



Gavin Newsom  
Governor

Jared Blumenfeld  
Secretary for Environmental Protection

August 3, 2022

Mr. Steve Mosiurchak  
Senior Fire Inspector  
County of Sonoma Fire and Emergency Services Department  
2300 County Center Drive, Building B, 220  
Santa Rosa, California 95403

Dear Mr. Mosiurchak:

During September 2021 through June 2022, CalEPA and the state program agencies conducted a performance evaluation of the County of Sonoma Fire and Emergency 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 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 3, 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 [Kaeleigh.Pontif@calepa.ca.gov](mailto:Kaeleigh.Pontif@calepa.ca.gov).

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

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

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

Sincerely,



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

Enclosures

cc sent via email:

Mr. Charles Rivers  
CUPA Manager  
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Mr. Steve Mosiurchak  
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Mr. John Paine  
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California Environmental Protection Agency

Ms. Elizabeth Brega  
Senior Environmental Scientist, Supervisor  
California Environmental Protection Agency

Mr. Garrett Chan  
Environmental Scientist  
California Environmental Protection Agency

Ms. Kaeleigh Pontif  
Environmental Scientist  
California Environmental Protection Agency

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### CUPA: County of Sonoma Fire and Emergency Services Department

**Evaluation Period:** September 2021 – June 2022

#### **Evaluation Team Members:**

- **CalEPA Team Lead:** Kaeleigh Pontif
- **DTSC:** Kevin Abriol
- **Cal OES\*/CalEPA:** Garrett Chan, Jack Harrah
- **State Water Board:** Jessica Botsford, Sean Farrow
- **CAL FIRE-OSFM:** Glenn Warner, Denise Villanueva

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:

**Kaeleigh Pontif**  
CalEPA Unified Program  
Phone: (916) 232-9327  
E-mail: [Kaeleigh.pontif@calepa.ca.gov](mailto:Kaeleigh.pontif@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:

**1<sup>st</sup> Progress Report:** October 3, 2022  
**3<sup>rd</sup> Progress Report:** April 10, 2023

**2<sup>nd</sup> Progress Report:** January 9, 2023  
**4<sup>th</sup> Progress Report:** July 10, 2023

\*Effective July 1, 2021, oversight of the Hazardous Materials Release Response Plans and Inventory and the California Accidental Release 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 ensuring all regulated businesses subject to Business Plan reporting requirements annually submit a Hazardous Materials Business Plan (HMBP) or a no-change certification to the California Environmental Reporting System (CERS).

Review of HMBPs submitted to CERS from March 21, 2021, to April 20, 2022, by regulated businesses subject to HMBP reporting requirements finds:

- 595 of 1,642 (37%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.

**CITATION:**

Health and Safety Code (HSC), Chapter 6.95, Sections 25505(a)(1) and 25508(a)(2) and (3) [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 HMBP reporting requirements have annually submitted an HMBP or a no-change certification to CERS, 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 HMBP reporting requirements that has not submitted a chemical inventory 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 chemical inventories 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 HMBP reporting requirements identified in the spreadsheet provided with the 2<sup>nd</sup> Progress Report, to ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP or a no-change certification to CERS, or the CUPA will apply appropriate enforcement.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

**2. 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 CERS between October 1, 2018, through September 30, 2021, and additional information provided by the CUPA finds:

- 121 of 673 (18%) HWG facilities have not been inspected within the last three years.

**CITATION:**

California Code of Regulations (CCR), Title 27, Section 15200(a)(3)(A)  
HSC, Chapter 6.5, Section 25201.4(b)(2)  
[DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> 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. Existing inspection staff resources and how many facilities are scheduled to be inspected each year are factors to address in the explanation.
- A sortable 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 proposed 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 (ex., a list of all HWG facilities and the anniversary date of the next routine HWG inspection for each HWG facility according to the established inspection frequency in the I&E Plan).

By the 2<sup>nd</sup> 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.

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each HWG facility identified on the sortable spreadsheet provided with the 1<sup>st</sup> Progress Report once every three years, per the inspection frequency established in the I&E Plan.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

#### 3. DEFICIENCY:

The CUPA is not inspecting each Aboveground Petroleum Storage Act (APSA) tank facility at least once every three years, in accordance with the I&E Plan.

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

- 28 of 111 (25%) APSA tank facilities storing less than 10,000 gallons of petroleum have not been inspected within the last three years.

Note: The CUPA meets the mandated triennial inspection frequency for each APSA tank facility storing 10,000 gallons or more of petroleum in compliance with the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements of APSA.

#### CITATION:

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

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility is inspected at least once every three years for compliance with the SPCC Plan requirements of APSA. The action plan will include at minimum:

- An analysis and explanation as to why the inspection frequency requirement for the APSA program is not being met. Existing inspection staff resources and how many facilities are scheduled to be inspected each year are factors to address in the explanation.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each APSA tank facility that has not been inspected in the last three years. For each APSA tank facility listed, the spreadsheet will include, at minimum:
  - Facility name,
  - CERS ID,
  - Category of tank facility (i.e. 10,000 gallons or more, 1,320-9,999 gallons, tank in an underground area with less than 1,320 gallons) and
  - Date of the last routine inspection.
- A proposed schedule to inspect those tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA inspection based on a risk analysis of all tank facilities (i.e., large volumes of petroleum, proximity to navigable water).
- Future steps to ensure each APSA tank facility will be inspected at least once every three years.

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each APSA tank facility identified on the sortable spreadsheet provided with the 1<sup>st</sup> Progress Report at least once every three years, per the inspection frequency established in the I&E Plan.



**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

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**4. DEFICIENCY:**

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

Review of CERS CME information finds testing and leak detection violations did not obtain RTC within 60 days for the following Fiscal Years (FYs):

- FY 2020/2021
  - 17 of 50 (34%)
  - Examples include:
    - CERS ID 10406836: Violation dated December 3, 2020, indicates failure to maintain secondary containment.
    - CERS ID 10132684: Violation dated February 5, 2021, indicates failure to construct, operate, and maintain primary containment as product-tight.
- FY 2019/2020
  - 28 of 63 (44%)
  - Examples include:
    - CERS ID 10100914: Violation dated March 13, 2020, indicates failure of the leak detection equipment to be installed, calibrated, operated, and/or maintained properly.
- FY 2018/2019
  - 17 of 59 (29%)
  - Examples include:
    - CERS ID 10104436: Violation dated May 30, 2019, indicates failure to comply with one or more of the following overfill prevention equipment requirements.

Note: The examples provided above may not represent all instances of this deficiency and only include testing and leak detection violations.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure, to ensure establishment of a process for UST inspection staff to document follow-up actions and applied appropriate enforcement taken by the CUPA when RTC is not obtained in 60 days. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum, will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

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

By the 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records for five UST facilities, as selected by the State Water Board, that include RTC or documentation of follow-up actions and applied appropriate enforcement.

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#### 5. DEFICIENCY:

The UST operating permit and permit conditions, required to be issued under the consolidated “Permit to Operate,” are inconsistent with UST Regulations and HSC requirements.

Review of UST operating permits finds the following inconsistencies with UST Regulations and HSC:

- The permit states the CUPA shall be notified within 30 days of any change to the permitted programs, however, the regulatory requirement for the owner or operator is to notify the CUPA prior to any change in substance stored.
- The permit states “display in a prominent place,” which is more stringent than UST Regulations and HSC and where no local ordinance authority exists.
- The permit references HSC, Chapter 6.75 and CCR, Chapter 18, however, the CUPA does not have the authority to implement HSC, Chapter 6.75 nor CCR, Chapter 18, and therefore the citations cannot be referenced.

Review of UST operating permit conditions finds the following inconsistencies with UST Regulations and HSC:

- Permit condition 1: states the owner or operator must report an unauthorized release to the CUPA in accordance with HSC, Section 25295 and CCR, Title 23. However, 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).

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

- Permit condition 7: states UST facilities will be inspected annually, however, the regulatory requirement is for UST facilities to be inspected at least once every 12 months.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised UST operating permit and revised UST operating permit conditions consistent with UST Regulations and HSC.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised UST operating permit and/or revised UST operating permit conditions, based on feedback from the State Water Board. The CUPA will provide the amended UST operating permit and/or the amended UST operating permit conditions to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST operating permit and revised UST operating permit conditions under the "Permit to Operate."

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST operating permit and/or revised UST operating permit conditions were necessary, the CUPA will begin to issue the amended UST operating permit and/or amended UST operating permit conditions issued under the "Permit to Operate."

As a result of the CUPA's three-year permitting cycle, the State Water Board will consider this deficiency corrected upon completion and acceptance of the revised or amended UST operating permit template and the revised or amended UST operating permit conditions. Issuance of the revised or amended UST operating permit template and the revised or amended UST operating permit conditions will be verified during the next CUPA Performance Evaluation.

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**6. DEFICIENCY:**

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 permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

Review of facility files finds the CUPA did not issue closure documentation to the UST owner or operator upon completion of UST closure for the following examples:

- CERS ID 10100890; and
- CERS ID 10100779.

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

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

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](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml)) may be referenced.

#### **CITATION:**

HSC, Chapter 6.7, Section 25298(c)  
CCR, Title 23, Sections 2670 and 2672  
[State Water Board]

#### **CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop the UST closure procedure or other applicable procedure, to ensure the establishment of a process, which will include at minimum, how the CUPA will:

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

By the 1<sup>st</sup> Progress Report, the CUPA will develop a UST closure letter template for sites with and without contamination, if separate letters are issued for those scenarios. The CUPA may consider including the following language in the UST closure letter template:

- the County of Sonoma Fire and Emergency Services Department CUPA has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with HSC Section 25298, subdivision (c) and UST Regulations, Sections 2670 and 2672.

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

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

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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### DEFICIENCIES REQUIRING CORRECTION

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

For the next two UST closures, the CUPA will provide CalEPA with the UST closure documentation demonstrating to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

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#### 7. DEFICIENCY:

The local ordinance, *Chapter 29 Hazardous Materials Management*, is outdated with current CUPA implementation of the Unified Program and is less stringent or inconsistent with UST Regulations and HSC.

Review of the local ordinance finds the following is outdated in comparison with current CUPA implementation of the Unified Program:

- The local ordinance makes multiple references to forms, however, the CUPA no longer utilizes these forms.

Review of the local ordinance finds the following provisions are less stringent or inconsistent with UST Regulations and HSC:

- Section 29-4 defines CUPA as the "Sonoma County agencies that have been certified by the Secretary of Cal-EPA to implement the unified program pursuant to Health and Safety Code Chapter 6.11 and California Code of Regulations Title 27, Division 1. Other county boards, departments and agencies may be designated by the board of supervisors to assist a unified program in the gathering of information, execution of investigations, enforcement, or other duties." However, the county cannot designate other county boards to assist in the gathering of information, execution of investigations, enforcement, or other duties without having a PA agreement in place with those other county boards.
- Section 29-4 defines an operator as those persons described as "operators" by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 USC Section 9601 et seq.) and by the Resource Conservation and Recovery Act, Subtitle I, as amended [42 USC Section 6991(2)(B)(4)]. However, this is inconsistent with UST Regulations and HSC which defines an operator as any person in control of, or having responsibility for, the daily operation of an underground storage tank system.
- Section 29-6(a)(1) and (2) refers to federal code, however, the CUPA does not have authority to implement federal code, therefore, it cannot be referenced in regard to the UST Program.
- Section 29-13(a) states the CUPA will inspect every hazardous materials storage facility every three years, however, all UST facilities must be inspected at least once every 12 months.

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**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), 15280(c)(5) and 15150(c)(2)  
[State Water Board]

**CORRECTIVE ACTION:**

The CUPA will no longer implement provisions of the local ordinance that are less stringent or inconsistent with UST Regulations and HSC.

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a detailed plan to revise the local ordinance to be consistent with UST Regulations and HSC, and to adopt the revised local ordinance. The plan will at minimum include:

- a timeline for revising, drafting, and adopting the revised ordinance; and
- provisions for the CUPA to provide the revised local ordinance to CalEPA and the State Water Board for review to ensure consistency with UST Regulations and HSC before adoption.

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 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 as outlined above. During implementation of the plan, the State Water Board must have an opportunity to review the revised draft of the local ordinance, which will allow the State Water Board to work with the CUPA to ensure the revised draft of the local ordinance is consistent with UST Regulations and HSC, the CUPA certification approval, and meets all other requirements.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinance was adopted, and timely compliance was achieved for those UST facilities identified as not meeting UST Regulations or HSC as a result of the initial ordinance.

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**8. DEFICIENCY:**

The CUPA is not requiring UST facilities with single-walled UST components within a 1,000-foot radius of a public drinking water well to implement triennial Enhanced Leak Detection (ELD) testing.

Review of CERS facility information and GeoTracker finds the following UST facility has not completed the initial ELD test and subsequent triennial ELD testing:

- CERS ID 10101217: The CUPA did not notify the State Water Board of this facility in 2003, as required.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

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

Note: The State Water Board has distributed the following Local Guidance Letters (LGs) to CUPAs regarding the requirement for UST facilities to implement triennial or complete one-time ELD testing:

- LG 161: distributed September 18, 2001, to provide notification of Senate Bill 989 requirements
- LG 161-2: distributed May 15, 2003, to provide an update on ELD testing requirements and responses to questions
- LG 161-3: distributed October 23, 2006, to provide an update on ELD testing requirements and responses to questions
- LG 161-4: distributed June 12, 2007, to provide an update on ELD testing requirements and responses to questions
- LG-161-5: distributed March 25, 2008, to provide an update on ELD testing requirements and responses to questions

#### **CITATION:**

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

#### **CORRECTIVE ACTION:**

The CUPA will no longer allow USTs without having completed ELD testing to continue to operate.

By the 1<sup>st</sup> Progress Report, the CUPA will draft and provide to CalEPA written correspondence addressed to the UST facility owner(s) or operator(s) to inform them of the requirement to complete initial ELD testing within 60 days and implement triennial ELD testing every 36 months thereafter. The written correspondence will include language stating that failure to complete initial ELD testing within 60 days of the date of the letter and implement triennial ELD testing every 36 months thereafter will lead to applied appropriate enforcement, including but not limited to revocation of the UST operating permit portion of the "Permit to Operate" and issuance of red tags which will prohibit the deposit and withdrawal of fuel. The CUPA will include the State Water Board on the correspondence.

By the 2<sup>nd</sup> Progress Report, the CUPA will finalize the draft written correspondence to the UST facility owner(s) or operator(s) and provide the finalized written correspondence to UST facility owner(s) or operator(s). The CUPA will provide a copy of the finalized written correspondence to the State Water Board.

By the 3<sup>rd</sup> Progress Report, if the facility owner(s) or operator(s) have not conducted initial ELD testing within 60 days of notification from the CUPA to do so, or if an RFR application has not been submitted to the State Water Board within 30 days of notification from the CUPA to do so, the CUPA will apply appropriate enforcement, including but not limited to revocation of the UST operating permit portion of the "Permit to Operate" and issuance of red tags which will

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prohibit the deposit and withdrawal of fuel. If initial ELD testing has been conducted, the CUPA will provide CalEPA with the ELD test results.

The State Water Board will consider this deficiency corrected when ELD testing has been completed and the CUPA has provided CalEPA with the ELD test results, or when red tags are issued, and fuel is removed from the tank(s).

The State Water Board will consider this deficiency closed, but not corrected, and will verify that ELD testing was conducted during the next CUPA Performance Evaluation.

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**9. DEFICIENCY:**

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

Review of CERS CME information finds:

- 566 of 1,642 (34%) facilities subject to HMBP requirements were not inspected within the last three years.

**CITATION:**

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

**CORRECTIVE ACTION:**

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

- An analysis and explanation as to why the triennial compliance inspection requirement is not being met for Business Plan facilities. Existing inspection staff resources and the number of facilities scheduled to be inspected each year are factors to address in the explanation.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected within the last 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 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, revise the action plan, based on feedback from CalEPA. The CUPA will provide the revised action plan to CalEPA.



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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each HMBP facility identified on the spreadsheet provided with the 1<sup>st</sup> Progress Report at least once in the last three years.

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**10. DEFICIENCY:**

The CUPA is not inspecting each facility subject to the California Accidental Release Prevention (CalARP) Program requirements at least once every three years.

Review of CERS CME information and additional information provided by the CUPA indicates:

- 2 of 14 (14%) CalARP facilities were not inspected within the last three years.

**CITATION:**

HSC, Chapter 6.95, Section 25537(a)  
CCR, Title 19, Section 2775.3  
[CalEPA]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to CalARP requirements is inspected at least once every three years. The action plan will include, at minimum:

- An analysis and explanation as to why the triennial compliance inspection requirement is not being met for CalARP Program facilities. Existing inspection staff resources and the number of facilities scheduled to be inspected each year are factors to address in the explanation.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each CalARP facility that has not been inspected within the last three years. For each CalARP Program facility listed, the spreadsheet will include, at minimum:
  - Facility name;
  - CERS ID;
  - Date of the last inspection
- A proposed schedule to inspect those CalARP facilities based on risk, prioritizing the most delinquent inspections.
- Future steps to ensure that all CalARP facilities will be inspected at least once every three years.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, revise the action plan, based on feedback from CalEPA. The CUPA will provide the revised action plan to CalEPA.

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

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By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each CalARP Program facility identified on the spreadsheet provided with the 1<sup>st</sup> Progress Report at least once in the last three years.

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**11. DEFICIENCY: CORRECTED DURING EVALUATION**

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

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

- 35 of 171 (22%) APSA tank facilities have not submitted emergency response and employee training plans within the past 12 months.

**CITATION:**

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

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, additional APSA tank facilities submitted emergency response and employee training plans. 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:

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

The following I&E Plan components are inaccurate:

- Page 2 of the September 2018 Inspection-Enforcement Program Plan includes an incorrect citation for the “Requirements for Inspection/Enforcement Program Plans (CCR Title 27, Section §15200 (f)). The correct citation is §15200(a).
- Page 5 of the September 2018 Inspection-Enforcement Program Plan includes outdated information regarding “Oversight of Universal Waste Handlers & Silver-Only Generators.” This section should be revised to be consistent with DTSC’s memo dated October 11, 2021 ([https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/11/CESQG\\_October\\_2021.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/11/CESQG_October_2021.pdf)).
- The CUPA’s maximum initial penalty for hazardous waste violations indicates \$25,000, the correct penalty amount for hazardous waste violations is \$70,000. Per Assembly Bill 245 effective January 1, 2018, and CCR, Title 22, Section 66272.62, the penalties for hazardous waste violations increased from \$25,000 to \$70,000 for each day of non-compliance.
  - Page 20 of the September 2018 Inspection-Enforcement Program Plan includes outdated HWG penalty amounts.
  - Appendix C, Pages 12-13 of SOP 200.33 Inspection and Enforcement Plan – Enforcement; Administrative Enforcement Orders, includes outdated HWG penalty amounts.
- The fee penalty matrix for the UST Program specifies penalties less than \$500, which is less stringent than HSC, Section 25299(b), which states UST owners are liable for civil penalties of no less than \$500 or no more than \$5,000 per day for each UST, for each day of violation.

The following I&E Plan components are incomplete:

- Pages 8, 10, and 24 reference sampling activities, however provisions for ensuring sampling capability are lacking in detail. 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.

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**CITATION:**

HSC, Chapter 6.7 Section 25299(a) and (b)  
CCR, Title 27, Section 15200(a)  
[CalEPA, DTSC, State Water Board]

**RESOLUTION:**

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

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, DTSC, or the State Water Board, 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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**2. INCIDENTAL FINDING:**

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

Review of CERS indicates the following 4 of 12 (33%) APSA tank facilities were missing various site map elements in recently accepted HMBP submittals:

- CERS IDs 10100914, 10105264, and 10134688 are missing emergency shut off and evacuation staging areas
- CERS ID 10124428 is missing emergency shut off, evacuation staging area, and emergency response equipment

**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 are thoroughly reviewed and contain all applicable required elements, when submitted to CERS in lieu of a tank facility statement. The action plan will include steps to follow up with rejected or incomplete HMBP 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 APSA tank facilities with recent HMBP submittals that have been reviewed and not accepted for missing applicable required elements, when submitted

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to CERS in lieu of a tank facility statement. For each listed APSA tank facility, the CUPA will include follow-up actions, including applied appropriate enforcement.

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

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**3. INCIDENTAL FINDING:**

The CUPA is not ensuring each APSA tank facility that is not conditionally exempt prepares an SPCC Plan.

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

- FY 2020/2021: CERS ID 10129360

**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]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative of the status of facility compliance, including the actual RTC date if achieved, or in the absence of RTC, documentation of follow-up activity, including applied appropriate enforcement.

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**4. INCIDENTAL FINDING:**

The Unified Program administrative procedures have components that are incomplete.

The following administrative procedures are incomplete:

- Public participation
  - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element
    - The CUPA states that public hearings shall be conducted whenever a change to the Unified Program fee schedule or change in the County's Implementing Ordinance occurs. The current procedure does not ensure that the CUPA coordinates, consolidates, and makes consistent locally required public hearings to any Unified Program element.

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

#### INCIDENTAL FINDINGS REQUIRING RESOLUTION

- Records maintenance
  - Identification of the records maintained
    - The CUPA's records maintenance document does not stipulate that the following information will be retained for a minimum of five years: self-audit reports, detailed records used to produce the summary reports submitted to the state, surcharge billing and collection records following closure of any billing period.
- Forwarding Hazardous Material Release Response Plan (HMRRP) Information
  - The CUPA's document "Sharing of HMBP's with Fire Agencies" does not establish a complete procedure for forwarding HMRRP information to emergency response personnel and other appropriate government entities, or for providing access to CERS.

#### **CITATION:**

CCR, Title 27, Sections 15180(e) and 15185(b)  
[CalEPA]

#### **RESOLUTION:**

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

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

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

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

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

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#### 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 October 1, 2018, through September 30, 2021, is summarized below:

- CERS indicates 717 facilities self-identified as HWGs, 22 facilities self-identified as Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQG), and 2 facilities self-identified as Tiered Permitted facilities.
- The CUPA conducted 599 routine and 143 other HWG inspections, totaling 742 HWG inspections.
  - 418 of 599 (70%) routine inspections had no violations cited
  - 181 of 599 (30%) routine inspections had at least one violation cited.
    - 410 total violations were issued, consisting of:
      - 2 Class I violations,
      - 189 Class II violations, and
      - 219 minor violations.
    - In the 143 other inspections performed, 56 total violations were issued, consisting of:
      - 43 Class II violations, and
      - 13 minor violations.
  - The CUPA has ensured return to compliance for 419 of 465 (90%) violations.
  - The CUPA referred three formal enforcement cases to the District Attorney.

The 1995 Sonoma County CUPA Application designates the County Agricultural Commissioner's Office to regulate the small quantity hazardous waste generator (SQHWG) program at farms and other agriculture facilities (page 13). During the CUPA Performance Evaluation, it was discovered that the County Agricultural Commissioner's Office is also performing HMBP inspections at agricultural facilities, in addition to SQHWG inspections. The County Agricultural Commissioner's Office was approved to conduct HMBP and SQHWG inspections at farms and agricultural facilities upon certification of the CUPA, however a Participating Agency (PA) agreement has not been established between the CUPA and the County Agricultural Commissioner's Office. CalEPA will work with the CUPA to ensure a PA agreement is established with the County Agricultural Commissioner's Office to conduct HMBP and SQHWG inspections at farms and other agricultural facilities as well as any other necessary aspects of HMBP and SQHWG inspection implementation.

DTSC did not conduct any oversight inspections.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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### OBSERVATIONS AND RECOMMENDATIONS

#### RECOMMENDATION:

Continue with the three-year HWG inspection frequency as identified in the I&E Plan. Continue to follow up with facilities that have not obtained RTC by the scheduled RTC date and apply appropriate enforcement for facilities that do not RTC, per the I&E Plan. Ensure complete and thorough inspections are conducted to identify all violations at facilities. Continue writing detailed inspection reports that include all factual basis of the violation and properly cite noted violations. Ensure that all hazardous waste generator facility inspectors, including the County Agricultural Commissioner's Office staff conducting HMBP and SQHWG inspections at farms, meet the education and training requirements listed in CCR, Title 27, Section 15260.

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#### 2. OBSERVATION:

The I&E Plan, dated 2021, contains APSA program information that is inaccurate.

- Page 16, Section 6A, the reference to HSC, Section 25270.5 for violations of the APSA Program should be HSC, Chapter 6.67, commencing with Section 25270. Section 25270.5 is the mandated inspection frequency requirement, the ability for a Unified Program Agency (UPA) to develop an alternative inspection and compliance plan, and UPA inspector training requirements. HSC, Section 25270.12.1 should be incorporated into the discussion of penalties.

#### RECOMMENDATION:

Update the I&E Plan as indicated above.

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#### 3. OBSERVATION:

The CUPA's APSA website (<https://sonomacounty.ca.gov/PRMD/Fire-Prevention/Hazardous-Materials-Unit/Permits-and-Inspections/Aboveground-Petroleum-Storage/>) contains various resources for the public and regulated community; however, it contains program information that is outdated, incorrect, or may benefit from improvement.

- The applicability discussion that APSA regulates owners or operators of tank facilities with 1,320 gallons or more petroleum is incomplete. APSA regulates tank facilities subject to the Federal SPCC rule, or has 1,320 gallons or more of petroleum, or has one or more tanks in an underground area with a shell capacity of 55 gallons or more of petroleum.
- The exception to preparing an SPCC Plan for farms, nurseries, logging, and construction sites if meeting certain conditions specific to the APSA Program. These facilities are not exempt from preparing an SPCC Plan if subject to the Federal SPCC rule.
- The SPCC Plan preparation discussion based on aboveground petroleum storage capacity is incorrect. SPCC Plans must be prepared in accordance with the Federal SPCC rule, which regulates all oils, including petroleum. The qualified facility discussion on discharges to navigable water or adjoining shoreline is not only based on the three years prior to SPCC Plan certification, but also since becoming subject to the SPCC rule if the facility has been in operation for less than three years.
- The link to the Tier I Qualified Facility SPCC Plan template (Word) does not work.



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- The two PDF links to the Tier II Qualified Facility SPCC Plan template lead to an outdated template. The current template may be found on the OSFM APSA website at: [https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm\\_tierii\\_spcc\\_plantemplate\\_05-2021-accessible.pdf](https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf).

The OSFM link does not point to the current APSA Program website:

<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>

**RECOMMENDATION:**

Update the website as indicated above.

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**4. OBSERVATION:**

The following APSA tank facilities submitted an HMBP in lieu of a tank facility statement using the 2011 or older consolidated emergency response and training plans template, which contains obsolete information:

- CERS IDs 10102267, 10105264, 10100839, 10100914, 10105210, 10103044, and 10124428

The 2017 version of the consolidated emergency response and training plans template is the current template with updated information.

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

**RECOMMENDATION:**

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

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**5. OBSERVATION:**

An SPCC Plan was submitted in CERS by the following facility: CERS ID 10134688.

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

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

**RECOMMENDATION:**

Utilize the CERS regulator comments field to advise the facility to not include SPCC Plans in future CERS submittals.

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**6. OBSERVATION:**

The CERS reporting requirement is currently set as “APSA Applicable” for 163 tank facilities. The CUPA’s local data management system identifies 157 APSA tank facilities.

- 156 APSA tank facilities are identified in both CERS and the CUPA’s local data management system.
- 7 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s local data management system. 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.
- 1 facility identified as an APSA tank facility in the CUPA’s local data management system is not in the CERS list of APSA facilities. The CUPA should investigate if the facility really is an APSA facility. If not, the CUPA should have the APSA reporting requirement set to “Not Applicable,” and the facility should not be identified as an APSA tank facility in the CUPA’s local data management system. If the facility is APSA regulated, the CUPA should have the APSA reporting requirement set to “Applicable.”
- There are approximately 4 small farm facilities being regulated as APSA facilities (4001 - AST PROGRAM CONDITIONALLY EXEMPT) whose total oil storage capacity meets the Federal Water Resources Reform and Development Act (WRRDA) exemption threshold. Farms that are no longer regulated under APSA due to Senate Bill (SB) 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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**7. OBSERVATION:**

The CUPA regulates some farms. Effective January 1, 2016, SB 612 aligned the applicability threshold for farms with that of the Federal SPCC rule, which has increased to 2,500 gallons of oil or 6,000 gallons of oil (with no reportable discharge history) per the Federal 2014 WRRDA.

OSFM information on APSA and farms is available at: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/>.

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

**RECOMMENDATION:**

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

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**OBSERVATIONS AND RECOMMENDATIONS**

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

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**8. OBSERVATION:**

The CUPA’s Self-Audit Reports indicate there is no mandated inspection frequency for the APSA Program.

With the exception of tank facilities that meet certain conditions described in HSC, Section 25270.4.5(b), APSA requires UPAs to inspect each APSA tank facility storing 10,000 gallons or more of petroleum for compliance with the SPCC Plan requirements of APSA.

**RECOMMENDATION:**

Ensure future Self-Audit Reports contain information consistent with APSA.

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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 10100935 (Tank IDs 000001 - 000004);
- CERS ID 10101217 (Tank IDs 000001 - 000003); and
- CERS ID 10101286 (Tank ID 1).

**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 has the following minor errors and obsolete references:

- Page 29, Title 19, CCR 2729-2732 is incorrect. The correct reference is CCR Sections 2650-2659

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### OBSERVATIONS AND RECOMMENDATIONS

- Page 26, Title 19, CCR 2720-2728 is incorrect. The correct reference is CCR Sections 2640-2648
- Page 39, Incident command's "d" is offset in the table.
- Page 54, the last sentence on the page indicates the Pesticide Drift Exposure Incident is on page 98 which is on page 100.
- Page 105, Title 19, CCR 2722 is incorrect. The correct reference is CCR Section 2642
- Page 105, Title 19, CCR 2723 is incorrect. The correct reference is CCR Section 2643
- Page 105, Title 19, CCR 27276(a) is incorrect. The correct reference is CCR Section 2646(a)

Note: The examples provided above may not represent all instances of error and references to obsolete terms in the Area Plan.

#### RECOMMENDATION:

With the next review and revision of the Area Plan, correct the identified errors and references to obsolete citations and terms.

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#### 11. 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:

- County of Sonoma Fire and Emergency Services Department, CUPA Application, dated December, 1995;
  - CERS "Summary Regulated Facilities by Unified Program Element" report, generated on December 27, 2021;
  - CERS "UST Inspection Summary Report (Report 6)," generated on December 27, 2021;
  - County of Sonoma Fire and Emergency Services CUPA Organizational Chart
- Total Number of Regulated Businesses and Facilities:
    - In 1995 Application: 1,614
    - Currently: 2,652
    - An increase of 1,038 facilities
  - Total Number of **Business Plan** Regulated Businesses and Facilities:
    - In 1995 Application: 658
    - Currently: 1,645
    - An increase of 987 facilities
  - Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
    - In 1995 Application: 184
    - Currently: 77
    - A decrease of 107 facilities

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

#### OBSERVATIONS AND RECOMMENDATIONS

- **Total Number of Regulated USTs:**
  - In 1995 Application: 441
  - Currently: 230
  - A decrease of 211 USTs
- **Total Number of Regulated Hazardous Waste Generator Facilities:**
  - In 1995 Application: 632
  - Currently: 715
  - An increase of 83 facilities
- **Total Number of Regulated Household Hazardous Waste (HHW) Facilities:**
  - In 1995 Application: None Specified
  - Currently: 3
  - HHW Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- **Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
  - In 1995 Application: 8
  - Currently: 3
  - A decrease of 5 facilities
- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
  - In 1995 Application: None Specified
  - Currently: 22
  - 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), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
  - In 1995 Application: 0
  - Currently: 15
- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
  - In 1995 Application: NA
  - Currently: 163

Since the original application for certification was submitted in 1995, the CUPA has seen notable changes in the number of regulated facilities in nearly all Unified Program elements. In particular, the total number of regulated facilities increased by 1,038 (or 64%) and the total number of regulated Business Plan facilities increased by 987 (or 33%). An expansion of responsibilities in the HWG and APSA programs increased the total number of regulated facilities and attributed to an increased workload undertaken by the CUPA to further implement regulatory oversight of each

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of these programs. The integration of the APSA program added 163 facilities to be fully regulated by the CUPA, and the integration of the HHW and RCRA LQG components of the HWG Program added 25 facilities to be fully regulated by the CUPA. In addition, 15 CalARP facilities are now regulated within the jurisdiction of the CUPA. In contrast, the number of regulated UST facilities decreased by 107 (or 58%), which also attributed to a decrease in the total number of regulated USTs by 211 (or 48%).

In addition to the increase in workload due to the overall trend of increased regulated facilities, 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 information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the Sonoma CUPA 1995 Application and recent information provided by the CUPA.

- Inspection and other Staff
  - In 1995 Application:
    - 5 Staff with 4.25 FTEs allocated for CUPA activities
  - Currently:
    - 4 staff, 1 vacancy with 3.25 FTEs allocated for CUPA activities
- Supervisory and Management Staff
  - In 1995 Application:
    - 2 Supervisors with 1.25 FTEs allocated for CUPA activities
  - Currently:
    - 2 Supervisors with 1.5 FTEs allocated for CUPA activities

Below are the available FTEs of similarly sized CUPAs allocated for Unified Program implementation as reported in 2020 and 2021 CUPA performance evaluations:

- CUPA #1:
  - This CUPA has 4.0 FTEs allocated for inspection and other staffing resources, which is 0.75 more FTEs than the Sonoma County CUPA.
  - This CUPA has 1.0 FTE allocated for supervisory staffing resources, which is 0.5 less FTEs than the Sonoma County CUPA.
  - This CUPA has 1,001 regulated businesses and facilities, which is 1,651 less regulated businesses and facilities than the Sonoma County CUPA.
- CUPA #2:
  - This CUPA has 17.0 FTEs allocated for inspection and other staffing resources, which is 13.75 more FTEs than the Sonoma County CUPA.
  - This CUPA has 3.0 FTEs allocated for supervisory staffing resources, which is 1.5 more FTEs than the Sonoma County CUPA.

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- This CUPA has 4,090 regulated businesses and facilities, which is 1,438 more regulated businesses and facilities than the Sonoma County CUPA.

Additional program element responsibilities have been incorporated into the implementation of the Unified Program and the number of facilities regulated by the CUPA has significantly increased since the CUPA applied for certification in 1995. However, the total inspection and supervisory staff FTEs allocated for the management and implementation of the Unified Program has remained relatively consistent since the CUPA was first certified.

#### **RECOMMENDATION:**

The comparison of the implementation of the program upon certification with present-day circumstance reveals there may be several issues impeding the CUPAs ability to adequately implement the Unified Program within its jurisdiction. Between growth within the county and the expansion of the Unified Program elements since its inception, the number of regulated facilities for this CUPA has grown substantially since the CUPA was first certified. As of the most recent performance evaluation, however, the current number of full-time inspection and supervisory personnel remain relatively the same as when the CUPA was first certified, which in and of itself is a factor that reduces the ability of the CUPA to implement the Unified Program effectively. As such, the CUPA should continue with and/or expand recruiting efforts to ensure that all vacant staff positions are filled in a timely manner. With the increase in regulated facilities and with the incorporation of additional regulatory responsibilities, the ability of the CUPA to improve the implementation of the Unified Program would benefit with an increased allocation of FTEs allocated towards inspection and supervisory staffing resources.

Reevaluate the current budget, including revenue sources and expenditures, single fee assessment for each regulated entity, and funding allocation for program services. Determine if it is necessary to increase the single fee for program elements to ensure revenue is reasonably adequate for implementing the Unified Program and CUPA operations, regarding the need to acquire support of additional supervisor and inspection personnel or other resources as necessary and reasonable to ensure adequate implementation of Unified Program services and regulatory oversight for each Unified Program element. Examine how current CUPA resources are being allocated, specifically in areas of inspection and enforcement, and ensure that required program elements are implemented as first priority before supplemental efforts that may not be specifically required or associated with the Unified Program.

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 protection of health and safety of the community and environment at large.

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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. EMERGENCY RESPONSE:**

Since the last evaluation, the CUPA's jurisdiction experienced three years of intense wildfires, including the Kincade, Walbridge/Meyers and Glass fires. The CUPA worked closely with the U.S. Environmental Protection Agency and DTSC to conduct wildfire recovery and cleanup, and augmented inspections using extra-help staff.

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