

December 2, 2022

Mr. Freddie Agyin, MA, REHS, Director
Vernon City Health and Environmental Control
4305 Santa Fe Avenue
Vernon, California 90058-1730

Dear Mr. Agyin:

During June 2021 through February 2022, CalEPA and the state program agencies conducted a performance evaluation of the Vernon City Health and Environmental Control Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System information.

Upon completion of the evaluation, a preliminary Summary of Findings report was developed to identify various findings: program deficiencies with corrective actions, incidental findings with resolutions and program observations and recommendations.

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as unsatisfactory. Overall implementation of the Unified Program was also previously considered unsatisfactory during the 2018 CUPA Performance Evaluation, and the majority of deficiencies and incidental findings remained uncorrected and unresolved at the close of the 2018 CUPA Performance Evaluation.

Despite the continued unsatisfactory implementation, a Program Improvement Agreement (PIA) will not be pursued with the governing body of the CUPA at this time as the CUPA has demonstrated a strong commitment to improving implementation of the Unified Program going forward. In October 2018, as a result of significant reorganization and infrastructural changes, the City of Vernon hired a new director to rebuild the Department of Health and Environmental Control, including the CUPA. In 2019, the CUPA became successfully staffed with an Environmental Health Program Administrator, an Environmental Health Specialist, and an Environmental Health Technician to regain compliance in implementation and obtain regulatory objectives of the Unified Program. During the transition phase of hiring and training personnel, the CUPA has ensured continuity of operations with utilization of a contracted Environmental Health Specialist to assist with conducting inspections.

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 (January 23, 2023), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as

corrected or resolved. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead at timothy.brandt@calepa.ca.gov.

Failure to adequately correct each of the deficiencies and resolve each of the incidental findings identified in the final Summary of Findings in a timely manner may result in the establishment of a Program Improvement Agreement between CalEPA and the governing body of the CUPA.

Thank you for your continued commitment to improving the performance of the CUPA and implementation of the Unified Program for the better protection of public health and the environment.

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.

Sincerely,



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

Enclosures

cc sent via email:

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Mr. Freddie Agyin
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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: Vernon City Health and Environmental Control

Evaluation Period: June 2021 through February 2022

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt, Samuel Porras
- **DTSC:** Matthew McCarron, Brennan Ko-Madden
- **CalEPA*:** Garrett Chan, Jack Harrah
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Mary Wren-Wilson, Glenn Warner

This Final Summary of Findings includes:

- 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: **unsatisfactory**.

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

Timothy Brandt
CalEPA Unified Program
Phone: (916) 327-9557
E-mail: 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:

1st Progress Report: February 7, 2023
3rd Progress Report: August 14, 2023

2nd Progress Report: May 10, 2023
4th Progress Report: November 17, 2023

*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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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

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

The following administrative procedures have not been established nor implemented:

- Procedures for forwarding Hazardous Materials Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities in accordance with California Health and Safety Code (HSC) Section 25504(c).
- Financial Management Procedures that include:
 - Single fee system,
 - Fee accountability program, and
 - Surcharge collection and reimbursement program.

The following administrative procedures have components that are incomplete:

- The Public Participation Procedures do not address how the CUPA coordinates, consolidates, and makes consistent locally required public hearings related to any Unified Program element.
- The Records Request Procedure does not outline methods used to prevent the release of confidential and trade secret information.
- The File Retention Policy does not outline archival procedures or proper disposal methods. Records are “purged” after meeting the retention timeframe, but the methods used to dispose of them is not identified.
Note: Unified Program Consolidated Form (UPCF) is an antiquated term used in the File Retention Policy. These forms are no longer used.
- The Data Management Procedure does not identify training records to be retained for the five-year minimum retention time, as required.

CITATION:

California Code of Regulations (CCR), Title 27, Sections 15180(e)(1), (e)(3), (e)(4), (e)(5), (e)(7), 15185(b), and 15290
[CalEPA]

CORRECTIVE ACTION:

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

By the 2nd Progress Report, if revisions to the established Unified Program administrative procedures and/or amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised

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DEFICIENCIES REQUIRING CORRECTION

and/or amended Unified Program administrative procedures. If no amendments and/or revisions are necessary, the CUPA will train CUPA personnel on the amended and/or revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date the 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 established and/or revised Unified Program administrative procedures.

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

2. DEFICIENCY:

Required components of the Inspection and Enforcement (I&E) Plan are missing or incomplete. The I&E Plan has not been reviewed or revised annually.

The following I&E Plan components are missing:

- Identification of an inspection frequency for the Hazardous Waste Generator (HWG) Program.
- Enforcement notification procedures that ensure appropriate confidentiality and coordination and timely notification of appropriate prosecuting agencies.
- Identification of all available enforcement options.
- Provisions ensuring a uniform and coordinated application of enforcement standards.
- Identification of penalties and enforcement actions that are consistent, predictable for similar violations, and no less stringent than state statute and regulations.
- A description of appropriate enforcement (graduated series of informal and/or formal enforcement actions) based on the severity of the violation.
- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.

The following I&E Plan components are incomplete:

- Tiered Permitting (TP) inspection frequencies for Permit By Rule (PBR), Conditionally Authorized (CA), and Conditionally Exempt (CE) need to be updated to include an “initial inspection within two years of notification and every three years thereafter.”

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Note: Provisions for ensuring sampling capability and analysis was identified as a missing component of the I&E Plan during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that adequately incorporates and correctly addresses missing and incomplete components.

By the 1st Progress Report, the CUPA will establish a procedure to ensure the I&E Plan is reviewed annually and revised as necessary. The CUPA will provide the established procedure to CalEPA.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and/or DTSC, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include the date the 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 I&E Plan.

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. The CUPA will provide training documentation to CalEPA, which at minimum will include the date the training was conducted, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended I&E Plan.

3. DEFICIENCY:

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.

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

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

- Fiscal Year (FY) 2018/2019
 - 1st Fiscal Quarter:
 - Due October 30, 2018, submitted September 12, 2019.
 - 2nd Fiscal Quarter:
 - Due January 30, 2019, submitted September 12, 2019.
 - 3rd Fiscal Quarter:
 - Due April 30, 2019, submitted September 12, 2019.

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- 4th Fiscal Quarter:
 - Due July 30, 2019, submitted September 12, 2019.
- FY 2019/2020
 - 1st Fiscal Quarter:
 - Due October 30, 2019, submitted April 30, 2020.
 - 2nd Fiscal Quarter:
 - Due January 30, 2020, submitted April 30, 2020.
 - 4th Fiscal Quarter:
 - Due July 30, 2020, submitted October 19, 2020, and re-submitted November 17, 2020.
- FY 2020/2021
 - 2nd Fiscal Quarter:
 - Due January 30, 2021, submitted July 29, 2021.
 - 3rd Fiscal Quarter:
 - Due April 30, 2021, submitted July 29, 2021.

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA the 4th quarterly Surcharge Transmittal Report for FY 2021/2022 by the required due date using the current quarterly [Surcharge Transmittal Report](#) template.

Each line item on the Surcharge Transmittal Report template should be completed, including the check number.

Thereafter, the CUPA will ensure the state surcharge remittance and each quarterly Surcharge Transmittal Report are provided to CalEPA at cupa@calepa.ca.gov no later than 30 days after the end of each fiscal quarter during which the state surcharge was collected.

Note: CalEPA has revised the Quarterly Surcharge Transmittal Report template to reflect the increased CUPA Oversight state surcharge, which became effective July 1, 2021, and includes an assessment for the CERS NextGen Project. The revised quarterly Surcharge Transmittal Report is available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf and should be submitted to cupa@calepa.ca.gov. Each line item on the Surcharge Transmittal Report template should be completed, including the check number. Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, the July 1, 2018, version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27.

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4. DEFICIENCY:

The CUPA is not ensuring all personnel involved with Unified Program implementation meet applicable education, training, or experience requirements.

There are insufficient training records to indicate that Unified Program personnel issuing enforcement orders meet the following minimum training requirements:

- Health and safety training as specified in CCR, Title 8, Section 5192(e);
- 100 hours of training in regulatory investigative techniques including training in the following subjects:
 - Federal and state statutes and regulations on hazardous waste control;
 - Conducting an inspection;
 - Waste classification;
 - Inspection report writing;
 - Collection and preservation of samples;
 - Enforcement response options;
 - Writing reports of violation;
 - Interviewing;
 - Case development;
 - Collection and preservation of evidence;
 - Witness training; and
 - Rules of evidence and the administrative hearing process.
- Twenty-four hours of training in the following additional areas:
 - Training on penalty assessment, and
 - Negotiation techniques.

CITATION:

CCR, Title 27, Section 15260(d)(3)
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will establish and implement an education and training plan to ensure all CUPA personnel issuing enforcement orders meet the applicable education, training, or experience requirements. At least one staff member should have the requisite training. At a minimum, the plan will include:

- A list of existing CUPA personnel and any additional classifications involved with Unified Program implementation that do not meet the education, training and experience requirements of CCR, Title 27, Section 15260; and identification of the corresponding education, training and experience requirements that need to be met;
- The timeline for existing CUPA personnel to fulfill the applicable education, training, or experience requirements of CCR, Title 27, Section 15260, if applicable.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with documentation of completion of education,

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training, and experience to demonstrate that identified CUPA personnel have met the education, training, and experience requirements to conduct enforcement. Documentation will include at a minimum, an outline of the education, training and experience completed for all applicable CUPA personnel.

5. DEFICIENCY:

The CUPA is not inspecting each HWG facility once every three years.

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

- 129 of 194 (66%) HWG facilities were not inspected once every three years.

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility is inspected once every three years. The action plan will include, at a minimum:

- An analysis and explanation as to why the inspection frequency for the HWG program is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of the Coronavirus (COVID-19).
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that has not been inspected once every three years. For each HWG facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - date of the last routine inspection.
- A schedule to inspect those HWG facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.
- Future steps to ensure that all HWG facilities will be inspected once every three years, for example, the generation of a list of all HWG facilities and the anniversary date of the next routine HWG inspection for each listed facility.

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

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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 spreadsheet.

By the 5th Progress Report, the CUPA will have inspected each HWG facility, at a minimum of once every three years.

6. DEFICIENCY:

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

Review of CERS CME information between July 1, 2018, and June 30, 2021, finds there is no documented RTC for the following HWG violations:

- 5 of 12 (42%) HWG violations did not return to compliance.

Examples include:

- CERS ID 10670941: inspection dated August 19, 2020
- CERS ID 10687198: inspection dated August 19, 2019
- CERS ID 10468858: inspection dated August 13, 2019

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

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 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)

HSC, Chapter 6.11, Section 25404.1.2(c)

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

[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at a minimum the following information for each HWG facility with open violations (no RTC) cited between July 1, 2018, and June 30, 2021:

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

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- In the absence of obtained RTC, a narrative of the applied enforcement taken by the CUPA to ensure RTC.

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

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HWG facility records, as requested by DTSC, that include RTC documentation, or a description of the applied enforcement taken by the CUPA in the absence of RTC.

7. DEFICIENCY:

The CUPA is not inspecting each Tiered Permit (TP) facility within the first two years of operations and every three years thereafter.

Review of facility files, CERS CME information, and additional information provided by the CUPA finds:

- 9 of 10 (90%) TP facilities were not inspected every three years after the initial inspection. Note: There are at least 13 TP facilities, one of which was listed once as a CA facility and once as a CE facility.

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 6.5, Section 25201.4(b)(2)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each TP facility is inspected at least once within the first two years of operation and every three years thereafter. The action plan will include, at a minimum:

- An analysis and explanation as to why the inspection frequency for the TP program is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of the Coronavirus (COVID-19).
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each TP facility that has not been inspected at least once within the first two years of operation and every three years thereafter. For each TP facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.

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- A schedule to inspect those TP facilities, prioritizing the most delinquent inspections to be completed prior to any other TP inspection based on risk.
- Future steps to ensure that all TP facilities are inspected once within the first two years of operation and every three years thereafter.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from DTSC. 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 spreadsheet.

By the 3rd Progress Report and with each subsequent Progress Report, until considered corrected, the CUPA will provide CalEPA with five TP facility compliance inspection reports.

By the 5th Progress Report, the CUPA will have inspected each TP facility at least once within the first two years of operation and every three years thereafter.

8. 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 receiving it.

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 2 of 2 (100%) PBR Onsite Hazardous Waste Treatment Notifications were not reviewed, processed, or authorized by the CUPA within 45 days of receipt for the following facilities:

- CERS ID 104411219:
 - Notification submitted July 17, 2020, and authorized February 25, 2021.
 - Notification submitted May 18, 2021. The CUPA did not respond.
- CERS ID 10468627: described by the CUPA as a PBR facility
 - Approval for Conditionally Authorized treatment in 2017.
 - The CUPA did not conduct an accurate and complete review of the PBR annual notification.

CITATION:

CCR, Title 22, Sections 67450.2(b)(2) and 67450.3(c)(1) and (d)
[DTSC]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide inspectors with TP program training regarding how 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.

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

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 program training assistance may also 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 that has not been reviewed within 45 days and ensure annual notification submittals are accurate, correct and represent the actual waste treatment systems used at the notifying facility.

9. DEFICIENCY:

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

Review of CERS CME information finds:

- 138 of 458 (30%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to HMBP requirements is inspected at least once every three years. The action plan will include at a minimum:

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- An analysis and explanation as to why the triennial inspection frequency for each HMBP facility is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of the Coronavirus (COVID-19).
- 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 a minimum:
 - Facility name;
 - CERS ID; and
 - Date of the last routine inspection
- A schedule to inspect those HMBP facilities, prioritizing the most delinquent inspections to be completed prior to any other HMBP facility inspection based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years, for example, the generation of a list of all HMBP facilities and the anniversary date of the next routine HMBP inspection for each listed facility according to the inspection frequency.

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 spreadsheet.

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

10. DEFICIENCY:

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

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds the following HMBP submittals were accepted with missing site map elements such as evacuation staging areas and emergency response equipment:

- CERS ID 10441162
- CERS ID 10423855
- CERS ID 10469005
- CERS ID 10451776

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

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CITATION:

HSC, Chapter 6.95, Section 25505(a)(2)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that each HMBP is thoroughly reviewed and contains all required elements, including all required elements of the site map, before being accepted in CERS. The action plan will include steps to follow up with rejected HMBP submittals that are not complete.

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 a minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP containing all required elements:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - recent review, acceptance, and rejection of incomplete HMBPs, and
 - applied enforcement taken by the CUPA to ensure regulated businesses annually submit a complete HMBP to CERS.

By the 4th Progress Report, the CUPA will follow up with each Business Plan facility identified in the spreadsheet provided with the 2nd Progress Report to ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP to CERS or the CUPA will have applied enforcement.

11. DEFICIENCY:

The CUPA is not adequately implementing the California Accidental Release Prevention (CalARP) Program.

- 21 of 42 (50%) CalARP facilities have not been inspected within the last three years.
- The CUPA did not complete CalARP performance audits.
- The CUPA did not complete a CalARP dispute resolution.

CITATION:

HSC, Chapter 6.95, Section 25533(d)
CCR, Title 19, Sections 2780.1 & 2780.2 & 2780.5
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure the CalARP Program is adequately implemented. At a minimum, the action plan will include:

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- Estimated dates for conducting a CalARP inspection at each regulated stationary source;
- Completion of a CalARP performance audit, pursuant to CCR, Title 19, Section 2780.5;
- Completion of a dispute resolution for the CalARP Program, pursuant to CCR, Title 19, Section 2780.1.

By the 2nd Progress Report, the CUPA will provide CalEPA with an update on progress made towards implementing the action plan.

12. DEFICIENCY:

The area plan is missing a required element.

Review of the area plan finds the following element is missing:

- area plan reporting form.

CITATION:

CCR, Title 19, Section 2640(d)
[CalEPA]

CORRECTIVE ACTION:

By the 3rd Progress Report, the CUPA will provide CalEPA with the revised area plan that includes the required element.

13. DEFICIENCY:

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

- The last certification of the area plan was February 2009.

CITATION:

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

CORRECTIVE ACTION:

By the 3rd Progress Report, the CUPA will certify to CalEPA that a complete review of the area plan has been conducted to ensure all required elements are present, emergency contact information is current, and any necessary revisions have been made. The CUPA will provide CalEPA with the revised area plan.

Financial assistance may be requested from Cal OES through the Hazardous Materials Emergency Preparedness (HMEP) grant program.

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14. DEFICIENCY:

The CUPA is not conducting complete annual underground storage tank (UST) compliance inspections.

The CUPA's Technical Compliance Rate (TCR) indicates not all UST violations are being cited as the TCR reported by the CUPA is significantly higher in comparison to the average TCR for California and the Nation.

- The TCR is a measurement of how a UST facility complies with performance measures as determined by the United States Environmental Protection Agency (U.S. EPA).
 - A low TCR indicates a low rate of compliance.
 - A high TCR indicates a high rate of compliance.
- When a CUPA's TCR is significantly higher TCR than the California and National TCR average, it is indicative that the CUPA is not citing UST violations at the same frequency as other CUPAs and States comprising the National average.

The CUPA's TCR information in comparison with the average TCR for California during the specified reporting periods identifies the following trend:

- January – June 2019:
 - CUPA: 14 of 14 (100%)
 - California average: 3,039 of 7,540 (40%)
- July – December 2019:
 - CUPA: 11 of 11 (100%)
 - California average: 2,902 of 6,141 (47%)
- January – June 2020:
 - CUPA: 11 of 12 (92%)
 - California average: 4,036 of 6,646 (60%)
- July – December 2020:
 - CUPA: 12 of 13 (92%)
 - California average: 3,698 of 6,048 (61%)

The National TCR average (which includes all states and territories under the authority of U.S. EPA) during the specified reporting periods identifies the following trend:

- April 2020 – March 2021: 59%
- October 2018 – September 2019: 44%

Note: Although the National TCR is reported on a different reporting cycle than that of the CUPA, comparison with the TCR rate of the CUPA demonstrates how the CUPA's TCR is higher than the reported averages for the State of California and on a National level.

In comparison with the California and National TCR averages, the high TCR of the CUPA is indicative of the CUPA not consistently observing non-compliance during the annual UST compliance inspection, not consistently citing and documenting violations in annual UST

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compliance inspection reports and/or in CERS, which provides inaccurate U.S. EPA TCR reporting, impacting the assessment of national compliance with UST Program requirements.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds the following examples where the CUPA did not conduct complete annual UST compliance inspections:

- CERS ID 10154957:
 - Monitoring System Certification Form dated July 11, 2019, identifies Tank 2 submersible turbine pump (STP) sump sensor was not alarming, sensor was cleaned, retested, and passed.
 - CERS notes a violation for water in secondary containment, however CERS has no record of non-compliance for failure of the Tank 2 STP sump sensor.
- CERS ID 10174361:
 - Monitoring System Certification Form dated January 9, 2020, identifies the 87 and diesel 208 sensors were replaced.
 - CERS has no record of non-compliance for failure of the 87 and diesel 208 sensors.
- CERS ID 10451617:
 - Overfill Prevention Equipment Inspection Report dated June 27, 2019, indicates Tank 1, Tank 2, and Tank 3 failed the Overfill Equipment Inspection.
 - CERS has no record of non-compliance for failure of the Overfill Prevention Equipment Inspection.
- CERS ID 10452904:
 - Overfill Prevention Equipment Inspection Report dated December 3, 2020, indicates Tank 1 and Tank 2 diesel failed the Overfill Prevention Equipment Inspection.
 - CERS has no record of non-compliance for failure of the Overfill Prevention Equipment Inspection was not reported in CERS.
- CERS ID 10484197:
 - Monitoring System Certification Form dated June 3, 2021, identifies the Tank 2 diesel tank probe failed.
 - CERS has no record of non-compliance for failure of the Tank 2 diesel tank probe.

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

Note: The following may be referenced:

- Local Guidance (LG) letter 159 “Annual Underground Storage Tank Compliance Inspection”
- LG letter 164-4, dated June 30, 2020
- State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records”
- State Water Board guidance dated July 1995, “Petroleum Underground Storage Tank Financial Responsibility Guide”

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

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CITATION:

HSC, Chapter 6.7, Sections 25288(b), 25292.2 and 25299
CCR, Title 23, Sections 2713(c)(4), 2711(a)(11), and 2809(a)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will perform a thorough analysis of the UST Program element of the Unified Program and identify why complete annual UST compliance inspections are not consistently conducted. The analysis will include, at a minimum:

- Identification of the types and frequency of training needed to consistently conduct complete UST compliance inspections.
- discussion on what procedures and tools may be needed to conduct complete annual UST compliance inspections
 - e.g. identifying areas of the annual UST compliance inspection checklist that can be improved, such as adding review of UST financial responsibility documentation to the File Review section (refer to the California CUPA Forum “UST Inspection Checklist,” at: <https://calcupa.org/inspection-checklist/index.html>).
 - a plan for addressing all reasons why complete annual UST compliance inspections are not consistently conducted.

By the 2nd Progress Report, based on the findings identified in the CUPA’s analysis, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure, at a minimum:

- the establishment of a process directing UST inspection staff to conduct complete annual UST compliance inspections;
- 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 documenting and reporting observed noncompliance in annual UST compliance inspection reports and in CERS;
- 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 and cannot witness the monitoring system certification and visually confirm all UST requirements are met;
- accurate U.S. EPA TCR reporting; and
- a process for reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672(d) (UST Regulations), HSC, Division 20, Chapter 6.7, Section 25298(c) (HSC), and the CERS violation library.

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

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By the 3rd 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 4th Progress Report, if amendments 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 5th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide UST facility records, for five UST facilities, as requested by the State Water Board, including, at a minimum, annual UST compliance inspection reports and associated testing, and leak detection documents.

By the 6th Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review TCR information in Report 6 and CERS for two consecutive Report 6 reporting periods to determine if the CUPA is consistently conducting complete UST compliance inspections.

15. DEFICIENCY:

The CUPA's Policy and Procedure Manual for the Unified Program Consolidated Permit (UPCP) is inconsistent with UST Regulations and HSC.

Review of the CUPAs Policy and Procedure Manual for the UPCP finds the following inconsistencies:

- Section III, A(2) states that a UST operating permit can be revoked for non-compliance with HSC, Chapters 6.7 and 6.75, and CCR, Title 23, Chapters 16 and 18.
 - The CUPA does not have regulatory authority under HSC, Chapter 6.75 or CCR, Title 23, Chapter 18. References to HSC, Chapter 6.75 and CCR, Title 23, Chapter 18 should be removed.
- Section III, D(1) states "Upon compliance with Health & Environmental Control and Fire Department requirements, appropriate permits will be issued."
 - The Unified Program requirements specifically outline that Fire Code provisions may not be referenced on the UPCP or the UST operating permit, therefore the CUPA does not have the authority to withhold a UPCP or UST operating permit for non-compliance with Fire Code provisions.

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- Section III, D(2) states “Note: Underground Storage Tank permits will not be issued if an operator has an outstanding violation.”
 - HSC, Chapter 6.7, Section 25285 was amended January 1, 2019, with provisions that a CUPA cannot issue or renew a permit to facilities where a red tag is affixed, the facility is subject to an enforcement action, or the facility has not paid the fee and surcharge required by Section 25287.

CITATION:

HSC, Chapter 6.7, Section 25285
HSC, Chapter 6.11, Section 25404(6)(a)
CCR, Title 27, Section 15110(q)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the Policy and Procedure Manual for the UPCP to be consistent with UST Regulations and HSC. The CUPA will provide the revised Policy and Procedure Manual for the UPCP to CalEPA.

By the 2nd Progress Report, if amendments to the revised Policy and Procedure Manual for the UPCP are necessary based on feedback from CalEPA and/or the State Water Board, the CUPA will provide CalEPA with the amended Policy and Procedure Manual for the UPCP. If no amendments are necessary, the CUPA will train personnel on the revised Policy and Procedure Manual for the UPCP. The CUPA will provide training documentation to CalEPA, which at a minimum, will include the date the training was conducted, an outline of the training conducted and a list of personnel in attendance. Once training is complete, the CUPA will implement the revised Policy and Procedure Manual for the UPCP.

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

16. DEFICIENCY:

The local ordinance, *Municipal Code, Chapter 13, Article III Underground Storage of Hazardous Substances*, is inconsistent with Unified Program implementation by the CUPA and is less stringent than and inconsistent with UST Regulations and HSC.

Review of the local ordinance finds the following Sections are inconsistent with Unified Program implementation by the CUPA:

- Section 13.31(a) states the local agency shall prepare a form which provides for the acceptance of the obligations of a transferred permit, however, the CUPA is no longer using this form.

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- Section 13.33(c) states the permittee shall complete an annual report form, however, the CUPA is no longer requiring this form to be completed.

Review of the local ordinance finds the following Sections are less stringent than UST Regulations and HSC:

- Section 13.33(d) states that if the permittee stores a hazardous substance that is not listed in the application, the permittee shall apply for a new or amended permit within 30 days after commencing the storage of the non-listed hazardous substance.
 - This is less stringent than UST Regulations, Section 2631(l), which states the owner or operator shall notify the CUPA 30 days prior to the change in substance stored.
- Section 13.35(a) states the local agency shall inspect all USTs at least once every three years.
 - This is less stringent than UST Regulations and HSC, which require all USTs to be inspected at least once every 12 months.
- Section 13.35(b) states that the local agency may require the permit holder to employ, periodically, special inspectors to conduct a compliance inspection.
 - This is less stringent than UST Regulations. Special inspectors, if employed, must conduct the compliance inspection at least once every 12 months.

Review of the local ordinance finds the following Sections are inconsistent with UST Regulations and HSC:

- Section 13.33(b) does not include all required permit information.
- Section 13.34(c) states a temporary permit may be issued for an application that does not conform to the requirements.
 - A temporary permit is not allowed to be issued in accordance with UST Regulations and HSC.
- Section 13.36 references HSC, Division 20, Chapter 6.5.
 - The CUPA does not have regulatory authority to implement, and therefore cite, HSC, Division 20, Chapter 6.5.
- Section 13.38 states requirements for USTs installed on or after December 31, 1983.
 - This is inconsistent with UST Regulations.
- Section 13.39 states requirements for USTs installed before December 31, 1983.
 - This is inconsistent with UST Regulations.

CITATION:

HSC, Chapter 6.7 Sections 25299.2 and 25299.3

CCR, Title 23, Section 2620(c)

CCR, Title 27, Sections 15100(b)(1)(C), 15160, 15330(a) (1) and (a)(2), 15280(c)(5) and 15150(c)(2)

[State Water Board]

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CORRECTIVE ACTION:

The CUPA will no longer implement provisions of the local ordinance that are less stringent than or inconsistent with UST Regulations and HSC.

By the 1st Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt the revised local ordinance or repeal the existing local ordinance. The revised local ordinance will be consistent with UST Regulations and HSC. The plan will at minimum include the following:

- a timeline for revising and adopting the revised local ordinance, including:
 - provisions for the CUPA to provide a draft of the revised local ordinance to the State Water Board for review (before being adopted), which will allow the State Water Board to work with the CUPA to ensure the revised draft is consistent with UST Regulations and HSC, the CUPA certification approval, and meets all other requirements.

OR

- a timeline for repealing the existing local ordinance.

If the CUPA, in consultation with legal counsel, makes the determination to repeal the local ordinance applicable to the UST Program, the plan will include an assessment and reference to any elements of the UST Program would be affected by the repeal of the local ordinance.

- If the local ordinance is repealed, the State Water Board will reassess UST Program implementation, including review of policies and procedures, to ensure that no UST Program elements including, but not limited to, those affected by the repeal of the local ordinance, are more stringent than or inconsistent with UST Regulations and HSC.

By the 2nd Progress Report, the CUPA will, if necessary, revise the plan based on feedback from the State Water Board.

Considering the length of time required to revise and adopt the revised local ordinance, or repeal the existing local ordinance, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided an acceptable plan for the revision and adoption of the revised local ordinance, or after the CUPA has provided an acceptable plan for repealing the existing local ordinance as outlined above.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinance was adopted or that the existing local ordinance was repealed.

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17. DEFICIENCY:

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

Review of UST facility files finds the CUPA did not provide UST closure documentation to the owner or operator upon completion of UST closure activities for the following:

- CERS ID 10450339: no documentation was provided identifying whether the tanks were properly closed.
- CERS ID 10451158: no documentation was provided identifying whether the tank was properly closed.

The CUPA is not requiring a minimum of two samples to be taken immediately beneath the removed portions of the UST, at a minimum of two feet into native material nor separate samples to be taken for each 20 linear feet of trench for piping.

Review of UST facility files finds the CUPA did not properly sample soil and/or groundwater as part of UST closure activities at the following facilities:

- CERS ID 10450339: The UST closure report does not identify depth into native material or if samples were obtained at each end of the UST, therefore the State Water Board is unable to determine if sampling complies with UST Regulations.
- CERS ID 10451158: The UST closure report does not identify depth into native material or if samples were obtained at each end of the UST and no information is provided as to total linear length of piping trench, number of samples, or locations, therefore, the State Water Board is unable to determine if sampling complies with UST Regulations.

Note: The examples 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.

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

CITATION:

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

CORRECTIVE ACTION:

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

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- Taking soil samples immediately beneath the removed portions of the UST, at a minimum of two feet into native material at each end of the UST and/or groundwater samples if groundwater is found in the excavation pit.
- Proper analysis of soil and/or groundwater samples.
- Taking separate samples for each 20 linear feet of trench for piping.
- Permanent closure where USTs are closed, including taking a minimum of one boring sample as close as possible to the midpoint beneath the UST using a slant boring or other appropriate method.
- Providing documentation of proper disposal of the removed USTs or documentation that the USTs were filled with an inert solid;
- Providing a chain of custody for the proper number of samples taken; and
- Providing UST closure documentation to the UST owner or operator which demonstrates to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

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

By the 1st Progress Report, the CUPA will develop a UST closure letter template for sites with and without contamination, if separate letters are issued for those scenarios. The CUPA may consider including the following items in the UST closure letter template:

- Title of the UST closure letter
- Site address
- CERS tank IDs
- Indication as to whether each UST was closed in place or removed
- Date(s) of removal or permanent closure
- UST identification (i.e. single-walled, double-walled, what the UST is made of)
- Confirmation that UST(s) have been permanently closed. The following language is an example: "The Vernon City Health and Environmental Control CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Sections 2670 and 2672 and HSC, Chapter 6.7, Section 25298(c)."

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

By the 2nd Progress Report, if revisions to the UST closure procedure or other applicable procedure and/or revisions to the UST closure letter template 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 and/or the UST closure letter template. If no revisions to the UST closure procedure or other applicable procedure and/or the UST closure letter template are necessary, the CUPA will train UST inspection staff on the developed UST closure procedure and/or UST closure letter template. The CUPA will provide training documentation to CalEPA, which at a minimum, will include the date the training was conducted, an outline of the training

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conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the UST Closure procedure and/or utilize the UST closure letter template.

By the 3rd Progress Report, if revisions to the UST closure procedure or other applicable procedure and/or UST closure letter template were necessary, the CUPA will train UST inspection staff on the revised UST Closure procedure and/or UST closure letter template. The CUPA will provide training documentation to CalEPA, which at a minimum, will include the date the 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 UST Closure procedure and/or utilize the UST closure letter template.

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

For the next two UST closures, and until considered corrected, the CUPA will provide CalEPA with the UST closure documentation, including sampling results, that demonstrate to the satisfaction of the CUPA that UST permanent closure and/or soil and/or groundwater sampling complies with UST Regulations and HSC. If no UST closures have occurred by the 4th Progress Report, the State Water Board will consider this deficiency closed but not corrected upon completion of training, and implementation of the UST closure procedure or other applicable procedure and the UST closure letter template determined acceptable by the State Water Board. The State Water Board will verify proper sampling and analysis of soil and/or groundwater occurred during or immediately after UST closure activities with the next CUPA performance evaluation.

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 the UST closure procedure, or other applicable procedure, and the UST closure letter template determined acceptable by the State Water Board to avoid keeping this deficiency unnecessarily open while waiting for USTs to undergo closure. The State Water Board will verify the CUPA is implementing the accepted UST closure procedure or other applicable procedure and utilizing the accepted UST closure letter during the next CUPA Performance Evaluation.

18. DEFICIENCY:

The CUPA is not ensuring all USTs and UST systems, including associated piping, used for the storage of hazardous substances installed on, or after, July 1, 2004, are in compliance with the design, construction, monitoring, and enhanced leak detection (ELD) requirements of HSC, Chapter 6.7, Section 25290.1.

Review of CERS CME information and UST facility files finds the following UST facility is not in compliance with HSC, Chapter 6.7, Section 25290.1:

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- CERS ID 10452973: Tanks T-1 and T-2 (installed January 1, 2008)
 - CERS indicates single-wall construction for product/waste piping, piping/turbine containment sump, vent piping, riser/fill piping, and under dispenser containment. These tanks indicate no vent piping containment sump is installed.

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

Note: The following State Water Board LG Letters may be referenced:

- LG 162-1 dated July 25, 2003
- LG 162-2 dated October 12, 2007, and
- LG 162-3 dated March 5, 2008.

Note: This deficiency was identified as an incidental finding during the 2018 CUPA Performance Evaluation and was not fully resolved during the Evaluation Progress Report process. During the Progress Report process for the 2018 CUPA Performance Evaluation, the State Water Board required the CUPA to review facility records to identify if UST systems installed on, or after, July 1, 2004, met the monitoring requirements. The CUPA indicated seven USTs including associated piping, used for the storage of hazardous substances installed on, or after, July 1, 2004, met the monitoring requirements based on the installation date. However, the CUPA did not provide supporting documentation. State Water Board review of accepted CERS UST submittals finds two UST systems installed on, or after, July 1, 2004, listed as having single-walled components.

CITATION:

HSC, Chapter 6.7, Section 25290.1
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the CERS ID, Tank ID(s) and all installation, construction, and monitoring records for each UST and UST system, including associated piping, identified as being installed on, or after, July 1, 2004.

By the 2nd Progress Report, the CUPA will provide CalEPA with draft written correspondence to inform the UST facility owner or operator of facilities not in compliance with applicable monitoring and construction requirements of HSC, Chapter 6.7, Section 25290.1, as determined by the State Water Board, based on the UST or UST system installation date. The draft written correspondence will include, but not be limited to, information regarding what is required to bring the facility into compliance and a timeline for obtaining compliance.

By the 3rd Progress Report, the CUPA will, if necessary, revise the draft written correspondence, based on feedback from the State Water Board and will provide the revised draft written correspondence to CalEPA. If no further revision to the draft written correspondence is necessary, the CUPA will send the correspondence to UST facility owners or operators of UST facilities determined by the State Water Board to not be in compliance with applicable monitoring

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and construction requirements based on the date of UST installation. The CUPA will carbon copy the State Water Board on the sent correspondence.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative describing the follow up actions and applied enforcement taken to ensure USTs and UST systems installed on, or after, July 1, 2004, are in compliance with HSC, Chapter 6.7, Section 25290.1.

19. DEFICIENCY:

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

Review of the UST Facility/Tank Data Download report obtained from CERS on September 7, 2021, finds UST construction and leak detection information is incorrect as follows:

- 13 of 61 (21%) USTs do not have spill containers installed.
- 7 of 61 (11%) list no periodic spill container testing.
- 4 of 52 (8%) double-walled product piping with no secondary containment listed.
- 4 of 34 (12%) double-walled pressurized piping with no mechanical or electronic line leak detectors installed.
- 7 of 45 (16%) continuously monitored under dispenser containment (UDC) have no UDC construction listed.

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

Note: The following may be referenced:

- CERS Frequently Asked Questions (FAQ) "General Reporting Requirements for USTs";
- CERS FAQ "Common CERS Reporting Errors";
- CERS FAQ "Setting Accepted Submittal Status";
- CERS FAQ "Which Forms Require Uploading to CERS," and
- State Water Board correspondence dated November 29, 2016, "When to Review Underground Storage Tank Records."

CITATION:

CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), 2641(g) and (h), and 2711(d)
[State Water Board]

CORRECTIVE ACTION:

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

- When UST CERS submittal information is identified as incorrect, the CUPA will either:

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- Accept UST CERS 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 UST CERS submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When the UST CERS submittal is not corrected and resubmitted within the time specified by the CUPA, the CUPA will apply enforcement.

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

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

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

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

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 Data Management Procedure, or other applicable procedure.

20. DEFICIENCY:

The UST operating permit and permit conditions, issued under the UPCP are missing required components and are inconsistent with UST Regulations and HSC.

Review of UST operating permits finds the following required components are missing:

- Issuance date

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- Expiration date

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

- The UST operating permit is required to be issued under the UPCP.
- The UST operating permit references HSC, Division 20, Chapter 6.75 and CCR, Title 23, Division 3, Chapter 18.
 - The CUPA does not have regulatory authority under HSC, Division 20, Chapter 6.75 or CCR, Title 23, Division 3, Chapter 18.
- The UST operating permit states it can be withheld for non-compliance.
 - UST operating permits can only be withheld if a UST is red tagged, undergoing enforcement, or if there is a non-payment of fees.
- The UST operating permit states the permit holder must comply with all regulatory requirements.
 - This statement is too broad as it could include requirements outside the scope of the Unified Program. UST operating permits may only reference UST Regulations, HSC, or Unified Program requirements.
- UST operating permit condition 1 states reporting and recording requirements for unauthorized releases in accordance with HSC, Section 25295.
 - This reference should also include HSC, Sections 25294, 25295.5, and 25296.
- UST operating permit condition 2 states unauthorized release must be reported to the CUPA within 24 hours.
 - The Water Code, Sections 13271 and 13272 also require reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time.
- UST operating permit condition 3 states that the transfer of fuel must be monitored constantly.
 - It is not clear if this is in addition to overfill prevention equipment that is already required to be installed on all UST systems. If additional monitoring is being required, the CUPA does not have local ordinance authority to require more stringent monitoring.
- Section 4 makes reference to “State Water Board.”
 - The UST operating permit should reference “State Water Resources Control Board.”
- UST operating permit condition 6 states the owner or operator must notify the CUPA 30 days after a change in substance stored.
 - The regulatory requirement is for the owner or operator to notify the CUPA 30 days prior to any change in substance stored.
- UST operating permit condition 7 states an application must be submitted.
 - This lacks clarity and applications are now being submitted through CERS.
- UST operating permit condition 8 states annual monitoring certification of leak detection is required.
 - The regulatory requirement is to have the monitoring certification performed at least once every 12 months. The term “monitoring certification” lacks regulatory clarity

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and should be revised to say “Certification of Monitoring Equipment” per UST Regulations, Section 2638.

- UST operating permit condition 8 states the certification of monitoring equipment should be conducted by a qualified UST service technician.
 - This lacks regulatory clarity and should reference UST Regulations, Section 2715(f).
- UST operating permit condition 9 states that the owner or operator must maintain all primary UST containment as product-tight.
 - This is less stringent for post July 1, 2004, UST systems, which must maintain continuous monitoring.
- UST operating permit condition 10 states corrections must be implemented within 30 days of receiving an inspection report.
 - It is not clear what corrections this is in reference to.
- UST operating permit condition 11 states the annual permit fee and surcharge.
 - The due date for the annual permit fee and surcharge is unclear because the UST operating permit does not have an expiration date.

CITATION:

HSC, Chapter 6.7

CCR, Title 23, Section 2712(c) and (i)

CCR, Title 27, Section 15110(q)

[State Water Board]

CORRECTIVE ACTION:

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

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

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

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21. DEFICIENCY:

UST submittals are being accepted in CERS by CUPA personnel that have not obtained the required International Code Council (ICC) California UST Inspector certification.

The following UST submittals were accepted in CERS by non ICC certified CUPA personnel:

- CERS ID 10452688: UST submittal accepted on February 25, 2021
- CERS ID 10472215: UST submittal accepted on February 25, 2021
- CERS ID 10484197: UST submittal accepted on August 4, 2020

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

Note: CERS FAQ “Is ICC Certification Required for Submittal Review?” may be referenced.

CITATION:

CCR, Title 23, Section 2715(g)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the Data Management Procedure, or other applicable procedure, and revise as necessary, to ensure the establishment of a process which identifies only UST inspection staff with ICC California UST Inspector certification may accept UST submittals in CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

By the 1st Progress Report, the CUPA will identify and review all CERS UST submittals previously approved by non-certified ICC California UST Inspectors. The CUPA will ensure each CERS UST submittal is accepted by a certified ICC California UST Inspector.

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

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

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22. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not inspecting each Aboveground Petroleum Storage Act (APSA) tank facility at least once every three years in accordance with the I&E Plan.

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

- 10 of 20 (50%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.
- 13 of 23 (57%) other APSA tank facilities have not been inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA conducted additional routine inspections of APSA tank facilities. This deficiency is considered corrected. No further action is required.

23. 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 2018/2019
 - 1 of 2 (50%) APSA violations
- FY 2017/2018
 - 5 of 10 (50%) APSA violations, including one violation for not having, or failure to prepare, an SPCC Plan
- FY 2016/2017
 - One violation for not having, or failure to prepare, an SPCC Plan
- FY 2015/2016
 - 1 of 2 (50%) APSA violations

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

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CITATION:

HSC, Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA provided RTC documentation. This deficiency is considered corrected. No further action is required.

24. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not ensuring each inspector completes and passes the APSA inspector training program prior to conducting inspections at tank facilities for compliance with the SPCC Plan requirements of APSA.

The following inspections were conducted by a CUPA inspector prior to completing and passing the initial APSA inspector training.

- CERS ID 10411675: Inspection dated July 23, 2018
- CERS ID 10451617: Inspection dated July 17, 2018

Note: As of September 27, 2021, the CUPA has three certified APSA inspectors. Three additional staff plan to complete the APSA inspector training program in FY 2021-2022.

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

CITATION:

HSC, Chapter 6.67, Section 25270.5(c)

[OSFM]

CORRECTIVE ACTION: COMPLETED

During the evaluation, APSA-trained staff performed inspections at APSA tank facilities storing 10,000 gallons or more of petroleum that were previously conducted by untrained inspectors. This deficiency is considered corrected. No further action is required.

25. DEFICIENCY: CLOSED

As of June 30, 2018, the CUPA has not issued a UPCP to regulated businesses and facilities that require a permit to operate under any local ordinance, statutory requirement or regulation relative to the generation or handling of hazardous waste or hazardous materials, including issuance of UST operating permits under the UPCP.

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CITATION:

HSC, Chapter 6.7, Section 25284

HSC, Chapter 6.11, Section 25404.2(a)(1)

CCR Title 27, Section 15190

[CalEPA, State Water Board]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA provided a Unified Program Facility Permit (UPFP) template to be used in place of the UPCP. The UPFP template consolidates the issuance of a permit to operate under statutory requirement and regulation relative to Unified Program elements, including the issuance of a UST operating permit and UST operating permit conditions. The UPFP provided, including the UST operating permit and permit conditions, may now be issued to regulated facilities by the CUPA.

The State Water Board will verify issuance of UST operating permits under the UPFP during the next CUPA Performance Evaluation. This deficiency is considered closed. No further action is required.

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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 consistently classifying APSA violations properly.

Review of facility files and CERS CME information indicates the CUPA is classifying Class I or Class II APSA Program violations as minor violations in the following instances between FY 2015/2016 and FY 2020/2021:

- 2 of 4 (50%) violations for not having, or failure to prepare, a Spill Prevention Control, and Countermeasure (SPCC) Plan were classified as minor.

Not having, or failure to prepare, an SPCC Plan is not considered 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 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. EPA.

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

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

CITATION:

HSC, Chapter 6.11, Sections 25404(a)(3), 25404.2(a)(3) and 25404.2(a)(4)
HSC, Chapter 6.67, Sections 25270.4.1(c) and 25270.4.5(a)
CCR, Title 27, Section 15200(a) and (e)
[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 should include, at a minimum, review of:

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)
(<https://www.youtube.com/watch?v=RB-5V6RfPH8>)
- [2020 Violation Classification Guidance for Unified Program Agencies](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf)
(<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>)
- ["U.S. EPA Civil Penalty Policy for Section 311\(b\)\(3\) and Section 311\(j\) of the Clean Water Act"](https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html), 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 a minimum will include the date the training was conducted, an outline of the training conducted and a list of CUPA personnel attending the training.

2. INCIDENTAL FINDING:

The CUPA did not complete an annual Self-Audit Report for FY 2017/2018 and 2019/2020.

The Self-Audit Report for FY 2019/2020 is missing the following component:

- An indication that there has been an annual review and update of the fee accountability program.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2021/2022 that includes all required components, and incorporates a date of completion to demonstrate the report was compiled by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report, which will include all required components, and incorporate a date of completion to reflect compilation by September 30th.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

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

- Information provided by Vernon City Health and Environmental Control CUPA 1995 Application for Certification
- CERS “Summary Regulated Facilities by Unified Program Element Report” generated on September 28, 2021
- CERS “UST Inspection Summary Report (Report 6),” generated on September 28, 2021

- Total Number of Regulated Businesses and Facilities:
 - In 1995: **546**
 - Currently: **473**
 - A decrease of **73** facilities

- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:
 - In 1995: **546**
 - Currently: **465**
 - A decrease of **81** facilities

- Total Number of Regulated Underground Storage Tank (UST) Facilities:
 - In 1995: **98**
 - Currently: **25**
 - A decrease of **73** facilities

- Total Number of Regulated Underground Storage Tanks (USTs):
 - In 1995: **295**
 - Currently: **57**
 - A decrease of **238** Underground Storage Tanks

- Total Number of Regulated Hazardous Waste Generator (HWGs) Facilities:
 - In 1995: **209**
 - Currently: **194**
 - A decrease of **15** facilities

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- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
 - In 1995: None specified
 - Currently: **0**
 - Comments: HHW Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.

- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
 - In 1995: **30**
 - Currently: **10**
 - A decrease of **20** facilities

- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
 - In 1995: None specified
 - Currently: **15**
 - Comments: RCRA LQG Facilities were regulated under the Unified Program upon certification, though no count was provided in the application for certification. The difference between the current and historic number of facilities cannot be determined at this time.

- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
 - In 1995: **36**
 - Currently: **40**
 - An increase of **4** facilities

- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
 - In 1995: **10**
 - Currently: **42**
 - An increase of **32** facilities

Since the CUPA applied for certification in 1995, an expansion of responsibilities in the APSA program has occurred increasing the facility count, however there has been a general decrease in the total number of regulated facilities for all other program areas. There have been significant decreases in the Business Plan program (15%), number of UST Facilities (74%), number of USTs (81%), and number of Tiered Permitting facilities (67%). The overall total number of regulated facilities has decreased by 13%. 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.

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The information below is a comparison of the full time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has changed. The information is sourced from the Vernon City Health and Environmental Control CUPA 1995 CUPA Application and recent information provided by the CUPA.

CUPA Personnel:

- Inspection and other Staff
 - Upon Certification in 1995:
 - 4 Staff, with unknown specific time allocation towards the implementation of the Unified Program
 - Currently:
 - 3 Environmental Health Scientist Staff, each at 100% FTE allocated towards the implementation of the Unified Program = 3 FTE positions
 - The CUPA also employs 2 Environmental Health Technicians that assist with administrative support.

- Supervisory and Management Staff
 - Upon Certification in 1995:
 - 1 Staff, with unknown specific time allocation towards the implementation of the Unified Program
 - Currently:
 - 2 Staff, with unknown specific time allocation towards the implementation of the Unified Program

Though additional program element responsibilities have been incorporated into the implementation of the Unified Program and the number of facilities regulated by the CUPA has changed since applying for certification, the full-time equivalent of inspection and other personnel has generally increased.

The comparison of the implementation of the program upon certification with present-day circumstance indicates there may be several issues impeding the CUPAs ability to adequately implement the Unified Program within its jurisdiction. In 2018, the Department of Health and Environmental Control (DHEC) was re-organized by the City of Vernon and all existing departmental staff were dismissed from duty. In October 2018, the City of Vernon hired a new director to reestablish DHEC and its implementation of the CUPA program. In 2019, the DHEC hired an Environmental Health Program Administrator, an Environmental Health Specialist, and an Environmental Health Technician. During the interim period, contract inspectors were hired to facilitate all compliance, monitoring, and enforcement activities until DHEC CUPA personnel could be properly trained and obtain proper credentials to perform qualified tasks. In March 2020, all CUPA staff began working remotely to mitigate the spread of the Coronavirus (COVID-19). With all new staff, continued intermittent setbacks due to COVID-19 shutdowns and statewide restrictions, and the lack of training and education experience of staff, the CUPA has been drastically impaired in its ability to adequately implement all unified program elements

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despite the decrease in the overall number of regulated facilities from when the agency was first certified.

RECOMMENDATION:

Determine the percentage of time each of the 2 supervisory and management positions allocate towards the implementation of the Unified Program.

Conduct a fee accountability study to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. Reevaluate the allotted budget, single fee assessment for each entity, and funding allocation for program services so that the CUPA is able to justify the need to increase fees, staff levels, and other resources as necessary and reasonable to adequately implement each program element. Examine how the current CUPA resources are being used to ensure that required program elements are prioritized first before any supplemental tasks that may not be specifically required as part of the Unified Program are undertaken.

The ability to apply each aspect of inspection, compliance, monitoring and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large. Once the CUPA has the necessary resources and adequately trained staff, it is likely the issues causing the identified and recurring deficiencies, such as falling short of meeting the mandated inspection frequency for various program elements, will be addressed.

2. OBSERVATION:

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

- In 2018 all existing staff from the CUPA were dismissed from duty. As a result, all new staff were hired for the CUPA Program. The new staff began re-building the Unified Program implementation practices of the CUPA. In the interim, a contractor was hired to fulfill duties of the hazardous waste inspection program in 2019 and 2020. Currently, the CUPA utilizes its own trained staff to fully operate and implement the Unified Program.
- There are 185 regulated HWG facilities, 8 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, and 14 TP facilities.
- The CUPA conducted 74 HWG inspections, of which 62 (84%) had no violations cited and 12 (16%) had at least one violation cited.
- In the 12 HWG inspections with at least one violation cited, 12 total violations were issued, consisting of:
 - 0 Class I violations,
 - 2 Class II violations, and
 - 10 minor violations.
- The CUPA has ensured RTC for 7 of 12 (58%) violations.
- The CUPA completed no formal enforcement actions.

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OBSERVATIONS AND RECOMMENDATIONS

- The website for the City of Vernon has contact information for the CUPA. Information on the website could be improved to better incorporate details regarding CERS and how to comply with the hazardous waste program requirements to better assist businesses.
- Inspection reports contain detailed comments that note the factual basis of cited violations; however, inspection reports do not indicate whether consent to inspect was requested prior to the inspection.

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

RECOMMENDATION:

Establish at a minimum, a three-year inspection frequency for HWG facilities. Follow up with HWG facilities that have not obtained RTC by the scheduled RTC date and apply appropriate enforcement when facilities do not RTC. Ensure complete and thorough inspections are conducted to identify all violations at facilities.

Continue writing detailed inspection reports that include all factual basis of the violation and properly cite noted violations. Conducting frequent inspections leads to better compliance rates and helps ensure that hazardous waste is being managed appropriately.

Revise the HWG inspection checklist to ensure consent is obtained from the facility and documented prior to conducting an HWG inspection.

Review the following HWG inspection, accumulation, and generator requirement training resources available to assist in training CUPA inspectors:

- [Generator Requirements Fact Sheet:](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf
- [Managing Used Oil Filters For Generators:](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf
- [DTSC Letter Regarding Recycling of Metal Shavings from Brake Repair Activities:](https://apps.dtsc.ca.gov/dory/DORY-search-collection/BRAKE-REPAIR-US-POSTAL-SERVICE.pdf)
<https://apps.dtsc.ca.gov/dory/DORY-search-collection/BRAKE-REPAIR-US-POSTAL-SERVICE.pdf>
- [Hazardous Waste Tank System Requirements:](http://www.unidocs.org/hazmat/hazardous-waste/un-047.pdf)
<http://www.unidocs.org/hazmat/hazardous-waste/un-047.pdf>
- [Generator Requirements Fact Sheet:](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf
- [DTSC Website:](https://dtsc.ca.gov/generators/)
<https://dtsc.ca.gov/generators/>
- [Advanced Hazardous Waste Inspector Training Video 2016 \(1 of 2\)](https://www.youtube.com/watch?v=Ign3TJftSUM)
<https://www.youtube.com/watch?v=Ign3TJftSUM>
- [Advanced Hazardous Waste Inspector Training Video 2012 \(5 of 7\): Tanks and Sumps](https://www.youtube.com/watch?v=oCrI3MvTd8M)
<https://www.youtube.com/watch?v=oCrI3MvTd8M>

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- [Accumulation Time Fact Sheet](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf
- [Universal Waste](https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf
- [Management of Spent Lead Acid Batteries](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf)
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf
- [Generator Summary Chart](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf)
<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf>
and
https://www.acgov.org/forms/aceh/Generator_Requirements_Summary_Chart.pdf
- Additional HWG violation training assistance may also be requested from DTSC.

3. OBSERVATION:

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

- Page 1, Scope – The Unified Program elements list includes the fire code Hazardous Materials Management Plan (HMMP) program element, but it should also include the Hazardous Materials Inventory Statements (HMIS). The HMMP-HMIS Program is consolidated with the HMBP Program to streamline the regulatory requirements for regulated businesses.
- Page 2, Applicability item c – The HMMP-HMIS Program is incorrectly referred to as the “Hazardous Materials Monitoring Plan Program.” Authorization to implement the HMMP-HMIS Program is not found in CCR, Section 80.113, Part 9 but comes from HSC, Section 25404(a)(1) and (c)(6), while the requirements are found in CCR, Title 24, Part 9 (California Fire Code), Sections 5001.5.1 and 5001.5.2.
- Referral to the APSA Program as Aboveground Storage Tank (AST) was observed on pages 1 and 2.

RECOMMENDATION:

Update the I&E Plan as indicated above.

4. OBSERVATION:

Multiple APSA tank facilities submitted a HMBP in lieu of the APSA tank facility statement using the 2011 consolidated emergency response and training plans template containing obsolete information.

The 2022 version of the consolidated emergency response and training plans template contains the current OSFM phone number.

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 submittal is provided in lieu of the tank facility statement. The current template is available in CERS.

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5. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 42 tank facilities. The CUPA’s data management system identifies 43 APSA tank facilities.

- 40 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 2 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system. If these facilities are not APSA regulated the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable.”
- 3 facilities identified as APSA tank facilities in the CUPA’s data management system are not in the CERS list of APSA facilities. The CUPA should determine if these facilities are APSA regulated. Those that aren’t should have the APSA reporting requirement set to “Not Applicable,” and should not be identified as APSA tank facilities in the CUPA’s data management system. Those that are APSA regulated should have the APSA reporting requirement set to “Applicable.”

RECOMMENDATION:

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

6. OBSERVATION:

Review of CERS finds the following USTs or UST systems as having single-walled components which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10155429 (Tank IDs 3891 – 3895);
- CERS ID 10398634 (Tank ID 1); and
- CERS ID 10403206 (Tank IDs 4407, 4408, and 4415).

RECOMMENDATION:

Continue to provide written and verbal reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Consider providing written and verbal notification of the requirement to all applicable UST facility owners or operators. The written and verbal notification should inform facility owners or operators that in order to remain in compliance, owners or operators must replace or remove single-walled USTs by December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at:

https://www.waterboards.ca.gov/ust/single_walled.html

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Notify facility owners or operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project USTs. More information on funding sources may be found at: https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html.
