

September 15, 2023

Ms. Lindsey Young
Fire Marshal
City of Anaheim Fire Department
Anaheim West Tower
201 South Anaheim Boulevard, Suite 300
Anaheim, California 92805-3821

Dear Ms. Young:

During June 2022, through April 2023, CalEPA and the Unified Program state agencies conducted a performance evaluation of the City of Anaheim 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, and every 90 days thereafter, 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

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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,



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

Enclosure

cc sent via email:

Mr. Russ Siems
CUPA Manager/Assistant Fire Marshal
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Anaheim West Tower
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Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board
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Sacramento, California 95812-2231

Mr. Tom Henderson
Engineering Geologist, UST Unit Coordinator
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Ms. Julie Pettijohn
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CUPA Enforcement Branch
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cc sent via email:

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Ms. Jenna Hartman, REHS
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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

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cc sent via email:

Ms. Esme Hassell-Thean
Environmental Scientist
California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: City of Anaheim Fire Department

Evaluation Period: June 2022 through April 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron
- **CalEPA:** Esmé Hassell-Thean
- **State Water Board:** Kaitlin Cottrell, Jason Carter, Jenna Hartman
- **CAL FIRE-OSFM:** Mary Wren-Wilson

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered: **Satisfactory with 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 an Evaluation Progress Report 60 days from the receipt of the Final Summary of Findings Report, and every 90 days thereafter, until all deficiencies and incidental findings have been acknowledged as corrected or resolved by each issuing 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 following the evaluation is **November 27, 2023**.

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

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

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

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

Since the 2019 CUPA Performance Evaluation, the CUPA has met the mandated triennial inspection frequency for APSA tank facilities storing 10,000 gallons or more of petroleum. The CUPA has also maintained triennial inspections on APSA tank facilities with less than 10,000 gallons of petroleum in accordance with the Inspection and Enforcement (I&E) Plan.

The CUPA successfully enforced the requirements of the APSA Program and has achieved a high rate of return to compliance by tank facilities that were cited for violations since the 2019 CUPA Performance Evaluation.

Additionally, the CUPA has ensured APSA tank facilities have annually submitted the tank facility statement or a Hazardous Materials Business Plan (HMBP) in lieu of a tank facility statement to the California Environmental Reporting System (CERS).

These efforts are above and beyond the standard expectations of the implementation of the APSA Program during the statewide restrictions resulting from the Coronavirus (COVID-19).

2. COVID-19 IMPACTS TO STAFFING AND PROGRAM IMPLEMENTATION:

On March 13, 2020, due to COVID-19, a national shutdown of non-essential businesses took place, resulting in a large number of Anaheim regulated facilities being ordered to cease operations. All hotels, restaurants, entertainment venues, including all facilities within the Disneyland Resort, shopping venues, support facilities, and many other non-essential businesses within the city of Anaheim closed. These closures continued through June of 2021, when the Disneyland and Disney California Adventure theme parks within the Disneyland Resort reopened.

In response to the shutdown of non-essential businesses effective March 2020, the City of Anaheim initially directed all non-emergency, non-COVID response activities to cease and further advised that City personnel were to take whatever measures necessary to protect the wellness of employees and their families. This included limiting contact with members of the public and barred the entering of unsecure locations, resulting in the temporary cessation of day-to-day CUPA activities, such as conducting compliance inspections. These decisions further led to discussions being held by the City Executive Staff to potentially decide to lay off all non-essential employees or those that were unable to complete day-to-day activities or other assigned roles. While this decision was thankfully not made, it did heavily impact employee morale.

During this time, the need to fill staffing vacancies became a top priority. Since Anaheim CUPA personnel are part of the City of Anaheim Fire Department, some CUPA personnel were reassigned to fulfill needed positions within the City of Anaheim's Emergency Operations Center (EOC) or were reassigned to assist with other needed tasks throughout the city in support of the

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response to the pandemic. CUPA personnel that were not reassigned, were directed to maintain to the best of their ability, the support role of advising Unified Program regulated businesses and responding to Hazmat emergencies and complaints as they occurred.

While CUPA personnel did return to primary assignments and inspection activities by late summer of 2020, the decision to conduct inspections was initially based on employee comfort level regarding exposure and being in public spaces. Inspection activities were further limited in capacity as many businesses were not yet authorized to reopen or did not want unnecessary contact from non-staff entering facilities, including members of the government. By late 2020, early 2021, most if not all CUPA personnel were back to fully conducting inspections at facilities that had reopened.

3. HWG FACILITY INSPECTIONS:

The CUPA was able to inspect 97% of Hazardous Waste Generator (HWG) facilities during the evaluation period of October 1, 2019, through September 30, 2022. This evaluation period includes the timeframe for which the CUPA was significantly impacted by the Covid pandemic as additional and alternative duties were required of CUPA personnel and many businesses were inaccessible for up to eight months. The CUPA was able to obtain return to compliance (RTC) for 93% of the violations cited during evaluation period.

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

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

The following administrative procedures are missing:

- Public participation
 - Ensuring receipt and consideration of comments from regulated businesses and the public
 - Coordinating, consolidate, and make consistent locally required public hearings related to any Unified Program element
 - Coordinating, consolidate, and make consistent locally required public notices for activities related to any Unified Program Element
- Records maintenance
 - Identification of the records maintained
 - Minimum retention times
 - Archive procedures
 - Proper disposal methods
- 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.
- Providing the Hazardous Material Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities in accordance with Health and Safety Code (HSC), Section 25504(c).
- Providing access to CME information in accordance with section 15100(b)(2)(B)(i)(c)
- Consolidated Permit Plan
- Data Management
 - Collection, retention and management of electronic data and documents in compliance with section 15185
 - Transfer and exchange of electronic data through an applicable local information management system or local reporting portal in compliance with 15187
 - Reporting of electronic data in compliance with section 15290
- Financial management
 - A single fee system in compliance with section 15210
 - Procedures governing the CUPA implementation of the Single Fee System
 - Example regulated facility billing statements were not provided.
 - Fee Dispute Resolution procedures that resolve fee disputes that arise between the CUPA and PAs, between a regulated business and either the PA or the CUPA, or between a regulated business and the state regarding the state surcharge.

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DEFICIENCIES REQUIRING CORRECTION

- A procedure that includes mechanisms for the billing, collection, and transmittal of the state surcharge.
 - The provided CUPA fee schedule does not include State Oversight surcharges.
- A fee accountability program in compliance with section 15220
 - Procedures governing the CUPA implementation of the Fee Accountability Program.
 - Note: Budget records indicate continued accounting based on the parameters required for a fee accountability program is in place. A procedural document needs to outline what is done.
- A surcharge collection and reimbursement program in compliance with section 15250

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation, thus this deficiency remains uncorrected.

CITATION:

California Code of Regulations (CCR), Title 27, Sections 15180(e), 15185, 15187, 15190, 15210 and 15220
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with the Unified Program administrative procedures identified above as not being established nor implemented, ensuring all required components are adequately incorporated and/or addressed.

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 developed Unified Program administrative procedures.

By the 3rd Progress Report, if revisions to the developed Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the revised 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.

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DEFICIENCIES REQUIRING CORRECTION

2. DEFICIENCY:

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

During the 45-day review process the CUPA must:

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

Review of CERS information finds 13 of 30 (43%) PBR Onsite Hazardous Waste Treatment Notifications submitted between October 1, 2019, and September 30, 2022, were not reviewed, processed, or authorized by the CUPA within 45 days of receipt. Examples include:

- CERS ID 10413619:
 - PBR notification submitted February 21, 2022, and authorized May 20, 2022
- CERS ID 10151679:
 - PBR notification submitted September 13, 2021, and authorized April 21, 2022
- CERS ID 10152429:
 - PBR notification submitted December 30, 2021, and authorized March 1, 2022
- CERS ID 10427359:
 - PBR notification submitted July 14, 2020, and authorized February 18, 2021

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

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation, thus this deficiency remains uncorrected.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will train personnel on the Tiered Permit (TP) component of the Hazardous Waste Generator (HWG) Program to accurately review, process and authorize Onsite Hazardous Waste Treatment Notifications within the 45-day review process by either:

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

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DEFICIENCIES REQUIRING CORRECTION

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

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an update to CalEPA on the status of the progress made toward accurately reviewing, processing, and authorizing each Onsite Hazardous Waste Treatment Notification to ensure annual notification submittals are accurate, correct and represent the actual waste treatment systems used at the notifying facility.

3. DEFICIENCY:

The CUPA is not consistently classifying HWG Program violations properly.

Review of facility files and inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from CERS between October 1, 2019, and September 30, 2022, finds Class I or Class II HWG Program violations were classified as minor violations in the following instances:

- Violation for failure to obtain and maintain a written tank assessment certified by a professional engineer [CCR, Title 22, Section 66265.192(h)] incorrectly cited as a minor violation. Failure to obtain a tank system certified by a professional engineer poses risks to human health and the environment in the event the tank system is not fit for use. There is an economic benefit to the facility by not hiring an independent professional engineer to assess the tank system. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - CERS ID 10428256: inspection dated October 27, 2021
- Violation for failure to prepare a written estimate of the cost of closing each treatment unit incorrectly cited as a minor violation. The written estimate of the cost of closing each treatment unit must include the cost that would be incurred using the owner/operator or generator's own staff and/or personal equipment, taking into account any salvage value that may be realized from the sale of wastes, facility structure or equipment, land or other facility assets. There may have been an economic benefit to the facility by not providing cost estimates for closure or the guarantee that appropriate funding will meet closure needs. This does not meet the definition of minor violation as defined in HSC, Section 25404 (a)(3).
 - CERS ID 10152411: inspection dated December 18, 2020
 - CERS ID 10153525: inspection dated November 4, 2020
 - CERS ID 10429756: inspection dated September 9, 2020
 - CERS ID 10586551: inspection dated September 22, 2022

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DEFICIENCIES REQUIRING CORRECTION

Note: During the 2019 CUPA Performance Evaluation, an incidental finding was identified regarding exceedance of authorized accumulation time, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation, thus the incidental finding was not resolved and is now considered a deficiency in combination with findings from the 2023 CUPA Performance Evaluation assessment.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

HSC, Chapter 6.11, Sections 25404(a)(3)

CCR, Title 22, Sections 66260.10, 66265.190, and 67450.13(a)(1), (a)(4) and (b)

[DTSC]

CORRECTIVE ACTION:

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

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

- Violation Classification Training Video 2014
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
 - Additional violation classification classes are available in the video library on the CalCUPA Forum Board YouTube website at:
<http://youtube.com/user/orangetreeweb/videos>
- 2020 Violation Classification Guidance for Unified Program Agencies
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf>

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 inspection staff in attendance.

By the 2nd Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with an inspection report citing at least one HWG Program violation, for three HWG Program facilities, as requested by DTSC, that have been inspected after training has been completed and within the last three months. Each inspection report will contain observations, factual basis, and corrective actions to correctly identify and classify each observed HWG Program violation.

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DEFICIENCIES REQUIRING CORRECTION

4. DEFICIENCY:

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

- FY 2019/2020
- FY 2020/2021
- FY 2021/2022

CITATION:

CCR, Title 19, Section 2780.5
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will conduct an annual audit of its activities to implement the CalARP Program and provide CalEPA with the annual CalARP performance audit report for the most recent FY.

5. DEFICIENCY:

The CUPA has not established CalARP Dispute Resolution Procedures.

CITATION:

CCR, Title 19, Section 2780.1
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with procedures to implement the CalARP Dispute Resolution Process with all required elements.

6. DEFICIENCY:

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

Review of CERS information finds:

- 8 of 10 (80%) stationary sources in the CalARP Program have not updated the RMP in the last five years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each stationary source in the CalARP Program has reviewed and updated

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the RMP every five years. The CUPA will provide CalEPA with a list that identifies, at minimum, each stationary source that has not updated the RMP in the last five years and the date of the last RMP review and update.

By the 2nd Progress Report, the CUPA will provide a statement to CalEPA confirming each stationary source has reviewed and updated the RMP in the last five years, or the CUPA will have applied enforcement.

7. DEFICIENCY:

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

As of January 19, 2023, review of CERS CME information between October 1, 2019, and September 30, 2022, finds:

- 285 of 1,402 (20%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

HSC, Chapter 6.95 Sections 25503(e) and 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:

- A schedule to inspect those facilities subject to HMBP requirements, prioritizing the most delinquent inspections to be completed prior to any other HMBP inspections based on risk; the schedule may be facility specific or a narrative description of the plan to ensure each facility subject to HMBP requirements is inspected at least once every three years.
- Future steps to ensure all facilities subject to HMBP requirements will be inspected at least once every three years.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each facility subject to HMBP requirements that has not been inspected within the last three years. For each facility subject to HMBP requirements listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID; and
 - Date of the last routine inspection.

Note: CalEPA can utilize CERS to evaluate progress on this deficiency in lieu of the sortable spreadsheet exported from the CUPA's data management system. If no spreadsheet is provided by the CUPA, CalEPA will utilize CERS to evaluate the progress made correcting this deficiency.

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

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

8. DEFICIENCY:

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

Review of HMBPs submitted to CERS between December 20, 2021, and January 19, 2023, by businesses subject to Business Plan reporting requirements finds:

- 498 of 1,402 (36%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 509 of 1,400 (36%) business plan facilities 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 made significant progress toward correcting this deficiency. Review of HMBPs submitted to CERS between June 17, 2022, and July 17, 2023, by businesses subject to Business Plan reporting requirements finds:

- 186 of 1,417 (15%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 197 of 1,414 (15%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

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.

By the 2nd 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

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DEFICIENCIES REQUIRING CORRECTION

business subject to business plan reporting requirements that has not submitted an HMBP or a no-change certification to CERS within the last 12 months:

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

Note: CalEPA can utilize CERS to evaluate progress on this deficiency in lieu of the sortable spreadsheet exported from the CUPA's data management system. If no spreadsheet is provided by the CUPA, CalEPA will utilize CERS to evaluate the progress made correcting this deficiency.

By the 4th Progress Report, the CUPA will follow up with each facility subject to business plan reporting requirements identified in the spreadsheet provided with the 2nd Progress Report, to ensure each business annually submits an HMBP or a no-change certification to CERS, or the CUPA will have applied enforcement.

9. DEFICIENCY:

The CUPA is not consistently ensuring HMBP submittals are thoroughly reviewed and contain all applicable required elements before being accepted in CERS.

Review of CERS indicates the following 15 of 20 (75%) regulated businesses subject to Business Plan reporting requirements submitted an HMBP that was accepted with missing or incomplete components:

- CERS ID 10033744
 - Inventory submitted on February 23, 2022, and accepted on April 28, 2022
 - Missing required site map elements such as emergency response equipment.
 - Plans submitted on February 23, 2022, and accepted on April 28, 2022
 - Missing required training plan elements such as provisions for training to be documented electronically or by hard copy and made available for a minimum of three years.
- CERS ID 10151679
 - Plans submitted on February 21, 2022, and accepted on April 21, 2022
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency, procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment, and evacuation plans and procedures, including immediate notice, for the business site.

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DEFICIENCIES REQUIRING CORRECTION

- Missing required training plan elements such as provisions for training for all new employees, annual training (including refresher courses) for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the emergency response plans and procedures, and provisions for training to be documented electronically or by hard copy and made available for a minimum of three years.
- CERS ID 10426765
 - Inventory submitted on May 24, 2022, and accepted on May 24, 2022
 - Missing required site map elements such as evacuation staging areas, and emergency response equipment.
- CERS ID 10427887
 - Inventory submitted on February 25, 2021, and accepted on March 9, 2021
 - Missing required site map elements such as evacuation staging areas.
 - Plans submitted on February 25, 2021, and accepted on March 9, 2021
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10428712
 - Inventory submitted on July 30, 2019, and accepted on July 30, 2019
 - Missing required site map elements such as hazardous material handling and storage areas, and emergency response equipment.
- CERS ID 10429831
 - Inventory submitted on September 24, 2020, and accepted on October 2, 2020
 - Missing required site map elements such as access and exit points, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment.
 - Plans submitted on September 24, 2020, and accepted on October 2, 2020
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10429846
 - Inventory submitted on September 16, 2020, and accepted on September 19, 2020
 - Missing required site map elements such as north orientation, evacuation staging areas, and emergency response equipment.
- CERS ID 10429909
 - Inventory submitted on August 25, 2020, and accepted on April 11, 2021
 - Missing required site map elements such as evacuation staging areas, and emergency response equipment.
 - Plans submitted on August 25, 2020, and accepted on April 11, 2021
 - Missing required training plan elements such as provisions for training to be documented electronically or by hard copy and made available for a minimum of three years.

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DEFICIENCIES REQUIRING CORRECTION

- CERS ID 10445230
 - Inventory submitted on May 24, 2022, and accepted on May 24, 2022
 - Missing required site map elements such as evacuation staging areas, and emergency response equipment.
- CERS ID 10454179
 - Inventory submitted on May 28, 2021, and accepted on June 15, 2021
 - Missing required site map elements such as north orientation.
- CERS ID 10501528
 - Inventory submitted on April 14, 2022, and accepted on April 21, 2022
 - Missing required site map elements such as north orientation, adjacent streets, evacuation staging areas, and emergency response equipment.
- CERS ID 10688902
 - Inventory submitted on July 31, 2018, and accepted on November 20, 2018
 - Missing required site map elements such as adjacent streets evacuation staging areas, and emergency response equipment.
- CERS ID 10824787
 - Inventory submitted on October 11, 2019, and accepted October 11, 2019
 - Missing required site map elements such as adjacent streets, evacuation staging areas, and emergency response equipment.
- CERS ID 10827508
 - Inventory submitted on September 13, 2021, and accepted November 4, 2021
 - Missing required site map elements such as emergency response equipment.
- CERS ID 10902970
 - Inventory submitted on July 7, 2022, and accepted July 7, 2022
 - Missing required site map elements such as evacuation staging areas, and emergency response equipment.

Review of CERS indicates the following 5 of 10 (50%) APSA tank facilities submitted an HMBP in lieu of a tank facility statement that was missing applicable required elements in recently accepted site map submittals:

- CERS IDs 10428001 and 10428031: missing evacuation staging area
- CERS IDs 10427512, and 10427311: missing evacuation staging area, emergency shutoff, and emergency response equipment
- CERS ID 10429183: missing evacuation staging area, emergency shutoff, emergency response equipment, north arrow, and access/exit points.

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation, regarding APSA tank facilities submitting HMBPs in lieu of tank facility statements, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation; thus, this deficiency remains uncorrected.

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

CITATION:

HSC, Chapter 6.95, Sections 25505(a), and 25508(a)(3) and (4)

HSC, Chapter 6.67, Section 25270.6(a)(2)

California Fire Code (CFC), Chapter 50, Sections 5001.5.1 and 5001.5.2 and Appendix H [CalEPA, OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each future HMBP submittal is thoroughly reviewed and contains all applicable required elements before being accepted in CERS. The action plan will include:

- steps to follow up with regulated businesses whose HMBP submittals were reviewed and identified with missing or incomplete components; and
- steps to follow up with APSA tank facilities whose HMBP submittals were reviewed and identified with missing or incomplete components.

By the 2nd Progress Report, the CUPA will train CUPA personnel on the steps in the action plan. 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.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a narrative of the implementation of the action plan.

By the 4th Progress Report, the CUPA will ensure:

- each HMBP facility has annually submitted a complete HMBP to CERS, or the CUPA will have applied enforcement, and
- each APSA tank facility has annually submitted a complete HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement, or the CUPA will have applied enforcement.

10. DEFICIENCY:

The 2022 area plan is missing required elements.

Review of the 2022 area plan finds the following required elements are missing:

- Protocols for responses to pesticide drift exposure incidents.
 - CCR, Title 19 Sections 2640(c); 2643(f) and (g); 2644(e); 2645(a)(1), (a)(5), and (a)(8); 2646(c); 2648.
- Provisions for training of emergency response personnel in the following areas:
 - Health and safety procedures for response personnel;
 - CCR, Title 19, Section 2645(a)(2).

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DEFICIENCIES REQUIRING CORRECTION

- Use of emergency response equipment and supplies;
 - CCR, Title 19, Section 2645(a)(3).
- Procedures for access to mutual-aid resources;
 - CCR, Title 19, Section 2645(a)(4).
- Identification of medical facilities capable of providing treatment appropriate for hazardous material incidents, to include pesticide drift exposure incidents;
 - CCR, Title 19, Section 2645(a)(5).
- Evacuation plans and procedures;
 - CCR, Title 19, Section 2645(a)(6).
- Monitoring and decontamination procedures for emergency response personnel and equipment;
 - CCR, Title 19, Section 2645(a)(7).
- First-aid procedures for hazardous material incidents, including pesticide exposure;
 - CCR, Title 19, Section 2645(a)(8).
- Procedures for informing the public during emergencies; and
 - CCR, Title 19, Section 2645(a)(9).
- Psychological stress that may be encountered during disaster operations.
 - CCR, Title 19, Section 2645(a)(10).
- 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;
 - CCR, Title 19, Section 2646(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;
 - CCR, Title 19, Section 2646(d).
- Provisions for evacuation plans that provide for determination of the necessity for evacuation
 - CCR, Title 19, Section 2646(g)(1)
- Provisions for evacuation plans that provide for possible release scenarios.
 - CCR, Title 19, Section 2646(g)(5)
- Provisions for evacuation plans that provide for facility characteristics, topography, meteorology, and demography of potentially affected areas.
 - CCR, Title 19, Section 2646(g)(6)

CITATION:

HSC, Chapter 6.95, Section 25503(c)
CCR, Title 19, Sections 2640(c) and 2462 through 2648
[CalEPA]

CORRECTIVE ACTION:

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

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DEFICIENCIES REQUIRING CORRECTION

11. DEFICIENCY:

The UST operating permit and permit conditions, issued under the “CUPA Consolidated Permit,” as the Unified Program Facility Permit (UPFP), is inconsistent with provisions required under UST Regulations and HSC requirements.

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

- CUPA Permit Conditions for the Underground Storage Tank (UST) Program cites California Code of Regulations, Title 23, Division 3, Chapters 16 and 18.
 - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program (LOP) agency, and therefore cannot cite Chapter 18.
 - The correct citations are as follows:
 - HSC, Division 20, Chapter 6.7, Sections 25280-25296; and 25298-25299.6
 - CCR, Title 23, Division 3, Chapter 16, Sections 2610-2717.7
- UST Program Condition 1 states “All unauthorized releases must be reported to this agency within 24-hours.”
 - This is inconsistent with CCR, Title 23, Section 2652(b) which states, “Within 24 hours after an unauthorized release or condition has been detected, or should have been detected, the owner or operator shall notify the local agency and shall investigate the condition and take immediate measures to stop the release.”
 - This is inconsistent with HSC, Section 25295 which states, “An unauthorized release that escapes from the secondary containment... shall be reported by the owner or operator to the local agency within 24 hours after the release has been detected or should have been detected.”

CITATION:

CCR, Title 23, Section 2652(b)
HSC, Chapter 6.7, Sections 25283(b) and 25295
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the UST operating permit and permit conditions template issued under the “CUPA Consolidated Permit” as the UPFP, to be consistent with UST Regulations and HSC requirements. The CUPA will provide the revised UST operating permit and permit conditions template to CalEPA.

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

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By the 3rd Progress Report, if amendments to the revised UST operating permit and permit conditions template were necessary, the CUPA will begin to issue the amended UST operating permit and permit conditions under the “CUPA Consolidated Permit.” The CUPA will provide CalEPA with the “CUPA Consolidated Permit” issued to five UST facilities using the amended UST operating permit and permit conditions template.

12. DEFICIENCY:

The CUPA is not requiring the owner or operator to submit UST testing and leak detection documents within 30 days. The CUPA is required to maintain such documentation in either CUPA facility files or in CERS.

UST testing and leak detection documentation was not found in UST facility files or in CERS for the following facilities as specified below:

- CERS ID 10444240
 - 2021 Overfill Prevention Certification
- CERS ID 10426630
 - 2021 Spill Containment Testing Form
 - 2020 Annual Monitoring Certification
 - 2020 Spill Containment Testing Form
 - Last 2 Overfill Prevention Certifications
- CERS ID 10725796
 - 2020 Spill Containment Testing Form

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

CITATION:

HSC, Chapter 6.7, Section 25288(b)
CCR, Title 23, Sections 2637, 2637.1, 2638, and 2643(g)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, that establishes a process for:

- Ensuring UST owners or operators submit UST testing and leak detection documents within the required time frame, and
- Applying and documenting appropriate enforcement if the UST owner or operator fails to submit UST testing and leak detection documents within the required time frame.

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

By the 2nd 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

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DEFICIENCIES REQUIRING CORRECTION

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records for five UST facilities, as requested by the State Water Board, including but not limited to:

- Annual Monitoring Certifications results
- Spill Containment test results
- Overfill Prevention Equipment Certification

13. DEFICIENCY:

The CUPA is not consistently conducting complete annual UST compliance inspections.

The CUPA is not correctly citing nor documenting noncompliance and is not citing UST violations identified during annual UST compliance inspections, in inspection reports and/or is not correctly reporting UST violations in CERS when UST violations are cited, including technical compliance rate (TCR) criteria.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds the following instances when violations were not identified on the inspection report, and/or not reported to CERS when the annual monitoring certification identified non-compliance for the following:

- CERS ID 10426618
 - Secondary Containment Testing Report dated September 3, 2019, identifies “87 and 91 Line Tightness Test failed. DSL Turbine/Product Piping Sump Tightness Test failed.”
 - Secondary Containment dated September 20, 2022 identifies “87 Product Line Tightness Test failed.”
- CERS ID 10428265
 - Annual Monitor Certification dated November 16, 2021, identifies “87 leak detector fail, re-test, pass. 91-DSL 409 annular fail, re-test, Pass.”

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

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

HSC, Chapter 6.7, Section 25288(b)
CCR, Title 23, Section 2713(c)(4) and (d)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to conduct complete annual UST compliance inspections and document violations observed in annual UST compliance inspection reports and in CERS.

The revised I&E Plan or other applicable procedure will, at minimum include:

- a process for the review and follow-up of submitted testing and leak detection documents by the UST owner or operator as part of the annual UST compliance inspection;
- a process for conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components;
- a process for conducting annual UST compliance inspections when UST inspection staff are not on-site to witness the monitoring system certification and visually inspect all UST required components;
- a process for reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the Unified Program violation library in CERS; and

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure. The CUPA will contact the State Water Board for any assistance needed.

By the 2nd 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 train UST 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 UST 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 revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

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DEFICIENCIES REQUIRING CORRECTION

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records, for five UST facilities, as requested by the State Water Board, including, at minimum, annual UST compliance inspection reports and associated testing and leak detection documents.

14. DEFICIENCY: CORRECTED DURING EVALUATION

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

As of January 19, 2023, review of CERS CME information between October 1, 2019, and September 30, 2022, finds:

- 2 of 10 (20%) facilities subject to CalARP Program requirements were not inspected within the last three years.

Note: Inspections scheduled to be conducted at CalARP Program facilities in 2020 were not completed due to COVID-19 pandemic protocols. The CUPA has actively rescheduled the delayed inspections to be conducted in May 2023.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA inspected the overdue CalARP facilities. As of July 13, 2023, all 10 CalARP facilities have been inspected within the last three years. This deficiency is considered corrected during the evaluation.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

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

A Self-Audit Report is required to be completed by September 30th of each year for the preceding FY.

The CUPA did not complete an annual Self-Audit Report for FY 2021/2022.

Note: The CUPA completed Self-Audit Reports for FYs 2018/2019, 2019/2020, and 2020/2021, however, each did not include a date of completion to demonstrate compilation by September 30th of the applicable proceeding FY.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, or September 30, 2023, (whichever occurs first), the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2022/2023 that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30, 2023. For 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.

2. INCIDENTAL FINDING:

The CUPA is not consistently or correctly reporting CME information to CERS for the HWG Program.

Review of HWG Program inspection reports and CERS CME information finds the following examples when inspection, violation, and enforcement data was not reported or was incorrectly reported to CERS:

- CERS ID 10428436: inspection report dated May 22, 2019, cites a violation regarding the filter cake drying unit submittal. CERS has no record of this violation.
- CERS ID 10152411: an inspection on April 16, 2018, is entered twice in CERS.
- CERS ID 10152427: inspection report dated March 14, 2018, cites a violation regarding the failure to minimize the possibility of a fire, explosion, or release. CERS has no record of this violation.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

Note: This incidental finding was identified during the 2019 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation, thus this incidental finding remains unresolved.

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Sections 15187(c) and 15290(b)
[DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will establish a procedure for CUPA inspectors to ensure consistent use of the most recent violation classifications and citations of the CUPA's data management system or CERS violation type numbers.

By the 2nd Progress Report, the CUPA will, if necessary, revise the procedure, based on feedback from DTSC and will provide the revisions to CalEPA. If no revisions to the established procedure are necessary, the CUPA will train CUPA inspectors on the established procedure and will provide training documentation to CalEPA which, at a minimum, will include an outline of the training conducted and a list of CUPA inspectors in attendance. Once training is complete, the CUPA will implement the new procedure.

3. INCIDENTAL FINDING:

The CUPA is not consistently or correctly reporting CME information to CERS for the APSA Program.

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

- CERS ID 10428001
 - Inspection reports for reinspections are dated June 10, 2019, October 10, 2019, and October 12, 2021. CERS has no record of these reinspections.
- CERS ID 10428388
 - Inspection reports for reinspections are dated August 27, 2019, December 17, 2021, and February 7, 2022. CERS has no record of these reinspections.
- CERS ID 10429183
 - An inspection report for a routine inspection, dated February 26, 2019, cites a violation for no inspection logs. CERS has record of a violation for conditionally exempt facility conditions being cited on February 26, 2019. Inspection reports for reinspections are dated February 27, 2019, October 13, 2021, and November 15, 2021. CERS has no record of these reinspections.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

- CERS ID 10428997
 - Inspection reports for reinspections are dated October 30, 2020, and April 26, 2021. CERS has no record of these reinspections.
- CERS ID 10427512
 - Inspection reports for reinspections are dated April 7, 2020, and July 17, 2020. CERS has no record of these reinspections.
- CERS ID 10755403
 - An inspection report for a reinspection is dated November 20, 2020. CERS has no record of this reinspection.
- CERS ID 10427311
 - An inspection report for a reinspection is dated May 10, 2019. CERS has no record of this reinspection.
- CERS ID 10428877
 - Inspection reports for reinspections are dated January 3, 2022, and May 18, 2022. CERS has no record of these reinspections.
- CERS ID 10428031
 - An inspection report for a reinspection is dated June 5, 2020. CERS has no record of this reinspection.

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

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Sections 15187(c) and 15290(a)(3) and (b)
[OSFM]

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan for reporting APSA Program CME information consistently and correctly to CERS. The action plan will include, at minimum, the following:

- Identification and correction of the cause(s) of missing or incorrect APSA Program CME information reported to CERS;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure APSA Program CME information is consistently and correctly reported to CERS;
- Identification of APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly, between January 1, 2019, and June 30, 2022;
- A process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports; and
- Future steps to ensure all APSA Program CME information is consistently and correctly reported to CERS.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

By the 2nd 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 an inspection report.

By the 3rd Progress Report, the CUPA will consistently and correctly report all current and previous APSA Program CME information to CERS. The CUPA will provide a statement confirming the complete entry of all prior APSA Program CME information to CERS that was not previously reported to CERS, or was previously reported incorrectly to CERS between January 1, 2019, and June 30, 2022.

4. INCIDENTAL FINDING:

The CUPA is not consistently classifying APSA violations properly.

Review of facility files and CERS CME information indicates the following non-minor violation is classified as a minor violation in the following instance:

- Not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan was classified as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of a minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with and less stringent than the U.S. Environmental Protection Agency (US EPA).
 - FY 2020/2021 – 1 instance for not having, or failure to prepare, an SPCC Plan was classified as a minor violation (CERS ID 10426999).

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

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and how to properly classify violations during compliance inspections as minor, Class I, and Class II. Training will also include, at minimum, review of:

- Violation Classification Training Video 2014 (<https://www.youtube.com/watch?v=RB-5V6RfPH8>)

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- 2020 Violation Classification Guidance for Unified Program Agencies (<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf>)
- “U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998,” which specifies that a no SPCC Plan violation is not considered minor (<https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998.html>)

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

5. INCIDENTAL FINDING:

The CUPA is not correctly implementing proper construction requirements for UST systems.

Review of the CERS Facility/Tank Data Download information finds USTs at the following UST facilities have single-walled vent or tank risers, and do not meet the secondary containment exemption requirements of CCR, Title 23, Section 2636(a) for vent and riser pipe to have overfill prevention equipment meeting the requirements specified in CCR, Title 23, Section 2635(c)(1)(B) or (C).

- CERS ID 10429483 – 05

Note: The State Water Board LG 150-3

(https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf) may be referenced.

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

CITATION:

CCR, Title 23, Sections 2631(a), 2636(a), and 2635(c)(1)
[State Water Board]

RESOLUTION:

The CUPA must ensure UST systems are properly constructed meeting the secondary containment requirements of Article 3.

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities which are incorrectly utilizing the overfill prevention equipment exemption. In addition, the CUPA will draft and provide to CalEPA written correspondence addressed to the UST facility owner(s) or operator(s) to inform the UST owner(s) or operator(s) of the requirement for installation of overfill prevention equipment, or to construct secondary containment for single-walled vent and tank risers. The written correspondence will include language stating that failure to comply with overfill prevention equipment requirements specified in CCR, Title 23, Section 2635(c)(1)(B) or (C), or secondary containment exemptions in CCR, Title 23, Section 2636(a) will lead to enforcement. The CUPA will include the State Water Board on the correspondence.

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By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated list, indicating the status of each UST obtaining compliance. If appropriate steps have not been taken by the UST owner(s) or operator(s) to remedy the construction violations, the CUPA will apply enforcement. The CUPA will provide CalEPA with documentation of the applied enforcement.

The State Water Board will consider this incidental finding resolved when the CUPA has applied progressive enforcement, or when the UST owner(s) or operator(s) install the correct overfill prevention equipment, or secondarily contain the vent and fill piping.

6. INCIDENTAL FINDING:

The I&E Plan has required components that are inaccurate or incomplete.

The following components are inaccurate:

- Inspection frequencies for the Permit-By-Rule (PBR), Conditionally Authorized (CA), and Conditionally Exempt (CE) programs do not reflect “initial inspection within two years of notification and every three years thereafter.”
- Page 34 The red tag enforcement option does not incorporate the amendments of HSC, Chapter 6.7, Section 25292.3, which became effective January 1, 2019, including language such as a person shall not input or withdraw from a UST that has been red tagged and a CUPA having the authority to require an owner/operator to remove contents from USTs which have a red tag is affixed.
- Pages 32 and 33 incorrectly reference HSC, Chapter 6.34 (Underground Storage of Hazardous Substances). The correct reference is HSC, Chapter 6.7.

The following components are incomplete:

- Narrative of how the CUPA closes complaints.
- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory.

The Inspection and Enforcement (I&E) Plan has not been reviewed or revised annually.

- The I&E Plan reflects a revision date of July 2019.

Note: This incidental finding was identified during the 2019 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation, thus this incidental finding remains unresolved.

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CITATION:

CCR, Title 27, Section 15200(a)
HSC, Chapter 6.7, Sections 25285(b), 25292.3(a)(2)(A) and (c)(1)(C)
[CalEPA, DTSC, State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to adequately incorporate and correctly address all required components, including a date of review and/or 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, DTSC, or the State Water Board, 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 and ensure annual review is conducted and reflected.

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 and ensure annual review is conducted and reflected.

7. INCIDENTAL FINDING:

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

Review of the CERS UST Facility/Tank Data Download report obtained on August 12, 2019, finds the following UST monitoring and construction information is incorrect:

- 7 instances of USTs identified as having single-wall pressurized product pipe with mechanical line leak detectors when this configuration requires electronic line leak detectors to be installed
- 4 instances of USTs identified as being single-wall steel tanks with only isolation as corrosion protection when this configuration requires cathodic protection to be installed
- 5 instances of USTs identified as being single-wall steel tanks with no tank lining when this configuration requires tank lining to be installed
- 23 instances of USTs identified as having no striker plate/bottom protection when all tanks require striker plate/bottom protection
- 6 instances of USTs identified as being installed post July 1, 2004, conducting periodic secondary containment testing when this configuration does not require periodic secondary containment testing

Note: This incidental finding was identified during the 2019 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance

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Evaluation, thus this incidental finding remains unresolved. Previously, this incidental finding was identified as a deficiency during the 2015 CUPA Performance Evaluation and was considered corrected during the Evaluation Progress Report process.

Review of the CERS UST Facility/Tank Data Download report obtained on December 20, 2022, finds the following UST monitoring and construction information is incorrect:

- 3 instances of USTs identified as having single-wall pressurized product pipe with mechanical line leak detectors when this configuration requires electronic line leak detectors to be installed
- 12 instances of USTs identified as having no striker plate/bottom protection when all tanks require striker plate/bottom protection
- 7 instances of USTs identified as being installed post July 1, 2004, conducting periodic secondary containment testing when this configuration does not require periodic secondary containment testing
- 6 instances of single-walled product piping being installed after June 1, 1987
- 4 instances of single-walled product piping listed as “yes” for continuous secondary monitoring, when this configuration does not require secondary containment monitoring

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

Note: The following CERS Frequently Asked Questions (FAQs) may be referenced and are available at www.waterboards.ca.gov/ust/cers/faqs.html:

- “General Reporting Requirements for USTs;”
- “Common CERS Reporting Errors;”
- “Setting Accepted Submittal Status;” and
- “Which Forms Require Uploading to CERS.”

Note: State Water Board expects UST testing and maintenance records to be reviewed as soon as possible, but no later than 30 days after the submittal date. All other records are to be reviewed for completeness and accuracy, though not necessarily verified in the field, as soon as possible, but no later than 60 days after the submittal date. Refer to the State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank (UST) Records.”

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)
[State Water Board]

RESOLUTION:

By the 2nd Progress Report, the CUPA will develop a procedure to ensure the establishment of a process for CUPA personnel to review CERS UST submittal information regarding construction and monitoring requirements for accuracy and completeness before being accepted in CERS.

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The procedure will at minimum, include the following:

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

The CUPA will provide the developed procedure to CalEPA. The CUPA will contact the State Water Board for any assistance needed.

By the 3rd Progress Report, if revisions to the developed procedure are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised procedure. If no revisions to the developed procedure are necessary, the CUPA will train CUPA personnel on the developed 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 CUPA personnel in attendance. Once training is complete, the CUPA will implement the developed procedure.

8. INCIDENTAL FINDING:

The CUPA is not consistently collecting, managing, and reporting the number of UST inspections conducted. The reported violations cited during UST inspections is inconsistent among the Semi-Annual Report (Report 6) and CERS CME information.

Review of Report 6 and CERS CME information finds the reported number of UST facilities and the number of UST facility inspections conducted for the following Fiscal Years (FYs) are inconsistent:

- FY 2021/2022
 - 113 Regulated Facilities
 - Report 6: 110 Routine Inspections
 - CERS CME: 110 Routine Inspections
- FY 2020/2021
 - 114 Regulated Facilities
 - Report 6: 114 Routine Inspections
 - CERS CME: 114 Routine Inspections
- FY 2019/2020
 - 114 Regulated Facilities
 - Report 6: 114 Routine Inspections
 - CERS CME: 115 Routine inspections

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- FY 2017/2018
 - 117 Regulated Facilities
 - Report 6: 121 Routine Inspections
 - CERS CME: 114 Routine inspections
- FY 2015/2016
 - 118 Regulated Facilities
 - Report 6: 136 Routine Inspections
 - CERS CME: 118 Routine inspections

Note: This incidental finding was identified during the 2019 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation, thus this incidental finding remains unresolved.

CITATION:

CCR, Title 23, Section 2713(c)(3)

CCR, Title 27, Section 15185(a)

[State Water Board]

RESOLUTION:

By the 2nd Progress Report, the CUPA will develop a procedure to ensure the establishment of a process for accurately reporting UST compliance inspection information consistently in Report 6 and CERS. The procedure, at minimum, will include:

- Collecting, retaining, managing, and reporting inspection information;
- How personnel report inspection information at the local level; and
- How inspection information is reported to state agencies.

The CUPA will provide CalEPA with the developed procedure.

By the 3rd Progress Report, if revisions to the developed procedure are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised procedure. If no revisions to the developed procedure are necessary, the CUPA will train CUPA personnel on the developed 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 CUPA personnel in attendance. Once training is complete, the CUPA will implement the developed procedure.

9. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not submitting Quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter when state surcharge revenues are remitted.

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

- Fiscal Year (FY) 2019/2020
 - 2nd Fiscal Quarter
 - Due January 30, 2020, submitted March 16, 2020.
 - Note: The Quarterly Surcharge Transmittal Report for the 2nd Fiscal Quarter was submitted with the Quarterly Surcharge Transmittal Report for the 3rd Fiscal Quarter.
- FY 2020/2021
 - 1st Fiscal Quarter:
 - Due October 30, 2020, submitted December 28, 2020.
 - 2nd Fiscal Quarter:
 - Due January 30, 2021, submitted May 12, 2021
 - 3rd Fiscal Quarter:
 - Due April 30, 2021, submitted May 12, 2021
 - 4th Fiscal Quarter:
 - Due July 30, 2021, submitted October 21, 2021
 - Note: The Quarterly Surcharge Transmittal Report for the 2nd Fiscal Quarter was submitted with the Quarterly Surcharge Transmittal Report for the 3rd Fiscal Quarter.
- FY 2021/2022
 - 1st Fiscal Quarter:
 - Due October 30, 2021, submitted February 18, 2022
 - 2nd Fiscal Quarter:
 - Due January 30, 2022, submitted February 18, 2022
 - 3rd Fiscal Quarter:
 - Due April 30, 2022, submitted May 4, 2022
 - 4th Fiscal Quarter:
 - Due July 30, 2022, submitted August 5, 2022
 - Note: The Quarterly Surcharge Transmittal Report for the 1st and 2nd Fiscal Quarters were submitted with the Quarterly Surcharge Transmittal Report for the 3rd Fiscal Quarter.

CITATION:

CCR, Title 27, Section 15250(b)(1) and (2)
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with Quarterly Surcharge Transmittal Reports for the 1st, 2nd, and 3rd Fiscal Quarters of FY 2022/2023. Each report was submitted prior to the mandated reporting deadline and utilized the current Quarterly Surcharge Transmittal Report template. This incidental finding is considered resolved during the evaluation. No further action is required.

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10. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA did not provide CalEPA with a Formal Enforcement Summary Report within 30 days of a final judgement being issued.

Review of CERS CME data between October 1, 2019, and September 30, 2022, finds that Formal Enforcement Summary Reports were not provided for the following formal enforcement cases:

- CERS ID 10124551: enforcement dated October 15, 2019
- CERS ID 10428616: enforcement dated February 10, 2020
- CERS ID 10444240: enforcement dated June 2, 2020
- CERS ID 10427671: enforcement dated June 30, 2020
- CERS ID 10851073: enforcement dated December 7, 2020
- CERS ID 10429645: enforcement dated October 13, 2021
- CERS ID 10429249: enforcement dated February 23, 2022

CITATION:

CCR, Title 27, Section 15290(a)(5)
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with Formal Enforcement Summary Reports for six of the enforcement cases listed above. Shortly after the formal Administrative Enforcement Order (AEO) process was initiated by the CUPA, CERS ID 10851073 went out of business, thus no final judgement was issued. This incidental finding is considered resolved.

The CUPA will ensure a Formal Enforcement Summary Report is completed and provided to CalEPA within 30 days of any future final judgment being issued. The following information relates to the completion and submittal of a Formal Enforcement Summary Report:

- The [Formal Enforcement Summary Report template](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template-ADA-05.2019.pdf?emrc=d24388) is available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template-ADA-05.2019.pdf?emrc=d24388>
- [Instructions for completing the Formal Enforcement Summary Report](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions_9.9.2021.pdf?emrc=dc4518) template are available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions_9.9.2021.pdf?emrc=dc4518
- Completed Formal Enforcement Summary Reports shall be submitted via email to CUPA@calepa.ca.gov

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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, facility file information, information provided by the CUPA and Self-Audit Reports between October 1, 2019, and September 30, 2022:

- CERS reflects 833 facilities self-identified as HWGs, 41 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), and 27 Tiered Permitted facilities.
- The three-year inspection frequency for all HWG Program facilities is currently being met.
- The CUPA conducted 1,149 total HWG inspections, including 1,070 "routine" and 79 "other" inspection types.
 - In the 1,070 "routine" HWG inspections, 666 (62%) had no violations cited and 404 (38%) had at least one violation cited.
 - In the 1,149 "routine" and "other" inspections conducted, 841 total violations were cited, consisting of:
 - 42 (5%) Class I violations,
 - 662 (79%) Class II violations, and
 - 137 (16%) minor violations.
 - The CUPA has ensured RTC for 781 of 841 (93%) violations cited during the current evaluation timeframe.
- CERS CME information reflects 128 violations cited between July 1, 2013, and September 30, 2019, have no RTC.
- CERS CME information reflects 14 violations cited prior to July 1, 2013, have no RTC.
- There are 11 Class 1 violations with no RTC.
 - CERS ID 10751824 has been cited with five Class I violations from April 6, 2022
 - CERS ID 10822732 has been cited with one Class I violation from March 8, 2022
 - CERS ID 10428460 has been cited with one Class I violation from April 1, 2021
 - CERS ID 10429417 has been cited with four Class I violations from November 13, 2019
 - Note: RCRA LQG violation information is transferred from CERS to the U.S. EPA public data base (known as RCRA Info), on a monthly bases. If RTC information is not present in CERS, it will not be present in RCRA Info. If a facility is determined to be out of compliance in RCRA Info, the facility may not be able to operate fully, obtain insurance, or be seen by the public as a compliant facility for conducting business.
- The CUPA completed three formal enforcement actions for facilities with hazardous waste related violations totaling \$134,355.

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- Inspection reports contain detailed comments that note the factual basis of cited violations, and inspection reports indicate whether consent to inspect was requested prior to the inspection.
- The CUPA website contains links to the CalEPA website. No specific hazardous waste references or links are present on the CUPA website.

RECOMMENDATION:

Continue with meeting the three-year inspection frequency for all HWG Program facilities. Revisit facilities that have open Class 1 violations and consider initiating AEOs or applying other progressive enforcement actions to ensure the facilities obtain RTC.

Review and address all open violations, including those cited prior to July 1, 2013, and follow up with the facilities to ensure RTC is obtained. Ensure CERS reflects any changes in CME information so that data will be correct, and so that the correct data will be transferred successfully to the U.S. EPA, as applicable.

2. OBSERVATION:

Financial Responsibility documentation of cost estimates for closure of PBR facilities and closure activities may be either dated or are not substantiated as actual costs in the current marketplace, such as:

- salvage values of equipment may be unrealistic as salvage values of equipment change over time, especially if the cost estimate does not include depreciation and consideration of current market for used and older equipment to meet existing operational use needs at another buyer's facility.
- inflation factors are missing.
- cost for an independent Professional Engineer (PE) to certify PBR closures and closure activities per CCR, Title 22, Section 67450.3(c)(11)(G) is lacking.
- actual costs for disposal of residuals and cost detail are missing from listed descriptions in the written closure plans for PBR. Salvage values of equipment change over time, especially if the cost estimate does not include depreciation and consideration of current market for used and older equipment to meet existing operational use needs at another buyer's facility.

A PBR closure cost estimate should have costs for each step in the written closure plan.

Though Conditionally Authorized (CA) PBR facilities do not require a written plan and the owner/operator can sign closure documents, there should be detailed costs associated with a logical approach to closing a unit/system and removing any wastes generated from that unit or system.

The Financial Responsibility documentation for the following facilities is likely dated and should be reviewed:

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- CERS ID 10152411: cost estimate completed December 18, 2020
- CERS ID 10153525: no update since November 3, 2017
- CERS ID 10427188: updated August 24, 2021, vague general descriptions
- CERS ID 10586551: no cost information uploaded to CERS since July 1, 2013, only exempt forms listed with no cost detail available
- CERS ID 10413619: 2023 update will put the facility above the \$10,000 cost threshold to continue to be exempt from using a financial mechanism
- CERS ID 10429756: Cost estimate has vague descriptions of costs and salvage value to be incurred
- CERS ID 10152551: Closure cost estimate is stored at the facility. Only two PBR submittals since 2014. Facility claims exemption.

RECOMMENDATION:

Conduct a comprehensive review of all facilities required to file Financial Assurance. Upon review of PBR and CA submissions and during the next PBR and CA facility inspection, inquire how the facility estimated and verified cost information and if there have been any changes to the system(s) or operations (including on-site labor costs to do work) since the cost estimate was originally filed. Such inquiries can be made by requesting a PE stamped copy of the estimate if the facility states costs were calculated by a PE, or requesting recent valuations of all costs, as inflation factors do not address many changes and have increased in recent years.

Closely review exemption claims for closure costs totaling less than \$10,000 to ensure the annual inflation rate as well as the depreciation of salvage value have been addressed in the calculation(s).

For further assistance, the following may be referenced:

- DTSC Regulatory CUPA's guide on the San Diego CUPA's website:
https://www.sandiegocounty.gov/content/dam/sdc/deh/hmd/hmd_Tiered%20Permitting%20Reference%20Chart%202015.pdf
- Session TH-B2 from the 2018 Annual Unified Program Training conference is available upon request from DTSC. This presentation provides regulations, issues associated with and guidelines to assess closure cost estimates for Tiered Permitting facilities.

3. OBSERVATION:

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

HMBP Program:

- October 1, 2019, through September 30, 2020
 - The CUPA conducted 617 routine inspections, of which 322 (52%) had no violations cited and 295 (48%) had at least one violation cited.

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- A total of 486 violations were cited, consisting of:
 - 1 (<1%) Class I violation.
 - 149 (31%) Class II violations.
 - 336 (69%) Minor violations.
- The CUPA has ensured return to compliance (RTC) for 454 of 486 (93%) violations cited.
- October 1, 2020, through September 30, 2021
 - The CUPA conducted 503 routine inspections, of which 233 (46%) had no violations cited and 270 (54%) had at least one violation cited.
 - A total of 455 violations were cited, consisting of:
 - 1 (<1%) Class I violation.
 - 35 (8%) Class II violations.
 - 419 (92%) Minor violations.
 - The CUPA has ensured RTC for 418 of 455 (92%) violations cited.
- October 1, 2021, through September 30, 2022
 - The CUPA conducted 450 routine inspections, of which 249 (55%) had no violations cited and 201 (45%) had at least one violation cited.
 - A total of 315 violations were cited, consisting of:
 - 3 (1%) Class I violations.
 - 38 (12%) Class II violations.
 - 274 (87%) Minor violations.
 - The CUPA has ensured RTC for 282 of 315 (90%) violations cited.

CalARP Program:

- October 1, 2019, through September 30, 2020
 - The CUPA conducted 7 routine inspections, of which 4 (57%) had no violations cited and 3 (43%) had at least one violation cited.
 - In total, 4 Class II violations were cited.
 - The CUPA has ensured RTC for all 4 (100%) violations cited.
- October 1, 2020, through September 30, 2021
 - The CUPA conducted 2 routine inspections, of which 1 (50%) had no violations cited and 1 (50%) had at least one violation cited.
 - In total, 1 minor violation was cited.
 - The CUPA has ensured RTC for 0 of 1 (0%) violations cited.
- October 1, 2021, through September 30, 2022
 - The CUPA conducted 2 routine inspections, of which 2 (100%) had at least one violation cited.
 - In total, 3 Class II violations were cited.
 - The CUPA has ensured RTC for 2 of 3 (67%) violations cited.

RECOMMENDATION:

Continue efforts to meet the three-year inspection frequency for all HMBP facilities and all CalARP facilities, as required by statute. Ensure complete and thorough inspections are conducted to identify all violations at facilities. Generate detailed inspection reports that include all factual basis and proper citation for each identified violation. Follow up with facilities that

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have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan when facilities do not obtain RTC.

4. OBSERVATION:

Some APSA tank facilities submitted an HMBP in lieu of a tank facility statement using an outdated 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 2022 version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available 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/>.

5. OBSERVATION:

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

- Page 4: 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.
- Page 15: The return to compliance times for APSA shows the following statements, “The owner or operator shall prepare for review a Spill Prevention, Control and Countermeasure Plan within sixty (30) days of receiving notification from the CUPA. Other minor violations shall be complied with within thirty (30) days.” These statements imply that not having, or failure to prepare, an SPCC Plan is considered a minor violation, which is incorrect. Not having, or failure to prepare, an SPCC Plan does not meet the definition of a minor violation as defined in HSC, Chapter 6.11.
- Pages 18 and 43: HSC, Section 2527.5 is incorrectly referenced as APSA violations. The correct reference is HSC, Chapter 6.67 (commencing with Section 25270).
- Pages 32 and 33: HSC, Chapter 6.35 is incorrectly referenced as APSA. The correct reference is HSC, Chapter 6.67 (commencing with Section 25270).

RECOMMENDATION:

Update the I&E Plan as indicated above.

6. OBSERVATION:

The area plan contains the following information that is inaccurate or outdated and may benefit from improvement:

- Page 11, Section 1 Overview – 1.4 Administration: The list of Unified Program elements is missing the HMMP/HMIS Program. Replace “ABOVEGROUND STORAGE TANK SPILL PREVENTION CONTROL and COUNTERMEASURES PLAN (H&SC Chapter

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6.67, §25270.5 (c)” with “Aboveground Petroleum Storage Act (HSC, Chapter 6.67)” for consistency.

- Page 13, Section 1 Overview – CUPA Programs – City Detail table: Replace “AST/SPCC” and “ABOVEGROUND STORAGE TANK SPILL PREVENTION CONTROL and COUNTERMEASURE PLAN” with “APSA” for consistency.
- Page 150, Tab 9 Notification Resources, Other Telephone Numbers – State Agencies: Update the California State Fire Marshal phone number with the current 24-hour duty chief line at (916) 323-7390.
- Page 177, Tab 10 Glossary: The glossary shows OSFM as having responsibility for interstate and intrastate hazardous liquid pipelines in California. OSFM oversees intrastate hazardous liquid pipelines only. Interstate hazardous liquid pipelines are under the authority of the US Department of Transportation – Pipeline and Hazardous Materials Safety Administration.

RECOMMENDATION:

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

7. OBSERVATION:

Review of CERS CME information for CERS ID 10725796 finds a Class II violation cited on January 6, 2021, was entered in CERS utilizing Unified Program violation library Violation Type #2010, with the comment “See inspection report for details.” A general Violation Type, such as #2010, should only be used if there is not a more appropriate Violation Type number available, and should always be accompanied with a comment describing the actual violation.

RECOMMENDATION:

Review use of “general” Unified Program violation library Violation Types, such as “2010 – UST Program General,” during inspections and in CERS.

8. OBSERVATION:

Review of CERS finds the following eight UST facilities have UST(s) with single-walled components which require permanent closure by December 31, 2025, in accordance with HSC Chapter 6.7, Section 25292.05.

- CERS ID 10405780
- CERS ID 10429792
- CERS ID 10725796
- CERS ID 10166551
- CERS ID 10403560
- CERS ID 10426630
- CERS ID 10427023
- CERS ID 10429483

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

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RECOMMENDATION:

Continue to provide verbal and written reminders to all applicable UST owners/operators regarding the December 31, 2025, deadline for permanent closure of single-walled USTs.

9. OBSERVATION:

The CUPA's UST closure notification template indicates the UST owner/operator has demonstrated to the satisfaction of the CUPA, that UST closure activities were conducted in accordance with UST Regulations and HSC. While this language is acceptable, including additional closure information is recommended to strengthen the content in the notification template.

RECOMMENDATION:

Include the following information in the UST closure notification template:

- Reference to HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Chapter 16, Section 2672
- Date of permanent closure
- Closure type (i.e., closure-in-place or removal)
- CERS tank IDs
- Tank contents and capacity
- Requirement to maintain UST closure soil and groundwater analytical results for at least 36 months from the date of permanent closure

Note: The State Water Board UST Permanent Closure Notification template may be referenced www.waterboards.ca.gov/water_issues/programs/ust/docs/ust-closure-letter-template-final.pdf.

10. OBSERVATION:

Oversight inspections were conducted at two HWG facilities. The first oversight inspection was conducted on April 4, 2023, at CERS ID 10413619, a RCRA LQG facility that treats wastewater under Permit by Rule (PBR). The facility cleans and strips paint from tire rims, metal parts and furniture. The facility had a previous enforcement action for the treatment process used and rebuilt much of the facility to meet regulatory requirements. The facility treats approximately 1.1 million gallons per month. The inspector asked for consent to inspect and conducted a thorough process-based inspection of the entire facility. The inspector noted a labeling violation on a 20-yard dumpster holding non-RCRA filter cake and spent salt cake from a treatment unit and identified some release to secondary containment for two compressors. During the document review the inspector identified that there was no actual treatment operating log, and that only an estimate from the water usage throughput existed. The inspector also inquired about the closure cost estimate details on costs and salvage values. The inspector is following up with the local sanitary district on the requirements of the facility. The inspector was well prepared, built a rapport with the facility, conducted a detailed review of the facility, reviewed all related documents for generator and treatment activities, and clearly summarized both the violations identified and corresponding corrective actions.

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The second oversight inspection was conducted on April 5, 2023, at CERS ID 10152443, a RCRA LQG facility that fabricates Printed Circuit Boards (PCBs), with almost 200 employees. The facility encompasses approximately 40,000 square feet of operations and has two sets of treatment systems: one PBR system with 5 treatment units, and a Batch system under Conditional Authorization. Combined, these units treat approximately 773,000 gallons per month. The facility's treatment units are connected to a water recycling system and approximately 50% of the water used is reclaimed back into the plating operations. The system was originally set up under a partial grant received from DTSC in the late 1980's. The facility has several automated plating lines, as well as pre-plating activities such as imaging, photo resist and strip, etching, and finishing of the various layers of metals in the production of high quality PCBs. The CUPA program consultant for the facility was present for the inspection. The inspector asked for consent to inspect and conducted a thorough process-based inspection of the entire facility. The inspector noticed several containment issues under floor drains and under the main automated plating line associated with drag out as the PCBs were transferred from one tank to the next. The inspector also identified a tank assessment issue with the treatment system. The tank system is in a partial underground vault and the facility has had some issues in getting a Professional Engineer to assess the system. Based on the observed ammonia inventory onsite, the facility may also be subject to CalARP Program requirements. The inspector was well prepared, built a rapport with the facility, conducted a detailed review of the facility, reviewed all the related documents for generator and treatment activities, and clearly summarized both violations identified as well as the associated corrective actions.

Note: An incidental finding for not consistently conducting complete HWG Program facility inspections were identified during the 2019 CUPA Performance Evaluation, as documented in the Final Summary of Findings issued September 9, 2022. Due to the delay in issuance of the Final Summary of Findings for the 2019 CUPA Performance Evaluation, and in preparation for the onset of the 2023 CUPA Performance Evaluation, the CUPA and CalEPA agreed to forego the Progress Report Process applicable to the 2019 CUPA Performance Evaluation. Assessment of HWG Program facility inspections conducted by the CUPA since the 2019 CUPA Performance Evaluation demonstrates the incidental finding identified during the 2019 CUPA Performance Evaluation is considered resolved.

RECOMMENDATION:

Continue to thoroughly prepare for and conduct process-based inspections.

It is critical to ensure review of updated closure cost estimates for any facilities with changes to operations, such as those for CERS ID 10413619 and CERS ID 10152443, both of which have operational changes anticipated in the near future.

11. OBSERVATION:

On April 19, 2023, a CalARP oversight inspection was conducted at CERS ID 10445230. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector was knowledgeable, established rapport with the facility operators, requested and reviewed the most current RMP information, toured the entire site, and effectively

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communicated technical information to the facility operators. The inspector identified and classified all violations.

On April 20, 2023, an HMBP oversight inspection was conducted at CERS ID 10428148. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory and site map information on site, and effectively communicated technical information to the facility operators. CalEPA did not observe the CUPA verifying emergency response plan information or employee emergency response training on site.

On April 20, 2023, an HMBP oversight inspection was conducted at CERS ID 10426759. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory, site map, and emergency response plan information on site, and effectively communicated technical information to the facility operators. CalEPA did not observe the CUPA verifying employee emergency response training on site.

RECOMMENDATION:

Continue to conduct thorough CalARP inspections.

Verify employee emergency response training on site during HMBP inspections. HSC, Section 25505(a)(4) requires training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the emergency response plans and procedures required by HSC, Section 25505(a)(3). This training must be documented electronically or by hard copy and made available for a minimum of three years.

12. OBSERVATION:

The information below is a comparison of the total number of regulated facilities within each Unified Program element in 2006 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:

- City of Anaheim CUPA Self-Audit Report for Fiscal Year (FY) 2005/2006;
- City of Anaheim CUPA Annual Single Fee Summary Report (Report 2) for FY July 1, 2005, through June 30, 2006, dated September 24, 2006;
- City of Anaheim CUPA Annual Inspection Summary Report (Report 3) for FY July 1, 2005, through June 30, 2006, dated September 22, 2006;
- CERS “Summary Regulated Facilities by Unified Program Element” report, generated on April 25, 2023;
- CERS “UST Inspection Summary Report (Report 6),” generated on April 25, 2023; and
- The City of Anaheim Fire Department Organization Chart, dated November, 2022

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- Total Number of **Business Plan** Regulated Businesses and Facilities:
 - In 2006: 1335
 - Currently: 1412
 - An increase of 77 facilities

- Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
 - In 2006: 148
 - Currently: 112
 - A decrease of 36 facilities

- Total Number of Regulated **USTs**:
 - In 2006: 393
 - Currently: 295
 - A decrease of 98 tanks
 - Comment: Current information from Report 6 indicates 288 Active Petroleum Systems and 7 Active HazSub Systems.

- Total Number of Regulated **Hazardous Waste Generator** Facilities:
 - In 2006: 854
 - Currently: 884
 - An increase of 30 facilities

- Total Number of Regulated **Household Hazardous Waste (HHW)** Facilities:
 - In 2006: 1
 - Currently: 2
 - An increase of 1 facility

- Total Number of Regulated **Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt)**:
 - In 2006: 48
 - Currently: 27
 - A decrease of 21 facilities

- Total Number of Regulated **Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities**:
 - In 2006: 38
 - Currently: 41
 - An increase of 3 facilities

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- **Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
 - In 2006: 10
 - Currently: 10

- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
 - In 2006: N/A
 - Currently: 96

Since 2006, the CUPA has seen some fluctuations in the number of regulated facilities in some Unified Program elements. In particular, the total number of regulated HMRRP/HMBP facilities increased by 77 (or 6%) and the total number of regulated HWG facilities increased by 30 (or 4%). The CUPA also saw the total number of regulated UST facilities and total number of regulated USTs decrease respectively by 36 facilities (or 24%) and 98 regulated tanks (or 25%), and the total number of TP facilities decrease by 21 (or 44%).

Since 2006, an expansion of responsibilities in the HMBP, HWG, and APSA programs has occurred, increasing the workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. Additionally, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms to the implementation of electronic data reporting through local data management systems and CERS.

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program in 2006 with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the City of Anaheim CUPA Self-Audit Report for FY 2005/2006 and recent information provided by the CUPA.

- In 2006
 - 6.0 FTEs budgeted for 6 total positions
 - 1.0 FTEs for 1 Supervisor position
 - 5.0 FTEs for 5 Inspector positions
 - 4 Hazardous Materials Specialist positions
 - 1 Senior Hazardous Materials Specialist position

- Currently
 - 4.0 FTEs budgeted for 3 total positions
 - 1.0 FTE for 1 Assistant Fire Marshal position
 - 3.0 FTE for 3 Inspector positions (Community Risk Reduction Officer)

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RECOMMENDATION:

Based on the information above, it appears the CUPA has been proactive in adapting staffing resources in order to meet the changing needs of Unified Program implementation over time; however, some shortfalls in overall program implementation still exist within some Unified Program elements.

Continue to regularly assess the allocation of current staff assignments and existing resources to ensure adequate implementation of each program element within the Unified Program is obtained. Consider conducting a fee study to determine if additional staffing resources are necessary to meet the changing needs of Unified Program implementation over time.
