

June 4, 2024

Mr. Joe Cavin
Fire Marshal
City of Santa Monica Fire Department
333 Olympic Drive, 2nd Floor
Santa Monica, California 90401-3126

Dear Mr. Cavin:

During August 2023, through May 2024, CalEPA and the Unified Program state agencies conducted a performance evaluation of the City of Santa Monica Fire Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections.

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 resolution of incidental findings identified in the final Summary of Findings report, the CUPA must submit an Evaluation Progress Report approximately 60 days from the date of this letter. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response, until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved by each issuing state agency. An Evaluation Progress Report template will be provided by the CalEPA Team Lead. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead, Tim Brandt, via email at timothy.brandt@calepa.ca.gov, or uploaded to the established SharePoint website.

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, at Melinda.blum@calepa.ca.gov. 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.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Boetzer".

Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Ms. Deborah Bernhard
CUPA Administrator
City of Santa Monica Fire Department
333 Olympic Drive, 2nd Floor
Santa Monica, California 90401-3126

Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board

Mr. Tom Henderson
UST Leak Prevention Unit and
Office of Tank Tester Licensing Manager
State Water Resources Control Board

Ms. Julie Pettijohn
Environmental Program Manager
CUPA Enforcement Branch
Department of Toxic Substances Control

Ryan Miya, Ph.D.
Senior Environmental Scientist, Supervisor
Department of Toxic Substances Control

Ms. Jennifer Lorenzo
Senior Environmental Scientist, Supervisor
CAL FIRE - Office of the State Fire Marshal

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cc sent via email:

Ms. Jenna Hartman, REHS
Environmental Scientist
State Water Resources Control Board

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

Ms. Magnolia Busse
Environmental Scientist
State Water Resources Control Board

Mr. Brennan Ko-Madden
Senior Environmental Scientist
Department of Toxic Substances Control

Ms. Mia Goings
Senior Environmental Scientist
Department of Toxic Substances Control

Ms. Denise Villanueva
Environmental Scientist
CAL FIRE - Office of the State Fire Marshal

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

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cc sent via email:

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

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

CUPA: City of Santa Monica Fire Department

2023 Evaluation Assessment: August 2023 through May 2024

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden, Mia Goings
- **CalEPA:** Garrett Chan
- **State Water Board:** Magnolia Busse, Char'Mane Robinson
- **CAL FIRE-OSFM:** Denise Villanueva

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 improvement needed.

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

Tim Brandt

CalEPA Unified Program

Phone: (916) 323-2204

E-mail: timothy.brandt@calepa.ca.gov

The CUPA is required to submit the first Evaluation Progress Report 60 days from receipt of the Final Summary of Findings Report. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response. For each identified deficiency and incidental finding, the CUPA must complete the corrective action and resolution as indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute. The Evaluation Progress Report process will continue until all deficiencies and incidental findings have been acknowledged as corrected or resolved by each issuing Unified Program state agency.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at timothy.brandt@calepa.ca.gov, or uploaded to the established SharePoint website. A narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report, and any applicable supporting documentation must be included in each Evaluation Progress Report.

The submittal date for the 1st Evaluation Progress Report is **September 30, 2024**.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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ACCOMPLISHMENTS, CHALLENGES, AND EXAMPLES OF OUTSTANDING IMPLEMENTATION

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. COLLABORATION WITH PARTICIPATING AGENCY (PA) ON HAZARDOUS WASTE GENERATOR (HWG) AND TIERED PERMITTING (TP) PROGRAM IMPLEMENTATION:

Since 1996, the Los Angeles County Fire Department CUPA has been operating as the Participating Agency (PA) for the City of Santa Monica Fire Department CUPA. As the PA, the Los Angeles County Fire Department CUPA oversees the implementation of the HWG Program, including the TP component of the HWG Program. The PA is responsible for conducting inspections and managing all inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information.

The CUPA and the PA have ensured that nearly 100% of identified HWG facilities within the jurisdiction of the CUPA have been inspected between June 1, 2020, and July 30, 2023. The PA completed 307 HWG Program inspections, in some cases inspecting facilities more frequently than once every three years. Maintaining such a high rate of inspections is considered an example of outstanding implementation of the HWG Program.

2. HWG PROGRAM RETURN TO COMPLIANCE (RTC):

The CUPA and the Los Angeles County Fire Department PA have ensured that 56 of 61 (92%) HWG Program violations cited between October 15, 2019, and July 30, 2023, have returned to compliance.

3. CUPA STAFFING AND CORONAVIRUS (COVID-19) IMPACTS:

Between August 2020 and November 2022, two senior CUPA staff and the former CUPA manager retired, leaving multiple staffing vacancies. The two vacant senior staff positions were job classifications that had since become obsolete for the CUPA program, and as such, new position types had to be created and evaluated by the City Human Resources department, causing a delay in the hiring of new staff. Hiring of new staff was also delayed due to the onset of the COVID-19 pandemic, during which time statewide and local restrictions halted conducting compliance inspections for a number of months.

Inspections resumed in early 2022; however, as the CUPA remained understaffed, inspection frequencies were not able to be obtained as expected until January 2024 once a new CUPA administrator was hired in August 2022, and a new staff inspector was hired in September 2023 and all required training for the position was completed.

4. 2019 CUPA PERFORMANCE EVALUATION DEFICIENCY CORRECTED:

In conducting the assessment for the 2023 CUPA Performance Evaluation, the following Deficiency previously identified as partially corrected upon closure of the 2019 CUPA Performance Evaluation is now considered corrected and no longer requires further action:

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The CUPA is not issuing the Unified Program Facility Permit (UPFP), which includes the UST operating permit, prior to or upon the expiration date of an existing permit.

Though the delayed issuance of the final Summary of Findings report for the 2019 CUPA Performance Evaluation provided sufficient time for submittal and review of only one Evaluation Progress Report prior to the onset of the 2023 CUPA Performance Evaluation, the CUPA demonstrated progress made towards the correction of the deficiency. As of July 2020, the CUPA began utilizing Tyler Technologies DHD inspection software, which also generates UPFPs and UST operating permits. An annual permit expiration date was established as September 30th. Additionally, the CUPA incorporated revisions to the permitting process that address reissuance of a UPFP and a UST operating permit.

No instances of a UPFP or UST operating permit being issued prior to or upon the expiration date of an existing permit were identified in FYs 2019/2020, 2020/2021, or 2021/2022. The CUPA is issuing UPFPs and UST operating permits annually, upon expiration of the existing permit.

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DEFICIENCIES REQUIRING CORRECTION

A program deficiency is considered a major deviation in implementation of the Unified Program from the expected standards set forth in statute or regulation. Commonly identified as a systemic problem in implementation of one or more program elements, a deficiency is likely to have an impact on the safety and protection of human health and the environment. Program deficiencies identify specific aspects regarding implementation of the Unified Program.

1. DEFICIENCY:

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

Review of HMBPs submitted to CERS between September 1, 2022, and November 1, 2023, by businesses subject to Business Plan reporting requirements finds:

- 88 of 383 (23%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification.
- 90 of 382 (24%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification.

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 all businesses subject to Business Plan reporting requirements annually submit an HMBP or a no-change certification to CERS. The action plan, at minimum, will include how the CUPA will follow up with facilities that have not 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 business subject to Business Plan reporting requirements that has not annually submitted an HMBP or a no-change certification to CERS:

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

By the 4th Progress Report, the CUPA will ensure each business subject to Business Plan reporting requirements has submitted an HMBP or a no-change certification to CERS annually, or the CUPA will have applied enforcement.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

2. DEFICIENCY:

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

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information in CERS between October 1, 2020, and September 30, 2023, finds:

- 81 of 383 (21%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

By the 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 inspection frequency 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 facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID;
 - Date of the last routine inspection, and
- A schedule to inspect each facility subject to HMBP reporting requirements that has not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other HMBP facility inspection based on risk. For each facility, the schedule to inspect should reflect an estimated date or date range.
- Future steps to ensure all facilities subject to HMBP requirements will be inspected at least once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet and a brief narrative as to how the CUPA is continuing to ensure all facilities subject to HMBP requirements will be inspected at least once every three years.

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

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3. DEFICIENCY:

The 2019 area plan is missing required elements and contains inaccurate information.

Review of the 2019 area plan finds the following required elements are missing:

- Pre-emergency Planning
 - Provisions for pre-incident surveys of business sites by first responders for the purpose of site familiarization, if deemed necessary by the administering agency, as required by [CCR, Title 19, Section 5020.3\(a\)](#).
- Notification and Coordination
 - Provisions for notification to the California Governor's Office of Emergency Services of all reports received pursuant CCR, Title 19, Chapter 4, Article 2, as required by [CCR, Title 19, Section 5020.4\(d\)](#).
 - These notifications shall be submitted, at least monthly, on forms specified by the California Governor's Office of Emergency Services.
- Provisions for training of emergency response personnel in the following areas:
 - Monitoring and decontamination procedures for emergency response personnel and equipment, as required by [CCR, Title 19, Section 5020.5\(a\)\(7\)](#).
 - Emergency procedures for first response to a release or threatened release of hazardous materials, to include pesticide drift exposure incidents as required by [CCR, Title 19, Section 5020.5\(a\)\(1\)](#) and [5020.1\(c\)](#).
 - Health and safety procedures for response personnel, as required by [CCR, Title 19, Section 5020.5\(a\)\(2\)](#).
 - Use of emergency response equipment and supplies, as required by [CCR, Title 19, Section 5020.5\(a\)\(3\)](#).
 - Procedures for access to mutual-aid resources, as required by [CCR, Title 19, Section 5020.5\(a\)\(4\)](#).
 - Identification of medical facilities capable of providing treatment appropriate for hazardous material incidents, to include pesticide drift exposure incidents, as required by [CCR, Title 19, Section 5020.5\(a\)\(5\)](#).
 - Evacuation plans and procedures, as required by [CCR, Title 19, Section 5020.5\(a\)\(6\)](#).
 - Monitoring and decontamination procedures for emergency response personnel and equipment, as required by [CCR, Title 19, Section 5020.5\(a\)\(7\)](#).
 - First-aid procedures for hazardous material incidents, including pesticide exposure, as required by [CCR, Title 19, Section 5020.5\(a\)\(8\)](#).
 - Procedures for informing the public during emergencies, as required by [CCR, Title 19, Section 5020.5\(a\)\(9\)](#).
 - Psychological stress that may be encountered during disaster operations, as required by [CCR, Title 19, Section 5020.5\(a\)\(10\)](#).
- Provisions for documenting personnel training.
 - Provisions for joint field or table-top exercises, with affected organizations, with voluntary participation of business representatives, as required by [CCR, Title 19, Section 5020.5\(b\)\(2\)](#).

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- Public Safety and Information
 - Provisions for informing business personnel and the affected public of safety procedures to follow during a release or threatened release of a hazardous material as required by [CCR, Title 19, Section 5020.6\(b\)](#).
 - Procedures, developed in consultation with the County Agricultural Commissioner, to notify residents of a pesticide drift exposure incident and a procedure to assist in the coordination of an evacuation, if deemed necessary by emergency response personnel, as required by [CCR, Title 19, Section 5020.6\(c\)](#).
 - Procedures to identify all languages known to be spoken in the administering agency's county or city, as the case may be, and ensure that any individual is able to access services in their native language as required by Section 11135 of the Government Code. The area plan will outline what these services are and how they will be provided in the languages identified as required by [CCR, Title 19, Section 5020.6\(d\)](#).
 - Provisions for informing medical and health facilities of the nature of the incident and the substance(s) involved in an incident as required by [CCR, Title 19, Section 5020.6\(f\)](#).
 - Provisions for evacuation plans that provide for:
 - properties of hazardous materials, such as quantity, concentration, vapor pressure, density, and potential health effects as required by [CCR, Title 19, Section 5020.6\(g\)\(4\)](#).
 - possible release scenarios, as required by [CCR, Title 19, Section 5020.6\(g\)\(5\)](#).
 - facility characteristics, topography, meteorology, and demography of potentially affected areas, as required by [CCR, Title 19, Section 5020.6\(g\)\(6\)](#).
 - ingress and egress routes and alternatives as required by [CCR, Title 19, Section 5020.6\(g\)\(7\)](#).
 - location of medical resources trained and equipped for hazardous material response as required by [CCR, Title 19, Section 5020.6\(g\)\(8\)](#).
 - mass-care facilities, reception areas, and sheltering as required by [CCR, Title 19, Section 5020.6\(g\)\(9\)](#).
 - procedures for post-emergency period population recovery as required by [CCR, Title 19, Section 5020.6\(g\)\(10\)](#).
- Supplies and Equipment
 - Provisions for regular testing, if applicable, and proper maintenance of emergency response equipment under the direct control of the county or city, as the case may be, as required by [CCR, Title 19, Section 5020.7\(b\)](#).
- Incident critique and follow up provisions to include an interagency meeting to evaluate the response, to improve future response, and to determine if any area plan revisions are required, as required by [CCR, Title 19, Section 5020.8](#).

Review of the 2019 area plan finds the following requirement is inaccurate:

- Pages 19 to 22 – The “Hazardous Materials Area Plan Crosswalk” contains outdated citations referring to [CCR, Title 19, Article 2, Sections 5020.1 through 5020.8](#).

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

CITATION:

HSC, Chapter 6.95, Section 25503(c)

California Code of Regulations (CCR), Title 19, Article 2, Sections 5020.1 through 5020.8
[CalEPA]

CORRECTIVE ACTION:

By the 1st 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. Upon review of the area plan, the CUPA will ensure all required elements are present, and that emergency contact information is current. The CUPA will provide CalEPA with the reviewed and revised area plan.

4. DEFICIENCY:

The CUPA is not consistently following up and documenting RTC information in CERS for the HMBP Program.

Review of CERS CME information between October 1, 2020, and September 30, 2023, finds there is no documented RTC for the following HMBP Program violations:

- 11 of 15 (73%): cited between October 1, 2020, and September 30, 2021
- 4 of 17 (76%): cited between October 1, 2021, and September 30, 2022
- 25 of 50 (50%): cited between October 1, 2022, and September 30, 2023

CITATION:

HSC, Chapter 6.95, Sections 25508(a)(4) and 25533(d)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the Inspection and Enforcement (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 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 HMBP facility with an open violation (no RTC) cited between October 1, 2020, and September 30, 2023:

- Facility name,
- CERS ID,
- Inspection and violation dates,
- Scheduled RTC date,
- Actual RTC date (when applicable),

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- RTC qualifier, and
- In the absence of obtained RTC, a narrative of any applied enforcement or follow-up activity to ensure the facility obtains RTC.

By the 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted and a list of inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

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

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with five facility records, as requested by CalEPA, that include RTC documentation, or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

5. DEFICIENCY:

The CUPA is not consistently following-up and documenting RTC information in CERS for Aboveground Petroleum Storage Act (APSA) tank facilities cited with violations.

Review of CERS CME information on November 29, 2023, finds there is no documented RTC for the following APSA Program violations cited between July 1, 2019, and June 30, 2023:

- 4 of 8 (50%) cited between July 1, 2019, and June 30, 2020
- 5 of 6 (83%) cited between July 1, 2020, and June 30, 2021
- 11 of 14 (79%) cited between July 1, 2022, and June 30, 2023

CITATION:

HSC, Chapter 6.11, Section 25404.1.2(c)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)

[OSFM]

CORRECTIVE ACTION:

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) cited between July 1, 2019, and June 30, 2023.

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- 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 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 3rd 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 OSFM, that include RTC documentation, or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

6. DEFICIENCY:

The CUPA is not inspecting each Underground Storage Tank (UST) facility at least once every 12 months.

Review of the Semi-Annual Report (Report 6) in CERS and CERS CME UST Facility Inspection Frequency information finds UST facilities were not inspected at least once every 12 months for the following Fiscal Years (FYs):

- FY 2021/2022: 2 of 35 (6%) UST facilities were not inspected
- FY 2022/2023: 4 of 34 (12%) of UST facilities were not inspected

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each UST is inspected at least once every 12 months. The action plan will include, at minimum:

- The “UST Routine Inspection Frequency Search” report, exported from CERS, identifying each UST facility that has not been inspected within the last 12 months, including those facilities that have not been inspected in FY 2021/2022 and FY 2022/2023. In the “Comments” section of the “UST Routine Inspection Frequency Search” report, include a schedule to inspect each identified UST facility, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated “UST Routine Inspection Frequency Search” report and inspection schedule.

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7. DEFICIENCY:

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

The following Unified Program administrative procedures have not been established:

- Records maintenance procedures which include:
 - Identification of the records maintained
 - Note: CCR, Title 27, Section 15185(b) specifies the following records must be maintained for a minimum of five years:
 - Copies of self-audits, inspection reports, enforcement files, and Unified Program Consolidated Forms (UPCFs).
 - All records related to hazardous waste enforcement actions from the date the enforcement action is resolved.
 - Detailed records used to produce the summary reports submitted to the state.
 - Surcharge billing and collection records following closure of any billing period, or until completion of any audit process, whichever is longer.
 - Minimum retention times
 - Archive procedures
 - Proper disposal methods
- Procedures for responding to requests for information from the public, from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.
- Procedures for providing the Hazardous Material Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities in accordance with HSC, Section 25504(c).
- Procedures outlining the CUPA Consolidated Permit Plan in accordance with CCR, Title 27, Section 15190.

CORRECTIVE ACTION:

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

By the 2nd Progress Report, if revisions to the developed Unified Program administrative procedures, are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised Unified Program administrative procedures. If no revisions are necessary, the CUPA will train CUPA personnel on the developed Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised Unified Program administrative procedures.

By the 3rd Progress Report, if amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended Unified Program administrative procedures.

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8. DEFICIENCY:

The CUPA is not annually completing a Self-Audit Report.

The CUPA did not complete an annual Self-Audit Report for FYs 2019/2020, 2020/2021, 2021/2022, or 2022/2023

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, or September 30, 2024, (whichever occurs first), and with each subsequent year, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30th.

9. DEFICIENCY: CORRECTED DURING EVALUATION

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

Review of HMBPs submitted to CERS between August 7, 2022, and September 7, 2023, by APSA tank facilities in lieu of tank facility statements finds:

- 9 of 39 (23%) APSA tank facilities have not submitted a chemical inventory and site map, including two APSA tank facilities that do not have a submittal in CERS.
- 9 of 39 (23%) APSA tank facilities have not submitted emergency response and employee training plans, including two APSA tank facilities that do not have a submittal in CERS.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, a sufficient number of APSA tank facilities that had not annually submitted a chemical inventory and site map or emergency response and employee training plans, submitted an HMBP to CERS, in lieu of a tank facility statement.

Review of HMBPs submitted to CERS between November 27, 2022, and December 27, 2023, by APSA tank facilities, in lieu of tank facility statements, finds:

- 5 of 39 (13%) APSA tank facilities have not submitted a chemical inventory and site map, including one APSA tank facility that does not have a submittal in CERS.
- 5 of 39 (13%) APSA tank facilities have not submitted emergency response and employee training plans, including one APSA tank facility that does not have a submittal in CERS.

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This Deficiency is considered corrected.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

An incidental finding is considered a minor deviation in implementation of the Unified Program from the expected standards set forth in statute or regulation. Commonly identified as a minor issue that may be problematic in implementation of one or more program elements, an incidental finding is not likely to have an impact on the safety and protection of human health and the environment.

1. INCIDENTAL FINDING:

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

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

- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.
 - In regards to Class I violations, the I&E Plan states, "Samples will be gathered and taken for laboratory analysis," however there is no discussion of sampling capabilities, procedures, or specific use of a state certified lab.
- Page 21– The Hazardous Waste Penalty Matrix
 - The Hazardous Waste Initial Penalty Matrix must also be included or referenced. Refer to the most current version of CCR, Title 22, Section 66272.62 for the penalty matrix.

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

- Identification of all available enforcement options.
 - Note: Different enforcement options are discussed throughout the I&E Plan; however, there is no comprehensive list outlining and describing all available enforcement options.

Note: This Incidental Finding was identified during the 2019 CUPA Performance Evaluation regarding:

- Page 17 - The Hazardous Waste Penalty information is outdated.
 - HSC, Chapter 6.5, Section 25188 changed as of January 1, 2018, to state, "A person subject to an order issued pursuant to Section 25187 who does not comply with that order shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for each day of noncompliance."
 - HSC, Chapter 6.5, Section 25189 changed as of January 1, 2018, and has updated penalty amounts of up to \$70,000 for each violation or for continuing violations (a through e). The I&E Plan reflects the outdated \$25,000 penalty amount.

The Incidental Finding was not resolved during the Evaluation Progress Report process, however, in conducting the assessment for the 2023 CUPA Performance Evaluation, review of the I&E Plan finds the Hazardous Waste Penalty amounts have been updated, as addressed on Page 21.

CITATION:

HSC, Chapter 6.5, Sections 25188 and 25189
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC]

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RESOLUTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to adequately incorporate and correctly address all required components, including the date of revision. 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 or DTSC, 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. Once training is complete, the CUPA will implement the revised I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted.

By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted.

2. INCIDENTAL FINDING:

The CUPA is not inspecting each APSA tank facility that stores less than 10,000 gallons of petroleum at least once every three years, per the inspection frequency established in the I&E Plan.

Review of CERS CME information between April 29, 2021, and April 29, 2024, and information provided by the CUPA finds:

- 21 of 36 (58%) APSA tank facilities that store less than 10,000 gallons of petroleum have not been inspected within the last three years, including 7 tank facilities that have never been inspected.

Note: The CUPA meets the mandated triennial inspection frequency for each tank facility storing 10,000 gallons or more of petroleum for compliance with the SPCC Plan requirements of APSA.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility that stores less than 10,000 gallons of petroleum is inspected at least once every three years, per the inspection frequency established in the I&E Plan. The action plan will include at minimum:

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- A sortable spreadsheet exported from the local data management system or CERS, identifying each APSA tank facility that stores less than 10,000 gallons of petroleum that has not been inspected within the last three years. For each APSA tank facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities that store less than 10,000 gallons of petroleum, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities (i.e., large volumes of petroleum or proximity to navigable water).
- Future steps to ensure each APSA tank facility that stores less than 10,000 gallons of petroleum will be inspected at least once every three years and ensure CME information is reported to CERS.

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

By the 5th Progress Report, the CUPA will have inspected each APSA tank facility identified in the spreadsheet provided with the 1st Progress Report at least once every three years.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

The information below is a summary of the overall implementation of the HWG Program and the CUPA's hazardous waste related activities based upon review of policies and procedures, CERS CME information, Notices to Comply, inspection reports, facility file information, information provided by the CUPA and Self-Audit Reports between July 1, 2020, and June 30, 2023:

- Information provided by the CUPA reflects 253 regulated HWG facilities, including 7 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, one Household Hazardous Waste Collection Facility (HHWCF), and one Tiered Permitted (TP) facility within the jurisdiction of the CUPA.
- The CUPA and the Los Angeles County Fire Department PA inspected 252 of 253 (~99%) HWG facilities and conducted 307 HWG routine inspections. Conducting more HWG routine inspections than there are HWG facilities indicates the CUPA and/or the Los Angeles County Fire Department PA inspected some HWG facilities more often than once every three years.
 - 262 of 307 (85%) routine inspections had no violations cited.
 - 45 of 307 (15%) routine inspections had at least one violation cited.
 - In the 45 inspections conducted having at least one violation, 61 total violations were cited, consisting of:
 - 0 (0%) Class I violations
 - 42 (69%) Class II violations
 - 19 (31%) Minor violations
 - The CUPA and the Los Angeles County Fire Department PA have ensured RTC for 56 of 61 (92%) violations cited. Of the 7 violations without RTC, 3 had scheduled compliance dates for June 30, 2023 (the end of the evaluation period).
- CERS reflects no formal enforcement actions were completed for hazardous waste related violations and the CUPA has indicated no formal enforcement actions were taken within the last three years.
- Inspection reports document consent to inspect was requested prior to beginning the inspection.
- Violation observations and comments are consistently being entered into CERS.

RECOMMENDATION:

Continue with the three-year HWG inspection frequency as identified in the I&E Plan. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply appropriate enforcement when facilities do not RTC, per the I&E Plan. Continue to ensure complete and thorough inspections are conducted to identify all violations at facilities.

Periodically check validity of external web links on the CUPA website.

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When U.S. EPA Generator Improvement Rule requirements are adopted and incorporated into California regulations, reference and revise appropriate citation sections in available factsheets and other resources made publicly available.

2. OBSERVATION:

Between July 1, 2020, and June 30, 2023, the CUPA and the Los Angeles County Fire Department PA issued HWG Program violations, as a percentage of total inspections, with only 15% of inspections having at least one violation cited. In comparison with other Unified Program Agencies (UPAs) the CUPA and Los Angeles County Fire Department PA are issuing violations at one of the lowest rates statewide. Of the 61 violations cited, DTSC would like to highlight a few types of violations:

- In 307 inspections, only 32 of 61 (52%) violations cited were specifically relative to hazardous waste statutes or regulations.
- 29 of 61 (48%) violations were cited using a General Unified Program Violation Library Violation Type Number
 - These violations are not HWG Program specific violations (i.e. they do not cite HWG specific statutes or regulations).
 - Failure to report, and report accurately, program data (such as hazardous waste generation activities) electronically; HSC, Chapter 6.11, section 25404(e)(4) and/or CCR, Title 27, section 15188(b) & 15188(c);
- 4 of 61 (7%) violations were cited relative to Hazardous Waste Labeling Standards; CCR, Title 22, Section 66262.34(f).
 - Violations for Hazardous Waste Labeling Standards are one of the most common types of violations cited throughout the state, yet there were only 4 instances of this violation cited by the CUPA or the Los Angeles County Fire Department PA.
- 0 of 61 (0%) violations were cited relative to Accumulation Time Limit; CCR, Title 22, Section 66262.34(b) or (d).
 - Violations for exceeding 90-day or 180-day accumulation time limits are one of the most common types of violations cited throughout the state, yet zero violations were cited by the CUPA or the Los Angeles County Fire Department PA.
 - Review of inspection reports (ex: CERS ID 10212598) finds inspector notes appear to support citing a violation for exceedance of accumulation time limit, however, CERS reflects no violations of this type were ultimately cited.

RECOMMENDATION:

The CUPA and the Los Angeles County Fire Department PA are encouraged to review the violation statistics and identify potential causes as to why violations are being cited at such a significantly lower rate in comparison to other UPAs. Citing fewer violations at a rate significantly below the statewide average could be because facilities are in compliance and is not necessarily an indication of an issue with Unified Program implementation. However, with regards to accumulation time limit violations, the CUPA and the Los Angeles County Fire Department PA are strongly encouraged to cite these violations when they are observed during any HWG inspection. In addition, this violation also typically carries an economic benefit for non-compliance that gives violators an unfair business advantage and is not considered a minor violation.

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3. OBSERVATION:

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

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template to use the current 2023 version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available in CERS (<https://calepa.ca.gov/wp-content/uploads/sites/6/2022/03/Emergency-Response-Plan-corrected-6-27-22.pdf>), on the CERS Central – Business webpage at <https://cers.calepa.ca.gov/businesses/>, and the CalEPA Unified Program Publications and Guidance webpage at <https://calepa.ca.gov/cupa/publications/>.

4. OBSERVATION:

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

- Page 3: The ‘Aboveground Petroleum Storage Act (APSA) Requirements for Spill Prevention, Control, and Countermeasure (SPCC) Plan Program’ should be ‘Aboveground Petroleum Storage Act (APSA) Program.’ Reference to HSC, Section 25270.5 is incorrect and should be replaced with HSC, Chapter 6.67 (commencing with Section 25270). The discussion on APSA regulated tank facilities should include tank facilities subject to the Federal SPCC rule.
- Page 4: The first paragraph states there are “18 businesses” in the APSA Program. However, CERS and the table displaying the number of businesses for each program states there are 39 APSA tank facilities. The statement that the CUPA performs APSA routine inspections ‘tri-annually’ (three times each year) should be updated to ‘triennially’ (once every three years) for consistency with the inspection frequency identified on page 7.
- Page 7: Add the reference HSC, Section 25270.5(b) to cover the CUPA’s authority to inspect tank facilities storing less than 10,000 gallons of petroleum.
- Page 9, item 6: ‘APSA/SPCC Facilities’ should be ‘APSA Tank Facilities’ or ‘APSA Facilities.’ At the end of Item b (“Verify SPCC Plan prepared and available onsite”), add “if applicable.” Not all APSA tank facilities are required to prepare an SPCC Plan, and SPCC Plans are not required to be onsite if the facility is not normally attended at least four hours per day.
- Page 15: The definition of a minor violation should reflect the definition of minor violation found in HSC, Section 25404(a)(3).
- Pages 19-20: ‘APSA/SPCC Facilities’ should be ‘APSA Tank Facilities’ or ‘APSA Facilities.’ Reference to HSC, Section 25270.4 should include Section 25270.2(c) since it also provides authority for Unified Program Agencies to implement and enforce APSA. The paragraph under HSC, Section 25270.5 only applies to the last sentence, while the other statements are requirements described in HSC, Section 25270.4.5.
- Page 27: ‘APSA/SPCC’ should be APSA.

RECOMMENDATION:

Update the I&E Plan as indicated above.

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5. OBSERVATION:

The area plan contains the following information that may benefit from improvement:

- Page 3, Section 1.4, A and C: The Unified Program elements list is missing the fire code Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) requirements, which is consolidated with the HMBP requirements to streamline the regulatory requirements for regulated facilities. Change 'Aboveground Storage Tank Spill Prevention Control and Countermeasures Plan' to 'Aboveground Petroleum Storage Act.'
- Pages 16, 20, and 146: The outdated Uniform Fire Code is referenced and should be replaced with the California Fire Code.
- Page 20, Item 4: Remove the '40 CFR Part 112' reference. The statements regarding the Federal SPCC regulations/requirements are incorrect and should be replaced with applicable APSA requirements since Unified Program Agencies implement and enforce the APSA Program. The following statement is incorrect, "The role of the Santa Monica Fire Department, as the Participating Agency, is to ensure that businesses complete a SPCC and have it available on-site if they exceed the above quantities." An improved statement could be as follows, "The role of the Santa Monica Fire Department CUPA is to ensure APSA tank facilities prepare and implement an SPCC Plan, if applicable, and have the plan available onsite if the facility is normally attended at least four hours per day, or at the nearest field office if the facility is not so attended." Reference to 'businesses' under APSA should be changed to tank facilities for consistency with the statute.
- Page 108, Release Reporting Summary table: HSC, Section 25270.7 no longer exists. The appropriate citation for release reporting under APSA is HSC, Section 25270.8.

RECOMMENDATION:

With the next revision, update the area plan as indicated above.

6. OBSERVATION:

SPCC Plans were submitted by CERS ID 10748233 as part of the APSA CERS submittals.

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

RECOMMENDATION:

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

7. OBSERVATION:

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

Review of UST facility submittals in CERS finds the CUPA is accepting inaccurate or incomplete information.

Review of the UST Facility/Tank Data Download report obtained from CERS on November 13, 2023, finds:

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- 6 of 55 (11%) UST systems with double-wall pressurized pipe are identified without either mechanical line-leak detector or electronic line-leak detector.
 - CERS ID 10122328-002
 - CERS ID 10124281-001
 - CERS ID 10134292-003
 - CERS ID 10174387-002
 - CERS ID 10175569-003
 - CERS ID 10207993-001

RECOMMENDATION:

Continue to conduct detailed review of CERS submittals to ensure construction information is accurate and complete.

8. OBSERVATION:

On December 13, 2023, six HMBP oversight inspections were conducted. For each inspection, the inspector was well prepared and reviewed relevant information prior to arriving at the facility. The inspector established rapport with facility operators, toured each entire site, verified inventory, and emergency response plan information, and training at each site, and effectively communicated technical information to facility operators. The inspector identified and disclosed all violations during each inspection. In conducting the inspections at CERS ID 10122361 and CERS ID 10122658, the inspector extended assistance in navigating CERS to facility operators. In conducting the inspections at CERS ID 10167041, CERS ID 10722652, CERS ID 10722952, and CERS ID 10770334, the inspector verified the site map at each site and provided education and guidance to facility operators regarding business plan requirements and assisted facility operators with navigating CERS.

RECOMMENDATION:

Continue to conduct thorough HMBP inspections.

9. OBSERVATION:

On January 24, 2024, a UST oversight inspection was conducted during the annual monitoring system certification (AMC), and the spill containment testing at CERS ID 10173143, a fueling facility with a regular and a premium tank in a compartmented unit. A service technician and the facility owner were also on site.

The inspector was organized and thorough, reviewed site documents, service technician International Code Counsel (ICC) California UST Inspector and manufacturer certification status; confirmed auto/visual alarms and the corresponding Veeder Root print out for all applicable sensor alarms; visually inspected sumps, spill containers, under dispenser containments (UDC) and measurements taken by the technician; and observed the line leak detector testing. Spill containment failure and UDC secondary containment jumper cable installation violations were properly cited on the inspection report and reported to CERS.

Review of the testing documents provided to the State Water Board by the CUPA after the inspection finds:

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- Spill Containment Testing Report form states that spill buckets were repaired/installed on January 24, 2024, and that both the 87 and 91 spill containment pass, however the spill containment was observed failing and was noted by the CUPA on-site, in the inspection report, and CERS. The repair to the spill bucket happened the following day per the inspection report, January 25, 2024. The CUPA is aware of this error on the spill containment testing report form and is seeking to have the technician revise the documents.

RECOMMENDATION:

Continue to conduct detailed UST inspections. For any facility that utilizes jumper cables, confirm at the next AMC that the jumper cables are disconnected, and that leak detection equipment is capable of detecting a leak at the earliest opportunity.
