

February 21, 2023

Ms. Christine Lane
Director of Environmental Health
Orange County Environmental Health
1241 East Dyer Road, Suite 120
Santa Ana, California 92705-5611

Dear Ms. Lane:

During April 2022 through February 2023, CalEPA and the state program agencies conducted a performance evaluation of the Orange County Environmental Health 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 acknowledgement of accomplishments and challenges, as well as examples of outstanding Unified Program implementation. Enclosed, please find the final Summary of Findings report.

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

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (April 24, 2023), 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.

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

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

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

Sincerely,



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

Enclosures

cc sent via email:

Mr. Darwin Cheng
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Ms. Christine Lane
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Ms. Julie Unson
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Ms. Kaeleigh Pontif
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Orange County Environmental Health

Evaluation Period: April 2022 – February 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Kaeleigh Pontif
- **CalEPA:** Garrett Chan
- **DTSC:** Matt McCarron, Kevin Abriol
- **State Water Board:** Jenna Hartman, Sean Farrow
- **CAL FIRE-OSFM:** Glenn Warner, Mary Wren-Wilson

This Final Summary of Findings includes:

- Accomplishments, Examples of Outstanding Implementation, and Challenges
- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations

The findings contained within this evaluation report are considered final.

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

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

Kaeleigh Pontif
CalEPA Unified Program
Phone: (916) 803-0623
E-mail: Kaeleigh.Pontif@calepa.ca.gov

The CUPA is required to submit an Evaluation Progress Report 60/90 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: April 24, 2023
3rd Progress Report: October 23, 2023

2nd Progress Report: July 24, 2023
4th Progress Report: February 1, 2024

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

Various accomplishments, outstanding efforts, and challenges that impact and/or enhance the overall ability of the CUPA to implement the Unified Program. Recognition of aspects such as response to local emergency declarations and statewide recovery efforts, which illustrate the accomplishments and challenges the CUPA manages in the efforts to continue implementation of the Unified Program.

1. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM IMPLEMENTATION:

Since the 2019 CUPA performance evaluation, the CUPA has met the mandated triennial inspection frequency for APSA tank facilities by conducting an inspection at each APSA tank facility storing 10,000 gallons or more of petroleum at least once every three years. The CUPA ensured APSA tank facilities annually submitted the tank facility statement or a complete Hazardous Materials Business Plan (HMBP) in lieu of a tank facility statement.

These efforts are above and beyond the standard expectations of the implementation of the APSA Program while simultaneously being impacted by the statewide disruptions and restrictions caused by the Coronavirus (COVID-19).

2. LOCAL UNIVERSITY INTERNSHIP PROGRAMS:

In collaboration with local universities, the CUPA offers an internship program by which students learn about the Unified Program, and how they can help protect public health and the environment. This internship program is an ideal example of one of the essential strategies for fulfilling the goal of attracting and retaining highly skilled staff as part of the Unified Program Administration and Advisory Group (UPAAG) Strategic Plan.

3. CONSISTENCY IN UNIFIED PROGRAM IMPLEMENTATION THROUGH TRAINING AND ACTIVE ENGAGEMENT WITH REGULATORY PARTNERS:

Through active participation in various UPAAG committees and workgroups, in addition to fostering shared training opportunities for regulators, the CUPA proactively advocates consistency in the application and enforcement of Unified Program regulatory requirements. Examples include:

- CUPA staff assistance with the planning and organization of the 22nd annual Unified Program Training conference. Staff fulfilled the roles of track coordinators, speakers, and event support.
- Extending inclusion of staff from other CUPAs and Participating Agencies (PAs) to join training sessions in efforts to further refine consistency of Unified Program implementation and develop partnerships within the County of Orange and the state.
- Continued implementation of various internal committees relative to specific Unified Program elements, such as the California Accidental Release Prevention (CalARP) Program, Hazmat, Hazardous Waste, Underground Storage Tank (UST) Program, and APSA Advisory Committee to ensure regulatory consistency is applied to all regulated facilities within the County of Orange.
- Participation of various CUPA staff as either chair or member of the following UPAAG Technical Advisor Groups (TAGs): Hazmat, Hazardous Waste, UST and APSA.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

4. APPLIED ENFORCEMENT:

During the last three Fiscal Years (FYs), the CUPA has successfully applied the following enforcement efforts to ensure facilities with Unified Program violations obtained compliance:

- FY 2018/2019
 - 17 Administrative Enforcement Orders (AEOs) were issued
 - Approximately \$300,000 in penalties and Supplemental Environmental Projects (SEPs) were issued.
 - FY 2019/2020
 - 23 AEOs were issued.
 - Approximately \$330,000 in penalties and SEPs were issued.
 - FY 2020/2021
 - 8 AEOs were issued.
 - 22 Notice of Violations (NOVs) were issued.
 - Approximately \$250,000 in penalties and SEPs were issued.
-

5. CORRECTION AND RESOLUTION OF PREVIOUSLY IDENTIFIED DEFICIENCY AND INCIDENTAL FINDING:

During the 2019 CUPA Performance Evaluation a deficiency was identified for not documenting whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, that tank closure, removal, and soil and/or groundwater sampling complied with UST Regulations and Health and Safety Code. During the Progress Report process the CUPA provided a revised UST Facility Inspection Procedure, which included language for preparing and documenting UST closure to the satisfaction of the CUPA, sample language for UST closure letters, and how UST closure records are maintained, all of which were considered acceptable by the State Water Board. The deficiency is considered corrected, and no further action is required.

During the 2019 CUPA Performance Evaluation an incidental finding was identified for not consistently citing violations for failure to conduct an overfill prevention equipment inspection no later than October 13, 2018, and after repairs as required by California Code of Regulations, Title 23, Sections 2637.2(a) and 2665(b). During the Progress Report process the CUPA provided a revised UST Facility Inspection Procedure, which included language to verify overfill prevention equipment inspections are completed in accordance with UST Regulations and language to note violations and provide UST owners/operators with written and verbal violations, which was considered acceptable by the State Water Board. The incidental finding is considered resolved and no further action is required.

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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.

1. DEFICIENCY:

The CUPA is not properly reviewing, processing, and authorizing each annual Onsite Hazardous Waste Treatment Notification for Permit By Rule (PBR) facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.

During the 45-day review process the CUPA must:

- Authorize operation of the FTU; or
- Deny authorization of the FTU in accordance with PBR laws and regulations; or,
- Notify the owner/operator that the notification submittal is inaccurate or incomplete.

Review of California Environmental Reporting System (CERS) information finds 170 of 347 (49%) PBR Onsite Hazardous Waste Treatment Notifications submitted between April 1, 2019, and March 31, 2022, were not reviewed, processed, or authorized by the CUPA within 45 days of receipt. Examples include:

- CERS ID 10151825
 - PBR notification submitted January 27, 2020, authorized March 30, 2020
 - PBR notification submitted January 13, 2021, authorized April 30, 2021
 - PBR notification submitted January 13, 2021, authorized April 30, 2021
 - PBR notification submitted January 11, 2022, authorized March 3, 2022
- CERS ID 10151807
 - PBR notification submitted February 23, 2021, Not Accepted May 7, 2021
 - PBR notification submitted March 11, 2021, Not Accepted on May 7, 2021
 - PBR notification submitted May 27, 2021, authorized September 29, 2021
 - PBR notification submitted February 15, 2022, Not Accepted April 6, 2022
- CERS ID 10151813
 - PBR notification submitted February 26, 2021, Not Accepted May 28, 2021
- CERS ID 10151829
 - PBR notification submitted September 24, 2021, Not Accepted December 29, 2021
- CERS ID 10151943
 - PBR notification submitted July 15, 2020, Not Accepted October 21, 2020
 - PBR notification submitted March 1, 2021, Not Accepted August 10, 2021
 - PBR notification submitted April 27, 2021, authorized August 10, 2021

The following instances are examples where PBR notifications were submitted and the CUPA did not respond:

- CERS ID 10151943
 - PBR notification submitted February 16, 2022, CERS notes under review since March 31, 2022

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DEFICIENCIES REQUIRING CORRECTION

- CERS ID 10151807
 - Though the initial PBR notification submitted on April 15, 2022, falls outside of the current evaluation assessment period, there has been no response as of June 20, 2022.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation and was considered corrected during the Evaluation Progress Report process.

CITATION:

California Code of Regulations (CCR), Title 22, Sections 67450.2(b)(4) and 67450.3(c)(1) and (d) [DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop or revise, and provide CalEPA with Tiered Permit (TP) program procedures for accurately reviewing, processing, and authorizing Onsite Hazardous Waste Treatment Notifications within the 45-day review process.

By the 1st Progress Report, the CUPA will provide inspectors with Tiered Permit (TP) program training regarding how to accurately review, process and authorize Onsite Hazardous Waste Treatment Notifications within the 45-day review process by either:

- Authorizing operation of the FTU; or
- Denying authorization of the FTU in accordance with PBR laws and regulations; or
- Notifying the owner/operator that the notification submittal is inaccurate or incomplete.

Note: TP Program training videos are available on the California Certified Unified Program Agency Forum Board website at: <https://www.youtube.com/user/orangetreeweb/videos>. Additional TP program training assistance may also be requested from DTSC.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative update on the status of the progress made toward accurately reviewing, processing, and authorizing each Onsite Hazardous Waste Treatment Notification that has not been reviewed within 45 days and ensure annual notification submittals are accurate, correct and represent the actual waste treatment systems used at the notifying facility.

2. DEFICIENCY:

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

Review of HMBPs submitted to CERS between May 12, 2021, and June 11, 2022, by regulated businesses subject to HMBP reporting requirements finds:

- 1,911 of 6,955 (27%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

- 1,983 of 6,955 (29%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, 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 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable 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 within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance, and rejection of HMBPs or no-change certifications; and
 - Applied enforcement taken by the CUPA to ensure an HMBP or no-change certification is annually submitted to CERS.

By the 4th Progress Report, the CUPA will follow-up with each regulated business subject to HMBP reporting requirements identified in the sortable spreadsheet provided with the 1st Progress Report, to ensure an HMBP or a no-change certification has been submitted to CERS, or the CUPA will have applied enforcement.

3. DEFICIENCY:

The CUPA did not conduct an annual audit of its activities to implement the CalARP Program or compile a CalARP performance audit report for the following FYs:

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

CITATION:

CCR, Title 19, Section 2780.5 [CalEPA]

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will conduct an annual audit of its activities to implement the CalARP Program and provide CalEPA with the annual CalARP performance audit report for FY 2022/2023.

4. DEFICIENCY:

The CUPA is not ensuring that each stationary source in the CalARP Program reviews and updates the Risk Management Plan (RMP) every five years.

- 13 of 63 (21%) stationary sources have not updated the RMP in the last five years.

CITATION:

CCR, Title 19, Section 2745.10(a)(1) and Section 2745.10(b)(1)
[CalEPA]

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will ensure that each stationary source in the CalARP Program has reviewed and updated the RMP every five years. The CUPA will provide CalEPA with a sortable spreadsheet that includes, at minimum, each stationary source, and the date of the last RMP review and update for each stationary source listed.

5. DEFICIENCY:

The CUPA is not completely evaluating implementation of the UST Program element by the City of Orange Fire Department Participating Agency (PA) to ensure accordance with UST Regulations and HSC.

Review of the Performance Evaluation of the City of Orange Fire Department PA for FY 2020/2021, as conducted by the CUPA, and review of the "PA-CUPA Supplemental Document" provided by the CUPA finds the criteria to assess the performance of the PA relative to UST Program implementation is incomplete as follows:

- The PA-CUPA Supplemental Document (D4 27 CCR 15280 - Supplemental Docs), used by the CUPA to assess PA implementation across multiple Unified Program elements does not specify International Code Council (ICC) UST Inspector certification as training documentation to be provided for the UST Program.
- The Evaluation Report (D4 PA Eval 20-21), used by the CUPA to conduct the PA Evaluation, does not completely outline the criteria used to evaluate implementation of the UST Program as follows:
 - Under "3.0 Underground Storage Tank Program Checklist,":
 - Section 3.1.1, the statement "All UST monitoring programs are approved by the agency," and the included reference to CCR, Title 23, Section 2641(g) indicates the CUPA is not reviewing PA implementation of the UST Program for USTs installed after 1984, July 1, 2003, through June 30, 2004, nor July 1, 2004, to present.

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DEFICIENCIES REQUIRING CORRECTION

- Section 3.1.2, the language for permit renewals is not consistent with HSC, Division 20, Chapter 6.7, Section 25285, which was amended January 1, 2019.
- Under “3.2 UST Reporting Standards,” Section 3.2.2 incorrectly references submittal of the Semi-Annual Report (Report 6) to the Regional Water Quality Control Board. Report 6 is submitted to the State Water Board.
- There is no indication as to whether the CUPA ensures the PA adequately implements the following aspects of the UST Program:
 - ICC UST Inspector certification;
 - Annual inspection of USTs; including abandoned and temporarily closed USTs;
 - Reporting USTs not inspected annually to the State Water Board
 - Review and acceptance of CERS UST submittals;
 - Applied enforcement to ensure RTC;
 - Correctly reporting inspection, violation and enforcement information, also known as compliance, monitoring and enforcement (CME) information to CERS;
 - Issuance of UST closure letters; and
 - Ensuring appropriate UST closure

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation and was partially corrected during the Evaluation Progress Report process. The CUPA provided an acceptable Standard Operating Procedure (D4 CUPA-03-PA Evaluation) for conducting PA evaluations. The CUPA provided a PA-CUPA Supplemental Document (D4 27 CCR 15280 - Supplemental Docs) that needs further revision. Though the Evaluation Report (D4 PA Eval 20-21) provided did incorporate the identification of the PA evaluated, the time period applicable for the evaluation, signatures of the PA and financial office representatives and the date of signature (date of the evaluation), further revisions are necessary.

Note: The City of Orange Fire Department PA is the only PA implementing the UST Program in agreement with the CUPA.

CITATION:

CCR, Title 27, Section 15330(d)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the PA-CUPA Supplemental Document (D4 27 CCR 15280 - Supplemental Docs) and Evaluation Report (D4 PA Eval 20-21) as indicated above to ensure the criteria used to evaluate PA implementation of the UST Program element is accurately and completely outlined. The CUPA will provide the revised PA-CUPA Supplemental Document and Evaluation Report to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, amend the PA-CUPA Supplemental Document and Evaluation Report based on feedback from the State Water Board and will provide the amended document(s) to CalEPA. If no amendments are necessary, the CUPA will train UST

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

inspection staff on the revised document(s). The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, 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 PA-CUPA Supplemental Document and/or Evaluation Report.

By the 3rd Progress Report, if amendments to the PA-CUPA Supplemental Document and/or Evaluation Report were necessary, the CUPA will train UST inspection staff on the amended document(s). The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, 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 PA-CUPA Supplemental Document and/or Evaluation Report.

By the 4th Progress Report or upon completion of the next annual PA Performance Evaluation of the UST Program, the CUPA will provide CalEPA with the PA Performance Evaluation for each applicable PA, and all associated PA Evaluation documents provided to the CUPA for review.

6. DEFICIENCY:

The UST operating permit and permit conditions, issued under the “Permit to Operate” as the Unified Program Facility Permit (UPFP), have components for which there is no local ordinance authority and that are inconsistent with HSC and UST Regulations.

Review of UST operating permits and permit conditions finds the following inconsistencies in the UST operating permit and permit conditions issued by the CUPA and issued by the City of Orange Fire Department PA:

- The Permit states, “PERMITS TO OPERATE are NOT TRANSFERABLE...”
 - UST Regulations, Section 2712(d) indicates permits may be transferred to new UST owners.
- Permit Condition 1 states, “Facility copy of this permit has an approved monitoring plan, leak response plan, and plot plan attached.”
 - UST Regulations, Section 2712(i) requires a paper or electronic copy of the permit and all conditions and attachments, including monitoring plans, to be readily accessible at the facility.
- Permit Condition 3 states retention of monitoring and maintenance records is for “three years.”
 - UST Regulations, Section 2712(b) requires UST owners or operators to maintain monitoring and maintenance records for “36 months.”

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

DEFICIENCIES REQUIRING CORRECTION

- Permit Condition 4 states USTs must be monitored per HSC, Sections 25291 and 25292.
 - Review of permits issued to the following facilities for USTs constructed and monitored to meet post July 1, 2004, requirements, finds citations for HSC, Sections 25291 and 25292.
 - CERS ID 10401448;
 - CERS ID 10513270; and
 - CERS ID 10508638
- However, USTs constructed post July 1, 2004, shall be constructed, and monitored pursuant to HSC, Section 25290.1.

Review of UST operating permits and permit conditions finds the following inconsistency in the UST operating permit issued by the CUPA:

- The Permit identifies the UST Tank ID number from the CUPA's data management system.
 - UST Regulations, Section 2712(c) requires the "...California Environmental Reporting System identification number..." to be identified on the permit.

Review of UST operating permits and permit conditions finds the following inconsistencies in the UST operating permit issued by the City of Orange Fire Department PA:

- The Permit states, "THIS PERMIT IS TO BE POSTED AT ALL TIMES ON THE PREMISES."
 - UST Regulations, Section 2712(i) requires a paper or electronic copy of the permit and all conditions and attachments, including monitoring plans, to be readily accessible at the facility.
- Permit Condition 6 does not include the requirement to report substance change to the CUPA 30 days in advance.
 - UST Regulations, Section 2711(c) requires the UST owner or operator to notify the CUPA 30 days prior to any change in substance stored.

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

CITATION:

HSC, Chapter 6.7, Section 25290.1
CCR, Title 23, Sections 2711(c) and 2712(b), (c), (d) (i)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA, in coordination with the City of Orange Fire Department PA will revise the UST operating permit and permit conditions template(s), to be consistent with HSC and UST Regulations. The CUPA will provide CalEPA with the revised UST operating permit and permit conditions template(s) to be issued by the CUPA and City of Orange Fire Department PA.

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DEFICIENCIES REQUIRING CORRECTION

By the 2nd Progress Report, the CUPA, in coordination with the City of Orange Fire Department PA will, if necessary, amend the revised UST operating permit and permit conditions template(s), based on feedback from the State Water Board, and will provide the amended UST operating permit and permit conditions template(s) to CalEPA. If no amendments are necessary, the CUPA and the City of Orange Fire Department PA will begin to issue the revised UST operating permit and permit conditions template(s).

By the 3rd Progress Report, if amendments to the revised UST operating permit and permit conditions template(s) were necessary, the CUPA and the City of Orange Fire Department PA will begin to issue the amended UST operating permit and permit conditions template(s).

Due to the two-year UST permitting cycle of the CUPA, under the "Permit to Operate," the State Water Board will consider this deficiency corrected upon completion and acceptance of the revised or amended UST operating permit and permit conditions template(s). Issuance of the revised or amended UST operating permit and permit conditions template(s) under the "Permit to Operate" as the UPPF will be verified during the next CUPA Performance Evaluation.

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The area plan is missing a required element.

Review of the area plan finds the following required element is missing:

- Listing and description of available emergency response supplies and equipment specifically designated for the potential emergencies presented by the hazardous materials which are handled within the jurisdiction of the administering agency.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised area plan that includes all required elements.

2. INCIDENTAL FINDING:

The CUPA is not consistently classifying APSA Program violations properly.

Review of facility files and CERS CME information indicates the CUPA is classifying Class I or Class II APSA Program violations as minor violations in the following instances:

- Not having, or failure to prepare an SPCC Plan was cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (US EPA).
 - Between July 1, 2018, and June 30, 2020, not having or failure to prepare an SPCC Plan was cited as a minor violation in 3 instances.

Note: The Federal SPCC rule is not delegated to any state. However, APSA requires consistency and compliance with the SPCC rule for SPCC Plan preparation and implementation, as well as consistency with Federal enforcement guidance.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

CITATION:

HSC, Chapter 6.11, Sections 25404(a)(3) and 25404.2(a)(3)-(4)
HSC, Chapter 6.67, Sections 25270.4.1(c) and 25270.4.5(a)
CCR, Title 27, Section 15200(a) and (e)
[OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA will train APSA inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and Class I and Class II violations as defined in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6, and CCR, Title 22, Section 66260.10.

The CUPA will train inspection staff on how to properly classify APSA Program violations as minor, Class I, and Class II. Training should include, at minimum, review of the following:

- Violation Classification Training Video 2014
 - <https://www.youtube.com/watch?v=RB-5V6RfPH8>
- 2020 Violation Classification Guidance for Unified Program Agencies
 - <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
- U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998 for SPCC violations
 - <https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998.html>

The CUPA will provide training documentation to CalEPA, which at minimum will include, the date the training was conducted, an outline of the training conducted and a list of CUPA inspection staff in attendance.

3. INCIDENTAL FINDING:

A required component of the Inspection and Enforcement (I&E) Plan is missing.

Review of the I&E Plan finds the following component is missing:

- A description of how the CUPA minimizes or eliminates duplication within the inspection and enforcement program.

CITATION:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
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INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to adequately incorporate and correctly address all required components. The CUPA will provide the revised I&E Plan to CalEPA.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, the CUPA will provide the amended I&E Plan to CalEPA. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan.

4. INCIDENTAL FINDING:

A required component of the Self-Audit Report for FYs 2018/2019, 2019/2020, and 2020/2021 is missing.

Review of the Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021 finds the following component is missing:

- A narrative summary of permitting activities.

CITATION:

CCR, Title 27, Section 15280
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the Self-Audit Report for FY 2021/2022 that includes all required components and incorporates a date of compilation to demonstrate the report was compiled by September 30th.

5. INCIDENTAL FINDING:

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

Review of CERS CME information between April 1, 2019, and March 31, 2022, finds:

- 845 of 6,955 (12%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

By the 1st 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 inspection frequency for each HMBP facility is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.
- 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 facility 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, 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 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 facility subject to HMBP requirements at least once in the last three years.

6. INCIDENTAL FINDING:

The CUPA is not consistently following-up and documenting return to compliance (RTC) information in CERS for APSA Program tank facilities cited with violations.

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

- FY 2019/2020
 - 1 violation for not having, or failure to prepare, an SPCC Plan.
 - CERS ID 10664254
- FY 2020/2021
 - 2 violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan.
 - CERS ID 10539859
 - CERS ID 10558003

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

CITATION:

HSC, Chapter 6.67, Section 25270.4.5(a)
[OSFM]

RESOLUTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each APSA tank facility with an open violation (no RTC) for not having an SPCC Plan between July 1, 2019, and June 30, 2021:

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

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

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the spreadsheet provided with the 1st Progress Report as having an open violation (no RTC) for not having, or failure to prepare, an SPCC Plan has achieved compliance, or the CUPA will have applied enforcement.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL 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.

1. OBSERVATION:

Review of overall implementation of the Hazardous Waste Generator (HWG) Program, including policies and procedures, CERS data, facility file information, information provided by the CUPA and Self-Audit Reports between April 1, 2019, and March 31, 2022, is summarized below.

- There are 6,425 regulated HWG facilities, 146 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, and 120 TP facilities.
- The CUPA inspected 5,730 facilities and performed a total of 10,615 HWG inspections, consisting of 8,076 routine inspections, and 2,538 other inspections.
 - 5,886 (73%) routine inspections had no violations cited and 2,190 (27%) routine inspections had at least one violation cited.
 - 2,539 (27%) other inspections had no violations cited and 143 (6%) other inspections had at least one violation cited.
 - A total of 3,820 violations were cited during routine and other inspections, consisting of:
 - 33 (1%) Class I violations,
 - 2,598 (68%) Class II violations, and
 - 1,189 (32%) minor violations.
 - The CUPA has ensured RTC for 3,442 of 3,820 (90%) violations.
- The CUPA completed 13 separate formal enforcement actions for hazardous waste related violations having a cumulative total penalty amount of \$351,125 in fines, of which \$138,250 was allocated in Supplemental Environmental Projects.
- Inspection reports contain detailed comments that note the factual basis of cited violations and indicate whether consent to inspect was requested prior to the inspection.
- The CUPA's website contains a 60-page guide on hazardous waste. The guide is comprehensive and helpful for any size business in an easy-to-understand format. A TP guide will also soon be available on the CUPA's website.

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

RECOMMENDATION:

Continue with the three-year HWG inspection frequency and applied enforcement efforts in addition to generating quality inspection reports. Continue to ensure that detailed factual basis of a violation is included in the inspection report and in the data transferred to CERS, to support any enforcement efforts. 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. Share hazardous waste guides available on the website with other CUPAs to assist with consistency in statewide implementation of the Unified Program as well as compliance and enforcement.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

2. OBSERVATION:

The following is a summary of inspection and violation information based on review of facility files and CERS CME information for the HMBP and CalARP Programs.

- HMBP Program:
 - January 1, 2019, through December 31, 2019
 - The CUPA conducted routine inspections at 2,983 facilities, of which 1,759 (59%) had no violations cited and 1,224 (41%) had at least one violation cited.
 - A total of 2,708 violations were cited, consisting of:
 - 1 (0%) Class I violations.
 - 851 (31%) Class II violations.
 - 1,856 (69%) Minor violations.
 - The CUPA has ensured RTC for 2,686 of 2,708 (99%) violations cited.
 - January 1, 2020, through December 31, 2020
 - The CUPA conducted routine inspections at 2,016 facilities, of which 1,361 (68%) had no violations cited and 655 (32%) had at least one violation cited.
 - A total of 1,677 violations were cited, consisting of:
 - 4 (<1%) Class I violations.
 - 1,082 (65%) Class II violations.
 - 591 (35%) Minor violations.
 - The CUPA has ensured RTC for 1,573 of 1,677 (94%) violations cited.
 - January 1, 2021, through December 31, 2021
 - The CUPA conducted routine inspections at 2,161 facilities, of which 1,492 (69%) had no violations cited and 669 (31%) had at least one violation cited.
 - A total of 1,389 violations were cited, consisting of:
 - 7 (1%) Class I violations.
 - 852 (61%) Class II violations.
 - 530 (38%) Minor violations.
 - The CUPA has ensured RTC for 838 of 1,389 (60%) violations cited.
- CalARP Program:
 - January 1, 2019, through December 31, 2019
 - The CUPA conducted routine inspections at 40 facilities, of which 13 (32%) had no violations cited and 27 (68%) had at least one violation cited.
 - A total of 80 violations were cited, consisting of:
 - 1 (1%) Class I violation.
 - 30 (38%) Class II violations.
 - 49 (61%) Minor violations.
 - The CUPA has ensured RTC for 76 of 80 (95%) violations cited.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- January 1, 2020, through December 31, 2020
 - The CUPA conducted routine inspections at 29 facilities, of which 14 (48%) had no violations cited and 15 (52%) had at least one violation cited.
 - A total of 35 violations were cited, consisting of:
 - 34 (97%) Class II violations.
 - 1 (3%) Minor violation.
 - The CUPA has ensured RTC for 34 of 35 (97%) violations cited.
- January 1, 2021, through December 31, 2021
 - The CUPA conducted routine inspections at 12 facilities, of which 8 (67%) had no violations cited and 4 (33%) had at least one violation cited.
 - A total of 8 violations were cited, consisting of:
 - 8 (100%) Class II violations.
 - The CUPA has ensured RTC for 8 of 8 (100%) violations cited.

RECOMMENDATION:

Maintain the three-year HMBP and CalARP inspection frequency as required by statute. Ensure complete and thorough inspections are conducted to identify all violations at facilities. Maintain detailed inspection reports that include all factual basis of the violation and properly cite noted violations. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement for facilities that do not RTC, per the I&E Plan.

3. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 772 tank facilities. The CUPA’s data management system identifies 683 APSA tank facilities.

- 640 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 132 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 data management system appropriately.
- 43 facilities identified as APSA tank facilities in the CUPA’s data management system are not in the CERS list of APSA facilities. The CUPA should determine if the facilities really are APSA facilities.
 - Those that are not APSA regulated 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.”

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

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.

4. OBSERVATION:

The Orange County Health Care Agency website (<https://ochealthinfo.com/about-hca/public-health-services/environmental-health-services/hazardous-materials>) contains various resources for the public and regulated community; however, it contains information that is outdated or may benefit from improvement.

- In multiple instances throughout the website, Aboveground Petroleum Storage Tank (APST) should be referred to as Aboveground Petroleum Storage Act (APSA).
 - On the “Programs” webpage (<https://ochealthinfo.com/about-hca/public-health-services/environmental-health-services/hazardous-materials/programs>):
 - Update “Aboveground Storage Tank Act” with “Aboveground Petroleum Storage Act”
 - Update the first paragraph to reflect all tank facilities subject to APSA, including (1) tank facilities subject to the Federal SPCC rule and (2) tank facilities with one or more tanks in underground areas (TIUGAs) and less than 1,320 gallons of petroleum.
 - Replace “business” with tank facility. APSA regulates “tank facilities” and not businesses.
 - In the second paragraph, clarify that not all APSA tank facilities are regulated under the Federal SPCC rule.
 - In the second paragraph, the link to the SPCC rule (<https://www.epa.gov/emergency-response>) goes to the US EPA Emergency Response website; redirect the link to the US EPA SPCC requirements at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>.
 - Under “What Does APSA Mean to You”, replace the “California Emergency Management Agency” to “Office of Emergency Services” or “State Warning Center”
 - Under “SPCC Plan and Regulated Facilities”:
 - The second bullet statement on storage capacity should be 10,000 gallons or less (or up to 10,000 gallons), and not less than 10,000 gallons.
 - Both the Tier I and Tier II qualified facilities discussion on not having discharges to navigable waters or adjoining shorelines within the past three years is incorrect. A qualified facility is one that has had no single discharge to navigable water or adjoining shoreline exceeding 1,000 gallons or no two discharges (to navigable water or adjoining shoreline) each exceeding 42 gallons within any 12-month period in the three years prior to the SPCC Plan certification date, or since becoming subject to the Federal SPCC rule if the facility has been in operation for less than three years.

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OBSERVATIONS AND RECOMMENDATIONS

- Update the OSFM link to: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>. The current link (<https://osfm.fire.ca.gov/boards-committees/aboveground-petroleum-storage-act-advisory-committee/>) goes to the OSFM APSA Advisory Committee webpage.
- Include a discussion on requirements for tank facilities with one or more Tank In An Underground Area (TIUGA) and a storage capacity of less than 1,320 gallons of petroleum; these facilities may opt to prepare a Tier I qualified facility SPCC Plan template or have a professional engineer-certified SPCC Plan.
- Under “Regulated Tanks”:
 - The link for the California Health and Safety Code is broken; redirect the link to: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.67.&article.
 - Include information on TIUGAs
 - In the second paragraph, include discussion on aboveground storage tank under a permit-by-rule (PBR) authorization from the Unified Program Agency which is excluded as an aboveground storage tank under APSA.
- Under the “SPCC Plans and Agriculture” section:
 - Water Resources Reform and Development Act (WRRDA) information should be included to reflect current thresholds for tank facilities on farms, which are 2,500 gallons or 6,000 gallons of oil (with reportable discharge history).
- On the “Consolidated Forms” webpage (<https://ochealthinfo.com/page/apst-consolidated-forms>):
 - Under the “Aboveground Petroleum Storage Tanks” section:
 - Remove one of the two identical links for the Aboveground Storage Tank Facility Statement (59.4KB): <https://ochealthinfo.com/sites/hca/files/import/data/files/14643.pdf>
 - Replace the 2015 Tier II Qualified Facility SPCC Plan template with the current 2021 template (https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf)
 - Under the “APST Tools, Facts Sheets & Guidelines” section:
 - Replace the 2009 Cal-CUPA Forum APST FAQ with the 2021 APSA Program Guidance Document (<https://osfm.fire.ca.gov/media/z4zlg3pr/apsa-faq-12apr2021-final.pdf>)
 - Remove the outdated Cal-EPA APST Fact Sheet

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- Update the Orange County CUPA APST Fact Sheet to reflect current requirements of APSA, including but not limited to the following:
 - Include information on TIUGAs
 - Include tanks under PBR authorization under exempt/excluded tanks
 - Tank facility statement information should be consistent with current statute (remove size and age for tanks exceeding 10,000 gallons)
 - Remove reference to ‘a substance containing at least five percent petroleum’
 - Remove the last sentence, including the link, under “What is a Spill Prevention, Control, and Countermeasure (SPCC) Plan?” For more information on the Federal SPCC rule or SPCC Plan requirements, include a link to the US EPA SPCC website at: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>.
 - Replace “businesses” with “tank facilities.”
- Under the “Hazardous Materials” section, the two site map instructions should be updated for consistency with the current requirements; include evacuation staging area and emergency shutoffs (if applicable).

RECOMMENDATION:

Update the webpages as indicated above.

5. OBSERVATION:

Multiple APSA tank facilities submitted an HMBP in lieu of a tank facility statement using the 2011 consolidated emergency response and training plans template, which contains obsolete information.

The 2022 version of the consolidated emergency response and training plans template is the current template and is available in CERS.

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template as part of the HMBP submittal, in lieu of the tank facility statement, to use the current 2022 template.

6. OBSERVATION:

The Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021 contain information that is outdated.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

OBSERVATIONS AND RECOMMENDATIONS

- In the Summary of Program Elements, the reference for California Fire Code, Sections 2701.5.1 and 2701.5.2 is outdated. The correct California Fire Code Sections to reference are 5001.5.1 and 5001.5.2.

RECOMMENDATION:

Ensure future Self-Audit Reports include current citations.

7. OBSERVATION:

Review of CERS CME information and APSA tank facility inspection reports provided by the CUPA indicates the following:

- CERS ID 10151807
 - An inspection report dated December 16, 2019, cites three violations.
 - An inspection dated December 16, 2019, in CERS reflects five violations.
- CERS ID 10558003
 - An inspection report dated April 26, 2021, cites five violations.
 - An inspection dated April 26, 2021, in CERS reflects five violations occurring on May 3, 2021.
- CERS ID 10540342
 - An inspection report dated May 20, 2019, cites four violations.
 - An inspection dated May 20, 2019, in CERS reflects four violations occurring on May 21, 2019.
- CERS ID 10551781
 - An inspection report dated March 19, 2019, cites six violations.
 - An inspection dated March 19, 2019, in CERS reflects six violations occurring on March 20, 2019.
- CERS ID 10515829
 - An inspection report dated May 24, 2021, cites two violations.
 - An inspection dated May 24, 2021, in CERS reflects two violations occurring on June 1, 2021.
 - An inspection report, dated June 5, 2019, cites two violations.
 - An inspection dated June 5, 2019, in CERS reflects two violations occurring on June 6, 2019.

RECOMMENDATION:

Identify and correct the cause(s) of discrepancy between inspection reports and CERS regarding inspection dates and dates of violation. Review, and revise, if necessary, the CME reporting component of the Data Management Procedure, or other applicable procedure. Train APSA inspection staff on the Data Management Procedure, or other applicable procedure. Ensure a quality assurance and quality control process is in place for ensuring all APSA Program CME information is reported to CERS consistently and correctly.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

8. **OBSERVATION:**

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

- 1 APSA tank facility (CERS ID 10543420) that stores 10,000 gallons or more of petroleum has never been subject to an APSA routine inspection.

RECOMMENDATION:

Identify the cause(s) as to why this facility has never received a routine inspection, conduct a routine APSA inspection at this facility if determined to be applicable, and ensure accurate information is reported to CERS.

9. **OBSERVATION:**

The CUPA has four PAs however, the “Public Participation Procedure Survey” document, last revised in 2010, lists six additional PAs.

RECOMMENDATION:

Revise the document to ensure it contains accurate and current information for each of the 10 PAs.

10. **OBSERVATION:**

The information provided below summarizes a comparison of the regulated community and the necessary and reasonable resources for implementation of the Unified Program upon certification with the current regulated community and the current resources available to the CUPA for implementation.

Number of regulated facilities for each program element:

- *Original Certification Source: Orange County Healthcare Agency 1996 CUPA Application*
- *Current CUPA Evaluation Sources: CERS “Summary Regulated Facilities by Unified Program Element Report” & CERS “UST Inspection Summary Report (Report 6)”, both generated on July 7, 2022.*

• Total Number of Regulated Businesses and Facilities:

- Upon Certification in 1996: **7,982**
- Current CUPA Evaluation: **11,177**
- An additional **3,195** facilities

• Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:

- Upon Certification in 1996: **3,451**
- Current CUPA Evaluation: **6,955**
- An additional **3,504** facilities

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OBSERVATIONS AND RECOMMENDATIONS

- Total Number of Regulated Underground Storage Tank (UST) Facilities:
 - Upon Certification in 1996: **1,123**
 - Current CUPA Evaluation: **745**
 - A decrease of **378** facilities

- Total Number of Regulated Underground Storage Tanks (USTs):
 - Upon Certification in 1996: **3,429**
 - Current CUPA Evaluation: **1,935**
 - A decrease of **1,494** Underground Storage Tanks

- Total Number of Regulated Hazardous Waste Generator (HWGs) Facilities:
 - Upon Certification in 1996: **5,624**
 - Current CUPA Evaluation: **5,390**
 - A decrease of **234** facilities

- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
 - Household Hazardous Waste Facilities were not regulated under the Unified Program upon certification in 1996
 - Current CUPA Evaluation: **12**
 - An addition of **12** facilities

- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
 - Upon Certification in 1996: **912**
 - Current CUPA Evaluation: **113**
 - A decrease of **799** facilities

- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
 - RCRA LQG Facilities were not regulated under the Unified Program upon certification in 1996
 - Current CUPA Evaluation: **254**
 - An additional **254** facilities

- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
 - Upon Certification in 1996: **194**
 - Current CUPA Evaluation: **87**
 - A decrease of **107** facilities

- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
 - Upon Certification in 1996: **75**
 - Current CUPA Evaluation: **771**
 - An additional **696** facilities

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

Since the original application for certification was submitted in 1996, the CUPA has experienced significant changes in the number of regulated facilities for almost all Unified Program elements. In particular, the total number of regulated HMBP facilities doubled, and the total number of TP facilities decreased by 799 (or 88%). The CUPA began to administer two additional programs after being certified, which include the HHW and RCRA LQG programs, with an addition of 12 and 254 facilities respectively.

Since the CUPA applied for certification in 1996, an expansion of responsibilities in the HMBP, HWG, and APSA programs has occurred, increasing the workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. Additionally, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms (UPCFs) 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 Orange County Environmental Health Division 1996 CUPA Application and recent information provided by the CUPA.

- Inspection and other Staff
 - Upon Certification in 1996
 - 33 Staff, each at a 100% FTE = 33 Full-Time positions
 - 9 Hazardous Waste Specialist positions in the Hazardous Materials Mitigation Section
 - 15 Hazardous Waste Specialist positions in the HW/UST Section
 - 5 Hazardous Waste Specialist positions in the CUPA/HM Program Office
 - 4 Hazardous Waste Specialist positions in Technical Support
 - Currently
 - 24 Staff, each at a 100% FTE = 24 Full-Time positions
 - Currently, 7 of the 24 Hazardous Materials Specialist positions are vacant.
- Supervisory and Management Staff
 - Upon Certification in 1996
 - 7 Staff, each at a 100% FTE = 7 Full-Time positions
 - Currently
 - 6 Staff, each at a 100% FTE = 6 Full-Time positions

The number of regulated facilities in most programs has increased substantially, while the number of inspection staff has significantly decreased since certification.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

RECOMMENDATION:

Prioritize the hiring and training of new staff, to successfully fulfill the current seven Hazardous Materials Specialist vacancies within the program. Continue to conduct the annual review and update of the fee accountability program to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element.

11. OBSERVATION:

Review of accepted CERS UST submittals finds the following 99 single-walled USTs and 16 USTs with single-walled pressurized product pipe within the jurisdiction of the CUPA and the City of Orange Fire Department PA, which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- Orange County CUPA
 - CERS ID 10138183 (Tank IDs 001, 002, 003, 004, 005);
 - CERS ID 10138359 (Tank IDs 001, 002, 003, 004);
 - CERS ID 10153303 (Tank ID 002);
 - CERS ID 10174325 (Tank IDs 001, 002, 003);
 - CERS ID 10397293 (Tank IDs 001, 002, 003);
 - CERS ID 10397347 (Tank ID 001);
 - CERS ID 10397629 (Tank IDs 002, 003);
 - CERS ID 10401160 (Tank IDs 001, 002, 003, 004);
 - CERS ID 10401448 (Tank IDs 001, 002, 003);
 - CERS ID 10402978 (Tank IDs 001, 002, 003);
 - CERS ID 10414063 (Tank IDs 001, 002, 003);
 - CERS ID 10419532 (Tank IDs 001, 002, 003);
 - CERS ID 10450246 (Tank IDs 001, 002, 003);
 - CERS ID 10451029 (Tank IDs 001, 002, 003);
 - CERS ID 10473907 (Tank IDs 001, 002, 003);
 - CERS ID 10478218 (Tank IDs 001, 002, 003);
 - CERS ID 10483006 (Tank IDs 001, 002, 003);
 - CERS ID 10512367 (Tank IDs 001, 002, 003, 004);
 - CERS ID 10512808 (Tank IDs 001, 002, 003, 004);
 - CERS ID 10513219 (Tank IDs 001, 002, 003);
 - CERS ID 10513579 (Tank IDs 001, 002, 003);
 - CERS ID 10513690 (Tank IDs 001, 002);
 - CERS ID 10513780 (Tank IDs 005, 006);
 - CERS ID 10513891 (Tank IDs 001, 002);
 - CERS ID 10513909 (Tank IDs 001, 002, 003);
 - CERS ID 10514650 (Tank IDs 001, 002, 003);
 - CERS ID 10514716 (Tank IDs 001, 002);
 - CERS ID 10514776 (Tank ID 001);
 - CERS ID 10515385 (Tank IDs 001, 002);
 - CERS ID 10516333 (Tank ID 001);
 - CERS ID 10516453 (Tank ID 004);
 - CERS ID 10521340 (Tank IDs 001, 002);

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

- CERS ID 10555531 (Tank IDs 001, 002);
 - CERS ID 10591264 (Tank ID 001);
 - CERS ID 10657426 (Tank IDs 001, 002, 003);
 - CERS ID 10880701 (Tank ID 001);
 - CERS ID 10556341 (Tank IDs 001, 002, 003);
 - CERS ID 10446667 (Tank IDs 001, 002); and
 - CERS ID 10512379 (Tank ID 001).
- City of Orange Fire Department PA
 - CERS ID 10465630 (Tank IDs 001, 002, 003);
 - CERS ID 10549438 (Tank IDs 002, 003, 004); and
 - CERS ID 10672045 (Tank IDs 001).

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 permanently close 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.

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.

12. OBSERVATION:

As of December 8, 2022, review of CERS CME information and additional information provided by the CUPA indicates:

- 2 of 120 (1%) TP facilities were not inspected every three years after the initial inspection.
 - CERS ID 10547311 was last inspected July 13, 2018
 - CERS ID 10518181 was last inspected November 5, 2018

RECOMMENDATION:

Prioritize conducting an inspection at these two facilities to obtain and maintain the overall inspection frequency for TP facilities.
