

March 6, 2023

Ms. Kerri Gibbons  
CUPA Manager, Director of Environmental Health  
Mariposa County Health Department  
Division of Environmental Health  
5100 Bullion Street, P.O. Box 5  
Mariposa, California 95338-0005

Dear Ms. Gibbons:

During October, 2021, through June, 2022, CalEPA and the state program agencies conducted a performance evaluation of the Mariposa County Health Department, Division of 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 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 (May 8, 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 Kaeleigh Pontif 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

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to Melinda Blum within 30 days. If you would like to have specific comments remain anonymous, please indicate so on the survey.

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:

Dr. Eric Sergienko  
Health Officer  
Mariposa County Health Department  
Division of Environmental Health  
5100 Bullion Street, P.O. Box 5  
Mariposa, California 95338-0005

Ms. Carolyn Coder, REHS  
Mariposa County Health Department  
Division of Environmental Health  
5100 Bullion Street, P.O. Box 5  
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Ms. Diane Robarge  
Administrative Assistant  
Mariposa County Health Department  
Division of Environmental Health  
5100 Bullion Street, P.O. Box 5  
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Ms. Cheryl Prowell  
Supervising Water Resource Control Engineer  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, California 95812-2231

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cc sent via email:

Mr. Tom Henderson  
Engineering Geologist, UST Unit Coordinator  
State Water Resources Control Board  
P.O. Box 2231  
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Ms. Maria Soria  
Environmental Program Manager  
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700 Heinz Avenue, Suite 210  
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Ryan Miya, Ph.D.  
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Mr. James Hosler, Chief  
CAL FIRE - Office of the State Fire Marshal  
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Ms. Jennifer Lorenzo  
Senior Environmental Scientist, Supervisor  
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Ms. Kaitlin Cottrell  
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State Water Resources Control Board  
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Ms. Char'Mane Robinson  
Environmental Scientist  
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Mr. Matt McCarron  
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cc sent via email:

Mr. Pheleep Sidhom  
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Mr. Glenn Warner  
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Ms. Denise Villanueva  
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Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

Mr. John Elkins  
Environmental Program Manager  
California Environmental Protection Agency

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

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

Mr. Garrett Chan  
Environmental Scientist  
California Environmental Protection Agency

Ms. Julie Unson  
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:** Mariposa County Health Department Division of Environmental Health

**Evaluation Period:** October 2021 through June 2022

### Evaluation Team Members:

- **CalEPA Team Lead:** Kaeleigh Pontif, Samuel Porras
- **DTSC:** Pheleep Sidhom, Kevin Abriol
- **CalEPA\*:** Garrett Chan
- **State Water Board:** Kaitlin Cottrell, Sean Farrow
- **CAL FIRE-OSFM:** Denise Villanueva, Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

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

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

**Kaeleigh Pontif**  
CalEPA Unified Program  
Phone: (916) 806-0623  
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:** May 8, 2023  
**3<sup>rd</sup> Progress Report:** November 13, 2023

**2<sup>nd</sup> Progress Report:** August 10, 2023  
**4<sup>th</sup> Progress Report:** February 19, 2024

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

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

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

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**1. DEFICIENCY:**

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

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

Fiscal Year (FY) 2019/2020

- 10 of 19 (53%) violations, including one violation for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan

FY 2018/2019

- 14 of 17 (82%) violations

**CITATION:**

HSC Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

California Code of Regulations (CCR), Title 27, Sections 15185(a) and (c) and 15200(a) and (e) [OSFM]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CERS, that includes at minimum the following information for each APSA tank facility with an open violation (no RTC) issued between July 1, 2018, and June 30, 2020:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of any applied enforcement or follow-up activity by the CUPA to ensure the facility obtains RTC.

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

By the 3<sup>rd</sup> Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by

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**DEFICIENCIES REQUIRING CORRECTION**

OSFM, that include RTC documentation, or a narrative of the enforcement applied by the CUPA in the absence of RTC.

By the 4<sup>th</sup> Progress Report, the CUPA will have ensured the APSA tank facilities identified in the sortable spreadsheet provided with the 1<sup>st</sup> 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 taken appropriate enforcement.

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**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 by regulated businesses subject to Business Plan reporting requirements finds:

- 39 of 143 (27%) have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 41 of 143 (29%) have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

**CITATION:**

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

**CORRECTIVE ACTION:**

During the evaluation, the CUPA established the following action plan to ensure regulated businesses subject to Business Plan reporting requirements annually submit an HMBP or a no-change certification CERS:

- A monthly report will be generated to identify all facilities across each program element that have not submitted an HMBP or a no-change certification;
- A monthly reminder email will be sent to facilities that have not submitted an HMBP or a no-change certification;  
Note: Due to the impacts of the Coronavirus 2019 (COVID-19), reminder emails have been sent every couple of months rather than monthly.
- A violation may be issued to the facility if an HMBP or a no-change certification is not submitted.

By the 2<sup>nd</sup> 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 Business Plan reporting requirements that has not submitted an HMBP or no-change certification to CERS within the last 12 months:

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**DEFICIENCIES REQUIRING CORRECTION**

- Facility name;
- CERS ID; and
- A narrative of the enforcement applied by the CUPA.

By the 4<sup>th</sup> Progress Report, the CUPA will follow up with each regulated business subject to Business Plan reporting requirements identified in the sortable spreadsheet provided with the 2<sup>nd</sup> Progress Report, to ensure an HMBP or a no-change certification is submitted to CERS, or the CUPA will have applied enforcement.

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**3. DEFICIENCY:**

The CUPA is not certifying to CalEPA every three years that a complete review of the area plan has been conducted and any necessary revisions have been made.

- The last update to the area plan was in 2016.

**CITATION:**

HSC, Chapter 6.95, Section 25503(d)(2)  
[CalEPA]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will certify to CalEPA that a complete review of the area plan has been conducted and any necessary revisions have been made to ensure all required elements are present and emergency contact information is current. The CUPA will provide CalEPA with the area plan.

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**4. DEFICIENCY:**

The CUPA has not established nor implemented all Unified Program administrative procedures. Established Unified Program administrative procedures have components that are incomplete.

The following administrative procedures have not been established nor implemented:

- A procedure for providing Hazardous Materials Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities in accordance with HSC, Section 25504(c).
- Financial Management Procedures that include:
  - A single fee system in accordance with CCR, Title 27, Section 15210,
  - A fee accountability program, including details for allocating revenues, in accordance with CCR, Title 27, Section 15220, and
  - A surcharge collection and reimbursement program, including identification of all funding sources and financial amounts for covering budgetary deficits, in accordance with CCR, Title 27, Section 15220.



**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

The following administrative procedures have components that are incomplete:

- The Public Participation Procedures do not address how the CUPA will:
  - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.
- The Information and Data Management Procedure does not identify the following documents required to be retained for a minimum of five years:
  - Training records required by CCR, Title 27, Section 15260 and any other required training records specific to each program element.

**CITATION:**

CCR, Title 27, Sections 15180(e)(1), (4), and (5), and 15185(b)  
[CalEPA]

**CORRECTIVE ACTION:**

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

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

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

Currently, the CUPA has only one staff member who develops and implements Unified Program policies and procedures, including the Unified Program administrative procedures. Therefore, the corrective action does not require training of CUPA staff on the established, revised or amended administrative procedures, nor provision of training documentation to CalEPA. In the event the CUPA employs additional staff, the CUPA will ensure the appropriate training occurs, will document the training, and maintain the training documentation.

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**5. DEFICIENCY:**

The CUPA is not consistently following up and/or documenting RTC information in CERS for UST Program facilities cited with violations.

Review of CERS CME information finds the following testing and leak detection violations have no documented RTC:

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**DEFICIENCIES REQUIRING CORRECTION**

- FY 2018/2019
  - 6 of 19 (32%)
  - The following are examples:
    - CERS ID 10770076: Leak Detection Equipment Maintenance violation dated March 7, 2019
    - CERS ID 10770082: Spill Container violation dated May 10, 2019
- FY 2019/2020
  - 10 of 39 (26%)
  - The following are examples:
    - CERS ID 10154711: Overfill Prevention violation dated September 9, 2019
    - CERS ID 10339756: Overfill Prevention violation dated September 12, 2019
- FY 2020/2021
  - 9 of 33 (27%)
  - The following are examples:
    - CERS ID 10166463: Spill Container violation dated February 19, 2021
    - CERS ID 10166645: Spill Container violation dated March 5, 2021

**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 the I&E Plan or other applicable procedure, and revise as necessary, to ensure establishment of a delineated process to:

- ensure facilities cited with violations RTC through applied enforcement,
- document follow-up actions applied by the CUPA to ensure RTC, and
- document RTC in CERS.

The CUPA will provide CalEPA with the revised I&E Plan or other applicable procedure.

By the 1<sup>st</sup> 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 UST facility with an open violation (no RTC) cited between July 1, 2018, 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, the spreadsheet should include a narrative of any applied enforcement or follow-up activity applied by the CUPA to ensure the facility obtains RTC.

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**DEFICIENCIES REQUIRING CORRECTION**

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 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan or other applicable procedure 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 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 implement the amended I&E Plan or other applicable procedure.

Currently, the CUPA only has one staff member who develops and implements the UST policies and program. Therefore, the corrective action does not require training of UST inspection staff on the revised or amended I&E Plan or other applicable procedure, nor provision of training documentation to CalEPA. In the event the CUPA employs additional UST inspection staff, the CUPA will ensure the appropriate training occurs, will document the training, and maintain training documentation.

By the 3<sup>rd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three UST facility records, as requested by the State Water Board, that include RTC documentation, or a narrative of the enforcement applied by the CUPA in the absence of RTC.

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**6. DEFICIENCY:**

The UST operating permit is inconsistent with and less stringent than CCR, Title 23, Division 3, Chapter 16 (UST Regulations), HSC, Division 20, Chapter 6.7, and the UST operating permit condition requirements.

The UST operating permit conditions, issued with the UST operating permit, are inconsistent with and less stringent than UST Regulations and HSC requirements.

Review of UST operating permits finds the following requirements are inconsistent with UST Regulations, HSC, and the UST operating permit conditions:

- The UST permit states it is not transferable; however, HSC, Section 25284(b) and UST operating permit condition (d) allow for the transfer of permits.
- The UST permit states it must be detached and displayed conspicuously on the premises; however, UST Regulations, Section 2712 requires a paper or electronic copy of the UST operating permit to be readily accessible at the facility.

Review of UST operating permit conditions finds the following requirements are inconsistent with and less stringent than UST Regulations and HSC:

- Permit condition (e) is inconsistent with HSC, Section 25285(b) as a permit may not be issued or renewed while a red tag is affixed or while a facility is subject to enforcement.

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

#### DEFICIENCIES REQUIRING CORRECTION

- Permit condition (g) is less stringent than UST Regulations as there are other annual requirements for single-walled and double-walled USTs (i.e. pipe integrity testing if specific monitoring is not implemented).
- Permit condition (h) is inconsistent with HSC, Section 25292.3, as red tags prohibit fuel from being deposited and withdrawn.
- Permit Condition (k) is less stringent than HSC, Sections 25290.1 and 25290.2; as USTs installed after July 1, 2003, shall have primary and secondary containment, which is liquid and vapor tight.

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, Sections 25284(b), 25285(b), 25290.1, 25290.2, and 25292.3  
CCR, Title 23, Section 2712(b), (c) and (i)  
[State Water Board]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will revise the UST operating permit template to be consistent with UST Regulations, HSC, and UST operating permit condition requirements. The CUPA will revise the UST operating permit conditions template to be consistent with UST Regulations and HSC. The CUPA will provide CalEPA with the revised UST operating permit template and the revised UST operating permit conditions template.

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

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST operating permit template and/or the revised UST operating permit conditions template were necessary, the CUPA will begin to issue the amended UST operating permit template and/or the amended UST operating permit conditions template and the CUPA will provide CalEPA with the UST operating permit and UST operating permit conditions issued to five UST facilities using the amended UST operating permit template and/or the amended UST operating permit conditions template.

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#### 7. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not consistently ensuring Aboveground Petroleum Storage Act (APSA) tank facilities annually submit a Hazardous Materials Business Plan (HMBP) to the California Environmental Reporting System (CERS), when an HMBP is provided in lieu of a tank facility statement.

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FINAL SUMMARY OF FINDINGS REPORT**

**DEFICIENCIES REQUIRING CORRECTION**

Review of CERS information on May 23, 2022, indicates the following:

- 9 of 31 (29%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 11 of 31 (35%) APSA tank facilities have not submitted an emergency response and employee training plan within the last 12 months.

**CITATION:**

Health and Safety Code (HSC), Chapter 6.67, Section 25270.6(a)  
[OSFM]

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, additional APSA tank facilities submitted a chemical inventory and site map and emergency response and employee training plans.

Review of CERS information on July 6, 2022, indicates:

- 5 of 31 (16%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.

Review of CERS information on February 16, 2023, indicates:

- 6 of 32 (19%) APSA tank facilities have not submitted an emergency response and employee training pan within the last 12 months.

During the evaluation, the CUPA established the following action plan to ensure HMBPs provided in lieu of tank facility statements are annually submitted to CERS:

- Generate a monthly report to identify all facilities across each program element that have not submitted an HMBP;
- Send a monthly reminder to facilities that have not submitted an HMBP  
Note: Due to the impacts of the Coronavirus 2019 (COVID-19), reminder emails have been sent every couple of months rather than monthly;
- A violation may be issued to the facility if an HMBP is not submitted.

This deficiency is considered corrected. No further action is required.

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FINAL SUMMARY OF FINDINGS REPORT**

**OBSERVATIONS AND RECOMMENDATIONS**

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 missing or inaccurate.

Review of the I&E Plan finds the following components are missing:

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
- Enforcement notification procedures that ensure confidentiality.

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

- Inspection frequencies for the Permit By Rule, Conditionally Authorized, and Conditionally Exempt programs do not include an “initial inspection within two years of notification and every three years thereafter.”

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised I&E Plan that adequately incorporates and correctly addresses 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 and/or DTSC, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will implement the revised I&E Plan.

By the 3<sup>rd</sup> Progress Report, if amendments to the I&E Plan were necessary, the CUPA will implement the amended I&E Plan.

Currently, the CUPA has only one staff member who develops and implements Unified Program policies and procedures, including the I&E Plan. Therefore, the resolution does not require training of CUPA staff on the revised or amended I&E Plan, nor provision of training documentation to CalEPA. In the event the CUPA employs additional staff, the CUPA will ensure the appropriate training occurs, will document the training, and maintain training documentation.

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UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

**2. INCIDENTAL FINDING:**

The Self-Audit Report has incomplete components.

Review of the Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021 finds the following components are incomplete:

- A report of deficiencies with a plan of correction.
  - The Self-Audit Reports for FYs 2018/2019, 2019/2020, 2020/2021 have the same language for this section.
- An indication that there has been an annual review and update of the fee accountability program.

**CITATION:**

CCR, Title 27, Section 15280(c)  
[CalEPA]

**RESOLUTION:**

By September 30, 2022, the CUPA will provide CalEPA with a completed 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 30<sup>th</sup>. For each subsequent FY, the CUPA will complete a Self-Audit Report, which will include all required components, and incorporate a date of completion to reflect compilation by September 30<sup>th</sup>.

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**3. INCIDENTAL FINDING:**

The CUPA is not consistently ensuring UST Program related information in CERS is accurate and complete.

Review of the UST Facility/Tank Data Download report obtained from CERS on January 19, 2022, finds the following UST construction and monitoring information is inaccurate or incomplete:

- 4 of 35 (11%) USTs identified with double-wall pressurized product pipe, incorrectly show having no mechanical or electronic line leak detector
- 23 of 49 (47%) USTs identified with double-wall piping installed between January 1, 1984, and June 30, 2004, without continuous interstitial monitoring
- 6 of 68 (9%) USTs show no striker plate/bottom protectors.

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

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**OBSERVATIONS AND RECOMMENDATIONS**

Note: The following CERS Frequently Asked Questions (FAQs) may be referenced:

- General Reporting Requirements for USTs
- When to Issue a UST Operating Permit
- Common CERS Reporting Errors
- Setting Accepted Submittal Status
- Which Forms Require Uploading to CERS

Note: The following State Water Board correspondence may be referenced:

- “When to Review Underground Storage Tank Records,” dated November 29, 2016.

Note: This incidental finding was identified as an observation in the 2017 CUPA Performance Evaluation.

**CITATION:**

HSC, Chapter 6.7, Sections 25286 and 25288(a)  
CCR, Title 23, Sections 2632(d)(1), 2634(d)(2) and 2641(g) and (h) and 2711(d)  
[State Water Board]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review the Data Management Procedure, or other applicable procedure and revise as necessary, to ensure establishment of a process for UST inspection staff to review CERS UST information regarding construction and monitoring requirements for accuracy and completeness based on the UST installation date, which will, at minimum include the following:

- When CERS UST submittal information is identified as incorrect, the CUPA will either
  - Accept CERS UST submittals with minor errors using a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe, or
  - Not accept CERS UST submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When CERS UST submittal information is not corrected and resubmitted within the time specified by the CUPA, the CUPA will apply enforcement per the I&E Plan.

The CUPA will provide the revised Data Management Procedure, or other applicable procedure to CalEPA.

By the 2<sup>nd</sup> Progress Report, if amendments to the Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure or other applicable procedure. If no amendments are necessary, the CUPA will implement the revised Data Management Procedure or other applicable procedure.



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

By the 3<sup>rd</sup> Progress Report, if amendments to the Data Management Procedure, or other applicable procedure were necessary, the CUPA will implement the amended Data Management Procedure or other applicable procedure.

Currently, the CUPA only has one staff member who develops and implements the UST policies and program. Therefore, the resolution does not require training of UST inspection staff on the revised or amended I&E Plan or other applicable procedure, nor provision of training documentation to CalEPA. In the event the CUPA employs additional UST inspection staff, the CUPA will ensure the appropriate training occurs, will document the training, and maintain training documentation.

With respect to submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete UST Program submittals when the next submittal is made, but no later than the next annual UST compliance inspection.

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#### 4. INCIDENTAL FINDING:

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

Review of the Facility Listing (Details) report obtained from CERS on February 8, 2022, finds the following facilities with past due inspections:

- CERS ID 10770076: last inspection dated March 23, 2020.
- CERS ID 10770082: last inspection dated April 7, 2020.
- CERS ID 10400101: last inspection dated September 15, 2020.

Not ensuring UST facilities are inspected at least once every three years jeopardizes the ability of California to meet the U.S. Environmental Protection Agency (EPA) certification requirements of the Energy Policy Act of 2005. In addition, not inspecting USTs once every three years may result in a significant threat to human health, safety, or the environment.

#### CITATION:

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

#### RESOLUTION:

By the 1<sup>st</sup> Progress Report, and until considered resolved, the CUPA will provide CalEPA with a sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each UST facility that has not been inspected within the last 12 months. For each UST facility listed, the spreadsheet will include, at minimum:

- Facility name,
- CERS ID, and
- Date of the last UST compliance inspection

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

By the 2<sup>nd</sup> Progress Report, the CUPA will have conducted a UST compliance inspection at CERS IDs 10770076, 10770082, and 10400101, prioritizing the most delinquent UST facilities first. The CUPA will provide CalEPA with the UST compliance inspection report for CERS IDs 10770076, 10770082, and 10400101.

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**5. INCIDENTAL FINDING:**

The CUPA is not consistently implementing UST closure requirements.

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 HSC and UST Regulations.

Review of facility files finds the UST closure letter provided to the owner/operator of CERS ID 10621084 does not identify the following:

- the size of UST(s) and substance stored;
- Specific applicable HSC and UST Regulation citations (HSC, Section 25298 and CCR, Section 2672); and
- sufficient detail that the owner or operator has demonstrated to the satisfaction of the CUPA, that UST permanent closure and soil and/or groundwater sampling complies with HSC and UST Regulation requirements.

Review of facility files finds the UST closure letter provided to the owner/operator of CERS ID 10397551 was not provided upon completion of closure activities. UST closure activities occurred in 2015 and the closure letter was provided to the owner/operator in 2018.

Note: State Water Board UST Program Leak Prevention FAQ 15 ([https://www.waterboards.ca.gov/ust/leak\\_prevention/fq15.shtml](https://www.waterboards.ca.gov/ust/leak_prevention/fq15.shtml)) may be referenced.

**CITATION:**

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

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will begin to utilize the UST closure letter template provided by the State Water Board ([https://www.waterboards.ca.gov/water\\_issues/programs/ust/docs/ust-closure-letter-template-final.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/docs/ust-closure-letter-template-final.pdf)), or revise the UST closure letter template(s) for sites with and without contamination, if separate letters are issued for those scenarios, as follows:

- include the Site address;
- include CERS tank ID(s);
- include date(s) of removal or permanent closure;

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

- include confirmation that UST(s) have been permanently closed in accordance with UST Regulations and HSC. The following language is an example: “The Mariposa County Public Health Department CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Division 3, Chapter 16, Section 2670 and 2672 and HSC, Chapter 6.7, Section 25298(c).”
- remove the phrase “No Further Action Required”

The CUPA will work with the State Water Board to determine if the following should also be included in the revised UST closure letter template(s):

- indication as to whether each UST was closed in place or removed;
- UST identification (i.e., single-walled, double-walled, what the UST is made of);
- identification of any remaining UST(s) at the site, if applicable;
- a statement that UST closure documents are required to be maintained for 36 months in accordance with CCR, Title 23, Division 3, Chapter 16, Section 2672(f);
- a statement indicating the CUPA has transmitted an initial written report and any soil and/or groundwater sample analyses to the Cleanup Agency (Local Oversight Program or Regional Water Quality Control Board).

The CUPA will provide the revised UST closure letter template(s) to CalEPA.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised UST closure letter template(s) are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST closure letter template(s). If no amendments to the revised UST closure letter template(s) are necessary, the CUPA will begin using the revised UST closure letter template(s).

By the 3<sup>rd</sup> Progress Report, if amendments to the UST closure letter template(s) were necessary, the CUPA will begin using the amended UST closure letter template(s).

Currently, the CUPA only has one staff member who develops and implements the UST policies and program. Therefore, the resolution does not require training of UST inspection staff on the amended UST closure letter template, nor provision of training documentation to CalEPA. In the event the CUPA employs additional UST inspection staff, the CUPA will ensure the appropriate training occurs, will document the training, and maintain training documentation.

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the UST closure letter template(s) determined acceptable by the State Water Board and will provide the updated closure documentation upon request.

Opportunities to conduct UST closure activities are limited within the jurisdiction of the CUPA, therefore, to avoid keeping this incidental finding unnecessarily open while waiting for USTs to undergo closure, the State Water Board will consider this incidental finding resolved upon acceptance of the UST closure letter template(s). The State Water Board will verify the CUPA is utilizing the accepted UST closure letter template(s) during the next CUPA Performance Evaluation.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

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**6. INCIDENTAL FINDING:**

The CUPA is issuing a Unified Program Facility Permit (UPFP) with a valid date timeframe that conflicts with the issuance date.

Review of issued UPFPs finds the valid date timeframe of the UPFP precedes the issuance date of the UPFP for the following:

- CERS ID 10397857: UPFP issuance date is January 23, 2020, while the valid date timeframe is January 1, 2020, through December 31, 2020.
- CERS ID 10397857: UPFP issuance date is February 3, 2021, while the valid date timeframe is January 1, 2021, through December 31, 2021.

Note: During the 2017 CUPA Performance Evaluation, a deficiency was identified for the issuance of a UPFP with conflicting valid and issuance dates. During the Evaluation Progress Report process, the CUPA revised the Permitting Procedures to ensure the UPFP reflects a date of permit issuance and a date of permit expiration. While during the Evaluation Progress Report process, the CUPA completed each corrective action identified and the deficiency was considered corrected, the corrective action did not address revision of the UPFP template to ensure a valid date and expiration date of the UPFP are clearly identified.

**CITATION:**

HSC, Chapter 6.7, Section 25285(b)  
CCR, Title 23, Section 2712  
CCR, Title 27, Section 15190(h)(4)  
[CalEPA, State Water Board]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised UPFP template ensuring the valid date of the permit reflects the issuance date, and the valid date and expiration date are clearly identified and not in conflict with one another.

By the 2<sup>nd</sup> Progress Report, the CUPA will, if necessary, amend the revised UPFP template, based on feedback from CalEPA and/or the State Water Board, and will provide the amended template to CalEPA. If no amendments are necessary, the CUPA will provide CalEPA with three UPFPs issued to facilities using the revised UPFP template.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UPFP template were necessary, the CUPA will provide CalEPA with three UPFPs issued to facilities using the amended template.

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

- CERS indicates 70 facilities self-identified as Hazardous Waste Generators (HWGs), 2 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQG), and 0 Tiered Permitted facilities.
- The CUPA conducted 79 total HWG inspections.
  - The CUPA conducted 77 routine HWG inspections
    - 53 of 77 (69%) routine HWG inspections had no violations cited
    - 24 of 77 (31%) routine HWG inspections had at least one violation cited.
      - 54 total violations were issued, consisting of:
        - 0 Class I violations,
        - 14 Class II violations, and
        - 40 minor violations.
  - The CUPA conducted 2 other HWG inspections.
    - 0 total violations were issued.
- The CUPA has ensured RTC for 47 of 54 (87%) issued violations.
- The CUPA did not conduct any formal enforcement.

DTSC did not conduct any oversight inspections during this triennial evaluation cycle.

#### 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 returned to compliance by the scheduled RTC date and apply enforcement for facilities that do not RTC, per the I&E Plan. Ensure that 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.

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#### 2. OBSERVATION:

The I&E Plan contains information that is inaccurate or may benefit from improvement.

- Page III, Table of Contents: “AST Penalties” should be changed to “APSA Penalties.”
- Page 1: The Unified Program elements list is missing the fire code Hazardous Materials Management Plans (HMMP) and Hazardous Materials Inventory Statements (HMIS) Program, which is consolidated with the HMBP Program to streamline the regulatory requirements for regulated facilities.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

- Page 2: 'Inventory of Regulated Businesses or Facilities' has not been updated since June 2018.
- Page 2: 'Inventory of Regulated Businesses or Facilities' states there are 118 APSA facilities with greater than or equal to 10,000 gallons of petroleum storage capacity, and 6 APSA facilities with less than 10,000 gallons of petroleum storage capacity. This does not correlate with the APSA facility count information in CERS or the information provided by the CUPA.
- Page 8: RTC information for the APSA Program is not included. Although there is no established RTC timeframe under APSA, Unified Program regulated facilities, including APSA tank facilities, cited with a minor violation have 30 days from the date of the notice to comply to RTC per HSC, Section 25404.1.2(c)(1).
- Page 8: Paragraph 11, Subparagraph a includes a reference to HSC, 25508(a)(2), which should be HSC, 25508 (a)(3).
- Page 10: "Cal-ARP" should be "CalARP" to maintain consistency.
- Page 10: The Figure 1 facility inspection procedures are missing APSA Program information. Include APSA Program information where applicable and appropriate.
- Pages 15 and 32: HSC, Section 25270.5 is incorrectly referenced as violations or requirements of the APSA Program. The appropriate citation for violations or requirements of APSA is HSC, Chapter 6.67 (commencing with Section 25270).
- Pages 28 & 29, VIII. Paragraph A, VIII. Paragraph A. Subparagraph 3, and IX. Paragraph A: Hazardous Materials Disclosure and CalARP may be referencing HSC 6.95 instead of 6.96.
- Page 28, VIII. Paragraph A: adding "or California Health and Safety Code" will maintain consistency.
- Page 32, XI. Paragraph B, Subparagraph 3, Section d: The mailing address for CalEPA is provided as "CalEPA/Unified Program 1001 I Street; Mariposa, CA 95812." The correct address for CalEPA is "California Environmental Protection Agency, Unified Program, P.O. Box 2815, Sacramento, California 95812."
- Page 42, XII. Paragraph C, Subparagraph 5:
  - "shall be liable in the amount of not less than \$2,000 per day in which the violation occurs." is not consistent with HSC, Section 25540(a), which states "...not more than five thousand dollars (\$5,000) for each day in which the violation occurs..."
  - Section d:
    - This section should be labeled "Section c" instead.
    - "H&SC § 25540(b)" should be revised to H&SC §25540(a)
  - Table 8 will need to be adjusted for the penalty referenced in "HSC §25540(a)"
- Page 43: HSC Section 25270.12.1(a) is incorrectly referenced as violations of APSA. The sentence in section 6(a) should be revised as follows, "For violations of HSC Chapter 6.67 (commencing with Section 25270), the violator shall be liable for a penalty of not more than \$5,000 for each day on which the violation continues, per HSC Section 25270.12.1(a)."

#### **RECOMMENDATION:**

Update the I&E Plan as indicated above.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

#### 3. OBSERVATION:

The APSA website (<https://www.mariposacounty.org/989/Aboveground-Petroleum-Storage-Act>) contains resources for the public and regulated community; however, the following APSA program information is outdated, incorrect or may benefit from improvement:

- The description of a ‘tank facility’ is limited and should be clarified to be consistent with the statute. A tank facility is subject to APSA if: (1) the tank facility is subject to the Federal SPCC rule; (2) the tank facility stores 1,320 gallons or more of petroleum; or (3) the tank facility has one or more tank in an underground area (TIUGA) even if the storage capacity of the tank facility is less than 1,320 gallons of petroleum.
- The statement about SPCC Plans being required for APSA tank facilities could be clarified to be consistent with statute. Not all tank facilities are required to prepare and implement an SPCC Plan under APSA if certain conditions are met as described in HSC, Section 25270.4.5(a).
- The flowchart incorrectly uses petroleum thresholds in determining the type of SPCC Plan to prepare.
  - Both the 5,000- and 10,000-gallon thresholds should be *all* oils (subject to the Federal SPCC rule, including petroleum).
- The flowchart should clarify the Federal SPCC rule term “qualified facility” to include both the aboveground oil storage capacity threshold and reportable discharge history.
  - A qualified facility may have *up to* 10,000 gallons of oil and 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.
  - A qualified facility may also opt for a professional engineer certified SPCC Plan in lieu of self-certifying the plan.
- The flowchart limits the APSA applicability to only one type of APSA tank facility (refer to the above first bullet for clarification).
- The flowchart should include certain tank facilities that are conditionally exempt from preparing an SPCC Plan under APSA if certain conditions are met as described in HSC, Section 25270.4.5(b). Note: There is no similar exemption under the Federal SPCC rule.
- The flowchart should clarify the certification requirements for ‘hybrid’ SPCC Plans.
  - A hybrid plan with environmentally equivalent alternative methods or impracticability determinations for secondary containment must have such sections of the plan be reviewed and certified by a professional engineer.
  - A hybrid plan will have both the owner or operator self-certification and a professional engineer certification to certain parts of the SPCC Plan.
- The Tier II Qualified Facility SPCC Plan template link is no longer valid and should be updated to reference the recent version of this template, dated May 2021, on the OSFM APSA site ([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 Sample SPCC Plan link leads to a Mariposa County webpage that does not contain an SPCC Plan example. Remove the link or update the webpage.

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

#### OBSERVATIONS AND RECOMMENDATIONS

- The "Aboveground Petroleum Storage Act" link under the related links section goes to the statute showing HSC, Section 25270 only. The link could be updated to show all the sections of the statute ([https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?division=20.&chapter=6.67.&lawCode=HSC](https://leginfo.ca.gov/faces/codes_displayText.xhtml?division=20.&chapter=6.67.&lawCode=HSC)).
- The link on "how to prepare your own SPCC Plan" leads to a San Diego County website that has been removed. Remove the link or update the link to the CalCUPA Forum training center website (<https://calcupa.org/training/index.html>). Various Unified Program topics, including APSA and SPCC training sessions (often videotaped and available), are offered at the virtual CalCUPA Forum training center website and at the annual training conference.

#### RECOMMENDATION:

Update the information on the website as indicated and consider providing a link to the new OSFM webpage at <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/> for information on the APSA Program.

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#### 4. OBSERVATION:

The CERS reporting requirement is currently set as "APSA Applicable" for 32 tank facilities. The CUPA's data management system identifies 30 APSA tank facilities.

- 30 APSA tank facilities are identified in both CERS and the CUPA's data management system.
- Two tank facilities are reported as "APSA Applicable" in CERS but are not identified as APSA tank facilities in the CUPA's data management system. If a facility is not APSA regulated, the CUPA should change the CERS APSA reporting requirement to "APSA Not Applicable." If a facility is APSA-regulated, the CUPA should update the local data management system appropriately.

#### 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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#### 5. OBSERVATION:

Multiple APSA tank facilities submitted an HMBP in lieu of the APSA tank facility statement using an old emergency response and training plans Unidocs template. A facility is required to attach additional information to the emergency response plan template, such as earthquake vulnerability and hazard mitigation/prevention/abatement; however, the required attachments are overlooked by many facilities.

The current 2022 consolidated emergency response/contingency plan template contains up-to-date information and does not require attachments to meet the minimum requirements. The current 2022 template is available in CERS.



**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**OBSERVATIONS AND RECOMMENDATIONS**

**RECOMMENDATION:**

Encourage each APSA tank facility that utilizes the emergency response and training plans template to use the current 2022 consolidated emergency response/contingency plan template, when an HMBP is submitted in lieu of the tank facility statement. Ensure emergency response and training plans contain all applicable components.

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**6. OBSERVATION:**

The Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021 contain information that is inaccurate or may benefit from improvement.

- Page 1: The first paragraph identifies one of the six Unified Program elements as "Hazardous Materials Area Plan including sections of the California Uniform Fire Code." This should be replaced with the HMMP-HMIS. Also, the Uniform Fire Code is outdated; the current fire code is the California Fire Code, 2022 edition.
- APSA Program is referenced as aboveground tank program or AGT facilities, which is inconsistent with the statute. Not all aboveground storage tanks contain petroleum that is subject to APSA.

**RECOMMENDATION:**

Ensure future Self-Audit Reports are current and address the above observations.

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**7. OBSERVATION:**

The CUPA's area plan contains the following outdated and incorrect information:

- Page 11: "Program" should be "Prevention" in CalARP.
- Page 11: "Cal-ARP" should be "CalARP" for consistency
- Appendix 12: An updated toolkit for 2014 is available on [Cal OES website publications](#).
- Appendices 13 & 14 are missing or not labeled in "Haz Mat Area Plan Appendices 11-15".
- Throughout the document, CalEMA should be updated to CalEPA.

**RECOMMENDATION:**

With the next review and revision of the area plan, correct and update the incorrect and outdated information.

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**8. OBSERVATION:**

The Annual Single Fee Summary Reports are not complete when provided to CalEPA. The following elements were not completed in the Annual Single Fee Summary Reports provided to CalEPA for FYs 2019/2020 and 2020/2021:

- Total Amount of Surcharge Waived
- Total Collections Remitted to State

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## UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

#### RECOMMENDATION:

Ensure the Annual Single Fee Summary Reports include all applicable information and are complete before being provided to CalEPA.

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#### 9. OBSERVATION:

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

- Information provided by Mariposa County Health Department Division of Environmental Health 2001 Application for Certification
- CERS “Summary Regulated Facilities by Unified Program Element Report” generated on February 17, 2022
- CERS “UST Inspection Summary Report (Report 6),” generated on February 17, 2022
- Total Number of Regulated Businesses and Facilities:
  - In 2001: **132**
  - Currently: **149**
  - An increase of **17** facilities
- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:
  - In 2001: **132**
  - Currently: **145**
  - An increase of **13** facilities
- Total Number of Regulated Underground Storage Tank (UST) Facilities:
  - In 2001: **38**
  - Currently: **35**
  - A decrease of **3** facilities
- Total Number of Regulated Underground Storage Tanks (USTs):
  - In 2001: **80**
  - Currently: **61**
  - A decrease of **19** Underground Storage Tanks
- Total Number of Regulated Hazardous Waste Generator (HWGs) Facilities:
  - In 2001: None specified
  - Currently: **69**
  - Comments: HWG Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.

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## UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

### OBSERVATIONS AND RECOMMENDATIONS

- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
  - In 2001: None specified
  - Currently: **2**
  - Comments: HHW Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
  - In 2001: **0**
  - Currently: **0**
  - No change in the number of facilities
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
  - In 2001: none specified
  - Currently: **2**
  - Comments: RCRA LQG Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.
- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
  - In 2001: **7**
  - Currently: **0**
  - A decrease of **7** facilities
- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
  - In 2001: None specified
  - Currently: **32**
  - Comments: The difference between the current and historic number of facilities cannot be determined at this time.

Since the CUPA applied for certification in 2001, there has been a general increase in the responsibilities of the Business Plan Program and a general decrease in the total number of regulated facilities for most other program areas. There have been significant decreases in the number of USTs (24%) and the number of CalARP facilities (100%). Despite these decreases, the total number of regulated facilities has overall increased by 13%.

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

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

County Health Department Division of Environmental Health 2001 CUPA Application and recent information provided by the CUPA.

#### CUPA Personnel:

- Inspection and other Staff
  - Upon Certification in 2001:
    - 6 Staff, with unknown specific time allocation towards the implementation of the Unified Program.
  - Currently:
    - 2\* Staff, each Part-Time = 0.25 FTE  
\*Two Development Service Technicians assist the CUPA with administrative tasks and are not included in the above staffing calculation.
- Supervisory and Management Staff
  - Upon Certification in 2001:
    - 2 Staff, with unknown specific time allocation towards the implementation of the Unified Program.
  - Currently:
    - 1 Staff, Part-Time = 0.03 FTE

#### RECOMMENDATION:

The comparison of the implementation of the program upon certification with present-day circumstance reveals there may be a few issues impeding the CUPA's ability to adequately implement the Unified Program within its jurisdiction. Between the creation of CERS in 2013 and increasing responsibilities for electronic reporting and data collection through CERS, as well as the expansion of the Unified Program elements since its inception resulting in a 13% increase across all regulated facilities, there has been a greater demand for adequate staff resourcing to fulfill all the responsibilities required under regulation and statute in the Unified Program.

The CUPA now has fewer personnel on staff than when the agency was first certified, which in and of itself is a factor that reduces the ability of the CUPA to implement all program elements effectively.

The CUPA does maintain detailed fiscal documentation demonstrating the ability to track all Unified Program relevant costs and revenues for each fiscal year, including funding received from CalEPA under the Rural Reimbursement grant program. In 2010, a fee study was conducted, which resulted in an adjustment of the single fee based on historic reasonable and necessary costs incurred to implement and maintain each element of the Unified Program. In 2019, a County-wide fee study was conducted, which also resulted in updating and increasing the CUPA fees, however the Mariposa County Board of Supervisors denied any fee increases that would result in higher fees than neighboring CUPA jurisdictions. Comments received during the public review period objected to any fee increases which hindered the CUPA's ability to justify appropriate fee increases. Fees were not raised in

UNIFIED PROGRAM PERFORMANCE EVALUATION  
PRELIMINARY SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

2020 due to the economic impact to regulated facilities from COVID-19 shutdowns, however fees were increased on April 1, 2022, and another fee increase is planned for 2023. A Consumer Price Index (CPI) fee increase is also set to be assessed each year starting in 2022.

Other than the 2010 and 2019 fee studies, the CUPA has not demonstrated that an annual review and update of the fee accountability program has been conducted to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element.

The CUPA may benefit from conducting an internal review of the current budget and expenditures, single fee assessment for each entity, and funding allocation for program services so that, if applicable, the CUPA is able to justify the need to increase fees, staff levels, and other resources as necessary and reasonable to ensure adequate implementation of each program element.

The ability to apply each aspect of inspection, compliance, monitoring, and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large. Once the CUPA has the necessary resources to obtain and maintain an adequate staff, it is likely the issues causing the identified deficiencies, such as maintaining the reporting requirements on CERS for various program elements will be addressed.

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**10. OBSERVATION:**

The CUPA has current local ordinances for the Unified Program and UST Program.

**RECOMMENDATION:**

Review current local ordinances for the Unified Program and UST Program to ensure each is consistent with HSC and UST Regulations. Consult with the State Water Board and CalEPA, if necessary, and revise or repeal the local ordinances as necessary.

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**11. OBSERVATION:**

Though not required to be stated, the CUPA's UST closure letter does not provide direction to UST owners/operators that maintenance of UST closure documentation is required pursuant to UST Regulations, Section 2672(f).

**RECOMMENDATION:**

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

UNIFIED PROGRAM PERFORMANCE EVALUATION  
PRELIMINARY SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

**12. 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 10166463 (Tank IDs 001, 002, 003, 004, and 005); and
- CERS ID 10166809 (Tank IDs 001 and 002).

**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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**13. OBSERVATION:**

The CUPA did not conduct an annual audit of activities for implementation of the CalARP Program nor compile a CalARP performance audit report for the following FYs:

- FY 2019/2020
- FY 2018/2019

The remaining CalARP facility closed in 2021.

**RECOMMENDATION:**

Clearly indicate in the Self-Audit Report for FY 2021/2022 that there are no longer any regulated CalARP facilities within the jurisdiction of the CUPA, and as such, the CUPA will no longer be implementing aspects of the CalARP Program element under the Unified Program nor will the CUPA carry out CalARP Program regulatory activities to include or assess in the form of a CalARP Self-Audit Report.

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**14. OBSERVATION:**

The CUPA did not provide procedures necessary to implement the CalARP dispute resolution process.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
PRELIMINARY SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

**RECOMMENDATION:**

In the event a facility subject to the CalARP Program becomes regulated within the jurisdiction of the CUPA, develop necessary procedures to implement the CalARP dispute resolution process.

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**15. OBSERVATION:**

During the CUPA Performance Evaluation, the CUPA identified General Funding as a revenue source compensating for the budgetary deficit for FYs 2018/2019, 2019/2020, and 2020/2021.

Initial review of fiscal documentation provided by the CUPA finds a recurring budget deficit for each of the following FYs without an identification of the supplemental revenues to properly fund Unified Program implementation:

- FY 2018/2019:
  - The CUPA reported expenditures of \$114,434 and revenues of \$110,652 from single fees and the state rural reimbursement grant.
  - The CUPA has a budget deficit of \$3,782.
- FY 2019/2020:
  - The CUPA reported expenditures of \$122,080 and revenues of \$108,475 from single fees and the state rural reimbursement grant.
  - The CUPA has a budget deficit of \$13,605.
- FY 2020/2021:
  - The CUPA reported expenditures of \$115,332 and revenues of \$114,434 from single fees and the state rural reimbursement grant.
  - The CUPA has a budget deficit of \$989.

**CORRECTIVE ACTION:**

In future Self-Audit Reports, to ensure adequate fee accountability reporting, specify identification of all funding sources and financial amounts for covering budgetary deficits.

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**16. OBSERVATION:**

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

Effective July 1, 2021, the quarterly Surcharge Transmittal Report must reflect the CUPA Oversight state surcharge increase of \$35, from \$49 to \$84. The \$35 increase includes a \$27 allocation to fund the CERS NextGen Project support staff and resources for minimizing the risk of failure of the current CERS system and for the statewide transition to the CERS 3.0 system.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

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

- FY 2019/2020
  - 4<sup>th</sup> Fiscal Quarter:
    - Due on July 30, 2020
    - Submitted on March 8, 2021.
- FY 2020/2021
  - 1<sup>st</sup> Fiscal Quarter:
    - Due on October 30, 2020
    - Submitted on March 18, 2021.
  - 2<sup>nd</sup> Fiscal Quarter
    - Due on January 30, 2021
    - Submitted on March 18, 2021

The CUPA was unable to prepare and submit the quarterly Surcharge Transmittal Reports to CalEPA by the required due dates due to mandated teleworking that restricted access to the county mainframe computer reporting system. The CUPA submitted the reports in March 2021, once access was regained.

#### **RECCOMENDATION:**

Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, available at: [https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf), the July 1, 2018 version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27.

Ensure the current CUPA Oversight state surcharge in the amount of \$84 is reflected when reported on the quarterly Surcharge Transmittal Report and ensure each line item on the quarterly Surcharge Transmittal Report template is completed, including the check number.

Send a notification to CalEPA at [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov), when each quarterly Surcharge Transmittal Report cannot be submitted by the required due date



UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

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

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**1. DETAILED FISCAL DOCUMENTATION OF FEE ACCOUNTABILITY:**

The CUPA provided detailed fiscal documentation for the past three fiscal years in a concise document that is readable and easy to interpret. Fiscal documentation clearly demonstrates the CUPA is assessing all expenditures and revenues across the Unified Program in a format that ensures the CUPA is tracking operations for which the single fee and surcharge are assessed. Though the current amount of the Unified Program single fees may not adequately fund the necessary and reasonable costs of Unified Program implementation, documentation of the accounting for expenditures and revenues, including receipt of funding from the CalEPA Rural Reimbursement grant, is clearly identified and easily understood.

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**2. INSPECTION FREQUENCY IMPACTS:**

The CUPA has maintained a robust inspection frequency since early 2020 despite impacts imposed by the California Stay at Home Order issued in March 2020 due to COVID-19. During this time, the CUPA managed to maintain continuity with the implementation of the Unified Program despite the loss of an employee and temporary reassignment of existing staff to assist other county and emergency response programs. The CUPA continued to prioritize implementation of the Unified Program and was able to conduct in-person inspections while other regulatory agencies were forced to work from home.

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**3. APSA INSPECTION FREQUENCY:**

Despite the COVID-19 challenges and chronic understaffing, the CUPA meets the mandated triennial inspections of its APSA tank facilities storing 10,000 gallons or more of petroleum. In addition, the CUPA meets the inspections of other APSA tank facilities at least once every three years as identified in the I&E Plan. The CUPA conducts thorough inspections based on the detailed inspection reports provided to the facilities.

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