



Gavin Newsom  
Governor

Jared Blumenfeld  
Secretary for Environmental Protection

August 23, 2022

Mr. Jeffrey Marshal  
Director, Environmental Health  
Kern County Environmental Health Services Department  
2700 M Street, Suite 300  
Bakersfield, California 93301-2370

Dear Mr. Marshal:

During August 2021 through May 2022, CalEPA and the state program agencies conducted a performance evaluation of the Kern County Environmental Health Services Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System information.

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 (October 24, 2022), 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 at [samuel.porras@calepa.ca.gov](mailto:samuel.porras@calepa.ca.gov), or mail.

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

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

Mr. Jeffrey Marshal  
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If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov).

Sincerely,



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

Enclosures

cc sent via email:

Ms. Amy Rutledge  
Assistant Director, Public Health  
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Mr. Bilal Korin  
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Ms. Cheryl Prowell  
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State Water Resources Control Board  
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Mr. Tom Henderson  
Engineering Geologist, UST Unit Coordinator  
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Ms. Maria Soria  
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Mr. Jeffrey Marshal  
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cc sent via email:

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

Mr. Glenn Warner  
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Ms. Mary Wren-Wilson  
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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

Ms. Elizabeth Brega  
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: Kern County Environmental Health Services Department

**Evaluation Period:** August 2021 through May 2022

#### Evaluation Team Members:

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Brennan Ko-Madden, Kevin Abriol
- **CalEPA\*:** Garrett Chan
- **State Water Board:** Sean Farrow
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glenn Warner

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 improvement 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](mailto: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 tentatively scheduled as follows:

**1<sup>st</sup> Progress Report:** October 24, 2022  
**3<sup>rd</sup> Progress Report:** May 2, 2023

**2<sup>nd</sup> Progress Report:** February 1, 2023  
**4<sup>th</sup> Progress Report:** July 31, 2023

\*Effective July 1, 2021, oversight of the Hazardous Materials Release Response Plans and Inventory and the California Accidental Response Prevention Program transitioned from Cal OES to CalEPA.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

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

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**1. DEFICIENCY:**

The CUPA is not consistently ensuring Underground Storage Tank (UST) facility owners/operators submit UST testing and leak detection documents and is not citing the corresponding violation during the annual UST compliance inspection.

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was partially corrected during the Evaluation Progress Report process.

**CITATION:**

Health and Safety Code (HSC), Chapter 6.7, Section 25288(a) and (b)  
California Code of Regulations (CCR), Title 23, Sections 2637(e), 2638(d), 2643(g) and 2644.1(a)(5)  
CCR, Title 27, Section 15290(a)(3)  
[State Water Board]

**CORRECTIVE ACTION:**

During the evaluation, review of the CUPA's revised *Inspection Performance Standards* finds reference to the *Kern County UPA Performance Enforcement Standards* for enforcement options regarding UST facility owners/operators who fail to submit testing and leak detection documents. The referenced *Kern County UPA Performance Enforcement Standards* are acceptable. Review of UST facility files finds the CUPA is ensuring testing and leak detection documents are submitted by UST owners/operators.

The CUPA trained UST inspection staff on the revised *Inspection Performance Standards* and the *Kern County UPA Performance Enforcement Standards* and provided training documentation to CalEPA. As training is complete, the CUPA will implement the revised *Inspection Performance Standards* and the *Kern County UPA Performance Enforcement Standards*. The training documentation provided will be reviewed during the 1<sup>st</sup> Progress Report to ensure an outline of the training conducted and a list of UST inspection staff in attendance are included.

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**2. DEFICIENCY:**

The CUPA is not consistently ensuring UST facilities with testing or leak detection violations obtain return to compliance (RTC) within 60 days or is not consistently following up and documenting RTC information in CERS for UST testing or leak detection violations.

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) finds the following UST facilities cited with testing or leak detection violations did not obtain RTC within 60 days:

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

- Fiscal Year (FY) 2020/2021: 59 of 214 (28%)

Review of CERS CME information finds the following UST facility testing or leak detection violations have no documented RTC in CERS:

- FY 2020/2021: 91 of 214 (42%)
  - Examples include:
    - CERS ID 10238002: UST violation dated July 23, 2020, for *Line Leak Detector (LLD)-Double-Walled Pressurized Pipe*.
    - CERS ID 10233190: UST violation dated October 27, 2020, for *Monitoring Equipment*.
    - CERS ID 10775977: UST violation dated November 16, 2020, for *Vacuum, Pressure, Hydrostatic (VPH) Monitoring - On or After July 1, 2004*.
    - CERS ID 10236640: UST violation dated December 7, 2020, for *Overflow Prevention*.
    - CERS ID 10235179: UST violation dated February 4, 2021, for *Overflow Prevention*.

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

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 25288(d)  
[State Water Board]

#### **CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records for the following eight UST facilities, as selected by the State Water Board, that include RTC documentation. For UST facilities that have not obtained RTC within 60 days for testing or leak detection violations, the CUPA will provide documentation of applied appropriate enforcement.

- CERS ID 10232884
- CERS ID 10232494
- CERS ID 10232647
- CERS ID 10230649
- CERS ID 10236640
- CERS ID 10775977
- CERS ID 10133170
- CERS ID 10724215

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**DEFICIENCIES REQUIRING CORRECTION**

**3. DEFICIENCY:**

The CUPA is not ensuring UST facilities with single-walled component(s) within a 1,000-foot radius of a public drinking water well have performed the required enhanced leak detection (ELD) testing. The UST facility owner/operator must perform an ELD test once notified by the State Water Board and triennially thereafter.

Review of CERS CME information indicates:

- CERS ID 10234741: No ELD testing has been performed. The State Water Board notified the UST facility owner/operator in November 2006 to conduct ELD testing. The CUPA applied enforcement on March 14, 2022, for violations occurring November 21, 2013, through October 26, 2021.
- CERS ID 10443121: Triennial ELD testing is not being performed. The last triennial ELD test was completed on October 12, 2015. The UST facility owner/operator has not performed triennial ELD testing in 2018 nor 2021. The CUPA applied enforcement on August 9, 2021.

Note: The UST facilities identified above have single-walled components and must be permanently closed by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05.

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:**

During the evaluation, regarding CERS ID 10234741, the CUPA prepared and sent a "Notice of Significant Violation and Enforcement of Red Tag Authority" to the UST facility owner/operator dated March 11, 2022, requiring the UST facility owner/operator to immediately obtain a permit to remove the UST and submit all UST removal documentation to the CUPA.

During the evaluation, regarding CERS ID 10443121, on March 16, 2022, the State Water Board UST Enforcement Unit sent an email to the CUPA to coordinate scheduling Focused Enforcement of Recalcitrant and Significant Violator inspections at the facility.

By the 1<sup>st</sup> Progress Report, if triennial ELD testing has not been completed for the above identified UST facilities, and/or permits have not been obtained to close-in-place or remove the USTs, the CUPA will continue applying appropriate enforcement pursuant to the I&E Plan.

By the 2<sup>nd</sup> Progress Report, and in each subsequent Progress Report until considered corrected, the CUPA will provide a narrative update to CalEPA on the status of the above identified UST facilities and continued enforcement pursuant to the I&E Plan.



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**DEFICIENCIES REQUIRING CORRECTION**

The State Water Board will consider this deficiency corrected once the following has occurred for CERS ID 10234741 and CERS ID 10443121:

- the CUPA issues a UST closure letter to the UST facility owner/operator and provides CalEPA with the UST closure letter and associated UST closure documentation; or
  - the CUPA provides CalEPA with well proximity ELD test results.
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**4. DEFICIENCY:**

The UST Operating Permit conditions, issued as part of the UST Operating Permit under the Unified Program Facility Permit (UPFP), are inconsistent with HSC and UST Regulation requirements.

Review of UST Operating Permit conditions finds the following inconsistencies with HSC and UST Regulations:

- Permit Condition 6 states, "...changes to the underground storage tanks shall be submitted to this Division within 30 days of testing and/or changes." The regulatory requirement is to notify the CUPA 30 days prior to any change in substance stored.
- Permit Condition 8 states, "The owner and/or operator must report any significant unauthorized release from underground storage tanks to this Division within 24 hours of discovery." The language does not capture transmitting of the unauthorized release, per HSC, Section 25295(a)(1). UST owners or operators also may be required to comply with additional reporting requirements, including, but not limited to, reporting requirements in Water Code, Sections 13271 and 13272 and reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time, per HSC, Section 25295(c).

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

**CITATION:**

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

**CORRECTIVE ACTION:**

During the 2021 CUPA Performance Evaluation, the CUPA provided an acceptable revised UST Operating Permit and UST Operating Permit conditions template.

By the 1<sup>st</sup> Progress Report, the CUPA will begin to issue the revised UST Operating Permit and UST Operating Permit conditions, issued under the UPFP. The CUPA will provide CalEPA with five UPFPs issued to UST facilities using the revised UST Operating Permit and UST Operating Permit conditions.

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**DEFICIENCIES REQUIRING CORRECTION**

**5. DEFICIENCY:**

The CUPA is not ensuring all regulated businesses subject to Business Plan reporting requirements annually submit a Hazardous Materials Business Plan (HMBP) or a no-change certification to CERS.

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 621 of 3,622 (17%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 661 of 3,622 (18%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

**CITATION:**

HSC, Chapter 6.95, Sections 25505(a), 25508(a), and 25508.2  
[CalEPA]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that all regulated businesses subject to Business Plan reporting requirements have annually submitted an HMBP or a no-change certification, and that each HMBP submitted to CERS is thoroughly reviewed and contains all required elements before being accepted in CERS.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP or no-change certification containing all required components within the last 12 months:

- Facility name:
- CERS ID;
- Follow-up actions including:
  - Recent review, acceptance, and rejection of HMBP or no-change certifications
  - For those businesses that have not complied, the appropriate enforcement taken by the CUPA to ensure a complete HMBP is annually submitted to CERS.

By the 4<sup>th</sup> Progress Report, the CUPA will follow-up with each regulated business subject to Business Plan reporting requirements identified in the action plan, to ensure an HMBP or a no-change certification has been submitted to CERS, or the CUPA will apply appropriate enforcement.

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**DEFICIENCIES REQUIRING CORRECTION**

**6. DEFICIENCY: CORRECTED DURING EVALUATION**

The CUPA is not consistently ensuring Aboveground Petroleum Storage Act (APSA) tank facilities annually submit an HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement.

Review of HMBP submittals to CERS, provided in lieu of a tank facility statement indicates:

- 217 of 1,035 (21%) tank facilities have not submitted a chemical inventory and site map within the last 12 months, including 15 tank facilities that have never submitted.
- 222 of 1,035 (21%) tank facilities have not submitted an emergency response and employee training plans within the last 12 months, including 17 tank facilities that have never submitted.

**CITATION:**

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

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, the CUPA made significant progress towards ensuring APSA tank facilities annually submit an HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement. This deficiency is considered corrected. No further action is required.

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**7. DEFICIENCY: CORRECTED DURING EVALUATION**

The CUPA is not consistently following-up and documenting RTC information in CERS for APSA tank facilities cited with violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan.

Review of CERS CME information indicates there is no documented RTC for the following violations for not having, or failure to prepare, an SPCC Plan:

- FY 2020/2021: 2 violations
- FY 2018/2019: 1 violation
- FY 2017/2018: 1 violation

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

**CITATION:**

HSC Chapter 6.11, Section 25404.1.2(c)  
HSC, Chapter 6.67, Section 25270.4.5(a)  
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)  
[OSFM]

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**DEFICIENCIES REQUIRING CORRECTION**

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, the CUPA provided RTC documentation for each of the above SPCC Plan violations. This deficiency is considered corrected. 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.

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**1. INCIDENTAL FINDING:**

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

Review of CERS indicates the following 8 of 18 (44%) APSA tank facilities are missing site map elements in recently accepted HMBP submittals:

- CERS IDs 10775977 and 10231906: missing evacuation staging area and emergency response equipment
- CERS IDs 10233064, 10233403, 10235905, and 10234048: missing evacuation staging area, emergency response equipment, and emergency shutoff
- CERS IDs 10233325 and 10455082: missing emergency response equipment and emergency shutoff

Review of CERS indicates the following 10 of 18 (56%) APSA tank facilities are missing emergency response equipment in recently accepted site map submittals:

- CERS IDs 10237609, 10235905, 10455082, 10233403, 10231906, 10233325, 10234048, 10233064, 10775977, and 10238311

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide an action plan to ensure that future HMBP submittals, provided 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 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a list of all APSA tank facilities with recent HMBP submittals, provided in lieu of tank facility statements, that have been reviewed and not accepted for missing applicable required elements. For each APSA tank facility on the list, the CUPA will include follow-up actions, including appropriate applied enforcement.

By the 4<sup>th</sup> Progress Report, the CUPA will have ensured each APSA tank facility submits an HMBP containing all applicable required elements, when an HMBP is provided in lieu of a tank facility statement or the CUPA will have applied appropriate enforcement.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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**2. INCIDENTAL FINDING:**

The I&E Plan is missing a required component.

The following component is missing:

- Provisions for ensuring the CUPA has sampling capability. The I&E Plan should describe sampling training, equipment, and methods to preserve physical evidence obtained through sampling, or procedures when sampling is required and a qualified person or entity is contracted to sample on behalf of the CUPA.

Note: This incidental finding was identified during the 2018 CUPA Performance Evaluation and was not resolved during the Evaluation Progress Report process.

**CITATION:**

HSC, Chapter 6.5, Section 25201.4(b)  
CCR, Title 27, Section 15200(a)  
[CalEPA, DTSC]

**RESOLUTION:**

During the evaluation, the CUPA provided a revised I&E Plan that lists “Sampling and Instrumentation Training” and “Preservation of Evidence” as required trainings for inspectors. However, additional detail is necessary to describe the sampling training, equipment and methods used to preserve physical evidence obtained through sampling, or procedures when sampling is required and a qualified person or entity to conduct the sampling is contracted with the CUPA to sample on behalf of the CUPA.

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised I&E Plan that adequately incorporates and correctly addresses the required sampling components.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and DTSC the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan.

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**3. INCIDENTAL FINDING:**

The CUPA is not submitting quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter when state surcharge revenues are remitted.

The CUPA is not utilizing the Surcharge Transmittal Report template, effective July 1, 2018.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### INCIDENTAL FINDINGS REQUIRING RESOLUTION

The following quarterly Surcharge Transmittal Reports were not received by the required due date:

- FY 2020/2021
  - 1<sup>st</sup> Fiscal Quarter: Due October 30, 2020. Submitted December 2, 2020.
- FY 2019/2020
  - 1<sup>st</sup> Fiscal Quarter: Due October 30, 2019. Submitted November 7, 2019.
  - 2<sup>nd</sup> Fiscal Quarter: Due January 30, 2020. Submitted February 8, 2020.
  - 4<sup>th</sup> Fiscal Quarter: Due July 30, 2020. Submitted September 25, 2020.
- FY 2018/2019
  - 2<sup>nd</sup> Fiscal Quarter: Due January 30, 2019. Submitted February 13, 2019.

Note: 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.

#### **CITATION:**

CCR, Title 27, Section 15250(b)(1) and (2)  
[CalEPA]

#### **RESOLUTION:**

During the evaluation, the CUPA held a meeting with Kern County fiscal support staff. The Kern County fiscal support staff agreed to ensure surcharges will be remitted to CalEPA on time with the current quarterly Surcharge Transmittal Report template.

By the 1<sup>st</sup> Progress Report, the CUPA will have submitted the 1<sup>st</sup> quarterly Surcharge Transmittal Report for FY 2022/2023 to CalEPA at [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov) by the required due date using the current quarterly Surcharge Transmittal Report template. Thereafter, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA at [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov) no later than the required due date, which is 30 days after the end of each fiscal quarter. The current quarterly Surcharge Transmittal Report template can be found at: [https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf). Each line item on the Surcharge Transmittal Report template should be completed, including the check number of the remittance check.

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#### **4. INCIDENTAL FINDING:**

The CUPA is not consistently documenting in sufficient detail whether the UST owner or operator has demonstrated, to the satisfaction of the CUPA that UST closure, removal, and soil and/or groundwater sampling complies with HSC and UST Regulations.

Review of UST facility file information finds the UST closure letter provided by the CUPA to the UST owner/operator of the following facilities does not identify whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST closure, removal, and soil and/or groundwater sampling complies with UST Regulations and HSC:

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

- CERS ID 10234531: UST closure letter for three USTs dated December 7, 2020
  - The closure letter does not identify the following:
    - Date of UST closure; and
    - Whether the UST system was removed or closed in place.
  - The UST closure letter indicates “no further action is indicated at this time.” A “no further action letter” may only be issued by a Local Oversight Program (LOP) to a UST owner and/or operator, or other responsible party, when a corrective action is being taken in response to an unauthorized release, in accordance with HSC, Section 25296.10. The Kern County Environmental Health Services Department is not a State Water Board certified LOP and, therefore, does not have the authority to determine if further action is necessary or implement corrective actions for the cleanup of leaking USTs.
- CERS ID 10175647: UST closure letter for three USTs dated February 8, 2021
  - The closure letter does not identify the following:
    - Date of UST closure; and
    - Specific provisions the UST closure complied with.

Examples of information for each UST referenced in a UST closure letter or other UST closure documentation includes but is not limited to:

- UST identification (i.e., size of the UST, what the UST contained, UST ID#);
- Citations (UST Regulations, Sections 2670 and 2672 and HSC, Section 25298);
- Date of UST removal or closure in place and dates of all closure activity that occurred;
- Whether the UST was closed in place or removed; and
- Whether closure was completed in accordance with UST Regulations.

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

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

**CITATION:**

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

**RESOLUTION:**

During the evaluation, the CUPA provided an acceptable revised UST closure letter template to issue to UST owners/operators.

By the 1<sup>st</sup> Progress Report, the CUPA will train UST inspection staff on the revised UST closure letter template. Once training is complete, the CUPA will utilize the revised UST closure letter template.



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With respect to facilities which have not been provided adequate UST closure documentation, upon request or in the event of a public records request, the CUPA will use the revised UST closure letter template and provide the requested documentation.

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**5. INCIDENTAL FINDING:**

The CUPA has not established nor implemented all Unified Program administrative procedures.

Established Unified Program administrative procedures have components that are incomplete.

The following administrative procedures have not been established nor implemented:

- Public Participation Procedures that:
  - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.

The following administrative procedures have components that are incomplete:

- Archival Procedures as addressed in the Information Management Procedure, do not provide details regarding the whereabouts of CUPA documentation that is archived and criteria for determining when to archive documentation.

**CITATION:**

CCR, Title 27, Section 15180(e)(1) and 15180(e)(2)  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the established and revised Unified Program administrative procedures that adequately incorporate all required components.

By the 2<sup>nd</sup> Progress Report, if revisions to the established Unified Program administrative procedures and/or amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised and/or amended Unified Program administrative procedures. If no revisions and/or amendments are necessary, the CUPA will train CUPA personnel on the established and/or revised Unified Program administrative procedures. Once training is complete, the CUPA will implement the established and/or revised administrative procedures.

By the 3<sup>rd</sup> Progress Report, if revisions to the established Unified Program administrative procedures and/or amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the revised and/or amended Unified Program administrative procedures. Once training is complete, the CUPA will implement the revised and/or amended administrative procedures.

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**6. INCIDENTAL FINDING:**

The annual California Accidental Release Prevention (CalARP) performance audit report is missing a required element.

The “Exempted list of CalARP facilities” is missing from the annual CalARP performance audit report for the following FYs:

- FY 2020/2021
- FY 2019/2020
- FY 2018/2019

**CITATION:**

CCR, Title 19, Section 2780.5(b)  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the annual CalARP performance audit report for FY 2021/2022, which will include all required elements.

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**7. INCIDENTAL FINDING:**

The local ordinance, *Chapter 8.48 Underground Storage of Hazardous Substances* is inconsistent with local ordinance *Chapter 8.04 Environmental Health Permits and Service Fees* and the UST Operating Permit (issued under the UPFP).

Review of the local ordinances and the UST Operating Permit finds the following inconsistencies:

- *Section 8.48.090* indicates a permit shall be effective for five years. *Section 8.04.060* indicates a UST facility permit shall be issued each fiscal year. The UST Operating Permit indicates it is valid for one year, but does not specify “fiscal year.”
- *Section 8.48.100* indicates a UST permit may be transferred to a new UST owner. *Section 8.04.030* indicates a permit is not transferable. The UST Operating Permit states, “PERMIT IS NON-TRANSFERABLE AND...”

Note: The CUPA’s Consolidated Permit Plan indicates the UST Operating Permit, issued under the UPFP, is valid for five years and states that UST Operating Permits are not transferable.

**CITATION:**

HSC, Chapter 6.7 Section 25299.2, 25299.3  
CCR, Title 23, Section 2620(c)  
CCR, Title 27, Sections 15100(b)(1)(C), 15160, 15330(a) (1) and (a)(2), and 15150(c)(2)  
[State Water Board]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt, or repeal, the local ordinance *Chapter 8.48 Underground Storage of Hazardous Substances*, and/or the local ordinance *Chapter 8.04 Environmental Health Permits and Service*

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*Fees.* The CUPA will provide CalEPA with a detailed plan to revise the UST Operating Permit (issued under the UPPF). The plan will at a minimum include a timeline for:

- Revising, drafting and adopting, or repealing, local ordinance *Chapter 8.48*, and/or local ordinance *Chapter 8.04*
- Revising the UST Operating Permit (issued under the UPPF); and
- Providing the revised local ordinance *Chapter 8.48*, local ordinance *Chapter 8.04*, and/or the revised UST Operating Permit (issued under the UPPF) to the State Water Board for review to ensure consistency among one another and with HSC and UST Regulations, the CUPA's Consolidated Permit Plan, as well as all other legal requirements.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, revise the plan based on feedback from the State Water Board.

Considering the length of time required to draft, revise, and adopt, or repeal local ordinances, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided an acceptable plan for the revision and adoption of the revised local ordinance(s) and/or the UST Operating Permit as outlined above.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinance(s) were adopted and/or the revised UST Operating Permit was issued.

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**8. INCIDENTAL FINDING: RESOLVED DURING EVALUATION**

Review of UST inspection reports finds a limited number of instances where UST inspections were conducted, and UST inspection reports were signed and issued by a UST inspector who was beyond 180 days of hire into the UST Program and had not yet obtained International Code Council (ICC) California UST inspector certification.

Note: This incidental finding was identified during the 2018 CUPA Performance Evaluation and was not resolved during the Evaluation Progress Report process.

**CITATION:**

CCR, Title 23, Section 2715(g)(1)  
[State Water Board]

**RESOLUTION: COMPLETED**

During the evaluation, review of the CUPA's *Inspection Performance Standards* finds an inspector who conducts UST inspections has six months to obtain ICC California UST inspector certification. Review of annual UST compliance inspections and CERS finds all CUPA inspectors have a current ICC California UST Inspector certificate. No further action is required.

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**9. INCIDENTAL FINDING: RESOLVED DURING EVALUATION**

The CUPA did not provide CalEPA with a Formal Enforcement Summary Report within 30 days of a final judgment being issued for formal enforcement cases.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

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

- CERS ID 10231906
- CERS ID 10640245
- CERS ID 10231309
- CERS ID 10230649

**CITATION:**

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

**RESOLUTION: COMPLETED**

During the evaluation, the CUPA provided CalEPA with a Formal Enforcement Summary Report for each formal enforcement case listed above. No further action is required.

For each subsequent formal enforcement case, the CUPA will ensure a Formal Enforcement Summary Report is submitted to CalEPA within 30 days of final judgement.

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

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**1. OBSERVATION:**

The webpage <https://kernpublichealth.com/aboveground-petroleum-storage-tanks/> contains the following APSA Program information that is outdated, incorrect or may benefit from improvement.

- ABOVEGROUND PETROLEUM STORAGE ACT (APSA) section should include both tank facilities that are subject to the SPCC rule and tank facilities with one or more 55-gallon or larger tanks in underground areas (TIUGAs).
- “WHICH PLAN DO I NEED TO IMPLEMENT?” section, which uses the terms qualified and non-qualified facilities, should be clarified to reflect accurate information. “Qualified facility” is a federal SPCC rule term, not an APSA term. Tank facilities that are required to prepare and implement an SPCC Plan under APSA must comply with the Federal SPCC rule. A Tier I qualified facility may use the US EPA Tier I Qualified Facility SPCC Plan template, while a Tier II qualified facility may use the Tier II Qualified Facility SPCC Plan template developed by OSFM. Each SPCC Plan must be reviewed and recertified every five years, regardless of whether the plan is self-certified or certified by a professional engineer.
- TIER I [Qualified Facility] SPCC PLAN, TIER II [Qualified Facility] SPCC PLAN, AND NON-QUALIFIED [Professional Engineer-Certified SPCC Plan] FACILITIES sections refer only to petroleum capacity; however, SPCC Plan preparation must comply with the Federal SPCC rule and consider all oils (including petroleum) subject to the Federal SPCC rule.
- CONDITIONALLY EXEMPT FROM APSA REQUIREMENTS section should be clarified by editing the section header or providing additional information within the section. While a tank facility located on and operated by a farm, nursery, logging site or construction site that meets certain conditions described in HSC, Section 25270.4.5(b) is not required to prepare and implement an SPCC Plan under APSA, the tank facility is still required to comply with other APSA requirements, such as paying applicable fees (including state surcharges) and submitting an annual tank facility statement (or HMBP) to CERS.
- OIL PRODUCTION FACILITIES section states, *“If a tank or other facility is used for a purpose other than oil and gas production, such as a diesel tank in a maintenance yard to service trucks that are used on the lease, then it is generally not a facility attendant to oil and gas production and therefore is not under the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources’ (DOGGR) jurisdiction.”* Per the 2014 Memorandum of Agreement between the Department of Conservation and the Department of Forestry and Fire Protection (<https://osfm.fire.ca.gov/media/1mlbmxyi/moa-doggr-osfm-2014-accessible.pdf>), tanks and pipelines that are located within the lease areas of oil and gas fields, and are integrally associated with oil and gas production, are generally ‘attendant to’ oil and

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gas production and therefore under the jurisdiction of the California Geologic Energy Management Division (CalGEM, formerly DOGGR).

- The 'Tanks in Underground Area' link under the Templates and Resources section should reflect the most recent information provided by OSFM and should be replaced with the following link: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/>.

The webpage <https://kernpublichealth.com/hazardous-materials-business-plan-california-environmental-reporting-system-cers/> contains the following information that is incorrect or may benefit from improvement.

- CERS – Business Activities section states, “Above Ground Petroleum Storage Act: Select “Stored at Facility” or “Exempt” and insert comment if regulated by USEPA or DOGGR.” These instructions are meant for the APSA Documentation section in CERS if a facility selected ‘yes’ to the APSA question in the Business Activities, since the options “Stored at Facility” and “Exempt” are not available in the Business Activities section. However, such instructions are incorrect. The APSA Documentation section in CERS is for providing a tank facility statement or local reporting requirements. The APSA Documentation is not for the submittal of an SPCC Plan nor the location of an SPCC Plan. If a tank facility annually submits a complete HMBP, then a tank facility meets the annual tank facility reporting requirement and may select ‘provided elsewhere in CERS’ and ‘hazardous materials inventory.’ The following APSA Documentation options should not be selected: Public Internet URL, Provided to Regulator, Stored at Facility or Exempt.
- CERS – Site Map section requires the location of each utility emergency shutoff point. However, this site map item should be the location of emergency shutoff, if applicable, and should not be specific to utilities since the statute does not specify the emergency shutoff location to be specific to utilities.

#### RECOMMENDATION:

Update the information on the websites as indicated above and consider adding a website link to the OSFM 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.

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#### 2. OBSERVATION:

Multiple APSA tank facilities submitted an HMBP in lieu of a tank facility statement using the 2011 emergency response and training plans template, which contains obsolete information including but not limited to the OSFM phone number.

#### 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 2022 template.

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**3. OBSERVATION:**

The CERS reporting requirement is currently set as “APSA Applicable” for 1,036 tank facilities. The CUPA’s data management system identifies 1,201 APSA related tank facilities.

- 972 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 64 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system. Some of these facilities are likely not APSA regulated, and the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable” for each facility. Some of these facilities are APSA regulated, and the CUPA’s data management system should be updated appropriately.
- 229 facilities identified as APSA related tank facilities in the CUPA’s data management system are not in CERS as APSA facilities. The CUPA should determine if the facilities really are APSA facilities. Those that aren’t should have the APSA reporting requirement set to “Not Applicable,” and should not be identified as APSA tank facilities in the CUPA’s data management system. Those that are APSA regulated should have the APSA reporting requirement set to “Applicable.”
- There are over 30 small farm facilities that the CUPA is regulating as APSA Conditionally Exempt facilities whose total oil storage capacity meets the Water Resources Reform and Development Act (WRRDA) exemption threshold. Farms that are no longer regulated under APSA due to Senate Bill 612 oil applicability thresholds should be identified in CERS as “APSA Not Applicable.”

**RECOMMENDATION:**

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

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**4. OBSERVATION:**

The Inspection Performance Standards document, dated April 2020, contains APSA program information that is inaccurate or may benefit from improvement:

- Page 2: The APSA program is improperly referenced as AST in the Inspection Frequency Table.
- Page 3: The Pre-Inspection Procedures list for a CERS submittal includes “SPCC (if applicable/available).” SPCC Plans are not required to be submitted to CERS. This section could be revised to “APSA Facility Information (if applicable/available),” which would include APSA Documentation (tank facility statement and/or local reporting requirement).

**RECOMMENDATION:**

Update the Inspection Performance Standards document as indicated above.

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#### 5. OBSERVATION:

SPCC Plan submittals were accepted by the CUPA for CERS IDs 10233325 and 10195624.

SPCC Plans are not required as part of any CERS submittal; therefore, SPCC Plans should not be uploaded to CERS.

#### RECOMMENDATION:

Utilize the regulator comment field to inform APSA tank facilities that submit SPCC Plans in future CERS submittals that SPCC Plans should not be uploaded to CERS.

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#### 6. OBSERVATION:

Overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, information provided by the CUPA and Self-Audit Reports for July 1, 2018, through June 30, 2021, is summarized below:

- There are 1,768 regulated HWG facilities, including 43 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, 3 Household Hazardous Waste Facilities (HHW) and 6 Tiered Permitted facilities.
  - CERS indicates there are 1,105 facilities that have self-identified as an HWG.
- The CUPA inspected 1,695 HWG/TP facilities and performed 1,923\* Routine HWG/TP inspections, of which 1,483\* (77%) had no violations cited and 440\* (23%) had at least one violation cited. The state of California averages 40% for HWG/TP routine inspections performed having at least one violation cited.
  - \*Due to numerous duplicate “Routine” inspections entered in CERS, this number may not be definitive. This number resulted after attempting to remove duplicate “Routine” inspections from CERS CME information. Upon review of CERS CME information, it is estimated there are at least 35 duplicate “Routine” Inspections that have been entered.
  - 1 of 6 (17%) Tiered Permitting facilities did not receive a Routine inspection.
  - In the 440 inspections performed with at least one violation cited, 967 total violations were issued, consisting of:
    - 34 Class I violations,
    - 893 Class II violations, and
    - 40 minor violations.
- The CUPA has ensured RTC for 865 of 967 (89%) violations cited.
- HWG/TP inspection reports contain detailed comments that note the factual basis of cited violations and generally indicate whether consent to inspect was requested prior to the inspection. Not all inspectors are consistently documenting whether consent was requested prior to conducting the inspection.
- Upon facility file review, the following facility was noted to have inaccurate or duplicate CERS inspection information:
  - CERS ID 10231306 –There are four duplicate “Other” inspections dated February 20, 2019.
- Review of CERS CME information indicates from July 1, 2018, through June 30, 2021, the CUPA initiated one formal enforcement action for hazardous waste related violations,



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resulting in a cumulative total penalty amount of \$79,372. However, the CUPA's records show 7 Administrative Enforcement Orders were issued.

- During July 1, 2018, through June 30, 2021, there were no TP submittals noted in CERS. However, the CUPA has 1 Permit-by-Rule (PBR) facility, which is required to annually submit to CERS by January 1<sup>st</sup> the Onsite Hazardous Waste Treatment Notification page, Business Activities page, and the Business Owner/Operator page per CCR, Title 22, Section 67450.3(c). Additionally, CCR, Title 22, Section 67450.13(a)(2) requires PBR facilities to adjust Closure Cost Estimates every year by March 1<sup>st</sup> and CCR, Title 22, Section 67450(c)(2) requires PBR facilities to submit an amended Onsite Hazardous Waste Treatment Notification page, Business Activities page, and Business Owner/Operator page within 30 days of any change to the information contained in the most recent notification. There were no violations noted in CERS for failure to submit the required annual CERS pages or adjusted Closure Cost Estimates.

DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

#### **RECOMMENDATION:**

It is strongly recommended that the CUPA follow up with TP facilities that are not submitting annual notifications to CERS and issue appropriate violations to such facilities when CERS submittals are late or missing. If unaddressed, this observation may be identified as a Deficiency or Incidental Finding in the following CUPA Performance Evaluation. Continue with the three-year HWG inspection frequency and applied enforcement efforts in addition to generating quality inspection reports. Continue to ensure that the detailed factual basis of a violation is included in the inspection reports and in the data transferred to CERS, to support any enforcement efforts. Follow up with facilities that have not obtained RTC for cited violations by the scheduled RTC date and apply appropriate enforcement for facilities that do not RTC, per the I&E Plan. Review and correct CERS CME information to eliminate duplicate HWG/TP inspections and follow up with facilities that have not self-identified as HWGs in CERS.

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#### **7. OBSERVATION:**

The Self-Audit Reports for FYs 2020/2021, 2019/2020, and 2018/20019 are missing the following components:

- A report of deficiencies with a plan of correction; and
- An explanation of any discrepancies on the annual and quarterly reports of program activities.

#### **RECOMMENDATION:**

Upon completion of each subsequent Self-Audit Report, include all applicable components, when applicable.

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#### **8. 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

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the degree to which the number of regulated facilities has increased or decreased. The information is sourced from the following:

- Information provided by Kern County Environmental Health Services Department 1996 Application for Certification
- CERS “Summary Regulated Facilities by Unified Program Element Report” generated on January 31, 2022
- CERS “UST Inspection Summary Report (Report 6),” generated on January 31, 2022
- Total Number of Regulated Businesses and Facilities:
  - In 1996: 3,309
  - Currently: 3,780
  - An increase of **471** facilities
- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:
  - In 1996: 3,309
  - Currently: 3,650
  - An increase of **341** facilities
- Total Number of Regulated Underground Storage Tank (UST) Facilities:
  - In 1996: 547
  - Currently: 278
  - A decrease of **269** facilities
- Total Number of Regulated Underground Storage Tanks (USTs):
  - In 1996: 1,438
  - Currently: 848
  - A decrease of **590** Underground Storage Tanks
- Total Number of Regulated Hazardous Waste Generator (HWGs) Facilities:
  - In 1996: 2,000
  - Currently: 1,773
  - A decrease of **227** facilities
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
  - In 1996: None specified
  - Currently: **4**
  - 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.

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- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
  - In 1996: 69
  - Currently: 7
  - A decrease of **62** facilities
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
  - In 1996: none specified
  - Currently: **54**
  - 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.
- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
  - In 1996: 208
  - Currently: 158
  - A decrease of **50** facilities
- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
  - In 1996: 142
  - Currently: 1,035
  - An increase of **893** facilities

Since the CUPA applied for certification in 1996, an expansion of responsibilities in the Business Plan 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. Additionally, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms to the implementation of electronic data reporting through local data management systems and the California Environmental Reporting System.

The Business Plan Program increased by 341 facilities (10%) and the APSA Program increased by 893 facilities (629%). In addition, the CUPA currently oversees 54 RCRA LQG facilities that were not identified in the 1996 Application for Certification. Separately, there have been notable decreases across multiple programs. The number of USTs decreased by 590 facilities (41%), the HWG Program decreased by 227 facilities (11%), the TP Program decreased by 62 facilities (90%), and the CalARP Program decreased by 50 facilities (24%). The overall trend shows the number of regulated facilities managed by the CUPA as of January 31, 2022, has increased by approximately 14% since the CUPA applied for certification in 1996.

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

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supervisory/management staff has increased. The information is sourced from the Kern County Environmental Health Services Department 1996 CUPA Application and recent information provided by the CUPA.

- Inspection and other Staff
  - Upon Certification in 1996:
    - 12 Staff, each Full Time = 12.0 FTE
  - Currently:
    - 16 Staff, each Full Time = 16.0 FTE
      - An inspector position is currently vacant.
- Supervisory and Management Staff
  - Upon Certification in 1996:
    - 1 Staff, at Full Time = 1.0 FTE
  - Currently:
    - 2 Staff, each Full Time = 2.0 FTE

#### **RECOMMENDATION:**

The CUPA has provided financial documentation detailing the program's revenues and expenditures used to fund the necessary and reasonable costs to implement the Unified Program. The CUPA automatically adjusts its fee schedule according to the Consumer Price Index (CPI) close to 2% to 3% on an annual basis to account for rising costs and inflation. The CUPA last performed a fee study in 2018 and the next fee study is expected to occur in 2023. Increases in staffing levels and investment in training and education have benefited the CUPA and its implementation of the Unified Program as it has grown and expanded over time.

Continue to conduct the annual review and update of the fee accountability program to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. The ability to apply each aspect of inspection, compliance, monitoring and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large.

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#### **9. OBSERVATION:**

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

- CERS ID 10234318 (Tank IDs 001, 002, 003);
- CERS ID 10155631 (Tank IDs 001, 002, 003); and
- CERS ID 10232566 (Tank IDs 001, 002).

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

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**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: [https://www.waterboards.ca.gov/ust/single\\_walled.html](https://www.waterboards.ca.gov/ust/single_walled.html).

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

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**10. OBSERVATION:**

The Area Plan contains the following outdated information and minor errors:

- Page 30: “California Emergency Management Agency (CalOES)” should be “California Governor's Office of Emergency Services”
- Page 30: “CAL-Environmental Protection Agency (CalEPA)” should be “California Environmental Protection Agency (CalEPA)”
- Page 52: The acronym for “Medical and Health Operational Area Coordinator (Mhoac)” should be capitalized (MHOAC).
- Throughout the Area Plan, CCR, Sections 2720-2728 are outdated due to renumbering.

**RECOMMENDATION:**

With the next review and revision of the Area Plan, correct the outdated information and minor errors.

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**11. OBSERVATION:**

While the CUPA ensures hired personnel meet the minimum applicable education, training and experience requirements, review of the hiring qualifications for Environmental Health Technicians (EHTs), Unified Program personnel, finds the following minimum educational requirements that must be met are not specified.

- Thirty semester units earned from an accredited college or institution from one or more of the following disciplines:
  - Biology or microbiology
  - Chemistry, chemical engineering
  - Physics, physical science
  - Environmental science
  - Geology or soil science
  - Environmental health
  - Environmental or sanitary engineering

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- Toxicology
- Industrial hygiene
- Hazardous materials management
- Fire science, fire technology;

OR;

- Equivalent to graduation from an accredited college or university or equivalent degree with major course work in the disciplines listed in paragraph (a)(1)(A)(i);

OR;

- Qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance, or enforcement; or resource recovery may be substituted for the required education, on the basis of one year of qualifying experience for 15 units of college course work authorized pursuant to paragraph (a)(1)(A)(i), for up to a maximum of 15 units.

**RECOMMENDATION:**

Meet with Human Resources to ensure appropriate revisions are finalized for the EHT hiring qualifications to ensure minimum applicable education, training, and experience requirements for CUPA personnel are specified. Continue to ensure all hired CUPA personnel conducting inspections and/or enforcement activities meet the minimum education requirements of CCR, Title 27, Section 15260.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

Examples of outstanding program implementation highlight efforts and activities of the CUPA that are considered above and beyond the standard expectations for implementation of the Unified Program.

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**1. PERFORMANCE INCENTIVE PROGRAM:**

The CUPA has developed a Performance Incentive Program (PIP) which is a voluntary program available to regulated facilities within Kern County that handle extremely hazardous waste. This program rewards businesses that demonstrate superior regulatory compliance by reducing inspection frequency and permit fees. Only businesses placed into an annual or biennial inspection frequency due to handling extremely or moderately hazardous materials are eligible for the PIP.

The CUPA employs a scoring system as an indicator to determine the standing of a facility in conforming to current health and safety requirements. This score is also used to determine eligibility for participation in the PIP. Violations on the Inspection Report Form (IRF) are calculated as a percentage (ratio of violations to total number of applicable potential violations). The score the facility receives reflects the status of the facility at the time of inspection. Each facility begins an inspection with 100% compliance. As the inspector conducts the inspection, identified violations are indicated on the IRF. The number of violations noted during the inspection is divided by the number of potential violations applicable to that facility, and a percentage is determined. A facility must achieve 95% or greater compliance to be eligible for participation in the PIP.

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**2. HWG INSPECTION FREQUENCY:**

The CUPA has made an outstanding effort in implementing the HWG Program since the last CUPA performance evaluation while facing the challenges of Covid-19. During this evaluation period, the CUPA was able to successfully ensure that over 90% of HWGs within the jurisdiction of the CUPA were inspected once every three years per the I&E Plan, even with disruptions caused by Covid-19. DTSC finds these efforts to be above and beyond the standard expectations for the implementation of the HWG program during the statewide constraints experienced during the Covid-19 pandemic.

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**3. COVID-19 RESPONSE EFFORTS:**

During FY 2020/2021, CUPA staff were redirected and assigned to help with the COVID-19 pandemic response. During this time, 16 CUPA staff conducted data entry, contact tracing, case investigations and other duties necessary to sustain Kern County Public Health's pandemic response and support of the community. CUPA staff hours spent on the COVID-19 response totaled 3,434.1, equivalent to 1.65 full time staff positions. The CUPA is commended for such extraordinary efforts in implementing the Unified Program while managing the Kern County's pandemic response.

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