



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

Certified Mail: 7015 1660 0000 1619 0348

December 16, 2019

Mr. Trey Strickland, Director
Mendocino County Division of Environmental Health
860 N. Bush Street
Ukiah, California 95482-3919

Dear Mr. Strickland:

During March through June, 2019, CalEPA and the state program agencies conducted a performance evaluation of the Mendocino 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, California Environmental Reporting System data, and oversight inspections.

Upon completion of the evaluation, a preliminary report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. Enclosed, please find the final 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 Improvements Needed.

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Evaluation Report, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (February 21, 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 should be emailed as a Microsoft Word document file to the CalEPA supervisor, Melinda Blum, at Melinda.Blum@calepa.ca.gov.

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

Mr. Trey Strickland
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If you have any questions or need further assistance, please contact Melinda Blum at (916) 327-9560 or John Paine, Unified Program Manager, at (916) 327-5092.

Sincerely,

Original signed by Jason Boetzer

Jason Boetzer
Acting Assistant Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Kirk Ford
CUPA Manager
Mendocino County Division of Environmental Health
860 N. Bush Street
Ukiah, California 95482-3919

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

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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

Mr. Kevin Abriol
Environmental Scientist
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

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

Ms. Melinda Blum
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

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

CUPA: Mendocino Division of Environmental Health

Evaluation Period: March through June 2019

Evaluation Team Members:

CalEPA Team Lead	DTSC	Cal OES	State Water Board	CAL FIRE - OSFM
Marc Lorentzen	Kevin Abriol	Jack Harrah	Lisa Jensen	Glenn Warner

This Final Summary of Findings includes:

- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations

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 are considered to be satisfactory with improvements needed.

Questions or comments regarding this evaluation should be directed to Melinda Blum at Melinda.Blum@calepa.ca.gov.

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

Each Deficiency Progress Report must include a narrative stating the status of all deficiencies and incidental findings identified in the Final Summary of Findings Report.

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

- Update 1: February 21, 2020
- Update 2: May 21, 2020
- Update 3: August 25, 2020
- Update 4: December 1, 2020

Each Deficiency Progress Report must be submitted to Melinda Blum at Melinda.Blum@calepa.ca.gov.

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(s) indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute.

1. DEFICIENCY:

The CUPA did not complete a Self-Audit Report for Fiscal Years (FYs) 2015/2016, 2016/2017, and 2017/2018. A Self-Audit Report is required to be completed by September 30th of each year for the preceding FY.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15280(a)
[CalEPA]

CORRECTIVE ACTION:

By Update 1, the CUPA will provide CalEPA with a copy of the completed Self-Audit Report for FY 2018/2019. The CUPA will ensure that a Self-Audit Report is completed annually by September 30th for the preceding FY.

2. DEFICIENCY:

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

Review of compliance, monitoring, inspection and enforcement information in the California Environmental Reporting System (CERS) indicates there is no documented RTC for the number of violations cited during the following FYs:

FY 2017/2018

- Aboveground Petroleum Storage Act (APSA) Program facilities: 40 of 56 (71%)
 - Fifteen (15) facilities were cited for violation #4010001, not having a Spill Prevention, Control, and Countermeasure (SPCC) Plan. 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 advantage.
- Hazardous Materials Business Plan (HMBP) facilities: 37 of 82 (45%)
- Hazardous Waste Generator (HWG) facilities: 15 of 23 (65%)
- Underground Storage Tank (UST) Program facilities: 2 of 18 (11%)

FY 2016/2017

- APSA Program facilities: 10 of 14 (71%)
- HMBP facilities: 42 of 84 (50%)
- HWG facilities: 20 of 34 (59%)
- UST Program facilities: 11 of 46 (24%)

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

FY 2015/2016

- HMBP facilities: 23 of 77 (30%)
- HWG facilities: 10 of 29 (35%)
- UST Program facilities: 4 of 35 (11%)

Note: This deficiency is carried over from the 2016 CUPA performance evaluation.

CITATION:

California Health and Safety Code (HSC), Chapter 6.7, Section 25288(d)
HSC, Chapter 6.5, Section 25187.8(g)
CCR, Title 27, Sections 15200(a), 15185(a) and (c)
[CalEPA, DTSC, OSFM, State Water Board]

CORRECTIVE ACTION:

By Update 1, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of all facilities that have open violations for each program element (APSA, HMPB, HWG and UST). 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 number;
- Facility ID number (if applicable);
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date;
- RTC qualifier; and
- Follow-up actions taken by the CUPA and the timeframe to obtain compliance.

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

By Update 3, and with each subsequent Deficiency Progress Report until considered corrected, the CUPA will provide CalEPA with RTC documentation received during the previous FY quarter, for up to three (3) facilities from each program element, as requested by state agencies.

3. DEFICIENCY:

The CUPA's Inspection and Enforcement (I&E) Plan has not been reviewed annually, contains inaccurate information and is missing required components.

The following information is identified as inaccurate:

- The number of businesses listed by program element in the "Inspection Section" may be inaccurate because the information was provided "as of May 30, 2016."

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

- The Hazardous Waste Penalty Matrix on page 55 contains outdated penalty amounts. Penalty amounts in CCR 66273.62(d) were increased on July 5, 2018.
- In the minimum frequency of inspection table on page 3, 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.
- In the minimum frequency of inspection table on page 3, 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 also reference HSC 25270.5(b).
- The APSA statute referenced in the Enforcement Section, Statutory Authority Section I (third bullet), Procedures to Access Administrative Law Judge in Administrative Hearing and Appeal Process Section X (paragraph B-2), and Administrative Penalties Section XI (paragraph D-6), should be HSC Chapter 6.67 (commencing with Section 25270), rather than HSC Section 25270.5.
- Multiple instances of referral to the APSA program as AST or Above Ground Storage Tank were observed, including the tables in Inspection Section II and III, and pages 5, 22, 59 and 60.
- Page 6 – The CUPA’s stated inspection goal is annual, as stated at the top of the page. Further down the page, the inspection frequency for CalARP is stated to be “annual”. The statutory frequency (HSC 25537) is every three years, not annually. The annual frequency is just a goal, not a requirement.
- Page 11 – HSC 25505(a)(2) should be HSC 25508(a)(2). Further, this citation is for failure to revise a CERS submittal. It is not a “return to compliance” for inspection deficiencies.
- Pages 56 and 58 – HSC 25514.5 should be HSC 25515.

The following information is identified as missing:

- Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint
- The provisions for ensuring the analysis of any material sampled is performed by a state certified laboratory. The CUPA has a Memorandum of Understanding with Sonoma County to perform laboratory analysis, however it is not incorporated into the CUPA’s I&E Plan.
- The Hazardous Materials Management Plan/Hazardous Materials Inventory Statement (HMMP/HMIS) is missing from the list of program elements in the “Introduction” and the “Enforcement Section”
- Inspection Section VIII is missing a figure that describes the APSA inspection procedures.

CITATION:

CCR, Title 27, Section 15200
[CalEPA]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By Update 1, the CUPA will review, revise, and provide CalEPA with a copy of the revised I&E Plan that addresses the inaccurate and missing information identified in this deficiency. The CUPA will continue to annually review, and revise the I&E Plan as necessary.

4. DEFICIENCY:

The CUPA is not consistently implementing a graduated series of enforcement based on the severity of existing violations, when appropriate.

Review of CERS compliance, monitoring, inspection and enforcement (CME) information from July 2016, through August 2018, indicates there are 14 facilities cited for Class 1 violations that have no RTC and the CUPA has not implemented an appropriate graduated series of enforcement. For example:

- CERS ID 10477042: Cited for three (3) Class 1 APSA violations on March 14, 2018
- CERS ID 10653202: Cited for one (1) Class 1 HWG violation on December 7, 2017 and two (2) Class 1 HWG violations on December 7, 2016
- CERS ID 10648129: Cited for one (1) Class 1 HMBP and one (1) Class 1 UST violation on April 12, 2017

Note: This deficiency is carried over from the 2016 CUPA performance evaluation.

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

CITATION:

CCR, Title 27, Section 15200(a)(9)
[CalEPA]

CORRECTIVE ACTION:

By Update 1, the CUPA will provide CalEPA with a sortable tracking spreadsheet of all facilities with violations that have no RTC that may warrant applicable graduated series of enforcement action. At minimum, the spreadsheet should include the following:

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

By Update 2, and with each subsequent Deficiency Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to demonstrate the progress towards implementing a graduated series of enforcement for each facility that has not returned to compliance. For each updated spreadsheet, the CUPA will also include any additional facilities with violations that have not returned to compliance and warrant applicable graduated series of enforcement since the previous list was submitted with the previous Deficiency Progress Report.

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DEFICIENCIES REQUIRING CORRECTION

By Update 3, the CUPA will have begun to initiate enforcement actions for each non-compliant facility on the list of facilities submitted with the previous update report. With each subsequent deficiency progress report, until considered corrected, the CUPA will report the progress of initiating formal enforcement actions, as well as, the status of gaining compliance for each listed facility.

5. DEFICIENCY:

The Single Fee System and Fee Accountability Program sections of the CUPA's financial management procedures do not adequately address procedural requirements for implementation as follows:

- The "Single Fee System Procedure" section of the financial management procedures contains only one (1) sentence regarding the generation and submittal of the Annual Single Fee Summary Report. The section is not equivalent to a procedure for implementing the single fee system in accordance with CCR, Title 27, Section 15210.
- The "Fee Accountability Program" section of the financial management procedures contains only one (1) sentence stating that fees set for the operation of the CUPA shall be in accordance with CCR, Title 27, Section 15210. The statement is not equivalent to a procedure for implementing the fee accountability program in accordance with CCR, Title 27, Section 15220.

CITATION:

CCR, Title 27, Section 15180 (e)(5)
[CalEPA]

CORRECTIVE ACTION:

By Update 1, the CUPA will revise and provide CalEPA with financial management procedures that equate to actual procedures for implementing the single fee system and the fee accountability program components.

By Update 2, the CUPA will, if necessary, amend the procedures, based on feedback from CalEPA. The CUPA will submit the revised procedures to CalEPA.

By Update 3, the CUPA will implement and train personnel on the revised procedures. The CUPA will provide training documentation to CalEPA, which at minimum, will include an outline of the training conducted and a list of CUPA personnel in attendance.

UNIFIED PROGRAM PERFORMANCE EVALUATION
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DEFICIENCIES REQUIRING CORRECTION

6. DEFICIENCY:

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

The following are examples:

- CERS ID 10129984: a re-inspection report dated April 20, 2018, documents a violation that is not reported in CERS.
- CERS ID 10483756: an inspection report dated July 14, 2016, documents exceedance of accumulation time with RTC on August 24, 2016. The violation data is not reported in CERS.
- CERS ID 10632655: a re-inspection report dated June 2, 2017 is not reported in CERS.
- CERS ID 10481962: an inspection report dated July 31, 2018 documents an APSA violation that is not reported in CERS.
- CERS ID 10491088: a re-inspection report dated May 1, 2018, documents RTC for three (3) APSA violations cited at an inspection performed on March 6, 2018. The re-inspection and RTC data are not reported in CERS.
- CERS ID 10737586: an inspection report dated March 14, 2017, documents two (2) APSA violations. The inspection and violation data are not reported in CERS. CERS records an APSA inspection performed March 13, 2018, with three (3) violations; however, the facility file does not include the corresponding inspection report.
- CERS ID 10654378: an inspection dated May 24, 2016, in CERS documents one (1) HWG violation with no RTC date, and an inspection dated May 16, 2017, in CERS has four (4) HWG violations with no RTC date. An inspection dated May 16, 2018, in CERS does not include any HWG violations. This indicates the HWG violations cited in the May 24, 2016, and May 16, 2017, inspections were corrected before the May 16, 2018, inspection, however, RTC dates were not reported.

CITATION:

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

CORRECTIVE ACTION:

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

- Revision to the existing CME component of the data management procedures to address the root causes of missing CME information in CERS, if needed;
- Identification of CME information that was not reported to CERS as required;
- A process for reporting CME information that was not reported to CERS as required; and
- Future steps to ensure that all CME information is reported to CERS as required.

By Update 5, the CUPA will have consistently reported all CME information to CERS that was not previously consistently reported as required.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

7. DEFICIENCY:

The CUPA is not consistently documenting proper sampling and analysis of soil and/or water during or immediately after UST closure activities.

The CUPA is not requiring a minimum of two (2) samples to be taken immediately beneath the removed portions of the UST, at a minimum of two (2) feet into native material nor separate samples to be taken for each 20 linear-feet of trench for piping.

Note: This deficiency is carried over from the 2016 evaluation. This correction of this deficiency was in progress but not completed at the closing of the 2019 evaluation. State Water Board acknowledged the CUPAs discussion of a closure that had taken place and preparation of final documentation from the facility was not yet received by the CUPA.

CITATION:

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

CORRECTIVE ACTION:

The CUPA will provide State Water Board with all closure records, including sampling results, for the next UST removal or closure in place within 15 days of the completed removal or closure.

8. DEFICIENCY:

The CUPA is not inspecting all UST facilities annually.

Review of the Significant Operational Compliance Report (Report 6) for the following FYs indicates:

- In FY 2017/2018
 - 54 of 64 UST facilities inspected (84%)
- In FY 2016/2017
 - 50 of 64 UST facilities inspected (78%)
- In FY 2015/2016
 - 55 of 65 UST facilities inspected (85%)

CITATION:

HSC, Chapter 6.7, Section 25288(a)
CCR, Title 23, Section 2712(e)
[State Water Board]

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By Update 1 the CUPA will develop and provide CalEPA with an action plan that, at minimum, will include:

- A list of UST facilities that have not been inspected within the last 12 months. Identification shall include, at minimum: CERS ID, facility name, and last inspection date;
- A schedule to inspect those facilities, prioritizing the most delinquent inspections to be completed prior to any other annual UST compliance inspection; and
- Steps to ensure that all UST facilities will be inspected annually.

With each subsequent Deficiency Progress Report, until considered corrected, the CUPA will provide an updated list identifying the UST facilities that have not been inspected within the last 12 months.

9. DEFICIENCY:

UST inspection information reported in Report 6 and in CERS as CME data is inconsistent.

Review of UST inspection information for the following FYs indicates:

- FY 2017/2018
 - Report 6: 54 of 64 (84%) UST facilities inspected
 - CERS CME data: 61 of 64 (95%) UST facilities inspected
- FY 2016/2017
 - Report 6: 50 of 64 (78%) UST facilities inspected
 - CERS CME data: 63 of 64 (98%) UST facilities inspected
- FY 2015/2016
 - Report 6: 55 of 65 (85%) UST facilities inspected
 - CERS CME data: 63 of 65 (97%) UST facilities inspected

CITATION:

HSC, Chapter 6.7, Section 25288(a)

HSC, Chapter 6.11, Section 25404(e)(4)

CCR, Title 23, Section 2712(e)

CCR, Title 27, Sections 15187(c) and 15290(b)

[State Water Board]

CORRECTIVE ACTION:

By Update 1 the CUPA will develop and provide CalEPA with an action plan that, at minimum, includes:

- An analysis of why Report 6 and CERS CME data have inconsistent UST inspection information;
- A strategy to ensure UST inspection information in Report 6 and CERS CME data will be accurately and consistently reported;
- A timeline for ensuring UST inspection information in Report 6 and CERS CME data is accurately and consistently reported; and

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

DEFICIENCIES REQUIRING CORRECTION

- A list of UST facilities that have not been inspected within the last 12 months. Identification shall include, at minimum: CERS ID, facility name, and last inspection date

With each subsequent Deficiency Progress Report, until considered corrected, the CUPA will provide an updated list of the UST facilities that have not been inspected within the last 12 months.

10. DEFICIENCY:

The CUPA is not consistently ensuring that all APSA tank facilities annually submit a complete HMBP in lieu of a tank facility statement to CERS.

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

- 41 of 125 (33%) APSA tank facilities have not submitted a chemical inventory and site map within the past 12 months.
- 51 of 125 (43%) APSA tank facilities have not submitted emergency response and employee training plans within the past 12 months.

CITATION:

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

CORRECTIVE ACTION:

By Update 1, the CUPA will develop and provide a list to CalEPA of all APSA tank facilities that have not annually submitted a complete HMBP to CERS in lieu of a tank facility statement.

With each subsequent Deficiency Progress Report, until considered corrected, the CUPA will update the list with the status of facility compliance.

By Update 2, the CUPA will follow-up with each APSA tank facility identified on the list to ensure a complete HMBP is submitted to CERS in lieu of a tank facility statement, or the CUPA will initiate appropriate enforcement action.

By Update 4, the CUPA will have ensured that each APSA tank facility has submitted a complete HMBP to CERS in lieu of a tank facility statement, or will have taken appropriate enforcement action.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

11. DEFICIENCY:

The CUPA is not inspecting all APSA tank facilities per the triennial frequency established in the CUPA's I&E Plan.

Although the CUPA meets the mandated triennial inspection frequency for APSA tank facilities that store 10,000 gallons or more of petroleum, review of CERS CME data and a spreadsheet provided by the CUPA indicates:

- 34 of 128 (27%) CUPA designated APSA facilities have not been inspected in the last three (3) years, including 28 facilities that have no history of any APSA inspections.

Facilities that have never been inspected might be operating without an SPCC Plan, which could present a significant threat to human health or the environment, and may provide an economic benefit to the facility from noncompliance either by reduced costs or competitive advantage.

CITATION:

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

CORRECTIVE ACTION:

By Update 1, the CUPA will develop, implement and provide CalEPA with an action plan to ensure all APSA tank facilities are inspected per the frequency established in the CUPA's I&E Plan. The action plan will include at minimum:

- A sortable APSA inspection tracking spreadsheet exported from the CUPA's data management system or CERS, listing each APSA facility that has not been inspected within the required timeframe. For each APSA facility listed, the spreadsheet will include at minimum: facility name, address, CERS ID, and the last routine inspection date.
- A proposed schedule to inspect those facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA inspection.
- Future steps to ensure that all APSA facilities are inspected per the inspection frequency established in the CUPA's I&E Plan.

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

By Update 4, the CUPA will have inspected all APSA tank facilities per the inspection frequency established in the CUPA's I&E Plan.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

12. DEFICIENCY:

The CUPA's area plan is missing one (1) or more of the required elements. The following protocols required by Senate Bill 391 concerning pesticide drift were not found:

- Title 19, sections 2643(d), (f) and (g) – pre-planning
- Title 19, section 2644(e) – notification and coordination
- Title 19, section 2645(a) – training
- Title 19, section 2646(c) – public safety and information
- Title 19, section 2648 – incident critique and follow-up

CITATION:

HSC, Chapter 6.95, Section 25503(d)(2)
CCR, Title 19, Section 2640(c)
[Cal OES]

CORRECTIVE ACTION:

By Update 1, the CUPA will provide CalEPA with a copy of the revised area plan which will include the missing protocols identified in this deficiency.

13. DEFICIENCY:

The CUPA is not ensuring all businesses subject to the Business Plan Program annually submit a complete HMBP to CERS.

- 130 of 590 (22%) business plan facilities in CERS have not submitted hazardous material inventories within the past year.
- 148 of 590 (25%) business plan facilities in CERS have not submitted emergency response and training plans within the past year.

CITATION:

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

CORRECTIVE ACTION:

By Update 1, the CUPA will develop and provide CalEPA with a list of all businesses subject to the Business Plan Program that have not annually submitted a complete HMBP to CERS.

With each subsequent Deficiency Progress Report, until considered corrected, the CUPA will update the list with the status of business compliance and provide it to CalEPA.

By Update 2, the CUPA will follow-up with each regulated business identified on the list to ensure a complete HMBP has been submitted to CERS or the CUPA will have initiated appropriate enforcement action.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

14. DEFICIENCY: CORRECTED DURING EVALUATION

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

Note: One CUPA personnel member that had not maintained health and safety training completed the appropriate health and safety training refresher during the 2019 evaluation. Documentation was provided to CalEPA.

CITATION:

CCR, Title 27, Section 15260
[CalEPA]

CORRECTIVE ACTION: COMPLETED DURING EVALUATION

By Update 1, the CUPA will establish and implement an action plan to ensure all CUPA personnel involved with Unified Program implementation meet the applicable minimum education, training and experience requirements. At minimum, the plan will include:

- A list of existing CUPA personnel that have not met the minimum education requirements
- Steps and timelines for existing CUPA personnel to meet the applicable minimum education requirements

By Update 3, the CUPA will provide CalEPA with documentation showing that CUPA personnel listed in the action plan have met the minimum education requirements.

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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(s) indicated as required by regulation or statute.

1. INCIDENTAL FINDING:

The CUPA's business plan information forwarding procedure contains incorrect information.

The procedure incorrectly states that the emergency responder function in CERS is currently not working.

CITATION:

CCR, Title 27, Section 15180 (e)(4)
[CalEPA]

RESOLUTION:

By Update 1, the CUPA will revise the business plan information forwarding procedure to state that the emergency responder function in CERS is currently working. The CUPA will provide the revised procedure to CalEPA.

2. INCIDENTAL FINDING:

The CUPA's Unified Program Facility Permit (UPFP) issuance procedure includes steps for the UPFP application process, however the procedure does not include steps for the issuance of a UPFP to a regulated facility.

CITATION:

HSC, Chapter 6.11, Section 25404.2 (a)(1)
[CalEPA]

RESOLUTION:

By Update 1, the CUPA will revise and provide CalEPA with the UPFP issuance procedure, which will include steps for the issuance of a UPFP to a regulated facility.

By Update 2, the CUPA will, if necessary, amend the procedure, based on feedback from CalEPA and submit the revised procedure to CalEPA.

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3. INCIDENTAL FINDING:

The CUPA did not address referred HWG complaint #: COMP-18641.

CITATION:

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

RESOLUTION:

By Update 1, the CUPA will address HWG complaint #: COMP-18641. The CUPA will provide CalEPA with a copy of follow-up documentation and explain the outcome of the complaint.

4. INCIDENTAL FINDING:

The CUPA is not inspecting all HWG facilities with the inspection frequency reported in the I&E Plan for the HWG program.

The inspection frequency for Resource, Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) and Household Hazardous Waste (HHW) facilities is specified in the I&E Plan as at least once every year.

Review of HWG inspection information in CERS for FYs 2015/2016, 2016/2017, and 2017/2018 indicates the following facilities were not inspected annually:

- CERS ID 10653037: not inspected in FY 2017/2018. This facility has a California Hazardous Waste ID Number (CAL), but should have an EPA ID Number (CAR).
- CERS ID 10490251: not inspected in FY 2015/2016 nor 2017/2018. An inspection occurred on July 6, 2016, but was coded as an HWG inspection.

CITATION:

CCR, Title 27, Section 15200(a)(3)
[CalEPA, DTSC]

RESOLUTION:

By Update 2, the CUPA will perform an inspection at CERS ID 10653037 and CERS ID 10490251 and provide CalEPA with a copy of the inspection report for each facility.

5. INCIDENTAL FINDING:

The CUPA is not consistently conducting complete HWG inspections as indicated by the following HWG inspections:

- CERS ID 10601005: SQG facility inspection conducted on April 3, 2019 - the inspector did not fully understand HWG requirements including hazardous waste accumulation limits and labeling requirements for hazardous waste and used oil filters.
- CERS ID 10447672: A non-RCRA LQG facility inspection conducted on April 4, 2019 - the inspector did not fully understand HWG requirements, including hazardous waste characterizations of scrap metal fine powder, and hazardous waste tank system requirements that includes tank system certification.

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CITATION:

CCR, Title 22, Sections 66260.10, 66262.32, 66262.34, 66265.192, and 66266.130
[DTSC]

RESOLUTION:

By Update 1, the CUPA will provide HWG training to CUPA staff that conduct HWG inspections. The CUPA will review the HWG training material listed below and the CCR, Title 22 sections listed as part of this finding. The CUPA will provide CalEPA with a narrative document stating that all CUPA staff have viewed the HWG training material listed below, the CCR, Title 22 sections listed as part of this finding and will include the name of each inspector, a signature from each inspector, and the date the training was completed.

Training Material:

- [Generator Requirements Fact Sheet \(https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf\)](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)
- [Generator Summary Chart \(https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf\)](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf)
- [Managing Used Oil Filters for Generators \(https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf\)](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf)
- [DTSC Letter Regarding Recycling of Metal Shavings from Brake Repair Activities \(https://apps.dtsc.ca.gov/dory/DORY-search-collection/BRAKE-REPAIR-US-POSTAL-SERVICE.pdf\)](https://apps.dtsc.ca.gov/dory/DORY-search-collection/BRAKE-REPAIR-US-POSTAL-SERVICE.pdf)
- [Hazardous Waste Tank System Requirements \(http://www.unidocs.org/hazmat/hazardous-waste/un-047.pdf\)](http://www.unidocs.org/hazmat/hazardous-waste/un-047.pdf)

By Update 2, the CUPA will contact DTSC and schedule a training for the Hazardous Waste Tracking System (HWTS). The CUPA may also request general HWG inspector training provided by DTSC.

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6. INCIDENTAL FINDING:

The CUPA is not consistently citing violations for failure to conduct an overfill prevention equipment inspection. No later than October 13, 2018, all overfill prevention equipment was required to be inspected.

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

- CERS ID 10123909: Overfill Prevention Inspection was conducted on October 24, 2018 - the CUPA did not issue the appropriate violation, resulting in inaccurate U.S. EPA TCR 9b reporting.
- CERS ID 10474111: Overfill Prevention Inspection was conducted on December 12, 2018 - The CUPA cited the appropriate violation during the November 15, 2018, annual compliance inspection, however, no violation was reported in CERS, therefore, resulting in inaccurate U.S. EPA TCR 9b reporting.

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

CITATION:

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

RESOLUTION:

By Update 2, the CUPA will provide five (5) facility records, if not available in CERS, as selected by State Water Board, including annual UST compliance inspection reports and overfill prevention inspection reports.

7. INCIDENTAL FINDING:

The CUPA is not consistently requiring UST facilities to submit UST testing and leak detection documents.

UST testing and leak detection documents were not found, in facility files or in CERS for the following facilities:

- CERS ID 10635286:
 - 2018 Overfill Prevention Inspection
 - 2016 Annual Monitoring Certification test results
- CERS ID 1062433: missing
 - 2019 Annual Monitoring Certification test results
 - 2018 Overfill Prevention Inspection
 - Most recent two (2) Secondary Containment test results

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

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CITATION:

HSC, Chapter 6.7, Section 25288(b)

CCR, Title 23, Section 2637(e), 2638(d), 2643(g) and 2644.1(a)(5)

[State Water Board]

RESOLUTION:

By Update 2, the CUPA will provide five (5) facility records, if not available in CERS, as selected by State Water Board. The selected records will include, at minimum, monitoring certifications results, secondary containment test results, spill bucket test results, and any other testing or leak detection documents showing the date the testing and leak detection documents were received by the CUPA.

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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 not required by regulation or statute, the CUPA would benefit in applying the recommendations provided, to improve the overall implementation of the Unified Program.

1. OBSERVATION:

The CUPA's HWG inspection checklist only contains six (6) HWG violations and an additional "other" violation. The checklist has inaccurate citations including:

- 66263.42, which is a repealed section of regulations
- 66262.31 & .32 in reference to labeling violations, where 66262.34(f) is more appropriate
- hazardous materials business component number 8: "Materials are properly labeled" cites Title 22 CCR 66261.2(f) – this is a hazardous waste citation that does not apply to labelling.

RECOMMENDATION:

A comprehensive HWG inspection checklist that includes distinguishing violations for SQGs and LQGs should be developed. DTSC recommends using the HWG inspection checklist provided by the CUPA Forum Board (CFB) as the basis for an Updated inspection checklist as the CFB checklist identifies most of the pertinent hazardous waste violations. Additionally, DTSC recommends CUPA inspectors review [CalEPA's Inspection Report Writing Guidance For Unified Program Agencies](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-InspectionRpt-accessible.pdf) (<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-InspectionRpt-accessible.pdf>), which provides an explanation of HSC Section 25185 requirements to fully detail observations, violations, factual basis for the violations, and corrective actions.

2. OBSERVATION:

Review of CERS indicates one (1), or more, UST systems may require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10656604: Tanks Diesel, Regular 87, Super 91
- CERS ID 10654378: Tanks T-1 – T-3
- CERS ID 10654384: Tanks T-1 – T-2
- CERS ID 10656433: Tanks T-1 – T-3
- CERS ID 10656562: Tanks T-1 – T-2

Note: The examples above may not include all UST subject to the December 31, 2025 Single Walled permanent closure requirements. The U.S. Environmental Protection Agency (U.S. EPA) and the State Water Board now fund two (2) full-time contractors to specifically assist single-walled tank owners/operators. By encouraging UST owners to remove and replace single-walled

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tanks and piping well in advance of California's December 2025 deadline, we all hope to prevent contractor shortages, unmanageable permitting workloads and UST abandonment.

RECOMMENDATION:

Verbal reminders should continue to be provided to all applicable UST facility owners/operators and regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Providing written notification to all applicable UST facility owners/operators should also be considered. The written notification should inform facility owners/operators that, in order to remain in compliance, owners/operators must replace or remove single-walled USTs by December 31, 2025. Additional information about the single-walled UST closure requirements may be found at:

http://waterboards.ca.gov/water_issues/programs/ust/single_walled/

Facility owners/operators should also be notified 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.

3. 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 10123909: The geolocation indicates the facility is in an undeveloped area.
- CERS ID 10635286: The geolocation indicates the facility is in an undeveloped area.
- CERS ID 10174119: no latitude or longitude coordinates are provided, or the coordinates are 0, 0 placing the facility in the center of the county or in the South Atlantic Ocean off the coast of the African continent.
- CERS ID 10174127: no latitude or longitude coordinates are provided, or the coordinates are 0, 0 placing the facility in the center of the county or in the South Atlantic Ocean off the coast of the African continent.

Inaccurate geolocation directly impacts a facility's location in CERS. Incorrect location of a facility impacts an emergency responder's ability to rely on CERS as a facility location tool in the event of a natural disaster or other emergency.

Note: The examples provided above may not include all instances of inaccurate UST facility locations.

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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.

RECOMMENDATION:

Geolocation of facilities should be 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.

4. OBSERVATION:

Review of the UST Facility/Tank Data Download report obtained from CERS on March 20, 2019, finds there are a limited number of instances where CERS monitoring and construction data are incorrect as follows:

- 23 UST systems with double-wall piping installed between January 1, 1984, and June 30, 2004, are identified as not having continuous interstitial monitoring
- 10 USTs installed on, or after, July 1, 2004, have single-wall components listed
- 12 UST systems with single-wall steel tanks are identified as having unlined Tank Primary Containment Construction

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

Note: Please 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"

Please reference State Water Board correspondence dated November 29, 2016, "When to Review Underground Storage Tank Records."

RECOMMENDATION:

Review UST submittals in CERS for inaccurate monitoring and construction data and continue to assist facility owners/operators to obtain accurate and complete data with the next CERS submittal, but not later than one (1) year.

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5. OBSERVATION:

Review of CERS CME indicates the CUPA is classifying “Other” inspections as “Routine.” A routine inspection is a regularly scheduled inspection to evaluate compliance, a routine inspection is not a follow-up inspection. Other inspections include complaint investigations, closures, release investigations, tank installation and/or removal oversight, tank cleaning, and follow-up enforcement inspections, or other inspections that may be in addition to a regularly scheduled inspection.

Following are examples:

- CERS ID 10414276:
 - FY 2017/2018 two (2) routine inspections in two (2) months
- CERS ID 10654381:
 - FY 2016/2017 two (2) routine inspections in one (1) month
- CERS ID 10452157:
 - FY 2015/2016 two (2) routine inspections in two (2) months

RECOMMENDATION:

Annual compliance inspections should be classified as “Routine” and inspections such as verification inspections, complaint investigations, enforcement follow-up, closures, tank installation and/or removal oversight, tank cleaning, and release investigations should be classified as “Other.”

Multi-day inspections are reported in CERS as one (1) inspection regardless of the number of days needed to complete the inspection. Please refer to CERS FAQ “How to Report Multi-Day Inspections in CERS.”

6. OBSERVATION:

The CUPA does not utilize a UST specific inspection checklist to conduct annual UST compliance inspections. Two (2) different forms are used, including a “Hazardous Materials CUPA Inspection Report,” which includes violation citations for the Hazardous Materials and Hazardous Waste programs in addition to hand-written notes for the UST program.

Without a UST specific inspection checklist, it is unclear if all aspects of an annual UST compliance inspection have taken place. The lack of a UST specific inspection checklist may cause inspectors to conduct incomplete UST inspections and report inaccurate CME data in CERS. Additionally, there is an increased risk of violations not being correctly transferred from a hand-written report to CERS.

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RECOMMENDATION:

Utilize a UST specific inspection checklist for conducting annual UST compliance inspections. The use of a specific and consistent inspection checklist will ensure inspectors review the same criteria and have the applicable statutory or regulatory citation when conducting a UST inspection. Additionally, the use of an inspection checklist will aid in ensuring accurate CME data is reported in CERS.

7. OBSERVATION:

The CUPA is using an APSA inspection checklist, dated February 2018, that contains 57 violations. The CERS APSA violation library contains more than 57 APSA violations.

RECOMMENDATION:

Utilize the provided APSA TAG comprehensive inspection checklists for conducting inspections at Conditionally Exempt facilities, Tier I qualified facilities, Tier II qualified facilities and full SPCC Plan facilities and ensure that the inspection checklist used is applicable to the tank facility being inspected.

8. OBSERVATION:

The CUPA regulates some farms under APSA. Effective January 1, 2016, Senate Bill (SB) 612 aligned the applicability threshold for farms in California with that of the Federal SPCC rule, which has increased to 2,500 gallons of oil or 6,000 gallons of oil (with no reportable discharge history) per the Federal Water Resources Reform and Development Act (WRRDA) of 2014.

More information on farms under the Federal SPCC rule may be found on the [U.S. Environmental Protection Agency website \(https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc\)](https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc).

RECOMMENDATION:

Review of conditionally exempt tank facilities at farms to verify if the total oil storage capacity meets the WRRDA thresholds, and determine if the facility should still be regulated as a conditionally exempt tank facility under APSA is encouraged.

Farms that are no longer regulated under APSA due to SB 612 oil applicability thresholds should be identified in CERS as APSA "Not Applicable." The CUPA is encouraged to change the CERS APSA facility reporting requirement from "Applicable" to "Not Applicable" for such farms.

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9. OBSERVATION:

The Hazardous Materials webpage for the County of Mendocino, <https://www.mendocinocounty.org/government/health-and-human-services-agency/envirnomental-health-eh/hazardous-materials> contains outdated information as follows:

- The linked APSA FAQ document dated January 20, 2009, is outdated, and has been redacted.
- The linked Tier II Qualified Facility SPCC Plan template dated 08/2015 is outdated. This template was last revised September 2018 is available upon request from OSFM.

RECOMMENDATION:

Website links to the Office of the State Fire Marshal website (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>) for more information on the APSA program and to the U.S. Environmental Protection Agency website (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>) for information on SPCC requirements should be added to the Hazardous Materials webpage for the County of Mendocino.

10. OBSERVATION:

Review of submittals in CERS indicates the following instances when the CUPA did not review the HMBP within one (1) year of the submittal date:

- CERS ID 10718278, CERS ID 10510237, CERS ID 10405777 and CERS ID 10510237

RECOMMENDATION:

Steps to process CERS submittals in a timely manner should be implemented, considering that regulated APSA tank facilities are required to submit an HMBP annually, when submitting the HMBP in lieu of the APSA tank facility statement.

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11. OBSERVATION:

The CUPA's Area Plan contains outdated information.

- The Uniform Fire Code is referenced on pages I-2, I-3 and I-37. Effective January 1, 2020, the current California Fire Code adopted by the state will be the 2019 edition.
- The State Fire Marshal no longer has responsibility for the safety of interstate hazardous liquid pipelines (as described on page D-5). The State Fire Marshal has responsibility for the safety of intrastate hazardous liquid pipelines, while interstate hazardous liquid pipelines are the responsibility of the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration.
- On pages I-7, I-16, I-35, I-36, II-1, II-14, II-21 and D-4 – CHMIRS is no longer in use.
- On page I-12 – CEPRC is now called SERC (State Emergency Response Commission).
- On pages I-12 and -13 – Fish and Game is now Fish and Wildlife.
- On page I-13 – CSFM is now called OSFM (Office of the State Fire Marshal).
- On page I-14 – CDF is now Cal Fire.
- On page I-36 – The mailing address for Cal OES has changed from 2800 Meadowview, Sacramento, to 3650 Schriever Avenue, Mather, CA 95655.
- On page II-2 – California Code of Regulations section 2703 is now section 2631.

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

RECOMMENDATION:

The Area Plan should be revised as necessary.