



RALPH M. TERRAZAS
FIRE CHIEF

November 2, 2020

BOARD OF FIRE COMMISSIONERS
FILE NO. 20-020

TO: Board of Fire Commissioners

FROM: *RMT* Ralph M. Terrazas, Fire Chief

SUBJECT: FPB CUPA PROGRAM UPDATE – 2019/2020 FISCAL YEAR AND
RESULTS OF THE 2019 CUPA EVALUATION BY THE CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY

FOR FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

Los Angeles Fire Department's Certified Unified Program Agency (LAFD CUPA) Section is overseen by a Program Manager and is responsible for the administration, permit, inspection and enforcement activities of the following environmental and emergency management programs with the exception of the hazardous waste program which is implemented by Los Angeles County Fire (LACoFD) under a Participating Agency (PA) agreement with the Los Angeles Fire Department (LAFD):

- Aboveground Petroleum Storage Act (APSA) Program
- California Accidental Release Prevention (CalARP) Program
- Hazardous Materials Inventory and Business Emergency Plan (HMBP) Program
- Hazardous Waste Generator Program
- Underground Storage Tank (UST) Program

The following data was collected from Envision Connect and the California Environmental Reporting System and reflects the status of the State mandated inspections. The LAFD CUPA operates on a fiscal year to complete inspections. This report contains inspection data for 2019/2020 fiscal year.

RECOMMENDATION

That the Board:
Receive and File.

DISCUSSION

Overall the LAFD CUPA Program continues to go from strength to strength in key performance criteria. The Unit Commanders, Captain Dragotto and Captain Leach together with the sworn and civilian inspectors, Data Management Unit and the support from Chief Crowley, Chief Saunders, Chief Mathis and Chief Terrazas have clearly made the difference in the success of the program.

Over the past six months the LAFD CUPA has engaged themselves in the following projects or initiatives that have had an impact locally or on statewide direction of the Certified Unified Program (CUPA) Program:

1. Evaluation and redesign of the California Environmental Reporting System – Statewide Project
2. Participated on the CUPA Forum Board in the following capacities:
 - a. Executive Board Member
 - b. Statewide Legislative Issue Coordinator
 - c. Statewide Data Steering Coordinator
 - d. Regional Underground Storage Tank Issue Coordinator
 - e. Participation on the CUPA Conference Planning Committee
 - f. Regional CUPA Forum Coordinator
3. Fire Inspector I and II and civilian inspector participation on the following statewide committees
 - a. Underground Storage Tank – Technical Advisory Group
 - b. Hazmat Technical Advisory Group
 - c. APSA Technical Advisory Group
 - d. Hazardous Waste Technical Advisory Group
 - e. Enforcement Technical Advisory Group
4. Participation in LAFD's Unmanned Aerial System (UAS) project providing key assets and drone pilots to support the mission of the program.
5. Continued development of the CUPA Internship Program
6. Completion of the triennial CUPA evaluation by California Environmental Protection Industry (CalEPA).
7. Rollout of PEAC hazmat inventory and modeling software to the Joint Hazard Assessment Team and Hazmat Squads.

State CUPA Evaluation Results - California Environmental Protection Agency

The LAFD CUPA recently finalized a rigorous evaluation of the CUPA Program performed by CalEPA, the Department of Toxic Substances Control (DTSC), State Water Resources Control Board, Office of Emergency Services and the State Fire

Marshal's Office. The evaluation reviewed the complete implementation of the program which includes administration, inspection and enforcement activity and implementation performance by our Participating Agency (PA) the Los Angeles County Fire Department's Health Hazardous Materials Division for the Hazardous Waste Program (LACoFD HHMD).

To summarize, the State was extremely impressed with the LAFD CUPA Program performance including our statewide engagement efforts and the initiatives we have taken upon ourselves to continually improve our operations and the services we provide to the business community and to the LAFD. The sentiment is reflected in the results of the State evaluation report which shows **no deficiencies** for the programs directly implemented by the LAFD CUPA. It is a rare event for any CUPA to compete a full State evaluation by 5 separate state agencies and not receive any program deficiencies. This is an extraordinary result for a program of our size being one of the largest in the State. Also, considering the recovery journey the program has taken over the last five years, it is a testament to the devotion by the members of the LAFD CUPA Section and also the unwavering support provided by the command staff of the LAFD.

Our evaluation also takes into account the performance by our PA, the LACoFD HHMD, who are responsible for inspecting businesses within the City that handle hazardous waste. Our PA's performance was noted as having serious concerns by DTSC during the evaluation since many businesses across the City have gone unregulated and unpermitted by the PA for many years. The DTSC issued 3 deficiencies during the evaluation to address the failure of the PA to adequately implement the program.

It should be noted that the LAFD CUPA also evaluates the PA every year. In 2017, the LAFD CUPA cited the PA for failure to permit and inspect over 1,500 businesses that generate and handle hazardous waste. The PA's response to the corrective action issued by the LAFD CUPA was underwhelming and subsequently the PA was placed on a Program Improvement Agreement (PIA) by the LAFD CUPA. The current evaluation findings by DTSC are consistent with the findings by the LAFD CUPA.

Participating Agency Evaluation

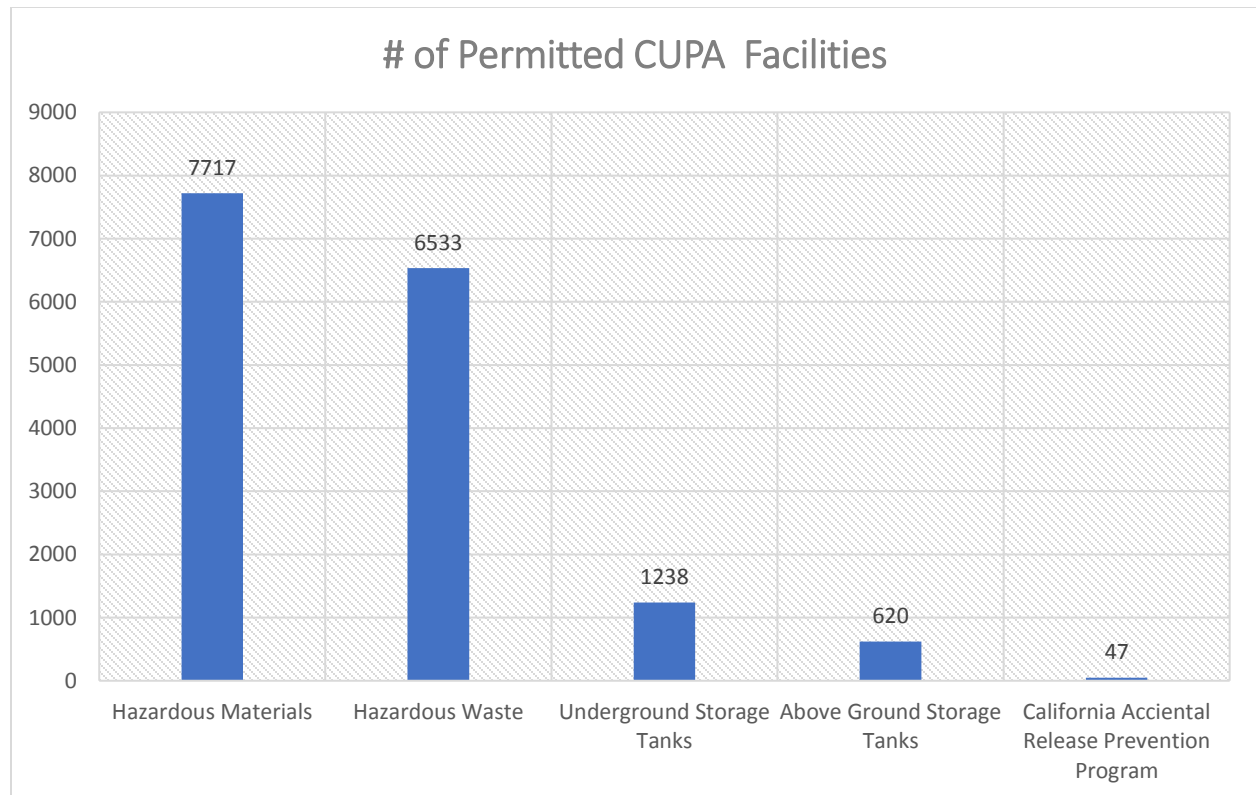
The LACoFD HHMD has a PA Agreement with LAFD to undertake the inspection and enforcement of businesses that generate hazardous waste within City. Under the agreement and also according to the Health and Safety Code, the LAFD CUPA is responsible for overseeing and evaluating the PA program performance. During the 2016/17 performance evaluation the LAFD CUPA determined the PA was under performing in key critical areas that included falling behind on compliance inspections, poor follow up on outstanding violations, not identifying and issuing permits to businesses that generate hazardous waste in the City, penalizing City businesses without authority and incorrectly classifying violations.

The LAFD CUPA has placed a considerable amount of effort and resources to bring the PA's program into compliance, and to date the response from the PA continues to be unsatisfactory. In June 2019, the LAFD CUPA, in consultation with the California

Environmental Protection Agency, placed the PA on a Program Improvement Agreement (PIA) which establishes clear expectations and deadlines for the PA to come into compliance with the deficiencies that were identified during the evaluation. The PA continues to be out of compliance with the PIA. The LAFD CUPA will continue to work with the PA to resolve their performance issues.

LAFD CUPA Permitted Facility Inventory

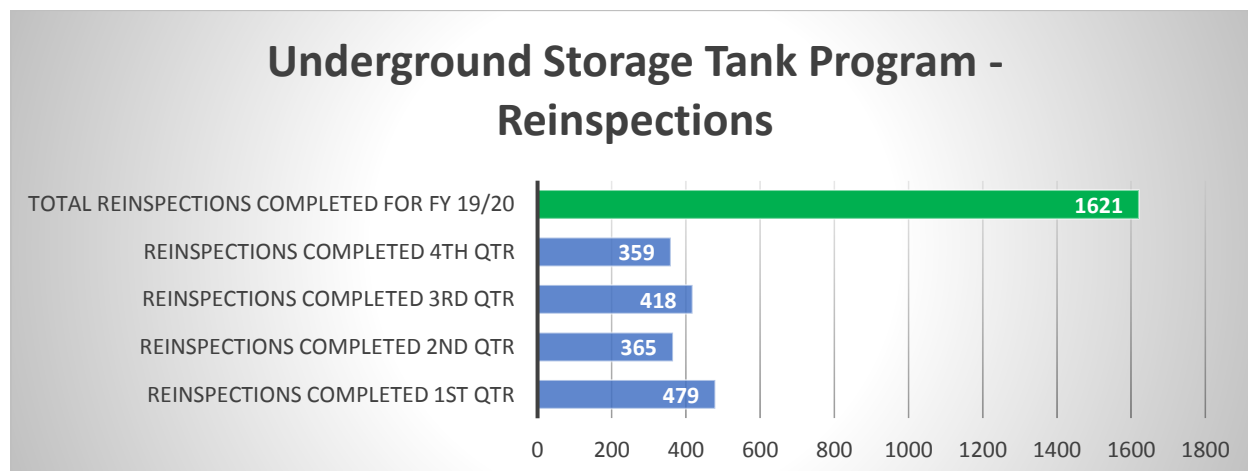
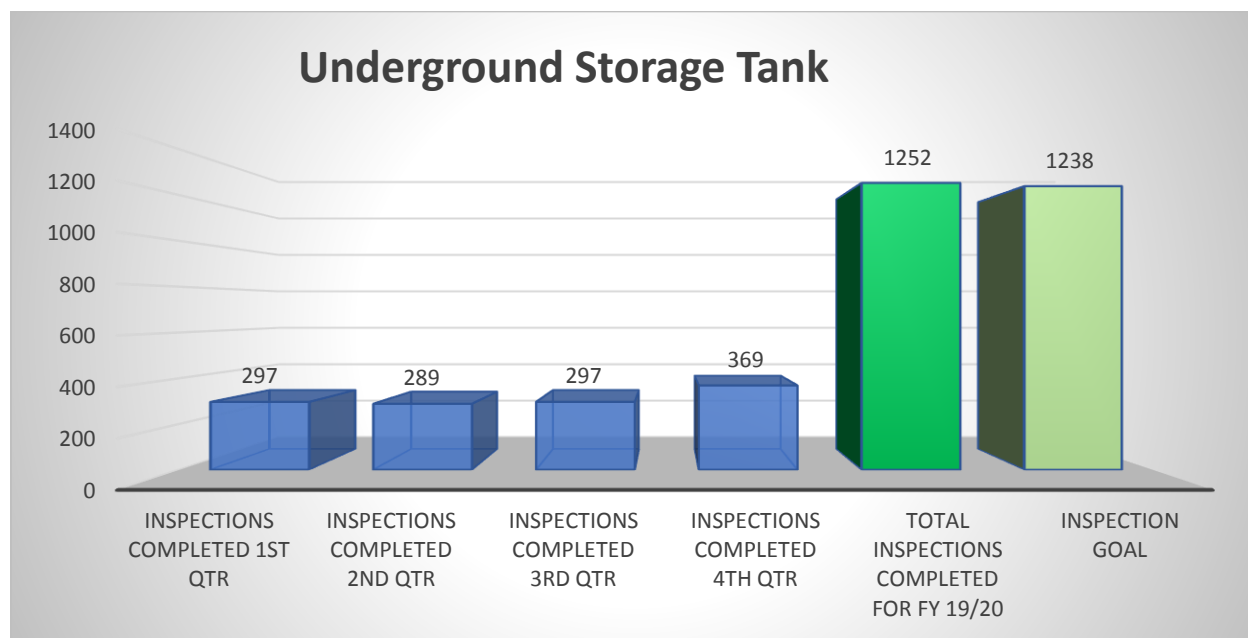
The following is a summary of the core activities of the LAFD CUPA Program which are inspection and enforcement. The LAFD CUPA permits approximately 8,600 businesses across the City which generates approximately \$8M in revenue and additional revenue from enforcement penalties. The LAFD CUPA also permits 6,533 hazardous waste facilities across the City which also generates an additional \$7M in permit revenue which the LAFD CUPA collects and passes onto the PA. The PA also enforces on businesses within the City and generates enforcement revenue from administrative hearings, district attorney cases and statewide cases which are almost always based on hazardous waste violations compared to the rest of the LAFD CUPA programs.



Underground Storage Tank Program (UST)

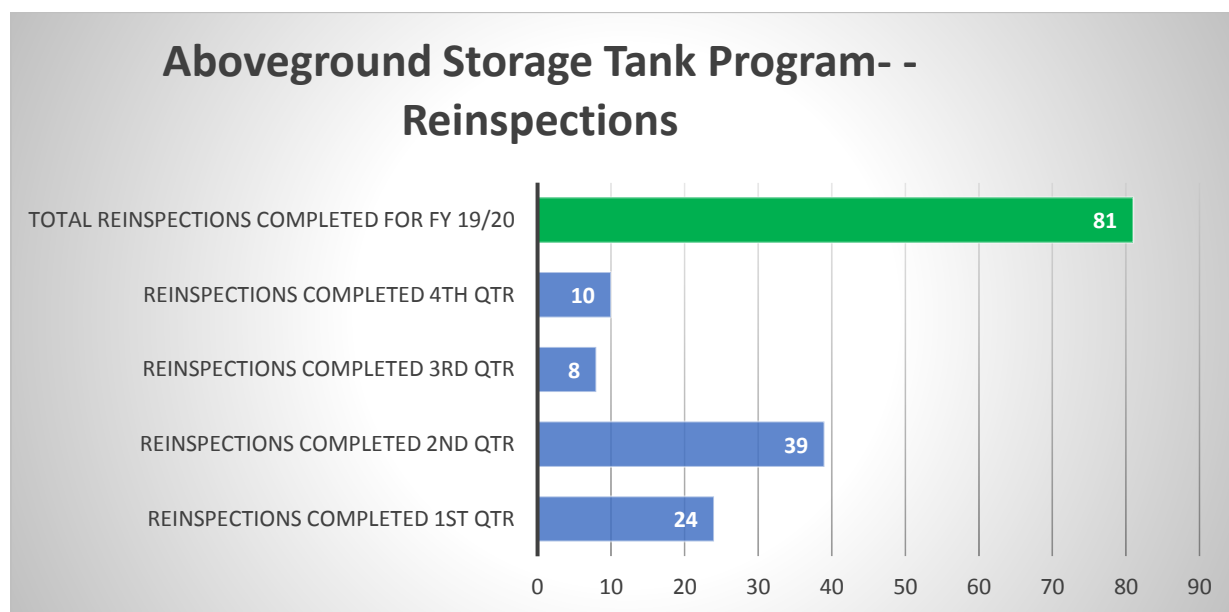
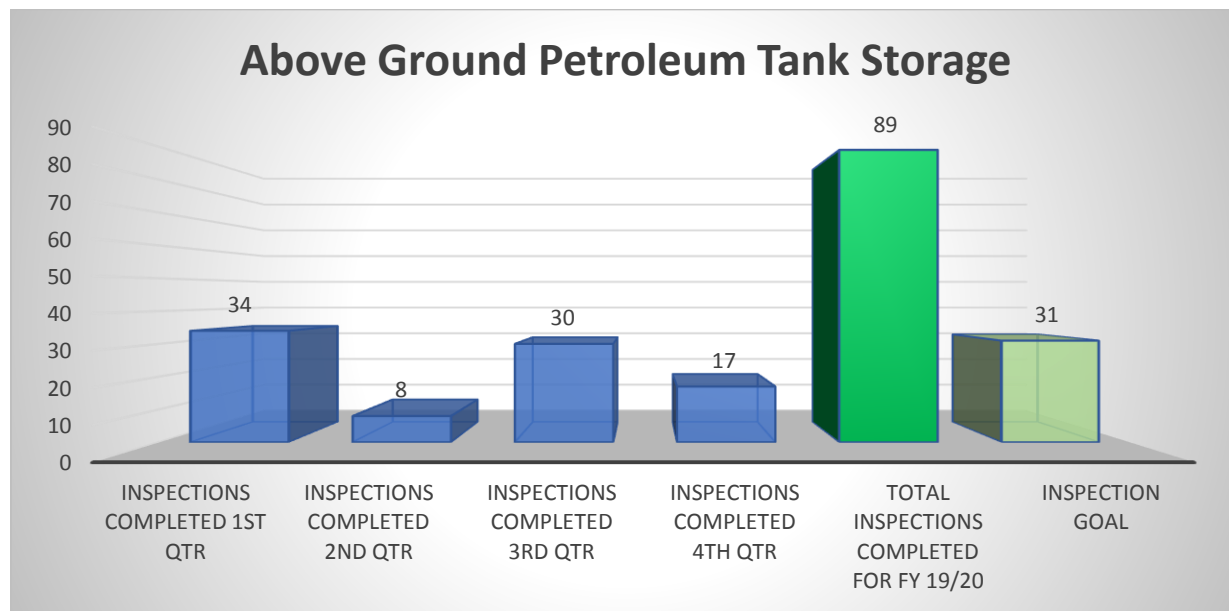
The inspection activity in the UST Program has continued with the normal momentum that the program consistently delivers. Inspections are scheduled in accordance with tank integrity testing and therefore the schedule is rigid and assists with meeting inspection mandates. The program is also mandated by the State to perform annual compliance inspections which keeps our inspection activity very consistent and predictable.

The State Water Resources Control Board is our oversight agency and is very vigilant and maintains a high level of scrutiny over the UST program statewide. Fortunately, LAFD CUPA Inspectors also share the same pride in what we do and maintain a high level of scrutiny over our UST operators. Over this past reporting period the LAFD CUPA Inspectors performed 1252 routine compliance inspections and 1622 reinspections. These numbers are very impressive for any CUPA.



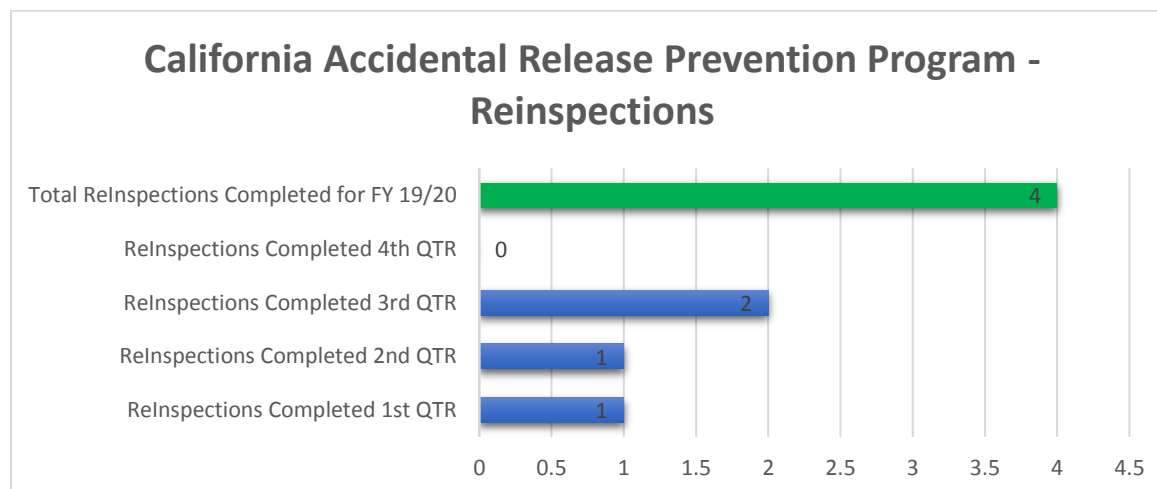
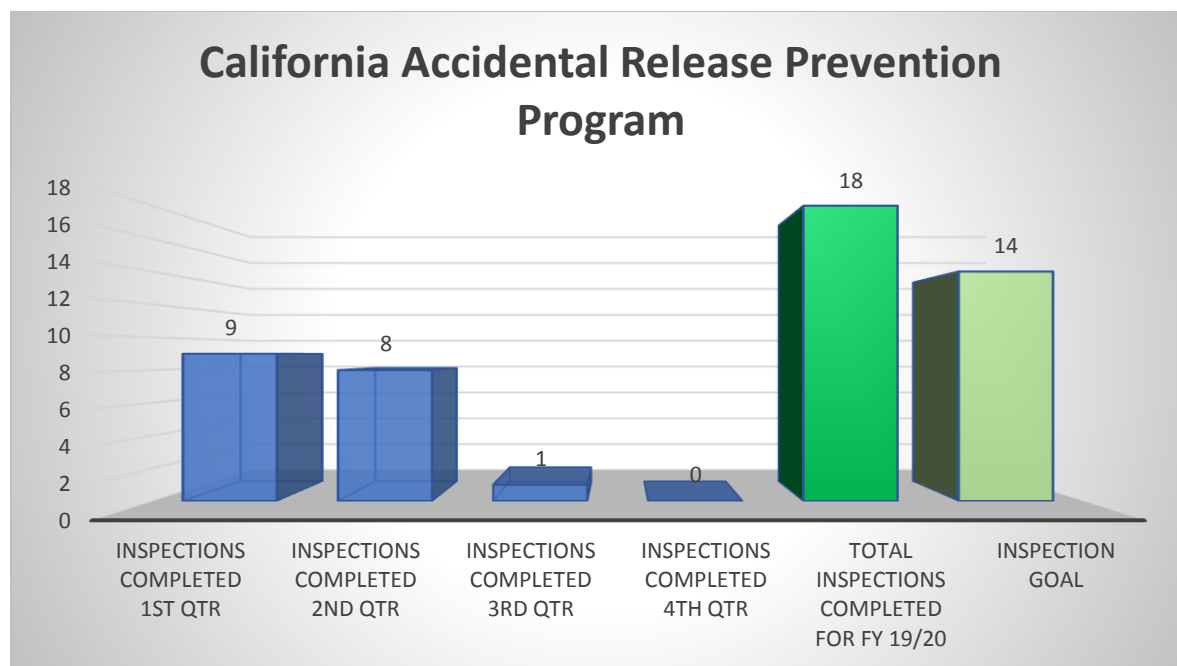
Aboveground Petroleum Storage Tank Program (APSA)

The inspection activity in the APSA Program exceeded their inspection goals. The facilities in this program have a three-year inspection mandate. The State recently introduced an amendment which will now require certain below grade petroleum storage tanks, such as basement tanks at a Jiffy Lube, to be regulated under this program. This will generate additional revenue and workload which can be absorbed within the program. Program staff have recently developed videos to assist businesses impacted by the change in completing a Spill Prevention, Control and Counter Measure Plan (SPCC). The videos have been posted online within LAFD's Youtube Channel.



California Accidental Release Prevention Program (CalARP)

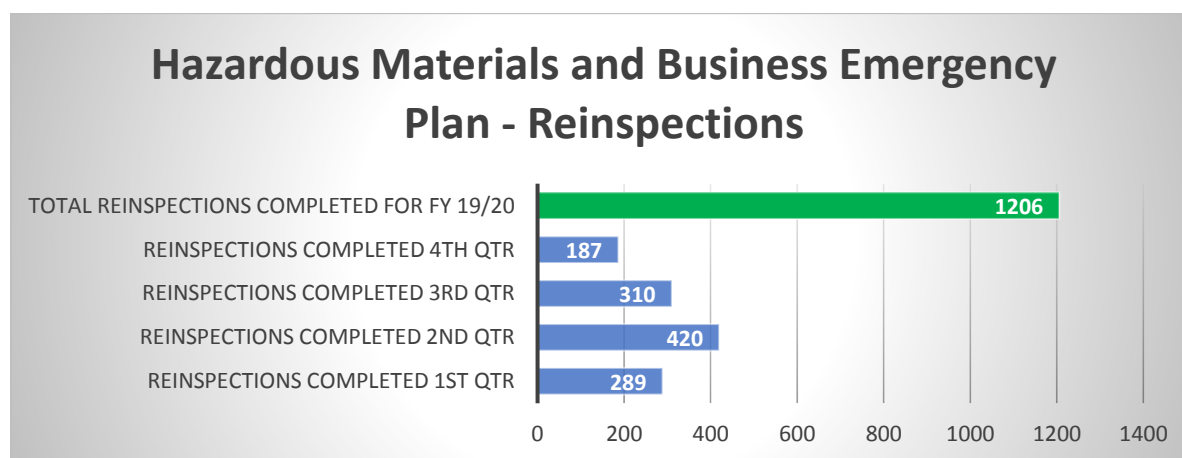
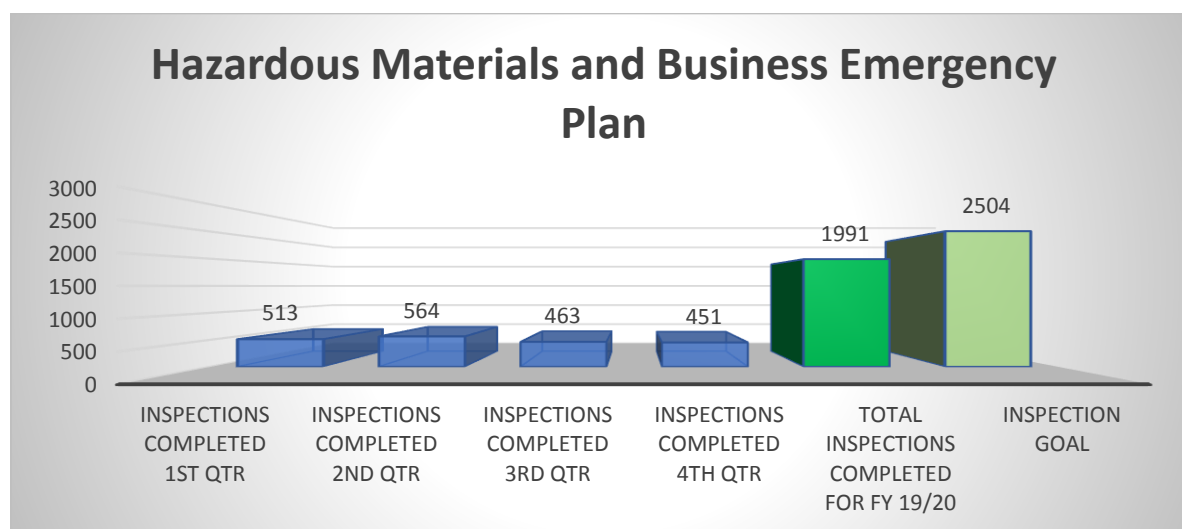
The CalARP program also met their three-year inspection mandate. In 2017, the program introduced a new level of risk management called Program Level 4 to address the public safety risks associated with petroleum refineries and related explosions and hazardous materials releases that have occurred across the state. New staffing resources (Risk Management Engineer x2) had been requested and approved through a previous budget process to address the additional workload however due to the extended time it takes to approve new classifications through the civil service process the positions were recently eliminated from the Department budget by the CAO. The CUPA will continue to request these positions be reestablished in future budget requests.



Hazardous Materials and Business Emergency Plan (HMBP) Program

The HMBP program is mandated with a three-year inspection which requires at least 2504 facility inspections each year. Currently, this isn't the case as the CUPA Section fell short of their mandate by 513 inspections. The reason behind the shortfall is related to a reduction of staffing in the HMBP inspection program and also the impact of COVID – 19 on inspection activity and business closures. With regard to the staffing reduction, the enforcement workload has spiked over the past year and we made the decision to transfer one inspector out of the field and into the Enforcement Unit to assist with the current case backlog. The decision to make this change was based on risk and priority with enforcement being a State priority under the current Secretary and the public safety risk associated with noncompliant sites.

The inspection activity in the (HMBP) Program for the fiscal year totaled 1,991 routine inspections and 1206 re-inspections.



The HMBP Program across the State struggles with ensuring businesses submit their hazardous materials inventory in the California Environmental Reporting Systems (CERS) in a timely manner. The LAFD CUPA responded to the challenge by initiating

an ordinance change to establish a penalty for businesses who fail to submit their inventory. However, due to a vacancy and a lack of required resources in the Enforcement Unit the LAFD CUPA is yet to initiate the penalty process.

Enforcement

The following data was extracted from the CERS. During the fiscal year inspection staff conducted re-inspections and utilized other progressive enforcement options as follows:

<u>Program</u>	<u>Violations Issued</u>
Hazardous Materials	818
Underground Storage Tanks	1658
Aboveground Petroleum Storage Tanks	14
California Accidental Release Prevention Program	12

- 6 cases were processed through the administrative enforcement order process and \$88,074 in penalties were collected
- 17 cases were referred to the City Attorney's office and \$163,533 in penalties were collected.
- 0 cases were referred to the State Water Resources Control Board.
- More emphasis was placed on city attorney case referrals for the 19/20 fiscal year. These referrals were pending for a while and we'll see the final judgements in 2021 and 2022

Staffing Levels

The LAFD CUPA staffing levels at the time of writing this report is as follows:

Classification	Assigned Staffing	Actual Staffing	Reason
CUPA Program Manager	1	1	Fully staffed
Fire Captain II	1	1	Fully staffed
Fire Captain I	0	1	Detail
Principal Admin Clerk	1	0	Fully staffed
Fire Inspector I	15	15	Fully staffed
Fire Inspector II	3	4	Fully staffed + 1 detail
RMPP Specialist	2	2	Fully staffed
Geologist	1	1	Fully staffed
Industrial Hygienist	1	1	Fully staffed
Accounting Clerk	2	2	Fully staffed
Administrative Clerk	7	6	1 Vacancy
Supervising Hazardous Materials Specialist	0	0	Eliminated from budget, requesting to be added back this coming fiscal year
Hazardous Materials Specialist	1	0	New position approved by Civil Service Commission, waiting on CAO to establish salary.
Risk Management Engineer	0	0	Both positions were eliminated from the budget. CUPA will request to reestablish the positions in a future budget request.
Environmental Technician	1	0	New position approved by Civil Service Commission, waiting on CAO to establish salary.
Totals	36	34	

CONCLUSION

Overall the LAFD CUPA Section is performing above or beyond for the majority of the inspection goals set for the program and is well on track to meet program expectations for the next reporting period. The results of the LAFD CUPA evaluation were very positive despite the challenges with PA's implementation of the Hazardous Waste Program.

Board Report prepared by Royce Long, CUPA Manager, CUPA Section, Fire Prevention and Public Safety Bureau.