

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: San Joaquin County Environmental Health Department

Evaluation Period: September 2021 – July 2022

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron, Brennan Ko-Madden
- **CalEPA*:** Garrett Chan
- **State Water Board:** Sean Farrow, Jessica Botsford
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the 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:

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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: October 3, 2022
3rd Progress Report: April 10, 2023

2nd Progress Report: January 9, 2023
4th Progress Report: July 10, 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.

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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 is not inspecting each Hazardous Waste Generator (HWG) facility once every three years, per the inspection frequency established in the Inspection and Enforcement (I&E) Plan.

Review of facility files, inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) July 1, 2018, through June 30, 2021, and additional information provided by the CUPA finds:

- 853 of 2,262 (38%) HWG facilities were not inspected once every three years.

Note: The inspection frequency for the time period evaluated during the 2021 evaluation was impacted by Coronavirus (Covid-19) restrictions.

Note: This deficiency was identified during the 2014 and 2017 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.

CITATION:

California Code of Regulations (CCR), Title 27, Section 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 ensure each HWG facility is inspected per the inspection frequency established in the I&E Plan. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency for the HWG program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to inspect each year.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that has not been inspected once every three years. For each HWG facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those HWG facilities, 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, the CUPA will, if necessary, revise the action plan based on feedback from DTSC. The CUPA will provide the revised action plan to CalEPA.

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

By the 5th Progress Report, the CUPA will have inspected each HWG facility once every three years.

2. DEFICIENCY:

The Underground Storage Tank (UST) Operating Permit conditions, required to be issued under the UPFP, are inconsistent with Health and Safety Code (HSC) and CCR, Title 23, Division 3, Chapter 16 (UST Regulations) requirements.

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

- Permit Condition 2 includes provisions for HSC, Chapter 6.75 and CCR, Chapter 18. The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program (LOP) agency, and therefore cannot cite HSC, Division 20, Chapter 6.75 or CCR, Title 23, Division 3, Chapter 18. The correct citations are as follows:
 - UST Regulations Sections 2610- 2717.7;
 - HSC Sections 25280 through 25296 and 25298 through 25299.6.
- Permit Condition 2 states, "...conditions established by San Joaquin..." Without local ordinances being adopted and in place for additional requirements, the CUPA only has the authority provided through HSC and UST Regulations.
- Permit Condition 8 reflects maintaining records of monitoring, maintenance, and testing for "at least three years." The requirement is for UST owners or operators to maintain monitoring and maintenance records for "36 months."
- Permit Condition 9 indicates the UST owner/operator shall notify the CUPA of change in the operator or to the UST system within 30 days. However, the permit condition does not indicate a UST owner/operator shall notify the local agency at least 30 days before changing the substance currently stored in the UST. Alternatively, the CUPA may consider removing Permit Condition 9.
- Permit Condition 13 references a "Conditional" permit. HSC does not allow a CUPA to issue a conditional permit. This reference must be removed from the permit conditions.

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

CITATION:

CCR, Title 23, Sections 2711(c), 2712(b)(1)
[State Water Board]

CORRECTIVE ACTION:

During the evaluation, the CUPA provided revised UST Operating Permit conditions. The State Water Board will review the revised UST Operating Permit conditions and provide feedback with the 1st Progress Report.

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By the 2nd Progress Report, the CUPA will, if necessary, amend the UST Operating Permit conditions, based on feedback from the State Water Board, and will provide the amended UST Operating Permit conditions to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST Operating Permit conditions. The CUPA will provide CalEPA with five UST Operating Permits issued to UST facilities using the revised UST Operating Permit conditions.

By the 3rd Progress Report, if amendments to the revised UST Operating Permit conditions were necessary, the CUPA will begin to issue the amended UST Operating Permit conditions. The CUPA will provide CalEPA with five UST Operating Permits issued to UST facilities using the amended UST Operating Permit conditions.

3. DEFICIENCY:

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

Review of HMBPs submitted to CERS from March 19, 2021, through April 18, 2022, by regulated businesses subject to HMBP reporting requirements finds:

- 1,062 of 4,003 (27%) facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 1,073 of 4,003 (27%) 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)(1) and 25508(a)(2) and (3)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that all regulated businesses subject to HMBP reporting requirements have annually submitted an HMBP or a no-change certification to CERS.

By the 2nd 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 HMBP 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.

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DEFICIENCIES REQUIRING CORRECTION

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

4. DEFICIENCY:

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

Review of CERS CME information finds:

- 2,355 of 4,003 (59%) facilities subject to HMBP Program requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HMBP Program facility is inspected at least once every three years. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency for the HMBP Program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected once every three years. For each HMBP facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those HMBP facilities, prioritizing the most delinquent inspections to be completed prior to any other HMBP inspection based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least 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 spreadsheet.

By the 5th Progress Report, the CUPA will have inspected each HMBP facility at least once in the last three years.

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DEFICIENCIES REQUIRING CORRECTION

5. 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 at least once every three years for compliance with Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements.

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

- 53 of 175 (30%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA conducted additional routine inspections at APSA tank facilities storing 10,000 gallons or more of petroleum. This deficiency is considered corrected. No further action is required.

6. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not consistently following up and documenting return to compliance (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 2019/2020

- 22 of 86 (26%) APSA violations, including two violations for not having, or failure to prepare, a SPCC Plan.

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]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA provided additional RTC documentation. 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.

1. 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 ground water sampling complies with UST Regulations and HSC.

The UST closure letter provided by the CUPA to the owner or operator 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 ground water sampling complies with UST Regulations and HSC such as:

- Affirmation that tank closure has been completed in accordance with UST Regulations; and
- Closure complies with HSC, Section 25298 and UST Regulations, Section 2672.

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:

By the 1st Progress Report, the CUPA will revise the UST closure letter template and provide the revised template to CalEPA. The CUPA may consider including the following language in the UST closure letter template: "San Joaquin County Environmental Health Department CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with HSC Section 25298, Subdivision (c) and UST Regulations, Section 2672."

By the 2nd Progress Report, if amendments to the revised UST closure letter template are necessary based on feedback from State Water Board, the CUPA will provide CalEPA with the amended UST closure letter template. If no amendments are necessary, the CUPA will train UST inspection staff on using the revised UST closure letter template. Once training is complete, the CUPA will begin using the revised UST closure letter template.

By the 3rd Progress Report, if amendments were necessary, the CUPA will train UST inspection staff on using the amended UST closure letter template. Once training is complete, the CUPA will begin using the amended UST closure letter template.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

2. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

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

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

- 128 of 632 (20%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months.

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation, the CUPA worked with several APSA tank facilities to ensure emergency response and training plans were provided as part of the HMBP submittal to CERS, in lieu of a tank facility statement. This incidental finding is considered resolved. No further action is required.

3. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The Unified Program administrative procedures have components that are incomplete or inaccurate.

The following administrative procedure has components that are incomplete:

- Records maintenance
 - Identification of the records maintained
 - The provided records retention and disposal policy does not list annual CUPA Self-Audit reports or enforcement files as being maintained for a minimum of five years.
 - Note: The CUPA provided Self-Audit reports and enforcement files covering the period of FY 2017/2018 to FY 2020/2021; however, the retention of these records is not discussed in the records maintenance document.
 - Minimum retention times
 - The provided records retention and disposal policy lists CUPA billing information as being maintained for “2 years after audited.” The frequency of audits is never discussed, so it is unclear if this retention policy meets the five-year minimum requirement for this type of information.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

The following administrative procedure has a component that is inaccurate:

- Financial management
 - A single fee system in compliance with CCR, Title 27, Section 15210
 - The CUPA fee schedule (https://www.sjgov.org/docs/default-source/environmental-health-documents/fee-schedule/ehd-fee-schedule-2021-22.pdf?sfvrsn=fd83d390_3) currently lists the State Oversight Surcharge as being \$49. Effective July 1, 2021, the State Oversight Surcharge increased to \$84.
 - Note: The provided facility invoices for FY 2021/2022 show that the CUPA is correctly assessing the new State Oversight Surcharge.

CITATION:

CCR, Title 27, Section 15180(e), 15185(b) and (f), 15190 and 15220
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with a revised Records Maintenance procedure and a revised Fee Schedule which are complete and accurate. This incidental finding is considered resolved. No further action is required.

4. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

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

The following component is inaccurate:

- Identification of penalties and enforcement actions that are consistent and predictable for similar violations and no less stringent than state statute and regulations.
 - Page 57: The UST Initial Penalty Matrix states the minimum penalty as \$0, which is less stringent than HSC, Chapter 6.7. The penalty for UST violations is no less than \$500 per UST, per day, per violation.

The following component is incomplete:

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory.
 - Information should include training, identification of sampling equipment, 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.
 - Note: Sampling procedures and sampling equipment are discussed in numerous places in the I&E Plan; however, analysis at a state certified laboratory is not referenced.

CITATION:

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

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with a revised I&E Plan which is accurate and complete. This incidental finding is considered resolved. No further action is required.

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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:**

Review of 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:

- Information provided by the CUPA identifies 2,331 regulated HWG facilities, 75 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, and 13 Tiered Permitted (TP) facilities.
- CERS identifies 2,262 HWG facilities.
- The CUPA conducted 1,568 inspections of HWG facilities, of which 1,232 (79%) had at least one violation cited.
 - For “routine” inspections: 1,232 of 1,548 (80%) had at least one violation cited.
 - For “other” inspections: 12 of 20 (60%) had at least one violation cited.
 - In the 1,232 routine inspections with at least one violation cited, a total of 6,203 violations were issued, consisting of:
 - 92 Class I violations,
 - 4,154 Class II violations, and
 - 1,958 minor violations.
 - The CUPA has ensured return to compliance for 5,852 of 6,203 (94%) violations cited during routine inspections.
 - Several categories of violations did not contain violation comments in CERS, which may have altered the classification of a violation.
- The CUPA completed separate formal enforcement actions for three different HWG facilities with hazardous waste related violations having a cumulative total penalty amount of \$55,625.00.
- Inspection reports contain detailed comments that note the factual basis of cited violations.
- Inspection reports indicate consent to inspect was requested prior to the inspection being conducted.
- The CUPA’s website has links to hazardous waste training classes. There is also information to assist with regulations and compliance guidance for the various types of generators.
- There are some data anomalies in CERS regarding TP facility submittals that need correction (verification of onsite treatment or not), and the CUPA was helpful in reviewing some on-site treatment issues associated with the TP program.

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

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RECOMMENDATION:

Become current with the three-year HWG inspection frequency and apply enforcement efforts when applicable. Continue to generate quality inspection reports, ensuring detailed factual basis of a violation is included in the inspection report as well as in the CME information transferred to CERS in order to support any enforcement efforts. Continue to follow up with facilities that have not obtained RTC by the scheduled RTC date and apply appropriate enforcement consistent with what is specified in the I&E Plan when facilities do not RTC. As a result of the pending update to the CUPA's data management system, implement a data management plan to include regular Quality Assurance /Quality Control review of information in the local database, which also incorporates an opportunity for inspectors to obtain feedback and correct any identified data discrepancies, as well as review historic facility data as part of preparations for each upcoming inspection.

2. OBSERVATION:

The CERS reporting requirement is currently set as "APSA Applicable" for 632 tank facilities. The CUPA's data management system identifies 651 APSA-related tank facilities.

- 590 APSA tank facilities are identified in both CERS and the CUPA's data management system.
- 43 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 should update the local data management system appropriately.
- 61 facilities identified as APSA related tank facilities in the CUPA's data management system are not in the CERS list of APSA facilities. The CUPA should investigate 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."

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.

3. OBSERVATION:

The I&E Plan 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 inspection frequency table (page 1) and pages 2, 4, 7, and 11. Not all ASTs contain petroleum.
- Page 7, subsection (g), paragraph 2 –The State Water Board no longer enforces APSA violations, Unified Program Agencies do. Delete the outdated statement regarding referral of APSA violations to the State Water Board.

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OBSERVATIONS AND RECOMMENDATIONS

- Page 62, paragraph 1 – HSC, Section 25270.12.1(a) is referenced as violations of the APSA Program. The first paragraph should be changed to, “For violations of HSC, Division 20, Chapter 6.67 (commencing with Section 25270), the violator shall be liable for a penalty of not more than \$5,000 for each day on which the violation continues (HSC, Sections 25270.12 and 25270.12.1).”

RECOMMENDATION:

Update the I&E Plan as indicated above and ensure reference to the APSA Program is consistent with the statute.

4. OBSERVATION:

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

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 providing the tank facility statement, to use the current 2022 template, which contains the current OSFM phone number and is available in CERS.

5. OBSERVATION:

The CUPA’s website ([https://www.sjgov.org/department/envhealth/programs/aboveground-petroleum-storage-act-\(apsa\)?id=26223](https://www.sjgov.org/department/envhealth/programs/aboveground-petroleum-storage-act-(apsa)?id=26223)) contains resources for the public and the regulated community; however, it contains information that is outdated.

- The Tier II Qualified Facility SPCC Plan template is outdated and should be replaced with the current version (May 2021) available on the OSFM website: (https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf).

RECOMMENDATION:

Update the information on the website as indicated above.

6. OBSERVATION:

The CUPA’s UST closure letter does not provide direction to UST owners/operators that maintenance of UST closure documentation is required per CCR, Chapter 16, Section 2672(f).

RECOMMENDATION:

Amend the UST closure letter template to include the identified maintenance requirements for UST owners/operators. I.e., UST owners or operators of a UST that is closed pursuant to CCR, Chapter 16, Section 2672, shall maintain the analytical results of all soil and groundwater samples for at least 36 months after the UST system is properly closed.

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OBSERVATIONS AND RECOMMENDATIONS

7. OBSERVATION:

During the evaluation, the CUPA provided CalEPA with a number of Formal Enforcement Summary (FES) reports covering all CUPA enforcement actions that took place during the time period evaluated; however, none of the FES reports provided were submitted to CalEPA within 30 days of the final judgement being issued as required by CCR, Title 27.

RECOMMENDATION:

Ensure that future FES reports are submitted to cupa@calepa.ca.gov within 30 days of a final judgement being issued.

8. OBSERVATION:

The information 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:

- San Joaquin County Environmental Health Division CUPA Application, dated November 17, 1995;
 - CERS “Summary Regulated Facilities by Unified Program Element” report, generated on March 7, 2022;
 - CERS “UST Inspection Summary Report (Report 6),” generated on March 7, 2022; and
 - San Joaquin County Environmental Health Department Annual Self-Audit Report for Fiscal Year 2020/2021, dated September 30, 2021.
- Total Number of Regulated Businesses and Facilities:
 - In 1995 Application: 1,809
 - Currently: 3,810
 - An increase 2,001 of facilities
 - Total Number of **Business Plan** Regulated Businesses and Facilities:
 - In 1995 Application: 1,809
 - Currently: 3,810
 - An increase 2,001 of facilities
 - Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
 - In 1995 Application: 519
 - Currently: 264
 - A decrease of 255 facilities

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OBSERVATIONS AND RECOMMENDATIONS

- **Total Number of Regulated USTs:**
 - In 1995 Application: 1,356
 - Currently: 727
 - A decrease of 629 USTs
- **Total Number of Regulated Hazardous Waste Generator Facilities:**
 - In 1995 Application: 71
 - Currently: 2268
 - An increase of facilities 2,197
- **Total Number of Regulated Household Hazardous Waste (HHW) Facilities:**
 - In 1995 Application: Not specified
 - Currently: 1
- **Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
 - In 1995 Application: 64
 - Currently: 19
 - A decrease of 45 facilities
- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
 - In 1995 Application: Not specified
 - Currently: 67
- **Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
 - In 1995 Application: 240
 - Currently: 101
 - A decrease of 139 facilities
- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
 - In 1995 Application: Not applicable
 - Currently: 629

Since the original application for certification was submitted in 1995, the CUPA has seen significant fluctuations in the number of regulated facilities in nearly all Unified Program elements. In particular, the total number of regulated HMBP facilities increased by 2,001 (or 111%) and the total number of regulated HWG facilities increased by 2,197 (or 3,094%). The incorporation of the APSA program also added another 629 facilities not previously regulated by the CUPA. The number of regulated UST facilities decreased by 255 (or 49%), the number of TP facilities decreased by 45 facilities (or 70%), and the number of CalARP facilities decreased by 139 (or 58%).

The staffing 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

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with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the San Joaquin CUPA 1995 Application and recent information provided by the CUPA.

- In 1995 Application:
 - 10 total CUPA staff, management, and support positions
 - 9.5 budgeted FTEs from 16,868 productive hours.
 - Note: 16,868 productive hours equates to approximately 8.2 FTEs based on the current standard of 2,080 hours per FTE.
 - 2.66 FTEs (5,542 hours) for Inspection Staff, including:
 - 3 Hazardous Materials Specialist positions
 - 1 Fire Inspector position
 - 2.13 FTEs (4,445 hours) for Supervisory and Management staff, including:
 - 0.85 FTE (1,778 hours) for a Hazardous Materials Supervisor
 - 0.85 FTE (1,778 hours) for an Assistant Coordinator of Hazardous Materials
 - 0.43 FTE (889 hours) for a Coordinator of Hazardous Materials
 - 3.41 FTE (7,089 hours) for non-inspection/support staff, including:
 - Specialist Clerks, an Emergency Planner, and a Secretary
- Currently:
 - 21 total CUPA staff, management, and support positions.
 - 20.55 budgeted FTEs
 - 12 FTEs for Inspection Staff, including:
 - 6 Environmental Health Services (EHS) and EHS Trainee positions
 - 2 Hazardous Materials Specialist positions
 - 4 Registered Environmental Health Specialist positions.
 - 5.75 FTEs for Supervisory and Management staff, including:
 - 4 Lead Senior Registered Environmental Health Specialist positions
 - 0.75 FTE for a Lead Senior Registered Environmental Health Specialist Enforcement Coordinator
 - 1 Program Coordinator position
 - 2.8 FTEs for non-inspection/support staff, including
 - 2 Office Assistant positions
 - 0.8 FTE for Office Assistant Specialist positions.

Since the CUPA applied for certification in 1995, an expansion of responsibilities in the HMBP, HWG, and CalARP programs has occurred, increasing the workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. The number of facilities regulated by the CUPA has also significantly changed since the CUPA applied for certification in 1995. 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 CERS.

The CUPA has been proactive in expanding staffing resources and adapting the budgeted FTEs accordingly to allow for the allocation of additional resources to meet the growing needs of Unified Program implementation.

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RECOMMENDATION:

Continue to regularly assess allocation of current staff assignments and existing resources to ensure adequate implementation of each program element within the Unified Program is obtained.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

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

1. STRONG ENFORCEMENT PROGRAM

The CUPA has developed a very robust enforcement program. The CUPA actively engages with facilities cited with violations to enhance obtaining RTC. This includes regularly following up with facilities cited with violations, applying a consistent graduated series of enforcement, and regularly initiating formal enforcement proceedings on facilities for continued noncompliance. Information provided by the CUPA indicates that, during the time period evaluated (FYs 2018/2019, 2019/2020, and 2020/2021), the CUPA either closed or referred 42 formal enforcement cases resulting in a total of over \$266,668, of which \$13,000 was allocated for Supplemental Environmental Projects (SEPs).

2. TRAINING OPPORTUNITIES FOR THE REGULATED COMMUNITY

The CUPA continues to offer numerous training classes to the regulated community on various topics relative to the Unified Program, which assists in building a relationship with the regulated community and maintaining compliance with Unified Program requirements. These training programs are provided by the CUPA as a free service at no-cost to the attendees. During the time period evaluated, the CUPA conducted a total of 118 training classes with the following attending members of the regulated community:

- FY 2018/2019: 40 classes held, 710 attendees
- FY 2019/2020: 36 classes held, 784 attendees
- FY 2020/2021: 42 classes held, 726 attendees

The free classes are administered through NES, Inc. Examples of recent training course topics provided include, but are not limited to:

- Basic Hazardous Waste Management (in English & Spanish)
 - Advanced Hazardous Waste Management
 - SPCC Plans for APSA Sites
 - Universal Waste Management
 - Auto Industry Hazardous Waste Management
 - Hazardous Material Business Plan/CERS
 - Department of Transportation (DOT) & Hazardous Waste Manifest
 - Hazardous Material Business Plan for Restaurants
 - Operating a UST-Owner/Operator
 - Basic Agricultural Environmental Management
-

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

3. ACTIVE PARTICIPATION IN TRAINING, TECHNICAL AND ADVISORY GROUPS

CUPA staff and management actively participate in numerous different meetings, training opportunities, and technical advisory groups (TAGs) relating to the implementation of the Unified Program in many different aspects such as:

- Regional Bay Area CUPA Forum Board meetings
- Unified Program Administration and Advisory Group (UPAAG) TAGs with focus on the following:
 - USTs
 - Hazardous Waste and Hazardous Materials
 - APSA
 - CalARP
 - Enforcement
 - Emergency Response
- UPAAG Strategic Plan: Participant on the Cal-EPA CUPA Enforcement Goal Committee
- Co-Coordinator of the Enforcement Track for the Annual Unified Program Training Conference
- Co-Chair for the Joint HAZMAT Response Team
- Local Emergency Planning Committee (LEPC) member (CUPA Alternate)
- California Hazardous Material Investigations Association (CHMIA), Sacramento Regional Director
- Advanced Environmental Crimes Training Program (AECTP)

4. MANAGING CONCURRENT EVALUATIONS FROM USEPA AND CALEPA

The Federal EPA (USEPA) conducts a State Review Framework as part of the evaluation of California's implementation of the RCRA program. USEPA selected the San Joaquin County CUPA as the representative agency for reviewing compliance with hazardous waste inspections by local governments. The USEPA review took place simultaneously as the CUPA Performance Evaluation was conducted.

The findings of the USEPA evaluation further illustrate the CUPA's high level of detailed inspections and enforcement follow-up efforts as DTSC also found the same high-quality in inspection and enforcement efforts. Detailed information for each specific RCRA facility inspection is subsequently transferred from CERS to the national USEPA RCRAInfo database, which is publicly available.

The USEPA report specifically states:

"The following are aspects of the program that, according to the review, are being implemented at a high level:

Resource Conservation and Recovery Act (RCRA)

- San Joaquin County Environmental Health Department's (SJCEHD's) hazardous waste program inspection reports reviewed were complete, consistent, and provided appropriate documentation to determine compliance at the facility.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

- Timeliness of issuing an official inspection report averages three days from the first day of the inspection.
- San Joaquin County effectively manages noncompliant facilities with appropriate enforcement responses.”

DTSC appreciates the CUPA successfully managing and navigating the concurrent state and federal performance evaluations and understands the significant resources the efforts of each required while also being impacted with additional Covid-19 responsibilities.

5. INSPECTION REPORT TRANSPARENCY FOR GENERAL PUBLIC

The San Joaquin County Environmental Health Department has created a website dedicated to providing access to public records (<https://ifweb.sjgov.org/EHD/Welcome.aspx>). The website uses Laserfiche technology allowing the user to search “Facilities” by Facility Name, Street Address, Street Name, Program, and File Selection, or to simply browse records by “Address.” When searching by program, a user can select from 36 different programs such as: UST Program, HWG Program, Emergency Response Program, CalARP Program, and many more.