 25270.5. The APSA statute referenced in the second sentence of paragraph D should be HSC Chapter 6.67 (commencing with Section 25270), rather than HSC Section 25270.5.
- There are multiple instances of referral to the APSA program as AST or SPCC, including the Table of Contents section II, the “Frequency of Inspections” table on Page 6, in paragraph D on Page 8, in the 2nd paragraph from the bottom on Page 29 (below the Matrix of Enforcement Options), in paragraph D on Page 33, and in the acronym table on Page 40.

RECOMMENDATION:

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

2. OBSERVATION:

SPCC plan submittals were accepted in CERS by the CUPA for CERS ID 10169145. SPCC Plans are not required as part of an APSA CERS submittal; therefore, SPCC Plans should not be uploaded by tank facilities to CERS.

The APSA documentation upload section in CERS is for owners or operators of tank facilities to provide annual tank facility statement submittals or other documentation for local reporting requirements.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

Ensure accepted APSA submittals in CERS do not contain SPCC Plans. Reject (not accept) CERS APSA submittals that include an SPCC Plan and provide feedback to the tank facility owner or operator via the regulator comments field in CERS to advise the tank facility not to include SPCC Plans in future CERS APSA submittals.

3. OBSERVATION:

The CUPA is not consistently ensuring that APSA tank facilities comply with the tank facility statement reporting requirements.

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

Three of 11 (27%) APSA tank facility files reviewed were missing various required elements in recently accepted HMBPs. For example:

- CERS ID 10169127 was missing the locations of north orientation, loading areas, internal roads, adjacent streets, emergency shutoffs, evacuation staging areas, hazardous materials handling and storage areas, and emergency response equipment.
- CERS ID 10167917 was missing the locations of emergency shutoffs, evacuation staging areas, and emergency response equipment.
- CERS ID 10167893 was missing the locations of internal roads, adjacent streets, and evacuation staging areas.

RECOMMENDATION:

Develop and implement an action plan to ensure future HMBP submittals, provided by owners or operators of tank facilities in lieu of a tank facility statement, are thoroughly reviewed and site maps contain all applicable required elements. The action plan should include steps to follow-up with tank facilities in the instance of rejected or incomplete HMBP submittals.

4. OBSERVATION:

The Prevention webpage (<https://www.fremont.gov/131/Prevention>) of the City of Fremont website references:

- SPCC as one of the program elements. The City of Fremont Fire Prevention Division has no formal SPCC inspection or program responsibility, as the program is administered by the U.S. EPA. The City of Fremont Fire Prevention Division has responsibility for the implementation of the APSA program per HSC Chapter 6.67 statute requirements.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

Update website and add weblinks to the Office of the State Fire Marshal website for more information on the APSA program (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>) and the U.S. EPA website for information on SPCC requirements (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>).

5. OBSERVATION:

Inspections conducted and the violations cited at CERS ID 10168269 have been incorrectly entered into CERS. This facility is not conducting onsite treatment of hazardous waste.

RECOMMENDATION:

Ensure all compliance, monitoring and enforcement (CME) data is entered into CERS correctly. In addition, ensure the correct regulatory sections are cited during an inspection.

6. OBSERVATION:

The following citations in the I&E Plan are incorrect or outdated:

- Pages 6 and 15, Health & Safety Code (HSC), section 25508(b) should be 25511(b)
- Page 9, HSC 25508(a)(2) refers to correction of submittal deficiencies, not return to compliance for inspection violations.
- Pages 26 and 27, HSC 25514.6 should be 25515.2
- Page 29, HSC 25514.5 should be either 25515(b) or 25515.2
- Page 30, all of the Health & Safety Code citations are incorrect or outdated.

RECOMMENDATION:

Cal OES recommends that these citations be corrected with the next annual I&E Plan review.

7. OBSERVATION:

Various citations in the "CalARP Policy" document are incorrect.

Page 1:

- Chapter 6.5 should be Chapter 6.95
- 22 CCR should be 19 CCR
- 27351.1 – 27851.1 should be 2735.1 – 2785.1
- 19 CCR 2779.3 should be 19 CCR 2775.3 (several places), 19 CCR 2779.3 does not exist.

Page 2:

- 19 CCR 2740.5 should be 19 CCR 2735.3, 19 CCR 2740.5 does not exist.

Program 3 no longer uses Standard Industrial Classification (SIC) codes. Use the North American Industry Classification System (NAICS) codes listed in 19 CCR 2735.4(e)(1).

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

Correct the citations identified above with the next review of the “CalARP Policy”.

8. OBSERVATION:

Review of CERS UST facility information in the CERS Facility Listing (Details) report, indicates facility latitude or longitude coordinates are either missing or inaccurate for the following facilities:

- CERS ID 10122922: latitude and longitude within the county are provided, however, the geolocation indicates the facility is located in Sierra National Forest, east of Fresno.
- CERS ID 10415599: latitude and longitude within the county are provided, however, the geolocation indicates the facility is located in the street.

Inaccurate geolocation directly impacts a facility’s location in CERS.

Note: U.S. EPA expects the Facility Location Map data provided in CERS for each facility to accurately reflect the geographic location of the facility. The reference point for each facility should be located in the center of the parcel map, which may not be directly on top of the UST system.

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

RECOMMENDATION:

Ensure geolocation of facilities is correctly reflected in CERS. The CUPA or the facility owner/operator may do this by relocating the location drop pin in “Facility Location Map” in CERS.

9. OBSERVATION:

Review of the UST annual compliance inspection reports finds the CERS Violation Type Number listed on the inspection report is out of date with the current CERS violation library.

The Violation Type Number is not required to be on the inspection report and may result in requiring frequent updates. The CERS Violation Library is updated approximately once per year and the Violation Type Numbers may change during updates as new numbers may be added, and old numbers may be obsoleted. Reconciliation of CERS Violation Type Numbers on the inspection report will reduce the chance of reporting errors.

RECOMMENDATION:

The CUPA should ensure any reference on the inspection report to a specific violation is kept current. The CUPA may consider using a reference to the appropriate citation in statute or regulation.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

10. OBSERVATION:

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

- CERS ID 10168711: Tank IDs 300743-000001 - 000004
- CERS ID 10169249: Tank IDs 1 - 3

Note: The examples above may not include all UST systems subject to the December 31, 2025, Single Walled permanent closure requirements. The U.S. EPA and the State Water Board now fund two full-time contractors to specifically assist single-walled tank owner/operators. By encouraging UST owners/operators to remove and replace single-walled tanks and piping well in advance of California's December, 2025, deadline, we hope to prevent contractor shortages, unmanageable permitting workloads, and UST abandonment.

RECOMMENDATION:

Continue to provide verbal reminders to all applicable UST facility owner/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 owner/operators that in order to remain in compliance, owners/operators must replace or remove single-walled USTs by December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: http://waterboards.ca.gov/water_issues/programs/ust/single_walled/.

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

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

11. OBSERVATION:

On April 9, 2019, DTSC observed a HWG inspection conducted by the CUPA at a non-Resource Conservation and Recovery Act (RCRA) large quantity generator (CERS ID 10136122). The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, and communicated technical information well to the facility operators. The inspector identified and properly classified all violations. A complete summary of violations was issued during the exit briefing that documented all violations, observations, factual basis, and corrective actions. Verbal and written consent was obtained at the start of the inspection.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

On April 17, 2019, DTSC observed a HWG inspection conducted by the CUPA at a Permit-By-Rule facility (CERS ID 10168815). The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector also informed DTSC that the facility was undergoing PBR unit closure. Verbal and written consent was obtained at the start of the inspection. The inspector briefed the operator of the purpose of the inspection and requested all required documentation. Additionally, the inspector conducted a complete and thorough inspection by asking appropriate operating questions. A complete summary of violations was issued during the exit briefing that documented all violations, observations, factual basis, and corrective actions. One violation was misclassified as a minor violation pertaining to an incorrect hazardous waste determination of F006 waste. The waste was improperly being identified as a CA 181 waste code. Proper waste determinations are essential in order to ensure that the waste is treated according to the correct treatment standards and is disposed at the correct disposal facility.

RECOMMENDATION:

DTSC recommends that the CUPA take care to properly classify all violations.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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. CERS REVIEW PROCESS:

The CUPA has implemented a proactive process that supports the regulated business community in maintaining compliance with the requirement to make annual CERS Hazardous Material Business Plan (HMBP) submittals. Regulated businesses are emailed notification of the annual HMBP submittal requirement, along with detailed instructions providing guidance on how to make the submittal in CERS. CUPA staff process HMBP CERS submittals in a timely manner, and the CUPA identifies facilities with delinquent submittals. CUPA staff target delinquent facilities with additional follow-up efforts. The CUPA provides in-office support services using public terminal access to CERS, and is available to guide businesses through the submittal process in person. The CUPA takes enforcement actions as necessary to achieve compliance with recalcitrant businesses ensuring submittal of an HMBP.