



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

October 18, 2021

Mr. John Frando
Deputy Fire Chief
City of Bakersfield Fire Department
2101 H Street
Bakersfield, California 93301-3921

Dear Mr. Frando:

During December, 2020, through September, 2021, 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, and review of regulated facility file documentation and California Environmental Reporting System data.

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

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as satisfactory with improvement needed.

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (December 27, 2021), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead, Sam Porras, at Samul.Porras@calepa.ca.gov, or mail.

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

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

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

Sincerely,



Jason Boetzer, REHS
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosures

cc sent via email:

Mr. Shane Gardner
Hazardous Materials Specialist
City of Bakersfield Fire Department
2101 H Street
Bakersfield, California 93301-3921

Ms. Cheryl Prowell
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. Ryan Miya
Senior Environmental Scientist, Acting Supervisor
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

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. 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. 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

Ms. Mary Wren-Wilson
Environmental Scientist
CAL FIRE - Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

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cc sent via email:

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

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

Mr. Garrett Chan
Environmental Scientist
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: December 2020 through September 2021

Evaluation Team Members:

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Kevin Abriol
- **Cal OES:** Garrett Chan
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Glenn Warner, Mary Wren-Wilson

This Final Summary of Findings includes:

- Program deficiencies
- Incidental findings requiring resolution
- Program observations and recommendations
- Examples of outstanding program implementation

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered: satisfactory with improvements needed.

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

Samuel Porras

CalEPA Unified Program

Phone: (916) 327-9557

E-mail: Samuel.Porras@calepa.ca.gov

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

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead and must include a narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report.

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

1st Progress Report: December 27, 2021

3rd Progress Report: June 27, 2022

2nd Progress Report: March 28, 2022

4th Progress Report: September 26, 2022

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA has not established nor implemented all Unified Program administrative procedures. An established Unified Program administrative procedure is incomplete.

Permitting Procedures have not been established nor implemented to include the following:

- Time lines and time limits of appeal processes;
- Provisions for preliminary check for application completeness;
- Provisions for technical review of permit applications by the responsible agency;
- A procedure to track permit applications, establish follow-up protocol, and facilitate expeditious processing, when necessary.

The Information Request Response Policy is incomplete as follows:

- methods to prevent the release of confidential and trade secret information are not included;
- the option to submit a records request through the City of Bakersfield website is not addressed.

CITATION:

California Code of Regulations (CCR), Title 27, Sections 15180(e)(1), (e)(2), (e)(3), (e)(4), (e)(5), 15185(b), 15190(d), 15210(k)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the developed Permitting Procedures and revised Information Request Response Policy that adequately incorporate all required components.

By the 2nd Progress Report, if revisions to the Permitting Procedures or amendments to the Information Request Response Policy are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised Permitting Procedures and amended Information Request Response Policy. If no revisions to the Permitting Procedures or if no amendments to the Information Request Response Policy are necessary, the CUPA will train CUPA personnel on the Permitting Procedures and revised Information Request Response Policy. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the Permitting Procedures and/or revised Information Request Response.

By the 3rd Progress Report, if revisions to the Permitting Procedures or amendments to the Information Request Response Policy were necessary, the CUPA will train CUPA personnel on the revised Permitting Procedures or amended Information Request Response Policy. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline

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of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised Permitting Procedures and/or amended Information Request Response Policy.

2. DEFICIENCY:

The CUPA accepted incomplete or incorrect site map submittals in the California Environmental Reporting System (CERS).

The following are examples of accepted site map submittals that are incomplete or incorrect:

- CERS ID 10745614: missing components on site map, such as access and exit points, and emergency shutoffs
- CERS ID 10132945: missing components on site map, such as emergency shutoffs and evacuation staging area
- CERS ID 10125616: missing components on site map, such as evacuation staging area
- CERS ID 10024186: missing components on site map, such as storm and sewer drains, access and exit points, and staging area
- CERS ID 10023016: missing components on site map, such as storm and sewer drains and evacuation staging area

CITATION:

Health and Safety Code (HSC), Chapter 6.95, Section 25505(a) and 25508(a)(2) and (3)
[CalEPA, Cal OES]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the existing data management procedure, or other applicable procedure, to ensure the acceptance of complete Business Plan submittals in CERS. The CUPA will provide CalEPA with the revised data management procedure, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised data management procedure, or other applicable procedure are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended data management procedure or other applicable procedure. If no amendments are necessary, the CUPA will train CUPA personnel on the revised data management procedure or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised data management procedure or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised data management procedure, or other applicable procedure were necessary, the CUPA will train CUPA personnel on the amended data management procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended data management procedure or other applicable procedure.

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3. DEFICIENCY:

The CUPA is not consistently ensuring return to compliance (RTC) for the Hazardous Waste Generator (HWG) Program facilities cited with violations.

Review of inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, in CERS and the CUPA's local data management system indicates there is no documented RTC for the following violations:

- January 1, 2018 – December 31, 2020: 34 of 134 (25%)

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)
HSC, Chapter 6.7, Section 25288(d)
HSC, Chapter 6.11, Section 25404.1.2(c)
CCR Title 27, Sections 15200(a) and (e) and 15185(a) and (c)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the Inspection and Enforcement (I&E) Plan, which includes a delineated process to:

- ensure facilities cited with violations RTC through appropriate enforcement, and
- address follow up with facilities and how RTC is documented in CERS.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's local data management system or CERS, that includes at a minimum the following information for each HWG facility with open violations (no RTC):

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the appropriate enforcement taken by the CUPA to ensure RTC.

The CUPA will prioritize follow-up actions with each facility based on the level of hazard violations present to public health and the environment.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from DTSC, the CUPA will provide CalEPA with the amended I&E Plan.

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By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HWG facility records, as requested by DTSC, that include documentation of RTC or the appropriate enforcement taken by the CUPA.

4. DEFICIENCY:

The CUPA did not consistently include all observations, factual basis, and corrective action documentation for each violation cited on HWG and/or Tiered Permit (TP) inspection reports.

Review of HWG and TP inspection reports, CERS CME information and Notices of Violation indicates inadequate or improper documentation of cited violations for the following facilities:

- CERS ID 10650142
 - inspection report dated May 29, 2020, cites three HWG violations, however the inspection report does not fully detail all alleged violations, the factual basis for alleging the violations, nor the corrective actions that should be taken by the operator of the facility or site.
- CERS ID 10156323
 - inspection report dated March 5, 2020, cites a HWG violation for exceedance of accumulation time frame, however the inspection report does not detail the factual basis for alleging the violations nor the corrective actions that should be taken by the operator of the facility or site.
- CERS ID 10024039
 - inspection report dated February 13, 2020, cites a HWG violation for exceedance of accumulation time frame with a comment stating “barrel needs to be emptied”, however the inspection report does not document the hazardous waste inside of the barrel, or the accumulation start date, nor the documentation (manifest) that needs to be submitted to confirm compliance.

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

CITATION:

HSC, Chapter 6.5, Section 25185(c)(2)(A)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide inspection report writing training to each CUPA inspector to ensure all violations cited in HWG and/or TP inspection reports include observations, factual basis, and corrective actions. The CUPA will include review of the “[CalEPA Inspection Report Writing Guidance](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>) as part of the inspector training. The CUPA will provide CalEPA with training documentation, which at a minimum will include an outline of the training conducted and a list of CUPA personnel attending the training.

By the 2nd Progress Report, the CUPA will provide CalEPA with an inspection report citing at least two HWG violations, for three HWG facilities, as requested by DTSC, that have been

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inspected after training has been completed and within the last three months. Each inspection report will contain observations, factual basis, and necessary corrective actions to be taken for each observed HWG violation.

5. DEFICIENCY:

The CUPA is not consistently conducting thorough HWG inspections or identifying all violations at HWG facilities.

Review of CERS CME information between January 1, 2018 – December 31, 2020, indicates that 1,924 routine HWG inspections were conducted, however only 106 (5%) of these inspections resulted in one or more violations being cited. There were a total of 184 HWG violations cited between January 1, 2018 – December 31, 2020. Conducting thorough process-based HWG inspections and having an in-depth knowledge of hazardous waste control law and regulations would result in more violations being identified and cited. Examples include, but are not limited to, the following:

- CERS ID 10022359
 - Inspections conducted on May 16, 2018, May 22, 2019, and June 22, 2020, did not result in any HWG violations.
 - Review of the Hazardous Waste Tracking System (HWTS) and Transporter Quarterly Report (TQR) data show that no hazardous waste has ever been shipped offsite and the EPA ID Number has been inactive since 2016.
- CERS ID 10022962
 - CERS indicates this facility was inspected in 2013 as a Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG).
 - Inspections conducted on June 9, 2016, June 23, 2017, January 23, 2018, and April 18, 2019, were all HWG inspections, not RCRA LQG inspections.
 - Each inspection has no violations cited.
 - This wood treatment facility is consistently shipping off RCRA waste in amounts indicative of a RCRA LQG. Certain hazardous wastes identified in the inventory appear not to have been shipped offsite in a timely manner.

CITATION:

HSC, Chapter 6.5, Section 25101(d)
HSC, Chapter 6.11, Section 25404.2(a)(1)(A)
CCR, Title 27, Sections 15100(b)(3)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the HWG inspection checklists to ensure the violations are appropriate and have correct citations, based on the generator's status. The CUPA will ensure all inspection staff that conduct HWG facility inspections review the HWG training materials spreadsheet provided by DTSC on July 1, 2021. The CUPA will provide CalEPA with training documentation, which at a minimum will include, an outline of the training conducted and a list of CUPA inspection staff in attendance.

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By the 2nd Progress Report, each CUPA inspector that conducts HWG inspections will coordinate with another CUPA (such as Kern County CUPA), to shadow five HWG inspections conducted in the jurisdiction of the other CUPA. At least one of the shadowed inspections will occur at a RCRA LQG facility. The CUPA will provide CalEPA with a summary of each shadowed inspection, which will include, at a minimum:

- the name of the other CUPA that conducted the inspection;
- the name of the inspector from the other CUPA;
- the name of the facility inspected;
- the date the inspection was conducted;
- the number of violations cited at the facility during the shadowed inspection; and
- the name of the Bakersfield CUPA inspector that assisted with and observed the inspection.

By the 3rd Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with an inspection report citing at least two HWG Program violations, for three HWG Program facilities, as requested by DTSC, that have been inspected after training has been completed and within the last three months. Each inspection report will contain observations, factual basis, and corrective actions to correctly identify and classify each observed HWG Program violation.

6. DEFICIENCY:

The CUPA has not identified all HWG facilities operating within the CUPA's jurisdiction.

Review of information from the HWTS and TQR indicates:

- 1,473 facilities with either Environmental Protection Agency (EPA) Identification (ID) or California issued numbers shipped hazardous waste from January 1, 2018, through December 31, 2020. This does not include counts of facilities with provisional EPA ID numbers issued for emergency or one-time removal actions, or facilities that exclusively self-haul hazardous waste under a statutory exemption.

Review of information provided by the CUPA indicates:

- There are 753 currently permitted HWG facilities.

The comparison of the number of HWG facilities identified in the HWTS, TQR and information provided by the CUPA reflects a significant difference of 720 facilities that have not been identified or regulated by the CUPA, as over 47% of the facilities identified in the HWTS and TQR as shipping hazardous waste between January 1, 2018, through December 31, 2020, are not currently permitted by the CUPA.

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CITATION:

HSC, Chapter 6.5, Section 25101(d)
HSC, Chapter 6.11, Section 25404.2(a)(1)(A)
CCR Title 22, Sections 67450.2(b)(4) and 67450.3(c)
CCR, Title 27, Sections 15100 (b)(3) and 15200(a)(3)(A)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to identify all facilities subject to the HWG Program. The action plan will include, at a minimum:

- A review and comparison of the data from the HWTS and TQR with the data from the CUPA's local data management system or CERS, to determine all facilities that generate hazardous waste and are subject to HWG Program requirements.
 - The CUPA will develop a spreadsheet containing each facility listed in the HWTS, TQR, the CUPA's local data management system, and CERS. For each facility listed, the spreadsheet will, at a minimum, include:
 - CERS ID
 - CUPA Jurisdiction (Bakersfield Fire Department, Kern County, etc.)
 - Date of the last routine inspection
 - Any informative notes regarding the facility's HWG management activities or permit status.
 - For facilities identified as not being subject to the HWG Program, the CUPA will provide specific details on how the determination was made. Site visits and aerial photography (e.g., Google Maps) may be used to assist in identifying non-regulated facilities.
 - Facilities identified as being subject to the HWG Program will be incorporated into the existing HWG inspection schedule, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.
- A schedule to inspect HWG facilities that have not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.
- Future steps to ensure that all HWG facilities will be inspected once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated version of the spreadsheet to demonstrate the HWG facilities identified as being subject to the HWG Program that have been inspected, permitted, and are reporting to CERS.

By the 4th Progress Report, the CUPA will have inspected all newly identified HWG facilities.

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DEFICIENCIES REQUIRING CORRECTION

7. DEFICIENCY:

The CUPA is not consistently following up and documenting RTC information in CERS for APSA tank facilities cited with violations.

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

FY 2018/2019

- 2 of 5 (40%) APSA violations, including one violation for not having an SPCC Plan

FY 2017/2018

- 1 of 1 (100%) APSA violation

FY 2015/2016

- 1 violation for not having an SPCC Plan

CITATION:

HSC, Chapter 6.67, Section 25270.4.5(a)

HSC, Chapter 6.11, Section 25404.1.2(c)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)

[OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's local data management system or CERS, that includes at a minimum the following information for each APSA tank facility with open violations (no RTC) between July 1, 2015, through June 30, 2020:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the appropriate enforcement taken by the CUPA to ensure the facility RTC.

The CUPA will prioritize follow-up actions with each facility based on the level of hazard present to public health and the environment.

By the 3rd Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM, that includes documentation of RTC or a description of the appropriate enforcement taken by the CUPA.

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By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the 1st Progress Report with an open violation for no SPCC Plan has achieved compliance, or the CUPA will have taken appropriate enforcement.

8. DEFICIENCY:

The CUPA is not documenting in sufficient detail whether the Underground Storage Tank (UST) owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

Review of facility files finds the following examples:

- CERS ID 10134208: The letter provided to the owner or operator is a no further action letter and does not identify that the owner or operator demonstrated to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.
- CERS ID 10232770: The letter provided to the owner or operator is a no further action letter and does not identify that the owner or operator demonstrated to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

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

Note: State Water Board UST Program Leak Prevention Frequently Asked Question 15 (https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) may be referenced.

CITATION:

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

CORRECTIVE ACTION:

The CUPA provided CalEPA with a revised UST Closure Letter template on June 16, 2021. The State Water Board acknowledged the revisions were consistent with UST Regulations and HSC on June 16, 2021.

By the 1st Progress Report, the CUPA will develop and provide CalEPA with a UST Closure procedure, or other applicable procedure, ensuring the establishment of a process, which will include at a minimum, how the CUPA will:

- Document in sufficient detail, the owner or operator has demonstrated to the satisfaction of the CUPA, UST closure, and soil and/or groundwater sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d) (i.e. correspondence, hardcopy, electronic media), and

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- Provide UST closure documentation to the UST owner or operator, which demonstrates to the satisfaction of the CUPA, UST closure, and soil and/or groundwater sampling complies with UST Regulations and HSC.

By the 2nd Progress Report, if amendments to the revised UST closure procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST closure procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST Inspection staff on the revised UST closure procedure, or other applicable procedure, and UST closure letter template. The CUPA will provide training documentation to CalEPA, which at a minimum, will include an outline of the training conducted and a list of UST Inspection staff in attendance. Once training is complete, the CUPA will implement the revised UST closure procedure, or other applicable procedure, and UST closure letter template.

By the 3rd Progress Report, if amendments were necessary to the UST closure procedure, or other applicable procedure, the CUPA will train UST inspection staff on the amended UST closure procedure, or other applicable procedure, and UST closure letter template. The CUPA will provide training documentation to CalEPA, which at a minimum, will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended UST closure procedure, or other applicable procedure, and UST closure letter template.

With respect to facilities which have not been provided UST closure documentation, the CUPA will use the revised UST closure letter template and will provide the requested documentation upon request.

By the 4th Progress Report, or until considered corrected, for the next two UST removals or closures in place, the CUPA will provide CalEPA with the UST closure documentation that demonstrates to the satisfaction of the CUPA, UST closure, and soil and/or groundwater sampling complies with UST Regulations and HSC.

9. DEFICIENCY:

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

There are insufficient training records to indicate CUPA personnel meet the following training requirements:

- 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;

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DEFICIENCIES REQUIRING CORRECTION

- 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.
- Enforcement response options, interviewing, case development, witness, administrative hearing, penalty assessment, and negotiation techniques.

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

CCR, Title 27, Section 15260
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will establish and implement a training plan to ensure all CUPA personnel involved with Unified Program implementation meet the applicable training requirements. The CUPA will provide CalEPA with the training plan. At a minimum, the plan will include:

- A timeline for existing CUPA personnel to fulfill the applicable training requirements as follows:
 - Training for all technical staff and supervisors:
 - CalEPA - Gathering Evidence and Collecting Samples: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-FctShtEvdSmp.pdf>
 - Interpreting Lab Results: <https://www.youtube.com/watch?v=0IZQPWfKxvk>
 - Representative Sampling (1 of 2): <https://www.youtube.com/watch?v=SjtOBg7V4pg>
 - Representative Sampling (2 of 2): <https://www.youtube.com/watch?v=ddzNILXg9Wg>
 - San Joaquin County Chain of Custody Record: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-SJCChainFCst-accessible.pdf>
 - Training for one or more technical staff or supervisors issuing enforcement orders:
 - Interviewing Techniques Fact Sheet: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-FctIntervtec-accessible.pdf>
 - AEO Nuts to Bolts: <https://www.youtube.com/watch?app=desktop&v=drOVlcTWB9Y>
 - Administrative, Civil and Criminal Enforcement Options: <https://www.youtube.com/watch?app=desktop&v=Ix2OLvTF6kw>
 - CalEPA - Information on Administrative Enforcement Orders: <https://calepa.ca.gov/cupa/orders/>

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DEFICIENCIES REQUIRING CORRECTION

- CalEPA Recommended Guidance on Supplemental Environmental Projects: https://calepa.ca.gov/wp-content/uploads/sites/6/2018/06/CalEPA_SEP_Guidance-June-2018.pdf
- Environmental Offenses: Case-Referral Guidelines from Environmental Crimes Prosecution Manual: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-ReferralGuid.pdf>
- Sample Referral Letter to Prosecuting Agency (CalEPA): <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-Referraltr.pdf>

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with training documentation ensuring all personnel involved with Unified Program implementation meet applicable training requirements. Training documentation will include at a minimum, an outline of the training conducted, and a list of CUPA personnel in attendance.

10. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not requiring 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.

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

The CUPA provided ELD testing results and UST closure records. No further action is required.

11. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not inspecting each facility subject to business plan requirements at least once every three years.

Review of CERS CME information indicates:

- 253 of 1,545 (16%) facilities subject to business plan requirements were not inspected within the last three years.

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

HSC, Chapter 6.95, Section 25511(b)
[CalEPA, Cal OES]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA made significant progress toward inspecting each facility subject to business plan requirements as 67 of 1,545 (4%) facilities subject to business plan requirements were not inspected within the last three years. The CUPA will continue to make efforts to inspect each facility subject to business plan requirements at least once every three years. No further action is required.

12. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not ensuring all regulated businesses subject to the business plan reporting requirements annually submit a Hazardous Materials Business Plan (HMBP) or certification to CERS.

Review of HMBPs submitted to CERS by regulated businesses subject to business plan reporting requirements indicates:

- 549 of 1,545 (36%) regulated businesses have not submitted a chemical inventory (including site map) or certification within the last 12 months.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA made significant progress toward ensuring all regulated businesses subject to business plan reporting requirements annually submit an HMBP or certification to CERS as 150 of 1,545 (10%) regulated businesses have not submitted a chemical inventory or certification within the last 12 months. The CUPA will continue to ensure all regulated businesses subject to business plan requirements annually submit an HMBP or certification to CERS. No further action is required.

13. DEFICIENCY: CORRECTED DURING EVALUATION

Required components of the I&E Plan are inaccurate or incomplete.

The following components are inaccurate:

- Inspection frequency citations for the universal waste are outdated or no longer exist. Household universal waste generators are exempted under CCR, Title 22, Section 66273.8(a). Conditionally exempt small quantity universal waste generators are regulated under CCR, Title 22, Section 66273.8(b). The universal waste rule no longer distinguishes between Small Quantity and Large Quantity Handlers of Universal Waste. Standards

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DEFICIENCIES REQUIRING CORRECTION

- applicable to all universal waste handlers are stated in CCR, Title 22, Sections 66273.30 - 66273.39.
- Page 10 includes guidance regarding universal waste and silver only facilities which is outdated.
 - Page 10 includes a broken link to DTSC's website regarding certified appliance recyclers. Information regarding certified appliance recyclers can be found at: <https://dtsc.ca.gov/certified-appliance-recycler-car-program/>
 - Complaint handling procedures refer to DTSC's EnviroStor system and referrals by DTSC liaison Nancy Lancaster. The CalEPA Complaint System is now used to refer complaints.
 - Page 11: The webpage (<http://www.epa.gov/Compliance/resources/publications/civil/programs/mmmall.pdf>) referenced under the first paragraph of "Integrated or Multi-Media Inspections" is no longer valid.
 - Page 15: The webpage (<http://www.calepa.ca.gov/CUPA/Documents/Inspection/Guddigtlphts.pdf>) referenced under part j of the "Report Writing Procedures" is no longer valid.
 - Page 16: The webpage (<http://www.calepa.ca.gov/CUPA/Documents/Inspection/Guddigtlphts.pdf>) referenced under "Gathering Evidence and Collecting Samples" is no longer valid.
 - Page 21: The webpage (<http://www.calepa.ca.gov/CUPA/Documents/Inspection/PenaltyMatrx.pdf>) referenced under the "Penalties" section is no longer valid.

The following components are incomplete:

- The provisions for ensuring sampling capability and analysis performed by a state certified laboratory is vague and suggestive in nature. Information should include details specific to the CUPA's internal process for performing training, identifying applicable sampling equipment, any methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

The CUPA provided a revised I&E Plan to CalEPA on June 11 and June 17, 2021, that incorporates all components identified as being inaccurate or incomplete. No further action is required.

14. DEFICIENCY: CORRECTED DURING EVALUATION

The UST operating permit and permit conditions, issued under the Unified Program Facility Permit (UPFP), are inconsistent with UST Regulations and HSC and are missing required components.

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DEFICIENCIES REQUIRING CORRECTION

Review of UST operating permits and permit conditions, issued under the UPPF, indicates the following is inconsistent with UST Regulations and HSC:

- Permits state “To be posted”, which is more stringent than UST Regulations and HSC, and where no local ordinance authority exists. UST Regulations require a paper or electronic copy of the UST operating permit be readily accessible at the facility.
- Permit conditions cite HSC, chapter 6.75, however, the CUPA does not have the authority to cite chapter 6.75.

Review of UST operating permits and permit conditions, issued under the UPPF, finds the following required information is missing:

- UST Identification (ID) number

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

Note: The following may be referenced: State Water Board correspondence dated April 7, 2017, “Amended Requirements for Unified Program Facility Permits Effective January 1, 2017.”

CITATION:

HSC, Chapter 6.7
CCR, Title 23, Sections 2712(c) and (i)
CCR, Title 27, Section 15190(h)
[State Water Board]

CORRECTIVE ACTION: COMPLETED

The CUPA provided CalEPA with a revised UST operating permit template and permit conditions on June 7, 2021. The State Water Board acknowledged the revisions were consistent with UST Regulations and HSC on June 16, 2021.

As a result of the CUPA three-year permitting cycle, the State Water Board will consider this deficiency corrected upon completion and acceptance of the UST operating permit template and permit conditions. Issuance of the revised or amended UST operating permit template and permit conditions will be verified during the next CUPA Performance Evaluation. No further action is required.

15. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not inspecting each Aboveground Petroleum Storage Act (APSA) tank facility that stores 10,000 gallons or more of petroleum for compliance with the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements of the APSA Program at least once every two years in accordance with the I&E Plan.

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DEFICIENCIES REQUIRING CORRECTION

Review of facility files, CERS CME information, and information provided by the CUPA indicates:

- 9 of 25 (36%) tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last two years, including five tank facilities that have never been inspected.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the CUPA Performance Evaluation, the CUPA performed sufficient inspections at previously delinquent facilities to correct this deficiency. No further action is required.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The CUPA is not consistently ensuring HMBP submittals, in lieu of a tank facility statement, include site maps that contain all applicable required elements.

Review of CERS indicates the following 5 of 14 (36%) APSA tank facilities were missing various site map elements in recently accepted HMBP submittals.

- CERS ID 10024660 and 10117141: missing emergency shutoffs, emergency response equipment, and evacuation staging area.
- CERS ID 10023541: missing emergency shutoffs and evacuation staging area.
- CERS ID 10753390: missing emergency response equipment and evacuation staging area.
- CERS ID 10028089: missing emergency shutoffs, emergency response equipment, evacuation staging area and north orientation.

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)(2)
2019 CFC, Chapter 50, Sections 5001.5.1 and 5001.5.2, and Appendix H
[OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that future HMBP submittals, in lieu of a tank facility statement, are thoroughly reviewed and contain all applicable required elements. The action plan will include steps to follow up with rejected or incomplete submittals.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a list of APSA tank facilities whose recent HMBP submittal, in lieu of a tank facility statement, has been reviewed and not accepted for missing applicable required elements. For each tank facility on the list, the CUPA will include follow-up actions, including appropriate enforcement.

By the 4th Progress Report, the CUPA will have ensured each tank facility has submitted all applicable required HMBP elements when an HMBP is provided in lieu of a tank facility statement or the CUPA has taken appropriate enforcement.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

2. INCIDENTAL FINDING:

The CUPA is not inspecting all UST facilities at least once every 12 months.

Review of the Semi-Annual Report (Report 6) for the following Fiscal Year (FY) finds:

- FY 2018/2019
 - 20 of 148 (13%) UST facilities were not inspected.

CITATION:

HSC, Chapter 6.7, Section 25288(a)
[State Water Board]

RESOLUTION:

As of FY 2019/2020, the CUPA has been inspecting all UST facilities at least once every 12 months.

By the 1st Progress Report, and with each subsequent Progress Report until considered resolved, the CUPA will continue to inspect all UST facilities at least once every 12 months. The CUPA will ensure Report 6 and CERS CME information accurately reflect all UST facilities are being inspected.

3. INCIDENTAL FINDING:

The CUPA is not correctly reporting accurate CME information to CERS for the HWG Program.

Review of CERS RCRA LQG CME information indicates the following:

- The CUPA provided a list of 30 RCRA LQG facilities, however 29 of the 30 RCRA LQG facility inspections between January 1, 2018 – December 31, 2020, were not coded as RCRA LQG inspections in CERS.
- The CUPA completed 26 RCRA LQG inspections between January 1, 2018 – December 31, 2020, however only one of those facilities was identified on the list of 30 RCRA LQG facilities provided by the CUPA.

CITATION:

HSC, Chapter 6.11, Section 25404(e)
CCR, Title 27, Sections 15187(c) and 15290(a)(3) and (b)
[DTSC]

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

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

- Identification and correction of the cause(s) of incorrect HWG Program CME information reported to CERS, including any data transfer from the local data management system or portal to CERS to ensure all CME information is consistently reported completely and accurately to CERS;
- Review and revision of the existing CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure HWG Program CME information is consistently reported completely and accurately to CERS.
- Identification of HWG Program CME incorrectly reported to CERS from January 1, 2018 – December 31, 2020;
- A process for reporting HWG Program CME information identified as being previously reported incorrectly to CERS;
- Future steps to ensure all HWG Program CME information is consistently reported completely and accurately to CERS.

By the 3rd Progress Report the CUPA will consistently and correctly report complete and accurate HWG Program CME information to CERS. The CUPA will provide a statement confirming the completion of all prior HWG Program CME information previously reported incorrectly to CERS, from January 1, 2018 – December 31, 2020, as currently and correctly being reported to CERS.

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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 is not properly completing the Quarterly Surcharge Transmittal Reports. The Check Number on the report is not being completed before being provided to CalEPA each fiscal quarter.

RECOMMENDATION:

Include the Check Number on the Quarterly Surcharge Transmittal Report to assist CalEPA with tracking of remitted payments. Effective June 25, 2021, the quarterly Surcharge Transmittal Report template was updated to reflect the increased CUPA Oversight state surcharge, which includes an assessment for the CERS NextGen Project.

2. OBSERVATION:

There is no date of completion on the annual Self-Audit Report for FYs 2017/2018, 2018/2019, and 2019/2020.

RECOMMENDATION:

Incorporate a completion date on the annual Self-Audit Report.

3. OBSERVATION:

The information provided below is a comparison of the total number of regulated facilities within each Unified Program element upon certification of the CUPA with present-day circumstance and the degree to which the number of regulated facilities has increased or decreased. The information is sourced from the following:

- Information provided by Bakersfield City Fire Department 1995 Application for Certification
- CERS "Summary Regulated Facilities by Unified Program Element Report" generated on March 25, 2021
- CERS "UST Inspection Summary Report (Report 6)," generated on March 25, 2021
- Total Number of Regulated Businesses and Facilities:
 - In 1995: **1,130**
 - Currently: **1,570**
 - An increase of **440** facilities

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- Total Number of Business Plan Regulated Businesses and Facilities:
 - In 1995: **1,030**
 - Currently: **1,559**
 - An increase of **529** facilities

- Total Number of Regulated UST Facilities:
 - In 1995: **224**
 - Currently: **157**
 - A decrease of **67** facilities

- Total Number of Regulated USTs:
 - In 1995: **600**
 - Currently: **437**
 - A decrease of **163** USTs

- Total Number of Regulated HWG Facilities:
 - In 1995: **450**
 - Currently: **755**
 - An increase of **305** facilities

- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
 - In 1995 Application: None specified
 - Currently: **0**
 - Comments: HHW Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.

- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
 - In 1995: **34**
 - Currently: **3**
 - A decrease of **31** facilities

- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
 - In 1995: none specified
 - Currently: **34**
 - Comments: RCRA LQG Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.

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- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
 - In 1995: **20**
 - Currently: **5**
 - A decrease of **15** facilities

- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
 - In 1995: N/A
 - Currently: **136**
 - An increase of **136** facilities

Since the CUPA applied for certification in 1995, an expansion of responsibilities in the Business Plan, HWG, and APSA programs has occurred, increasing the total regulated facility count and attributing to an increased workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. The Business Plan Program increased by 529 facilities (34%), the HWG Program increased by 305 facilities (40%), and the APSA Program increased by 136 facilities (100%). In addition, the CUPA currently oversees 34 RCRA LQG facilities that were not identified in the 1995 Application for Certification. The UST Program decreased by 67 facilities (30%), the TP Program decreased by 31 facilities (91%), and the CalARP Program decreased by 15 facilities (75%). The overall trend shows the number of regulated facilities managed by the CUPA as of March 25, 2021, has increased by about 28% since the CUPA applied for certification in 1995.

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased. The information is sourced from the Bakersfield City Fire Department 1995 CUPA Application and recent information provided by the CUPA.

CUPA Personnel:

- Inspection and other Staff
 - Upon Certification in 1995:
 - 2* Staff, each at a 100% FTE= 2 Full-Time positions
 - *Staff count does not include 2 clerical staff members.
 - Currently:
 - 5* Staff at a 100% FTE= 5 Full-Time positions
 - *There are 4 CUPA personnel working as Fire Prevention Inspectors and 1 CUPA personnel working as a Hazardous-Materials Specialist. In addition, about 85 Fire Captains will no longer be conducting inspections for the HWG Program, but will continue to inspect facilities within the HMBP and APSA Program for APSA tank facilities storing less than 10,000 gallons of petroleum.

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- Supervisory and Management Staff
 - Upon Certification in 1995:
 - 1 Staff at a 100% FTE= 1 Full-Time position
 - *The Program Director was also responsible for overseeing 166 Engine Company Personnel (firefighters).
 - Currently:
 - 1 Staff at a 100% FTE= 1 Full-Time position

RECOMMENDATION:

The comparison of the implementation of the program upon certification with present-day circumstance reveals there may be a few issues impeding the CUPA's ability to adequately implement the Unified Program within its jurisdiction. This evaluation revealed that the CUPA is deficient in maintaining inspection frequency in the APSA Program and deficient in obtaining RTC in the HWG and APSA Programs. In addition, the CUPA is deficient in implementing the HWG Program, identifying all HWG facilities operating within the CUPA's jurisdiction, and consistently including detailed information for each violation cited on HWG and TP inspection reports. Between growth within the City of Bakersfield and the expansion of Unified Program elements since the CUPA's inception, the number of regulated facilities for this CUPA has increased by 28% since the CUPA was first certified. The largest facility increases have been identified in the HWG Program. The CUPA has also lost a Supervisor with many years of experience in CUPA Program implementation.

The fee schedule was last updated in 2017. Currently, the CUPA is evaluating phased fee increases for the UST and APSA Programs starting in FY 2021/2022. Continue to pursue any other fee increases as part of reviewing the fee accountability program to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. As part of this evaluation, review the current budget, including revenue sources and expenditures, single fee assessment for each regulated entity, and funding allocation for program services. Determine if it is necessary to increase the single fee for program elements to ensure revenue is reasonably adequate for implementing the Unified Program and CUPA operations, address any need to acquire support of additional staff or other resources as necessary and reasonable to ensure adequate implementation of program services and regulatory oversight for each program element. Examine how current CUPA resources are being allocated, specifically in areas of inspection and enforcement.

It is critical that fee accountability is addressed on a yearly basis so that it ensures any fee increases are not exuberant when unaddressed for several years and are at risk of being denied by Bakersfield's City Council. Undergoing a yearly review of the fee accountability program ensures the CUPA is adequately funded to obtain and maintain adequate staff and application of resources to implement the Unified Program. The ability to apply each aspect of inspection, compliance, monitoring and enforcement for all Unified Program elements is not only vital to the success of the program, but further ensures the protection of health and safety of the community and the environment.

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OBSERVATIONS AND RECOMMENDATIONS

4. OBSERVATION:

Review of overall implementation of the HWG program, including CERS data, and facility file information between January 1, 2018 – December 31, 2020, is summarized below:

- CERS indicates that 1,924 routine HWG inspections were conducted.
 - 106 of these HWG inspections resulted in one or more violations being cited
 - 1,818 of these HWG inspections resulted in no violations being cited
- CERS indicates a total of 184 violations being cited, consisting of:
 - 11 Class I violations cited
 - 64 Class II violations
 - 109 minor violations
- CERS indicates that the CUPA did not complete any formal enforcement.
- CERS indicates CERS ID 10023061 has never received a HWG inspection, though the facility has provided seven CERS submittals from July 13, 2012, through June 15, 2020, identifying as a HWG.
 - Submittals made on April 16, 2019, and June 15, 2020, were marked as “Not Accepted” with a comment requesting the EPA ID Number be included with the submittal.
 - The inventory for the facility indicates 110 gallons of methylene chloride is on site, which when used, would be considered a RCRA hazardous waste carrying the F001 waste code.
 - HWTS indicates that no waste has ever been shipped offsite.
- The I&E Plan describes a process to ensure all facilities subject to a unified program element are regulated within the jurisdiction, which includes routine information sharing with other regulatory business agencies for related programs such as: business licenses, the tax assessor, fire, health, data “mining” (e.g., manifest system reports, phone directories, industry association data bases, and self-reported data such as Dun and Bradstreet), agency “sweeps” of specific geographic areas, Environmental Crimes Task Force discussions, and similar efforts to find those who may not have applied for and received a permit or other authorization.
- DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

RECOMMENDATION:

Ensure that complete and thorough inspections are conducted to identify all violations at facilities. Ensure inspection reports are detailed and include all observations, factual basis of violations, and corrective actions. Ensure HWG facilities are inspected within the two-year inspection frequency as indicated within the I&E Plan. Adhere to the I&E Plan to follow up with facilities that have not obtained RTC by the scheduled RTC date and pursue a graduated series of enforcement for facilities that do not obtain RTC. Inspect CERS ID 10023061 to ensure that all hazardous waste generated is managed according to Hazardous Waste Control Law and Regulations.

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OBSERVATIONS AND RECOMMENDATIONS

5. OBSERVATION:

The I&E Plan, dated 2020, contains APSA program information that is inaccurate, outdated, or may benefit from improvement.

- Multiple instances of referral to the APSA program as aboveground storage tank (AST) were observed, including the Table of Contents (page 4), and pages 7, 10, 25, 26, and 30. Not all ASTs contain petroleum.
- Page 26, Table 1, notice to comply is applicable to all Unified Program elements for minor violations and not just one program element.
- Page 30, section V, Paragraph D, the HSC 25270.5 inspection requirements improperly reference the Secretary for Environmental Protection, and improperly reference a biennial inspection requirement.

RECOMMENDATION:

Update the I&E Plan as indicated above.

6. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 137 tank facilities. The CUPA’s local data management system identifies 124 APSA tank facilities.

- 115 APSA tank facilities are identified in both CERS and the CUPA’s local data management system. However, seven of these facilities are likely not APSA regulated.
- Nine facilities identified in the CUPA’s local data management system are currently identified in CERS as “APSA Not Applicable.” However, six of these facilities are likely not APSA regulated.
- 22 tank facilities are reported as APSA Applicable in CERS, but are not identified as APSA tank facilities in the CUPA’s local data management system. However, 15 of these facilities are likely APSA regulated.
- The CUPA should investigate five additional facilities currently reported in CERS as “APSA Not Applicable” to determine if any are actual APSA tank facilities.

RECOMMENDATION:

Complete the reconciliation of the APSA Program information in the CUPA’s local data management system with CERS to ensure all APSA tank facilities are included in both systems.

7. OBSERVATION:

A few APSA tank facilities submitted an HMBP in lieu of a tank facility statement using the 2011 emergency response and training plans template, which has an obsolete phone number for OSFM.

The 2017 version of the consolidated emergency response and training plans template contains the current OSFM phone number.

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RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template as part of the HMBP submittal, in lieu of the tank facility statement, to use the current 2017 template. The current template is available in CERS.

8. OBSERVATION:

An SPCC Plan submittal was accepted by the CUPA for CERS ID 10023124.

SPCC Plans are not required as part of an APSA or other CERS submittal; therefore, SPCC Plans should not be uploaded to CERS.

RECOMMENDATION:

The CUPA should provide feedback (using the regulator comments field) advising the facility to not include SPCC Plans in future CERS submittals.

9. OBSERVATION:

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

- CERS ID 10023739 (Tank IDs 1 - 3);
- CERS ID 10127599 (Tank IDs 1 - 4); and
- CERS ID 10135018 (Tank IDs 1 - 3).

RECOMMENDATION:

Continue to provide written and verbal reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Consider providing written notification of the requirement to all applicable UST facility owners or operators. The written notification should inform facility owners or operators that in order to remain in compliance, owners or 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 or operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project USTs. More information on funding sources may be found at:

https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html.

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OBSERVATIONS AND RECOMMENDATIONS

10. OBSERVATION:

The I&E Plan contains vague language specifying the CUPA's process in administering the inspection and enforcement programs. The CUPA is incorporating many elements of the 2008 California CUPA Forum Board "Guidance Document for Inspection and Enforcement" into the I&E Plan and has not updated the I&E Plan to correspond with the CUPA's current processes.

RECOMMENDATION:

Update the I&E Plan to reflect the CUPA's current procedures and processes.

11. OBSERVATION:

The I&E Plan does not require inspections at APSA tank facilities storing less than 10,000 gallons of petroleum, and the Fire Captains who perform inspections at APSA tank facilities storing less than 10,000 gallons of petroleum have not completed and passed the initial APSA inspector training program.

RECOMMENDATION:

Tank facility inspections for compliance with the SPCC Plan requirements of APSA shall not be conducted by untrained staff. Each Unified Program Agency staff shall first complete and pass the initial APSA training program, per HSC 25270.5, prior to inspecting such APSA tank facilities regardless of storage capacity.

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. HOSTED TRAINING:

Bakersfield CUPA co-lead a three-day multi-agency Terrorism course with the Federal Bureau of Investigation (FBI) Weapons of Mass Destruction (WMD) Coordinator. The course was conducted February 15-17, 2021, and was attended by 45 Firefighters from Bakersfield. The course focused on making homemade explosives and pre-cursors that agencies may come across when responding to normal incidents. Attendees participated in a live evidence collection training course taught by the FBI and Tulare County Laboratory, which the FBI is prepared to use in the event of a terrorism incident located in the Central Valley. Attendees learned the process for properly opening sealed packages and letters, which may contain hazardous materials, and how to process the material. In addition, attendees were taught how to determine the key indicators on threat letters to determine if the situation is likely a single or isolated incident or if the situation is something that other agencies may also come into contact with.
