



Gavin Newsom  
Governor

Jared Blumenfeld  
Secretary for Environmental Protection

March 9, 2022

Mr. Louis Molina, Director  
Mono County Health Department  
P.O. Box 3329  
Mammoth Lakes, California 93546-3329

Dear Mr. Molina:

During February through November, 2021, CalEPA and the state program agencies conducted a performance evaluation of the Mono County Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, and review of regulated facility file documentation and California Environmental Reporting System data.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations. The report also includes examples of outstanding Unified Program implementation. Enclosed, please find the final Summary of Findings report.

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

To demonstrate progress towards the correction of program deficiencies and incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (May 10, 2022), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to Tim Brandt at [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov), or mail.

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

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

If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov).

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Sincerely,



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

Enclosures

cc sent via email:

Ms. Debbie Larson  
CUPA Manager  
Mono County Health Department  
P.O. Box 3329  
Mammoth Lakes, California 93546-3329

Ms. Cheryl Prowell  
Supervising Water Resource Control Engineer  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, California 95812-2231

Mr. Tom Henderson  
Engineering Geologist, Acting UST Unit Coordinator  
State Water Resources Control Board  
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Sacramento, California 95812-2231

Ms. Maria Soria  
Environmental Program Manager  
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700 Heinz Avenue, Suite 210  
Berkeley, California 94710-2721

Mr. Ryan Miya  
Senior Environmental Scientist, Acting Supervisor  
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Mr. James Hosler, Chief  
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cc sent via email:

Ms. Jennifer Lorenzo  
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Mr. Sean Farrow  
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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:

Mr. Garrett Chan  
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: Mono County Health Department

**Evaluation Period:** February 2021 – November 2021

### Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron
- **Cal OES\*:** Jack Harrah, Garrett Chan
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered satisfactory with improvements 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](mailto:Timothy.Brandt@calepa.ca.gov)

The CUPA is required to submit an Evaluation Progress Report 60 days from the receipt of this Final Summary of Findings Report, and every 90 days thereafter, until all deficiencies and incidental findings have been acknowledged as corrected or resolved.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead and must include a narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report.

Evaluation Progress Report submittal dates for the first year following the evaluation are:

**1<sup>st</sup> Progress Report:** May 10, 2022

**2<sup>nd</sup> Progress Report:** July 12, 2022

**3<sup>rd</sup> Progress Report:** September 13, 2022

**4<sup>th</sup> Progress Report:** November 15, 2022

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

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

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**1. DEFICIENCY:**

Required components of the Inspection and Enforcement (I&E) Plan are incomplete or inaccurate.

- The following components are incomplete:
  - A description of appropriate enforcement (graduated series of informal and/or formal enforcement actions) based on the severity of the violation.
    - The chart on page 23 does address upgrading some minor violations.
  - Provisions for ensuring sampling capability.
    - While a state certified laboratory is discussed on page 18, information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
- The following components are inaccurate:
  - Inspection frequencies for the Permit-By-Rule, Conditionally Authorized, and Conditionally Exempt programs need to be updated to include an “initial inspection within two years of notification and every three years thereafter.”
  - The General Inspection Procedures, section c (11) cites the incorrect Health and Safety Code (HSC) Sections for return to compliance. The correct HSC Sections are 25288 and 252901.1(b)(3).
  - The General Inspection Procedures, section c (17) states that the CUPA may perform virtual inspections during COVID/pandemic, which is less stringent than UST regulations. All UST routine inspections must be performed on-site.
    - Per US EPA guidance, any virtual inspection conducted cannot be considered a routine inspection and must be classified as an “other” inspection.
  - The UST Initial Penalty Matrix states the minimum penalty as \$0, which is less stringent than HSC Chapter 6.7. The penalty matrix for UST violations is no less than \$500 per UST, per day, per violation.

**CITATION:**

HSC Chapter 6.7, Sections 25288 and 252901.1(b)(3)  
California Code of Regulations (CCR), Title 27, Section 15200(a)  
[CalEPA, DTSC, State Water Board]

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**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a revised I&E Plan that adequately incorporates and correctly addresses all required components.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, DTSC, or the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. The CUPA will provide training documentation to CalEPA, which at a minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended I&E Plan.

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**2. DEFICIENCY:**

The CUPA is not inspecting each facility subject to Hazardous Materials Business Plan (HMBP) requirements at least once every three years.

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information in the California Environmental Reporting System (CERS), facility file information, and additional information provided by the CUPA finds:

- 79 of 211 (37%) facilities subject to HMBP requirements were not inspected within the last three years.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> 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 a minimum:

- An analysis and explanation as to why the triennial compliance inspection requirement for facilities subject to HMBP requirements is not being met. Existing inspection staff resources and the number of facilities scheduled to be inspected each year are factors to address in the explanation.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected within the last three years. For each HMBP facility listed, the spreadsheet will include, at minimum:
  - Facility name;

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- CERS ID; and
- Date of the last inspection
- A schedule to inspect those HMBP facilities, prioritizing the most delinquent inspections to be completed prior to any other HMBP inspection based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

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

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

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**3. DEFICIENCY:**

The CUPA is not ensuring all regulated businesses subject to HMBP reporting requirements annually submit a complete HMBP or a no-change certification to CERS. A complete HMBP includes a chemical inventory, site map, and emergency response and employee training plans.

Review of HMBPs submitted to CERS by regulated businesses subject to HMBP reporting requirements finds:

- 61 of 211 (29%) HMBP facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 61 of 211 (29%) HMBP 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)(1) and (2) and 25508(a)(2) and (3)  
[CalEPA]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all HMBP facilities have annually submitted a HMBP or a no-change certification, and that each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's local data management system or CERS, that includes at a minimum the following information for each regulated business subject to HMBP reporting requirements that has not submitted an HMBP containing all required components within the last 12 months:

- Facility name and address;
- CERS ID;
- Follow-up actions including:
  - recent review, acceptance, and rejection of HMBPs



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- for those businesses that have not complied, the appropriate enforcement taken by the CUPA to ensure a complete HMBP is annually submitted to CERS

By the 4<sup>th</sup> Progress Report, the CUPA will ensure each regulated business subject to HMBP reporting requirements submits a complete HMBP or a no-change certification to CERS, or the CUPA will apply appropriate enforcement.

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#### 4. DEFICIENCY:

The Unified Program administrative procedures have components that are inaccurate, incomplete, or missing.

- The following administrative procedures have components that are inaccurate or incomplete:
  - Public participation
    - Coordinate, consolidate, and make consistent locally required public notices for activities related to any Unified Program Element
      - The current procedure only addresses public notices for Risk Management Plans (RMPs) and cannot be more broadly applied to any Program Element as written
  - Records maintenance
    - Identification of the records maintained
      - The following documents specified in Title 27 are not included in the CUPA Records Maintenance Procedures:
        - Annual Self-Audit Reports
        - Enforcement Files
        - Detailed records used to produce the summary reports submitted to the State.
- The following administrative procedures have components that are missing:
  - Data Management
    - Collection, retention, and management of electronic data and documents in compliance with CCR, Title 27, Section 15185
      - See above regarding inaccurate or incomplete Records Maintenance administrative procedures.
  - Reporting of electronic data in compliance with CCR, Title 27, Section 15290
    - The CUPA discusses procedures for CME reporting to CERS in the I&E Plan; however, procedures for reporting the Quarterly Surcharge Transmittal Reports and the Annual Single Fee Summary Report are not discussed.
  - Financial management
  - A single fee system in compliance with CCR, Title 27, Section 15210
    - The provided procedural documents don't include a plan to 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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- No itemized billing statements were provided to verify that fees are being itemized/consolidated as required.

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was partially corrected during the Evaluation Progress Report process.

**CITATION:**

CCR, Title 27, Section 15180(e), 15185(b) and (f), 15190 and 15220  
[CalEPA]

**CORRECTIVE ACTION:**

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

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

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

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**5. DEFICIENCY:**

The CUPA is not properly waiving the state CUPA Oversight and APSA Program surcharges.

- For Fiscal Year (FY) 2019/2020, the CUPA provided Annual Single Fee Summary Reports with conflicting information.
  - The Single Fee Summary Report provided for the current CUPA performance evaluation indicates no fees were waived.
  - The Single Fee Summary Report submitted in September of 2020 shows state surcharges for CUPA Oversight and the APSA program were waived, however, there is no indication that any Single Fees were also waived. If state surcharges are waived, the single fee also has to be waived.

**CITATION:**

CCR, Title 27, Section 15250(a)(3)  
[CalEPA]

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**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review the criteria for waiving the single fee and state CUPA Oversight and APSA program surcharges and will develop, implement, and provide CalEPA with a plan to assess, collect, and remit the improperly waived state CUPA Oversight and APSA program surcharges. The plan will include, at a minimum:

- Identification of all instances that incorrectly waived the state CUPA Oversight and APSA program surcharges.
- The timeframe in which the CUPA will assess, collect, and remit the improperly waived state CUPA Oversight and APSA program surcharges, and steps to ensure the state CUPA Oversight and APSA program surcharges will be properly waived in the future.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an update on the status of the plan to assess, collect, and remit the improperly waived state CUPA Oversight and APSA program surcharges.

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**6. DEFICIENCY:**

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

Review of the Semi-Annual Report (Report 6) for the following FYs finds:

- FY 2019/2020
  - 5 of 21 (24%) UST facilities were not inspected
- FY 2018/2019
  - 0 of 21\* (0%) UST facilities were not inspected
- FY 2017/2018
  - 6 of 21 (29%) UST facilities were not inspected

\*Note: The State Water Board corrected data to reflect 21 facilities in FY 2018/2019 instead of 23 as reported.

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.

**CITATION:**

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

**CORRECTIVE ACTION:**

During the evaluation, the CUPA provided an action plan, which the State Water Board will review and provide feedback to in the 1<sup>st</sup> Progress Report response.

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By the 1st Progress Report, the CUPA will review and revise the I&E Plan to incorporate steps to ensure UST inspection staff inspect all UST facilities at least once every 12 months. The CUPA will provide the revised I&E Plan to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan and amend the revised I&E Plan, based on feedback from the State Water Board. The CUPA will provide the revised action plan and amended I&E Plan to CalEPA. If no revisions to the action plan or amendments to the I&E Plan are necessary, until considered corrected, the CUPA will provide CalEPA with annual UST compliance inspection reports, as selected by the State Water Board, until all UST facilities have been inspected within the last 12 months.

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

By the 3rd Progress Report and each subsequent Progress Report, until considered corrected, the CUPA will provide CalEPA with annual UST compliance inspection reports, as selected by the State Water Board, until all UST facilities have been inspected within the last 12 months.

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**7. DEFICIENCY:**

The UST Operating Permit does not reflect issuance under a Unified Program Facility Permit (UPFP).

The UST Operating Permit and UST Operating Permit conditions are inconsistent with UST Regulations and HSC requirements.

Review of UST Operating Permits finds the following inconsistencies with UST Regulations and HSC:

- The UST Operating Permit does not reflect issuance under a UPFP.
- The UST Operating Permit references the annual monitoring certifications and the secondary containment test dates; however, it is unclear as to if the dates are when the testing is due or when the tests were completed.

Review of UST Operating Permit conditions finds the following inconsistencies with UST Regulations and HSC:

- Permit condition 1 cites CCR, Chapter 18 and HSC, Chapter 6.75, however, the CUPA does not have the authority to cite them.
- Permit condition 4 states the monitoring, plot, and emergency response plans must be maintained on-site, however the monitoring, plot, and emergency response plans must be submitted to CERS.
- Permit condition 5 states that permit fees are due within thirty days of permit issuance or the permit will be revoked, which is inconsistent with the CUPA's "UST Permit Issuance Policy," which states that prior to issuing or renewing a permit, the CUPA staff will verify that payment of all required fees have been received.

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

**CITATION:**

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

**CORRECTIVE ACTION:**

During the evaluation, the CUPA provided a revised UST Operating Permit template that reflects issuance under a UPFP and is now consistent with UST Regulations and HSC.

By the 2nd Progress Report, the CUPA will begin to issue the amended UST Operating Permit under the UPFP and will provide CalEPA with three UST Operating Permits issued to UST facilities using the revised UST Operating Permit template and revised UST Operating Permit conditions.

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**8. DEFICIENCY:**

UST compliance inspection information and facility inventory in Report 6 is inconsistent with CUPA Self-Audit Reports and CERS CME information.

Review of Report 6, CUPA Self-Audit Reports, and CERS CME UST facility inspection frequency information for each FY finds the following UST facilities were inspected:

- FY 2019/2020
  - Report 6: 16 of 21 (76%)
  - CUPA Self-Audit Report: 16 of 21 (76%)
  - CERS CME Information: 15 of 21 (71%)
- FY 2018/2019
  - Report 6: 21 of 21\* (100%)
  - CUPA Self-Audit Report: 21 of 21\* (100%)
  - CERS CME Information: 20 of 21 (95%)
- FY 2017/2018
  - Report 6: 15 of 21 (71%)
  - CUPA Self-Audit Report: 15 of 21 (71%)
  - CERS CME Information: 13 of 21 (62%)

\*Note: State Water Board corrected data to reflect 21 facilities inspected in FY 2018/2019 instead of the 23 inspections reported.

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**CITATION:**

HSC, Chapter 6.11, Section 25404(e)(4)  
CCR, Title 23, Section 2713(c)(3)  
CCR, Title 27, Sections 15187(c) and 15290(b)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan that, at a minimum, includes:

- An analysis and explanation as to how Report 6, CUPA Self-Audit Reports, and CERS CME information have inconsistent UST compliance inspection information; and
- A strategy to ensure UST compliance inspection information in Report 6, CUPA Self-Audit Reports, and CERS will be accurately reported.

By the 1st Progress Report, the CUPA will develop a Data Management Procedure, or other applicable procedure, to ensure the establishment of a process, which at a minimum will address how UST compliance inspection information is accurately reported in Report 6, CUPA Self-Audit Reports and CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

By the 2nd Progress Report, if revisions to the developed Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure. If no revisions are necessary, the CUPA will train UST inspection staff on the developed Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum, will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the developed Data Management Procedure, or other applicable procedure.

By the 3rd Progress Report, if revisions to the developed Data Management Procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the revised Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum, will include 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 Data Management Procedure, or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will accurately report UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

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**9. DEFICIENCY:**

The CUPA is not consistently ensuring return to compliance (RTC) is obtained within 60 days or is not consistently following up and documenting RTC information in CERS for UST testing or leak detection violations.

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Review of CERS CME information and testing and leak detection documents finds the following testing and leak detection violations did not obtain RTC within 60 days:

- FY 2019/2020
  - 26 of 45 (58%)
- FY 2018/2019
  - 38 of 94 (40%)
- FY 2017/2018
  - 4 of 37 (11%)

Review of CERS CME information finds the following examples of testing and leak detection violations with no documented RTC within 60 days:

- CERS ID 10154497: violation cited May 12, 2020, indicates failure to perform the overfill prevention equipment inspection with no documented RTC within 60 days in CERS.
- CERS ID 10335553: inspection report dated July 17, 2019, indicates failure to perform the overfill prevention equipment inspection with no documented RTC within 60 days in CERS.
- CERS ID 10489441: violation cited June 4, 2019, indicates failure of leak detection equipment to be installed, calibrated, operated, and/or maintained properly with no documented RTC within 60 days in CERS.
- CERS ID 10435216: violation cited June 26, 2019, indicates failure of secondary containment with no documented RTC within 60 days in CERS.

Note: The examples provided above may not represent all instances of this deficiency and only include testing and leak detection violations.

Note: The 2015 and 2018 CUPA Performance Evaluations identify a deficiency for not implementing a graduated series of enforcement on open UST violations, which was not corrected during the Evaluation Progress Report process.

**CITATION:**

HSC, Chapter 6.7, Section 25288(d)  
[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 establishment of a process for UST inspection staff to document:

- follow-up actions taken by the CUPA with UST facilities cited with violations to ensure RTC is achieved by the facility within 60 days,
- RTC in CERS for facilities that RTC within 60 days, and
- any applied appropriate enforcement.

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

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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 a minimum, will include 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 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 a minimum, will include 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 UST facility records for five UST facilities, as selected by the State Water Board, that include RTC or documentation of an applied appropriate enforcement.

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**10. DEFICIENCY:**

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

Review of UST facility files finds the following example:

- CERS ID 10124059: the letter provided does not document that UST closure occurred in accordance with HSC, Chapter 6.7, Section 25298(c) or UST Regulations, Section 2670 and 2672.

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

Note: State Water Board "UST Program Leak Prevention" Frequently Asked Question 15 ([https://www.waterboards.ca.gov/ust/leak\\_prevention/faq15.shtml](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml)) may be referenced.

**CITATION:**

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

**CORRECTIVE ACTION:**

During the evaluation, the CUPA provided a revised UST closure letter template, which the State Water Board considers consistent with UST regulation and HSC requirements.



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By the 1st Progress Report, the CUPA will develop a UST closure procedure or other applicable procedure, to ensure the establishment of a process, which will include at a minimum, how the CUPA will:

- Document in sufficient detail the owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC

The CUPA will provide the developed UST closure procedure, or other applicable procedure to CalEPA.

By the 2nd Progress Report, if revisions to the UST closure procedure or other applicable procedure are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised UST closure procedure or other applicable procedure. If no revisions are necessary, the CUPA will train UST inspection staff on the developed UST closure procedure or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum, will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the developed UST closure procedure or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised UST closure procedure or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended UST closure procedure or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include 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 UST closure procedure or other applicable procedure.

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will provide documentation upon request.

Opportunities to conduct UST closure activities are limited within the jurisdiction of the CUPA, therefore, the State Water Board will consider this deficiency corrected upon completion of a satisfactory UST closure procedure, or other applicable procedure, so the Deficiency does not unnecessarily remain open while waiting for USTs to undergo closure. State Water Board will verify the CUPA utilizes the satisfactory UST closure procedure, or other applicable procedure, during the next triennial CUPA Performance Evaluation.

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**11. DEFICIENCY:**

The CUPA is not inspecting each HWG facility once every three years, per the inspection frequency established in the I&E Plan.

Review of facility files, CERS CME information, and additional information provided by the CUPA finds during July 1, 2018, through June 30, 2021:

- 9 of 65 (14%) HWG facilities were not inspected once every three years

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Note: This deficiency was identified during the 2012, 2015, and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.

**CITATION:**

CCR, Title 27, Section 15200(a)(3)(A)  
[DTSC]

**CORRECTIVE ACTION:**

During the evaluation, the CUPA recovered data, updated CERS, and conducted several inspections to verify HWG inspection status. Though CERS indicates there are 9 of 65 (14%) HWGs that have not been inspected, the CUPA has confirmed that during July 1, 2018, through June 30, 2021, there are 5 of 62 (8%) HWGs that have not been inspected. The CUPA has determined that 4 of 62 (6%) HWG facilities in CERS are not generating hazardous waste and thus, each should not be identified in CERS as a HWG.

By the 1<sup>st</sup> Progress Report, the CUPA will make necessary coding changes in CERS for the HWG facilities identified as not generating hazardous waste and will ensure inspections conducted are accurately reflected in current CERS CME information. The CUPA will have inspected any delinquent facilities to meet the HWG Program inspection frequency specified in the I&E Plan.

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**12. DEFICIENCY: CORRECTED DURING EVALUATION**

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

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

FY 2019/2020

- 2 of 4 (50%) APSA violations

FY 2018/2019

- 16 of 40 (40%) APSA violations

Note: This deficiency was identified for FY 2013/2014 during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. During the 2021 CUPA Performance Evaluation, the CUPA corrected the deficiency for FY 2013/2014 by obtaining RTC from facilities with open violations, including not having, or failure to prepare, a Spill Prevention, Control and Countermeasure (SPCC) Plan.

**CITATION:**

HSC, Chapter 6.67, Section 25270.4.5(a)  
HSC, Chapter 6.11, Section 25404.1.2(c)  
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)  
[OSFM]

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**CORRECTIVE ACTION: COMPLETED**

During the evaluation, the CUPA was able to obtain RTC on APSA program facilities cited with violations such that 0 of 4 APSA violations for FY 2019/2020 and 5 of 40 (12%) APSA violations for FY 2018/2019 have achieved RTC. No further action is required.

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

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**1. INCIDENTAL FINDING:**

The CUPA is not consistently reporting complete and accurate CME information to CERS.

Cited violations and enforcement actions in CERS are not consistently associated with respective inspections. Review of CERS CME information, inspection reports, and other information provided by the CUPA indicates:

- 122 Formal and Informal enforcement actions have been entered into CERS since FY 2010/2011.
  - 108 of 122 (89%) Formal and Informal enforcement actions occurred since the beginning of FY 2017/2018.
  - 103 of 108 (95%) enforcement actions are not associated with violations cited during an inspection in CERS.

**CITATION:**

CCR, Title 27, Sections 15187(c) and 15290(a)(3) and (b)  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan for consistently reporting complete and accurate CME information to CERS. The action plan will include, at a minimum, the following:

- Identification and correction of the cause(s) of missing or incorrect CME information reported to CERS;
- Review and revision of the existing CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure CME information is consistently reported completely and accurately to CERS.
- Identification of CME information not previously reported to CERS, or reported to CERS incorrectly beginning July 1, 2013 to present;
- A process for consistently reporting complete and accurate 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;
- A process for ensuring CUPA personnel and inspectors are trained in the consistent use of the most recent violation classifications and citations of the CERS violation type numbers; and
- A comparison of CME information (including follow-up actions) in facility files with CERS CME information to identify any CME information not being reported, or being reported incorrectly, to CERS.

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By the 2<sup>nd</sup> Progress Report, if amendments to the revised CME reporting component of the Data Management Procedure, or other applicable procedure are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended CME reporting component of the Data Management Procedure or other applicable procedure. If amendments are not necessary, the CUPA will train CUPA personnel on the revised CME reporting component of the Data Management Procedure, or other applicable procedure. Once training is complete, the CUPA will implement the revised CME reporting component of the Data Management Procedure, or other applicable procedure.

By the 2<sup>nd</sup> Progress Report, if necessary based on feedback from CalEPA, the CUPA will provide revisions to any of the following action plan components:

- A process for consistently reporting complete and accurate 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;
- A process for ensuring CUPA personnel and inspectors are trained in the consistent use of the most recent violation classifications and citations of the CERS violation type numbers; and
- A comparison of CME information (including follow-up actions) in facility files with CERS CME information to identify any CME information not being reported, or being reported incorrectly to CERS.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised CME reporting component of the Data Management Procedure, or other applicable procedure were necessary, the CUPA will provide CalEPA with the amended CME reporting component of the Data Management Procedure or other applicable procedure. The CUPA will train CUPA personnel on the amended CME reporting component of the Data Management Procedure, or other applicable procedure. Once training is complete, the CUPA will implement the amended CME reporting component of the Data Management Procedure or other applicable procedure.

By the 3<sup>rd</sup> Progress Report, if amendments to any of the revised components of the action plan were necessary, the CUPA will provide CalEPA with the amended action plan components.

By the 4<sup>th</sup> Progress Report, the CUPA will have identified and consistently and accurately reported all CME information correctly to CERS, including CME information previously reported to CERS incorrectly on or after July 1, 2013, to present. All violations and enforcement actions will be correctly associated with respective inspections in CERS.

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**2. INCIDENTAL FINDING:**

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

Review of CERS CME information, inspection reports, and other information provided by the CUPA indicates the following examples that were identified during the 2018 CUPA Performance Evaluation have not been corrected:

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- CERS ID 10127224: A routine inspection report dated August 27, 2015, cites a violation. CERS has no record of the inspection or the violation.
- CERS ID 10435216: An inspection report dated May 23, 2015, cites a violation. CERS has no record of the inspection or the violation.

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

Note: This incidental finding was identified as a deficiency during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

**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 1<sup>st</sup> Progress Report, the CUPA will consistently and correctly report CME information to CERS for the APSA tank facilities identified above.

By the 2<sup>nd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM, that include RTC documentation or an inspection report.

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**3. INCIDENTAL FINDING:**

The CUPA's UST Permit Issuance Policy is inconsistent with UST Regulations and HSC.

Review of the CUPA's UST Permit Issuance Policy finds the following inconsistency:

- The policy states that before a UST operating permit can be issued or renewed the UST facility must demonstrate compliance with UST Regulations and HSC, which is more stringent than UST Regulations and HSC, and where no local ordinance authority exists. A UST operating permit can only be withheld if the facility is currently red tagged, undergoing enforcement, or has not paid the permit fee.

Note: This incidental finding was identified as a deficiency during the 2012, 2015, and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process. While UST Regulations and HSC have changed regarding conditions for permit issuance, the CUPA's UST Permit Issuance Policy needs to be revised to reflect the regulatory changes.

**CITATION:**

HSC Chapter 6.7, Section 25288 and 252901.1(b)(3)  
[State Water Board]

**RESOLUTION:**

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By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the UST Permit Issuance Policy, which will address the inconsistency identified above.

By the 2nd Progress Report, if amendments to the revised UST Permit Issuance Policy are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST Permit Issuance Policy. If no amendments are necessary, the CUPA will train UST inspection staff on the revised UST Permit Issuance Policy. Once training is complete, the CUPA will implement the revised UST Permit Issuance Policy.

By the 3rd Progress Report, if amendments to the revised UST Permit Issuance Policy were necessary, the CUPA will train UST inspection staff on the amended UST Permit Issuance Policy. Once training is complete, the CUPA will implement the amended UST Permit Issuance Policy.

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**4. INCIDENTAL FINDING:**

The Records Maintenance Policy does not reflect how the CUPA is currently and adequately:

- reporting violations, including technical compliance rate (TCR) criteria on inspection reports, in CERS, and Report 6.
  - The CUPA has improved with reporting CME data in CERS, such as violations noted in annual monitoring certifications and inspection reports.
- ensuring review of information in UST CERS submittals is complete and accurate before being accepted.
  - The CUPA has improved with reviewing and accepting complete and accurate information in CERS UST submittals and reporting TCR criteria on inspection reports.

Note: This incidental finding was identified as a deficiency and as an incidental finding during the 2018 CUPA Performance Evaluation process and was not completely corrected or resolved during the Evaluation Progress Report process. To ensure the CUPA continues to properly cite violations on inspection reports and in CERS and continues to conduct a thorough review of information in UST CERS submittals, in the event of staff turnover, a properly maintained and updated procedure is critical.

**CITATION:**

HSC, Chapter 6.7, Sections 25286 and 25288(a)  
CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), 2641(g), (h) 2713(c)(4), and 2713(d)  
CCR, Title 27, Sections 15290(a)(3) and 15290(b)(1)  
[CalEPA, State Water Board]

**RESOLUTION:**

By the 1st Progress Report, the CUPA will revise the Records Maintenance Policy or develop a Data Management Procedure, or other applicable procedure, to include the following:

- Current practices of correctly reporting inspected UST facilities in compliance with release detection, spill prevention, overflow prevention, corrosion protection, financial responsibility,

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and designated operator training and inspection requirements in CERS and Report 6, in accordance with CCR, Title 23, Division 3, Chapter 16, Section 2713(c).

- The establishment of a process or procedure for UST inspection staff to review CERS UST submittal information for accuracy and completeness. The process or procedure will, at a minimum, delineate the CUPA's process for reviewing UST CERS submittals for accuracy and completeness regarding construction and leak detection requirements as follows:
  - Based on the UST installation date, the CUPA will review CERS UST submittals for correct construction and leak detection requirement or, based on construction and leak detection information, review CERS UST submittals for inaccurate UST installation date; and
    - When CERS UST submittal information is identified as incorrect, the CUPA will either:
      - accept CERS UST submittals with minor errors utilizing a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;
      - not accept CERS UST submittals and provide comments with the requirement to resubmit UST information within a specified time.
    - When the CERS UST submittal is not corrected within the time specified by the CUPA, the CUPA will apply appropriate enforcement per the I&E Plan.

The CUPA will provide CalEPA with the revised Records Maintenance Policy or developed Data Management Procedure, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised Records Maintenance Policy or revisions to the Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Records Maintenance Policy or revised Data Management Procedure, or other applicable procedure. If no amendments or revisions are necessary, the CUPA will train UST inspection staff on the revised Records Maintenance Policy or Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum, will include 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 Records Maintenance Policy or Data Management Procedure, or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised Records Maintenance Policy or revisions to the Data Management Procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended Records Maintenance Policy or revised Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at a minimum, will include 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 Records Maintenance Policy or revised Data Management Procedure, or other applicable procedure.



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By the 4th Progress Report, and with each subsequent Progress Report until considered corrected:

- The State Water Board will review five UST submittals accepted by the CUPA in CERS subsequent to UST inspection staff receiving training on the revised or amended Records Maintenance Policy or Data Management Procedure, or other applicable procedure.
- The CUPA will provide five UST facility records, as selected by the State Water Board, including annual UST compliance inspection reports, associated monitoring certificates, spill container testing, and any other necessary testing and compliance documentation not found in CERS.
- The CUPA will accurately report UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

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**5. INCIDENTAL FINDING:**

The I&E Plan does not reflect how the CUPA is currently and adequately:

- requiring the owner or operator to submit UST testing and leak detection documentation within 30 days,
- preparing annual UST compliance inspection reports for each annual UST inspection, and
- conducting complete annual UST compliance inspections.

Note: This incidental finding was identified as a deficiency during the 2012, 2015, and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process. To ensure the CUPA continues to properly require UST owners or operators to submit UST testing and leak detection documentation within 30 days, prepare annual UST compliance inspection reports, and conduct complete annual UST compliance inspections, in the event of staff turnover, a properly maintained and updated procedure is critical.

**CITATION:**

HSC, Chapter 6.7, Section 25288(b) and 25299

CCR, Title 23, Section 2637(e), 2637.1(e), 2638(d), 2643(g), 2644.1(a)(5), and 2713(c)(4)

CCR, Title 27, Section 15290(a)(3)

[State Water Board]

**RESOLUTION:**

During the evaluation, the CUPA provided a revised I&E Plan that adequately included the following:

- A process for requiring UST facilities to submit testing and leak detection documents within 30 days.
- A process for requiring UST inspection staff to conduct complete annual UST compliance inspections and prepare annual UST compliance inspection reports.

By the 1st Progress Report, the CUPA will train UST inspection staff on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at a minimum, will include an

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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.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide five UST facility records, as selected by the State Water Board. The selected UST facility records will include, at a minimum, monitoring certification results, secondary containment test results, spill bucket test results, and any other testing or leak detection documents showing the date the testing and leak detection documents were received by the CUPA.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide annual UST compliance inspection reports that have been completed within the previous 90 days.

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**6. 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 or for each formal enforcement case.

A Formal Enforcement Summary Report was not provided for the following formal enforcement cases:

- CERS ID 10154479
- CERS ID 10400035

**CITATION:**

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

**RESOLUTION: COMPLETED**

During the evaluation, the CUPA provided Formal Enforcement Summary Reports for CERS ID 10154479 and CERS ID 10400035. Both were submitted more than 30 days after the final judgement had been issued; however, there are no other pending formal enforcement actions. Going forward, the CUPA will ensure that a Formal Enforcement Summary Report is submitted to CalEPA within 30 days of a final judgement being issued. No further action is required.

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

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**7. INCIDENTAL FINDING: RESOLVED DURING EVALUATION**

The Self-Audit Reports for FYs 2017/2018, 2018/2019, and 2019/2020 were not completed by September 30<sup>th</sup> of the respective FY.

- The CUPA indicated that the Self-Audit Reports for FYs 2017/2018 and 2018/2019 were completed retroactively for this evaluation.
- The Self-Audit Report for FY 2019/2020 does not specify a date of completion; however, metadata within the document indicates it was compiled on September 30, 2020.

**CITATION:**

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

**RESOLUTION: COMPLETED**

During the evaluation, the CUPA provided the Self-Audit report for FY 2020/2021, which included all required components, and was submitted to CalEPA before the September 30<sup>th</sup> deadline. No further action is required.

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UNIFIED PROGRAM PERFORMANCE EVALUATION  
PRELIMINARY SUMMARY OF FINDINGS REPORT

**OBSERVATIONS AND RECOMMENDATIONS**

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

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**1. OBSERVATION:**

Review of overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, information provided by the CUPA and Self-Audit Reports for July 1, 2018, through June 30, 2021, is summarized below:

- There are 65 regulated HWG facilities, 0 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, and 0 Tiered Permitted facilities.
- The three-year inspection frequency for all HWG facilities is being met.
- The CUPA inspected 62 facilities
  - 52 (58%) facilities had no violations cited
  - 37 (42%) facilities had at least one violation cited.
- The CUPA conducted 89 inspections (Routine and Other), 61 total violations were issued, consisting of:
  - one Class I violation,
  - 45 Class II violations, and
  - 15 minor violations.
- The CUPA has ensured RTC for 56 of 61 (91%) violations.
- The CUPA completed no formal enforcement action for hazardous waste related violations.
- HWG inspection reports contain detailed comments that note the factual basis of cited violations.
- During the evaluation, the CUPA adjusted the CERS code for CERS ID 10127137 from PBR to HHW.
- The CUPA's website is under construction and has minimal information for HWGs, including access to the DTSC website.

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

**RECOMMENDATION:**

Continue with the three-year HWG inspection frequency as identified in the I&E Plan. Continue writing detailed inspection reports that include factual basis of the violation and properly cite noted violations. Follow up with facilities that have no RTC by the scheduled RTC date and apply appropriate enforcement for facilities that do not RTC, per the I&E Plan. Ensure that complete and thorough inspections are conducted to identify all violations at facilities.

Improve the existing process or establish a routine for review of CERS CME information to ensure data quality regarding what is entered by the CUPA as well as what is entered by facilities to confirm proper reporting in CERS.

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### OBSERVATIONS AND RECOMMENDATIONS

#### 2. OBSERVATION:

Each of the three CalARP Performance Audits submitted did not address the information requested in CCR, Title 19, Section 2780.5(b)(7), which is a summary of the personnel and personnel years required to implement the CalARP program (how many staff and the hours staff spend on implementing the CalARP program). For example, two inspectors, each with 25% of time allocated to CalARP program implementation, equates to two total personnel, and 0.5 personnel years.

#### RECOMMENDATION:

With the next CalARP Performance Audit, format the summary of the personnel and personnel years required to implement the CalARP program as outlined above.

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#### 3. OBSERVATION:

The I&E Plan has the following minor errors:

##### HMBP & CalARP Programs:

- Page 9: HSC, Section 25508 concerns business plan submittals, not inspections. CCR, Title 19, Section 2775.2(h) concerns audits, not inspections. The correct Section is 25511. Neither of these citations are relative to RTC. Neither HSC, Chapter 6.95 nor CCR, Title 19 contains a RTC citation.
- Page 29: The correct citation for administrative civil penalties is HSC, Section 25515.2. HSC, Section 25516 concerns the use of injunctions.
- Page 32: HSC, Section 25514.5 does not exist.
- Page 44: HSC, Section 25510 is in Article 1, not Article 2 of Chapter 6.95. The correct citation is likely HSC, Section 25540.

##### APSA Program:

- Page 2: The plan states the CUPA is responsible for the six environmental and public safety programs within Mono County but is missing the fire code Hazardous Materials Management Plans and Hazardous Materials Inventory Statements (HMMP-HMIS) program element. The HMMP-HMIS program element is consolidated with the HMBP Program to streamline and ease the regulatory burden of doing business in California.
- Page 7: The plan references outdated information on a training program established by CalEPA and completing an exam developed by CalEPA prior to conducting inspections at APSA tank facilities. This outdated APSA training information should be removed.
- Page 10: The APSA RTC timeframe is omitted. For clarity, although there are no established timeframes under APSA, Unified Program regulated facilities cited with a minor violation have 30 days from the date of the notice to comply, in accordance with HSC, Section 25404.1.2(c)(1).
- Page 26: Reference to HSC, Section 25270.5 as violations of APSA should be replaced with HSC, Chapter 6.67 commencing with Section 25270, consistent with the other statements under the AEO section.
- Page 32: The Table of Enforcement Options has omitted the APSA program.
- Page 37: The statement, "If the order is for a violation of HSC Ch. 6.67 commencing with section 25270.12...on which the violation continues," should be replaced as follows: "If the

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

order is for a violation of HSC, Ch. 6.67 commencing with Section 25270, the violation shall be liable for a penalty of not more than five thousand dollars (\$5,000) for each day on which the violation continues per Section 25270.12 or 25270.12.1.” Note that HSC, Section 25270.12.1 addresses administrative penalties, while HSC, Section 25270.12 addresses civil penalties.

- Page 40: An APSA acronym can be added.
- Page 45: The APSA Penalties table mistakenly references HSC, Section 25270.1, which does not exist. HSC, Section 25270.12 and HSC, Section 25270.12.1 are better references.
- Page 49: HSC, Section 25270.5 is referenced as the CUPA’s enforcement authority of the APSA program. HSC, Section 25270.5 requires Unified Program Agencies (UPAs) to inspect tank facilities with 10,000 gallons or more of petroleum for compliance with the SPCC Plan requirements of APSA, or the UPA may develop an alternative inspection and compliance plan, and UPA inspector training requirements. The UPA’s enforcement authority of the APSA Program is derived from HSC, Sections 25270.2(c), 25270.4, and 25404(a)(1)(C).

#### RECOMMENDATION:

With the next review and revision of the I&E plan, correct the minor errors identified above.

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#### 4. OBSERVATION:

The CUPA’s draft area plan has the following minor errors:

- The checklist does not contain the location of the indicated elements.
- There are a number of “misspellings” and inconsistent formatting, mostly occurring within section headers, or as larger fonts, underlined and bolded. Many or most of the formatting errors are likely caused with the conversion of a MS Word document to a PDF document.
  - Page 7: “Definition #2” is misspelled.
  - Page 8: “Incident Command” is misspelled.
  - Page 10: “Contingency” is misspelled.
  - Page 11: “Coordination” is misspelled.
  - Page 16: “Approach” is misspelled,
  - Page 17: “Department” is misspelled.
  - Page 21: “Clean-up” is misspelled.
  - Page 24: “Highway” is misspelled.
  - Page 26: the person’s name has a number in the middle of it.
  - Page 28: “Department” is misspelled several times.
  - Page 33: “California” is misspelled.
  - Page 42: “Patrol” is misspelled.
  - Page 44: “Quality” is misspelled.
  - Page 45: “Toxic”, “substance”, “administration” and “state park” are misspelled.
  - Page 46: “Private” is misspelled.
  - Page 49: there are numerous formatting issues
  - Page 52: “evacuation” is misspelled.
  - Page 57: “section” is misspelled.
  - Page 59: “incident”, “county” and “department” are misspelled.

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- Page 71: the word after “road” is misspelled.
- Page 74: “hazardous” is misspelled.

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

- Page 9: OSPR is part of the Department of Fish and Wildlife, not Cal EPA.
- Page 17: MSDS should be SDS.
- Page 18: California Administrative Code section 2701 should be CCR, Section 2631.
- Page 19: “Title 19 CC section 2703” should be CCR, Title 19, Section 2631.
- Page 27: Mary Montgomery has been replaced by Karla Benedicto, (714) 869-4718. Dennis Beene’s position is currently vacant.
- Pages 11, 13, 18, 25, 28, 43, 59, 60, and 72 (and possibly additional pages): the Department of Fish & Game should be the Department of Fish & Wildlife.

#### RECOMMENDATION:

Prior to adoption of the area plan, review and revise the MS Word version of the draft area plan as appropriate to correct the minor errors.

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#### 5. OBSERVATION:

The webpage <https://monohealth.com/environmental-health/page/aboveground-storage-tanks> contains the following APSA program information that is outdated, incorrect, or may benefit from improvement:

- The APSA applicability information should be updated to reflect facilities with tanks in underground areas (TIUGAs) regardless of the 1,320-gallon petroleum storage capacity of the facility.
- The website should include information that the requirement to prepare an SPCC Plan under APSA does not apply to all tank facilities if they meet certain conditions.
- The Tier II Qualified Facility SPCC Plan template link goes to an outdated template (dated September 2018). The link should go to the revised template (dated May 2021) at [https://osfm.fire.ca.gov/media/2wgeyhtl/calfire-osfm\\_tierii\\_spcc\\_plantemplate\\_05-2021-accessible.pdf](https://osfm.fire.ca.gov/media/2wgeyhtl/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf).
- The TIUGA link in the Test Header 2 section is broken.

#### RECOMMENDATION:

Update the APSA information on the website and consider adding a link to the U.S. Environmental Protection Agency website at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations> for information on SPCC requirements.

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**OBSERVATIONS AND RECOMMENDATIONS**

**6. OBSERVATION:**

The CERS reporting requirement is currently set as “APSA Applicable” for 47 tank facilities. The CUPA’s local data management system identifies 45 APSA tank facilities.

- 40 APSA tank facilities are identified in both CERS and the CUPA’s local data management system.
- Five facilities identified in the CUPA’s local data management system are currently identified in CERS as “APSA Not Applicable.” Three of these facilities are likely not APSA regulated and should be removed from the CUPA’s local data management system as APSA tank facilities.
- Seven tank facilities are reported as APSA Applicable in CERS but are not identified as APSA tank facilities in the CUPA’s local data management system. Five of these facilities are likely APSA regulated and should be added to the CUPA’s local data management system as APSA tank facilities.
- The CUPA should determine if two additional facilities currently reported in CERS as “APSA Not Applicable” are actual APSA tank facilities.

**RECOMMENDATION:**

Complete the reconciliation of the APSA Program information in the CUPA’s local data management system with CERS to ensure all APSA tank facilities are included in both systems.

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**7. OBSERVATION:**

A few APSA tank facilities submitted an HMBP in lieu of a tank facility statement using the 2011 emergency response and training plans template, which has an obsolete phone number for OSFM.

The following APSA tank facilities did not identify local medical assistance appropriate for potential accident scenarios in the recently accepted HMBP emergency response plans and procedures:

- CERS IDs 10406476, 10159849, 10134217, 10479745, and 10479709

**RECOMMENDATION:**

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template to use the current version, when an HMBP is submitted in lieu of the tank facility statement. The current template is available in CERS.

Consistently ensure HMBP submittals, in lieu of a tank facility statements, include site maps and emergency response and training plans that contain all applicable required elements.

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**8. OBSERVATION:**

The CUPA regulates some farms. Effective January 1, 2016, Senate Bill (SB) 612 aligned the applicability threshold for farms with that of the Federal SPCC rule, which has increased to 2,500



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gallons of oil or 6,000 gallons of oil (with no reportable discharge history) per the Federal Water Resources Reform and Development Act (WRRDA) of 2014.

The OSFM information on APSA and farms is available at <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/>. More information on farms under the Federal SPCC rule may be found on the U.S. Environmental Protection Agency website at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>.

#### RECOMMENDATION:

Review the list of conditionally exempt tank facilities at farms, verify if the total oil storage capacity meets the WRRDA thresholds, and determine if each should still be regulated as a conditionally exempt tank facility under APSA.

Farms that are no longer regulated under APSA due to SB 612 oil applicability thresholds should be identified in CERS as “APSA Not Applicable.” The CUPA is encouraged to change the CERS APSA facility reporting requirement from “Applicable” to “Not Applicable” for such farms.

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#### 9. OBSERVATION:

The information below is a comparison of the total number of regulated facilities within each Unified Program element in Fiscal Year 2002/2003 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:

- Mono CUPA Fiscal Year 2002/2003 Annual Inspection Summary Report (Report 3)
- CERS “Summary Regulated Facilities by Unified Program Element” report, generated on September 1<sup>st</sup>, 2021; and
- CERS “UST Inspection Summary Report (Report 6),” generated on September 1<sup>st</sup>, 2021.
  
- Total Number of Regulated Businesses and Facilities:
  - In FY 2002/2003 Report 3: 148
  - Currently: 212
  - An increase of **64** facilities
  
- Total Number of **Business Plan** Regulated Businesses and Facilities:
  - In FY 2002/2003 Report 3: 82
  - Currently: 212
  - An increase of **130** facilities
  
- Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
  - In FY 2002/2003 Report 3: 25
  - Currently: 21
  - A decrease of **4** facilities

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- **Total Number of Regulated USTs:**
  - In FY 2002/2003 Report 3: Data Unavailable
  - Currently: 63
  - Comments: This information was not available on the FY 2002/2003 Annual Report 3.
- **Total Number of Regulated Hazardous Waste Generator Facilities:**
  - In FY 2002/2003 Report 3: 36
  - Currently: 65
  - An increase of **29** facilities
- **Total Number of Regulated Household Hazardous Waste (HHW) Facilities:**
  - In FY 2002/2003 Report 3: 0
  - Currently: 3
  - An increase of **3** facilities
- **Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
  - In FY 2002/2003 Report 3: 0
  - Currently: 1
  - An increase of **1** facility
- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
  - In FY 2002/2003 Report 3: 1
  - Currently: 3
  - An increase of **2** facilities
- **Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
  - In FY 2002/2003 Report 3: 4
  - Currently: 3
  - A decrease of **1** facility
- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
  - In FY 2002/2003 Report 3: Data Unavailable
  - Currently: 47
  - Comments: This information was not available on the FY 2002/2003 Annual Report 3.

Since FY 2002/2003, the CUPA has seen some degree of fluctuation in the number of regulated facilities in nearly all program elements for which data were available. The total number of regulated HMBP facilities increased by 130 (or 159%), HWG facilities increased by 29 (or 81%), the number of RCRA LQG facilities increase by 2 (or 200%), and the CUPA gained one Tiered Permitting facility. The CUPA also experienced the number of regulated UST facilities decrease by 4 (or 16%) and the number of CalARP facilities decrease by 1 (or 25%); although, in general, the CUPA saw an increase in the total number of regulated facilities by 64 (or 43%).

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**RECOMMENDATION:**

The overall number of regulated facilities and the number of regulated facilities for certain program elements have changed significantly over the last 18 years, increasing the demands of the CUPA to ensure adequate regulatory oversight and implementation of the Unified Program. Continue regularly evaluating and reevaluating the allocation of staff time and resources necessary to ensure adequate implementation of each program element, particularly with regard to the nature of the regulated community which has changed since certification, as this may assist in addressing and improving areas found to be deficient during this CUPA Performance Evaluation. Consider the geographic nature within the jurisdiction of the CUPA and determine whether the efficiencies of any current policies, practices, and procedures would benefit from revision or improvement.

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**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

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

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**1. RECOGNITION OF PROGRAM IMPROVEMENT:**

The State Evaluation Team recognizes the outstanding work that has been done by the present CUPA staff to improve the effectiveness and overall implementation of the Unified Program in Mono County. While there is need for improvement, the State Evaluation Team commends the CUPA on the overall significant enhancement and progression of CUPA performance that has occurred since the 2018 CUPA Performance Evaluation considering the continual staffing and resource challenges.

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