

April 18, 2023

Mr. David Jensen
Interim Director
Mendocino County Division of Environmental Health
860 N. Bush Street
Ukiah, California 95482-3919

Dear Mr. Jensen:

During February 2022 through November 2022, CalEPA and the state program agencies conducted a performance evaluation of the Mendocino County Division of Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections conducted at Hazardous Waste Generator program facilities.

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

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

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 (PIA) between CalEPA and the governing body of the CUPA. The 2022 and previous CUPA performance evaluations have identified significant deficiencies and incidental findings regarding the CUPA's inspection and enforcement activities. HSC, Section 25404.4(a)(1) provides that, if the CalEPA Secretary finds that a CUPA has not met enforcement performance standards, a Program Improvement Agreement (PIA) must "make the improvement of enforcement the highest priority."

CalEPA recognizes that the CUPA may not have the resources to immediately and simultaneously correct each deficiency and resolve each incidental finding identified in the 2022 CUPA performance evaluation. Therefore, the CUPA is advised to prioritize addressing inspection and enforcement-related corrective actions and resolutions considering the following:

1. Utilize the CalEnviroScreen score as a tool to determine the degree of impact on disadvantaged communities. Vulnerability impact can be determined starting with facilities that are in the 96-100 Percentile (top 5%), followed by facilities that are in the 91-95 Percentile, and in decreasing 5% increments thereafter, until all disadvantaged communities identified in the screening score are addressed.
2. Associated risk or impact to public safety and the environment based on the nature of the hazardous waste, hazardous substances, or hazardous materials handled, stored, or used on site.
3. The proximity to vulnerable receptors, which may include, but are not limited to, hospitals, schools, daycare facilities, elderly housing, and convalescent facilities. These receptors may be more susceptible to the adverse effects of exposure to hazardous waste hazardous substances, or hazardous materials handled, stored, or used on site.
4. Compliance history of a regulated business or facility, and the degree of identified violations in association with the duration of time the identified violations have remained uncorrected or unaddressed.

In addition, the CUPA may have to further prioritize specific enforcement matters involving specific non-compliant facilities.

Within the 2022 CUPA Performance Evaluation, the following deficiencies and incidental findings are identified as inspection and/or enforcement-related and priority should be considered for correction and resolution:

- Inspection frequencies for Hazardous Waste Generator (HWG), Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG), Tiered Permitted (TP) and Household Hazardous Waste (HHW) facilities- Deficiency 1
- Inspection frequency for Hazardous Materials Business Plan (HMBP) facilities- Deficiency 5
- Enforcement and Return to Compliance (RTC) documentation for HWG, HMBP and Aboveground Petroleum Storage Act (APSA) Program facilities- Deficiency 2
- Reporting accurate compliance, monitoring and enforcement (CME) information for HWG and APSA Program facilities- Incidental Finding 1
- Annual submittal of an HMBP- Deficiencies 4, 8

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 (June 19, 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, Tim Brandt, at timothy.brandt@calepa.ca.gov.

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

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

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

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

CUPA: Mendocino County Division of Environmental Health

Evaluation Period: February 2022 to November 2022

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden
- **CalEPA:** Esmé Hassell-Thean
- **State Water Board:** Jenna Hartman, Sean Farrow
- **CAL FIRE-OSFM:** Denise Villanueva, Glenn Warner

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered unsatisfactory.

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

Tim Brandt

CalEPA Unified Program

Phone: (916) 323-2204

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

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

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 the Final Summary of Findings Report.

Evaluation Progress Report submittal dates for the first year following the evaluation are tentatively scheduled as follows:

1st Progress Report: June 19, 2023

3rd Progress Report: December 19, 2023

2nd Progress Report: September 19, 2023

4th Progress Report: March 19, 2023

UNIFIED PROGRAM PERFORMANCE EVALUATION
PRELIMINARY SUMMARY OF FINDINGS REPORT

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

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

1. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM MANDATED INSPECTIONS:

The CUPA has been able to successfully ensure the mandated triennial inspection frequency for APSA tank facilities storing 10,000 gallons or more of petroleum was met since Fiscal Year (FY) 2018/2019. This effort is considered outstanding as during the same timeframe, the CUPA simultaneously was presented with handling the many challenges and restrictions due to the Coronavirus (COVID-19) pandemic, in addition to meeting the response and recovery effort demands of various wildland fires, as well as mitigating staffing resource limitations.

2. REALLOCATION OF RESOURCES AND MAINTAINING STAFF:

Maintaining fulfillment of each allocated and budgeted CUPA inspector position has been an ongoing challenge and concern for the CUPA. During the time period assessed for the 2022 CUPA Performance Evaluation, the CUPA experienced a combination of staff vacancies and reallocation of staff resources, resulting in the use of between 1.6 and 2.6 of the total 4.6 budgeted Full-Time Equivalents (FTEs).

The majority of CUPA inspection and managerial staff resources were reallocated to both the County public health response efforts for the COVID-19 pandemic as well as response and recovery efforts for wildland fires in and around Mendocino County.

While these efforts took away from CUPA program implementation, the reallocation of CUPA staff and managerial resources played a vital role in the County's ability to adapt, respond, and begin recovering from these emergency situations. As anticipated, the various staffing and resource impacts experienced by the CUPA significantly attributed to the inability to fully implement the Unified Program, specifically in the areas of meeting inspection frequency for many program elements as well as obtaining and documenting return to compliance (RTC) information and applying enforcement.

3. UNDERGROUND STORAGE TANK (UST) PROGRAM IMPLEMENTATION:

The CUPA performed exceptionally well over the last three years regarding implementation of the UST Program, particularly in adapting to and applying the COVID-19 guidance for UST Program implementation provided by the State Water Board.

Despite the complications in obtaining and retaining inspection staff and the reallocation of staffing resources, the CUPA was able to maintain successful and sufficient implementation of the UST Program. Inspection staff display a high level of competency both in conducting complete UST inspections and applying appropriate enforcement when necessary.

UNIFIED PROGRAM PERFORMANCE EVALUATION
PRELIMINARY SUMMARY OF FINDINGS REPORT

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

In conducting the assessment for the 2022 CUPA Performance Evaluation, it has been determined that no further action is necessary relative to the following deficiencies and incidental findings identified in the 2019 Final Summary of Findings report:

- Deficiencies
 - The CUPA is not inspecting all UST facilities annually.
 - The UST inspection information reported in Report 6 and CERS as CME data is inconsistent.
 - Incidental Findings
 - The CUPA is not consistently citing violations for failure to conduct an overfill prevention equipment inspection.
 - The CUPA is not consistently requiring UST facilities to submit UST testing and leak detection documents.
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4. TRANSITION TO A DATA MANAGEMENT SYSTEM:

The CUPA is currently in the process of migrating to the utilization of a Digital Health Department (DHD) software data management system, by Tyler Technologies. Previously, the CUPA utilized a physical file system and entered inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information manually to the California Environmental Reporting System (CERS). While the migration to the DHD data management system is time consuming and labor intensive, the transition represents a significant upgrade in the means of data management and reporting workflow for the CUPA.

5. CERS SUBMITTAL BACKLOG REVIEW:

At the beginning of the 2022 CUPA Performance Evaluation, the CUPA identified 521 unreviewed facility submittals in CERS. During the initial phase of the evaluation, and as of July 1, 2022, the CUPA was able to successfully and fully review and process all unreviewed submittals in CERS. The CUPA maintained and ensured data quality with each review and acceptance of submittal information. As of August 31, 2022, the CUPA has effectively sustained the ability to timely review and process facility submittals in CERS.

6. CORRECTION OF INCIDENTAL FINDING IDENTIFIED DURING 2019 CUPA PERFORMANCE EVALUATION

In conducting the assessment for the 2022 CUPA Performance Evaluation, it has been determined that no further action is necessary relative to the following incidental finding identified in the 2019 Final Summary of Findings report:

- The CUPA's business plan information forwarding procedure incorrectly states that the emergency responder function in CERS is currently not working.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY 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 is not inspecting each Hazardous Waste Generator (HWG) facility once every three years, per the inspection frequency established in the Inspection and Enforcement (I&E) Plan.

The CUPA is not inspecting each Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facility once every year, per the inspection frequency established in the I&E Plan.

The CUPA is not inspecting each Tiered Permitted (TP) facility once every three years.

The CUPA is not inspecting each Household Hazardous Waste (HHW) facility once every year, per the inspection frequency established in the I&E Plan.

Review of facility files and CERS CME information between April 1, 2019, and March 31, 2022, and additional information provided by the CUPA finds:

- 71 of 322 (22%) HWGs were not inspected once every three years.
- 6 of 6 (100%) RCRA LQGs were not inspected once every year.
 - CERS ID 10148471:
 - Facility was considered a RCRA LQG in 2019.
 - Last inspected February 27, 2020.
 - Missed annual inspections for 2021 and 2022.
 - CERS ID 10405777:
 - Facility submittals in CERS show this facility as a RCRA LQG since June 30, 2014.
 - Last inspected July 23, 2020.
 - Missed annual inspections for 2019 and 2021.
 - CERS ID 10479136:
 - Inspections in CERS are “HW” inspections.
 - Last inspected January 28, 2021, and August 25, 2017.
 - Missed annual inspections for 2019 and 2020.
 - CERS ID 10765624:
 - First inspected August 15, 2018.
 - Last inspected June 23, 2021.
 - Missed annual inspections for 2019 and 2020.
 - CERS ID 10465747:
 - This facility has never received a RCRA LQG or HWG inspection.
 - A Hazardous Material Release Response Plan (HMRRP) inspection was conducted on January 1, 2014.
 - Facility Info Submittal in CERS was accepted on November 24, 2021.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

- CERS ID 10468753:
 - No inspections of any type have occurred at this facility.
 - Facility Info Submittal in CERS was accepted on June 10, 2015, and November 24, 2021.
- 2 of 2 (100%) TP facilities were not inspected once every three years.
- 1 of 1 (100%) HHW facilities were not inspected once every year.
 - CERS ID 10490251:
 - CERS reflects an HWRecycler and an HW inspection occurred on June 24, 2021. Inspections at a HHW facility should be entered in CERS as an HHW inspection.
 - Last HW inspection was July 6, 2016.
 - Missed annual inspections for 2017, 2018, 2019, and 2020.

Note: This deficiency was identified as an incidental finding in the 2019 CUPA Performance Evaluation for RCRA LQG and HHW facilities and was not resolved during the Evaluation Progress Report process.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15200(a)(3)(A)
California Health and Safety Code (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 HWG facility is inspected per the inspection frequency established in the I&E Plan as follows:

- HWG facilities once every three years
- RCRA LQG facilities once every year
- TP facilities once every three years, and
- HHW facilities once every year.

The action plan will include, at minimum:

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG, RCRA LQG, TP, and HHW facility that has not been inspected per the inspection frequency established in the I&E Plan. For each facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

- A schedule to inspect each HWG, RCRA LQG, TP, and HHW facility identified as having not been inspected per the inspection frequency established in the I&E Plan. Inspections will be prioritized with the most delinquent inspections to be completed prior to any other HWG, RCRA LQG, TP, or HHW inspection.
- Future steps to ensure that all HWG, RCRA LQG, TP, and HHW facilities are inspected per the inspection frequency established in the I&E Plan (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 according to the inspection frequency established in the I&E Plan).

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 5th Progress Report, the CUPA will have inspected each HWG, RCRA LQG, TP, and HHW facility identified in the spreadsheet provided as part of the action plan with the 1st Progress Report.

2. DEFICIENCY:

The CUPA is not consistently following up and documenting return to compliance (RTC) information in CERS for HWG, Hazardous Materials Business Plan (HMBP), and APSA Program facilities cited with violations.

Review of CERS CME information between July 1, 2016, through August 1, 2018, finds there is no documented RTC, and no documentation of applied enforcement for 14 facilities among various Unified Program elements, cited with Class I violations. The majority of the 14 violations are recalcitrant violations, some of which have been escalated in classification as applied enforcement, others have no RTC.

HWG Program

Review of CERS CME information and the CUPA's data management system between July 1, 2015, and March 31, 2022, finds there is no documented RTC for the following violations:

- 116 of 163 (71%) cited between April 1, 2019x, and March 31, 2022
 - 3 of 4 (75%) Class I violations have no documented RTC
 - 2 of 3 Class I violations having no documented RTC are recalcitrant violations previously classified as Class II violations.
 - 112 of 158 (71%) Class II violations have no documented RTC
 - 1 of 1 (100%) Minor violations have no documented RTC
 - A total of 74 HWG inspections have open violations (no RTC)
- 5 of 23 (65%) cited between July 1, 2017, and June 30, 2018
- 20 of 34 (59%) cited between July 1, 2016, and June 30, 2017
- 10 of 29 (35%) cited between July 1, 2015, and June 30, 2016

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

Though the CUPA is applying enforcement in the form of escalating the classification of violations that have not obtained RTC, the CUPA is not applying efforts to obtain RTC.

The following is an example:

- CERS ID 10653202
 - An inspection conducted December 7, 2016, cites two Class I HWG violations.
 - The two Class I HWG violations have no RTC.
 - An inspection conducted December 7, 2017, cites one Class I HWG violation.
 - As no RTC was obtained for the two Class I HWG violations cited during the December 7, 2016, inspection, the violations should have been re-cited and escalated to a Class II classification.
 - RTC was documented for the one Class I HWG violation cited during the December 7, 2017, inspection after the 2019 CUPA Performance Evaluation.

HMBP Program

Review of CERS CME information between July 1, 2015, and March 31, 2022, finds there is no documented RTC for the following violations:

- 90 of 152 (59%) cited between April 1, 2021, and March 31, 2022
- 70 of 155 (45%) cited between April 1, 2020, and March 31, 2021
- 77 of 121 (63%) cited between April 1, 2019, and March 31, 2020
- 37 of 82 (45%) cited between July 1, 2017, and June 30, 2018
- 42 of 84 (50%) cited between July 1, 2016, and June 30, 2017
- 23 of 77 (30%) cited between July 1, 2015, and June 30, 2016

APSA Program

Review of CERS CME information between July 1, 2016, and June 30, 2021, indicates there is no documented RTC for the following violations:

- 16 of 22 (73%) cited between July 1, 2020, and June 30, 2021
 - Including 3 violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan
- 6 of 8 (75%) cited between July 1, 2019, and June 30, 2020
 - Including 2 violations for not having, or failure to prepare an SPCC Plan
- 21 of 29 (72%) cited between July 1, 2018, and June 30, 2019
 - Including 9 violations for not having, or failure to prepare an SPCC Plan
- 26 of 56 (46%) cited between July 1, 2017, and June 30, 2018
 - Including 8 violations for not having, or failure to prepare, an SPCC Plan
- 6 of 14 (43%) cited between July 1, 2016, and June 30, 2017

Note: This deficiency was identified in the 2016 CUPA Performance Evaluation relative to the HWG Program and was not corrected during the Evaluation Progress Report Process.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation relative to the HWG, HMBP, APSA, and UST Programs and was not corrected during the Evaluation Progress Report process. However, upon conducting the assessment for the 2022 CUPA Performance Evaluation, review of CERS CME information finds the CUPA is sufficiently documenting RTC for UST facilities cited with violations. No further action is required regarding the documentation of RTC for UST Program facilities cited with violations during FYs 2015/2016, 2016/2017, and 2017/2018.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, 25187.8(b) and (g), and 25508(a)(4)
HSC, Chapter 6.7, Section 25288(d)
HSC, Chapter 6.11, Section 25404.1.2(c)
HSC, Chapter 6.67, Sections 25270.2(c)(3) and 25270.4.5(a)

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the I&E Plan, or other applicable procedure, and revise as necessary, to ensure establishment of a delineated process to:

- Ensure facilities cited with violations RTC through applied enforcement,
- Document follow-up actions taken by the CUPA to ensure RTC, and
- document RTC in CERS.

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

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS that includes at minimum, the following information for each HWG and HMBP facility with open violations (no RTC) cited between July 1, 2015, and March 31, 2022, and each APSA facility with open violations (no RTC) cited between July 1, 2016, and June 30, 2021:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of 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 present to public health and the environment.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

By the 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from DTSC and CalEPA, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments to the I&E Plan 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 or other applicable procedure.

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train CUPA personnel on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include the date 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 or other applicable procedure.

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

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the spreadsheet provided with the 1st Progress Report as having an open violation (no RTC) for not having, or failure to prepare, an SPCC Plan from July 1, 2016, through June 30, 2021, has achieved compliance, or the CUPA will have applied enforcement.

3. DEFICIENCY:

The I&E Plan has not been reviewed or revised annually.

Required components of the I&E Plan are inaccurate and missing.

Review of the I&E Plan finds:

- It is dated May 2016.
- The following information is inaccurate:
 - Page 2: The number of businesses listed by program element in the “Inspection Section” is inaccurate based on CERS CME information as of July 20, 2022.
 - Page 3: The inspection frequency for Onsite Hazardous Waste Treatment facilities is listed as “annually.” The frequency is “Initial inspection within two years of notification and every three years thereafter.”
 - Page 55: The Hazardous Waste Penalty Matrix contains outdated penalty amounts. Penalty amounts in CCR, Section 66273.62(d) were increased on July 5, 2018.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

- The following information is missing:
 - Procedures for addressing complaints, including but not limited to, the receipt, investigation, enforcement, and closure of a complaint.
 - Provisions for ensuring the analysis of any material sampled is performed by a state certified laboratory. The CUPA has a Memorandum of Understanding (MOU) with Sonoma County to perform laboratory analysis, however the MOU is not incorporated into the I&E Plan.
 - Provisions for ensuring the CUPA has sampling capability. The following should be addressed regarding sampling capability: a description of sampling training, equipment, and methods to preserve physical evidence obtained through sampling, or procedures when sampling is required and a qualified person or entity is contracted to sample on behalf of the CUPA.
 - Provisions for ensuring the I&E Plan is reviewed at least annually.
 - Pages 1 and 21: The Hazardous Materials Management Plan (HMMP)/Hazardous Materials Inventory Statement (HMIS) Program is missing from the list of program elements in the beginning of the “Enforcement Section.”

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation and was partially 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 revise the I&E Plan to adequately incorporate and correctly address all required components. The CUPA will provide the revised I&E Plan to CalEPA.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and/or DTSC the CUPA will provide the amended I&E Plan to CalEPA. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. 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.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

4. DEFICIENCY:

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

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements between April 18, 2021, and May 18, 2022 finds:

- 207 of 646 (36%) regulated business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 215 of 642 (38%) regulated business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.95, Sections 25505(a), 25508(a), and 25508.2
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that all regulated businesses subject to Business Plan reporting requirements have annually submitted a complete HMBP or a no-change certification to CERS.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted a complete HMBP or no-change certification within the last 12 months:

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

By the 4th Progress Report, the CUPA will follow up with each regulated business subject to Business Plan reporting requirements identified in the spreadsheet provided with the 1st Progress Report, to ensure a complete HMBP or a no-change certification has been submitted to CERS, or the CUPA will have applied enforcement.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

5. DEFICIENCY:

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

Review of CERS CME information between April 1, 2019, and March 31, 2022, finds:

- 157 of 619 (25%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

HSC, Chapter 6.95, Sections 25503(e) and 25511(b)
[CalEPA]

CORRECTIVE ACTION:

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

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected within the last three years. For each HMBP facility listed, the spreadsheet will include, at 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 Business Plan inspection based on risk.
- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

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 facility subject to HMBP requirements at least once in the last three years.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
PRELIMINARY SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

6. DEFICIENCY: CORRECTED DURING THE EVALUATION

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

- FY 2020/2021
- FY 2019/2020
- FY 2018/2019

CITATION:

CCR, Title 19, Section 2780.5(b)
[CalEPA]

CORRECTIVE ACTION: COMPLETED

The CUPA provided a complete CalARP performance audit report for FY 2021/2022 containing all elements required by CCR, Title 19, Section 2780.5.

7. 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 area plan is missing required elements.

Review of the June 2016 area plan finds:

- The last certification of the area plan was June 2016.
- The following required elements are missing:
 - Provisions for pre-incident surveys of business sites by first responders for the purpose of site familiarization, as required by CCR, Title [19, Section 2643.3\(a\)](#).
 - Pre-incident planning is defined on page D-21 of the area plan; however, provisions are not discussed. It is mentioned that CUPA representatives communicate regularly with Mendocino County Fire. If pre-incident surveys are being outsourced, the area plan should specify as such.
 - Preparedness is discussed briefly on page I-26 of the area plan; however, site familiarization is not mentioned.
 - Procedures, developed in consultation with the Local Health Officer, to inform medical providers regarding eligibility for reimbursement pursuant to Section 12997.5 of the Food and Agricultural Code, as required by CCR, Title [19, Section 2643\(d\)](#).
 - The role of the Local Health Officer is discussed on page I-9 of the area plan, however, procedures to inform medical providers are not discussed, nor is Section 12997.5 referenced.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

- Procedures, developed in consultation with the Local Health Officer, to ensure access to health care within 24 hours of an exposure resulting from a pesticide drift exposure incident and up to a week after the incident, as required by CCR, Title [19, Section 2644\(e\)](#).
- Training of appropriate employees.
 - Training is discussed briefly on pages I-38 and I-39 of the area plan, however provisions for training of emergency response personnel in the areas required by CCR, Title [19, Section 2645](#) are not established.
- Procedures to identify all languages known to be spoken within the administering agency's county or city, as the case may be, and ensure that any individual is able to access services in their native language as required by Section 11135 of the Government Code.
 - The area plan must outline what these services are and how they will be provided in the languages identified, as required by CCR, Title [19, Section 2646\(d\)](#).
- Evacuation plans do not provide for all the elements required by CCR, Title [19, Section 2646\(g\)](#)(1) through (10).
- A description of the extent to which the administering agency has met the requirements of CCR, Title 19 as required by Section 2640(a).
- Provisions for integrating, in the final area plan, information from business plans submitted by handlers within the jurisdiction of an administering agency as required by CCR, Title [19, Section 2640\(b\)](#).
 - It is not specified in the area plan how information in business plans submitted to the CUPA will be integrated into the area plan.
- A form providing information on the elements within the area plan, substantially equivalent to the optional model reporting form for area plans required by CCR, Title [19, Section 2640\(d\)](#).
 - The optional model reporting form in the appendix is outdated.
 - The regulatory citations on the form predate the renumbering of CCR, Title 19, Chapter 4, which occurred in May 2016.
 - The element locations listed on the form do not match the location within the document.
 - Example: Training is found on page I-38.
 - Example: Notification of OES is found on pages I-9 and C-1.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation and was partially corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.95, Section 25503(d)(2)

CCR, Title 19, Article 3

[CalEPA]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an action plan to ensure the area plan is reviewed and necessary revisions are made by the 3rd Progress Report.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a description of the progress made towards implementing the action plan.

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

8. DEFICIENCY:

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

Review of HMBP submittals to CERS by APSA tank facilities in lieu of a tank facility statement indicates:

- 32 of 124 (26%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months
 - Including 5 APSA tank facilities that have never submitted a chemical inventory and site map
- 34 of 124 (27%) APSA tank facilities have not submitted emergency response and training plans within the last 12 months
 - Including 6 APSA tank facilities that have never submitted emergency response and training plans

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. However, upon conducting the assessment for the 2022 CUPA Performance Evaluation, review of CERS CME information indicates of those facilities identified in the 2019 CUPA Performance Evaluation as not annually submitting an HMBP to CERS, when an HMBP was provided in lieu of a tank facility statement, the CUPA ensured 89% of APSA tank facilities submitted a chemical inventory and site map and the CUPA ensured 87% of APSA tank facilities submitted emergency response and training plans.

CITATION:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that HMBPs provided in lieu of a tank facility statement by APSA tank facilities are annually submitted to CERS.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS that includes at minimum the following information for each APSA tank facility that has not annually submitted an HMBP when an HMBP is provided in lieu of a tank facility statement to CERS:

- Facility name;
- CERS ID; and
- A narrative of the applied enforcement taken by the CUPA.

By the 4th Progress Report, the CUPA will ensure each APSA tank facility has annually submitted an HMBP to CERS when an HMBP is provided in lieu of a tank facility statement, or the CUPA will have applied enforcement.

9. DEFICIENCY:

The CUPA did not complete an annual Self-Audit Report for FYs 2018/2019, 2019/2020, or 2020/2021. A Self-Audit Report is required to be completed by September 30th of each year for the preceding FY.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will complete and provide to CalEPA, a Self-Audit Report for FY 2021/2022, that includes all required components and incorporates a date of compilation. Due to extenuating circumstances, it is understood that the Self-Audit Report for FY 2121/2022 will not be completed by September 30, 2022. 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 demonstrate the report was completed by September 30th.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

10. DEFICIENCY:

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

- The following administrative procedures have components that are incomplete:
 - Financial Management Procedures
 - A single fee system in compliance with Section 15210
 - The “Single Fee System Procedure” section of the existing financial management procedures consists of one sentence regarding the generation and submittal of the Annual Single Fee Summary Report. The sentence does not suffice as an adequate procedure for implementing the single fee system.
 - A fee accountability program in compliance with Section 15220
 - The “Fee Accountability Program” section of the existing financial management procedures consists of one sentence stating that fees set for the operation of the CUPA shall be in accordance with CCR, Title 27, Section 15210. The sentence does not suffice as an adequate procedure for implementing the fee accountability program.
 - The following administrative procedures have components that are missing:
 - Collection, retention, and management of electronic data and documents in compliance with Section 15185
 - The provided Data Management procedure does not indicate that Self-Audit reports will be maintained for a minimum of five years.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation regarding inaccurate and incomplete information for Financial Management Procedures and was not corrected during the Evaluation Progress Report process.

CITATION:

CCR, Title 27, Section 15180(e), 15185(b) and (f), 15190, 15210 and 15220
[CalEPA]

CORRECTIVE ACTION:

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

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at 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 Unified Program administrative procedures.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

By the 3rd Progress Report, if amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date 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 Unified Program administrative procedures.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

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 and correctly reporting complete and accurate CERS CME information for the HWG and APSA Programs.

Review of CERS CME information, inspection reports, administrative documents, and other information provided by the CUPA finds the following HWG Program information is incorrect or missing:

- CERS ID 10130749
 - HWG inspection in CERS dated November 7, 2019, incorrectly reports 5 duplicate Class II violations for failing to label HW containers in CERS. The inspection comment in CERS states, “Six hazwaste containers without proper labeling.” The six containers represent one instance of a violation and should only be entered into CERS as one Class II violation.
- CERS ID 10422052
 - HWG inspection in CERS dated April 1, 2019x, incorrectly reports a duplicate Class II violation for failure to label HW containers. Violation comments in CERS indicate one violation pertains to a container lacking an accumulation start date and the other violation pertains to a missing label on a waste anti-freeze container. Only one violation for failure to label HW containers should be cited to reflect both instances of the violation. Violation comments in CERS should be included in one violation entry.
 - HWG inspection in CERS dated April 1, 2019, incorrectly reports a Class II violation for failure to remove HW waste from secondary containment, and incorrectly uses CERS violation type number 3030004 (Used Oil Filters Management) to cite the violation. The correct CERS violation type number is 3030017.
- CERS ID 10479136
 - Inspections at this facility are incorrectly reported in CERS as “HW” inspections. The CERS “Facility Info Submittal” indicates the facility has been a RCRA LQG facility since February 2, 2016. Inspections for this facility should be reported in CERS as “HWLQG” inspections.
- CERS ID 10405777
 - Inspections at this facility are incorrectly reported in CERS as “HW” inspections. The CERS “Facility Info Submittal” indicates the facility has been a RCRA LQG facility since June 30, 2014. Inspections for this facility should be reported in CERS as “HWLQG”

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UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

- CERS ID 10511785
 - HWG inspection in CERS dated October 30, 2018, incorrectly reports a Class II violation for failure to label 5 HW containers, and incorrectly uses CERS violation type number 3010, which is a general code, to cite the violation. The correct CERS violation type number is 3030007.
 - This example is outside the time period assessed for the 2022 CUPA Performance Evaluation by just under six months.
- CERS ID 10001383
 - A routine HWG inspection report dated May 27, 2021, and the cited violations are not in CERS.
- CERS ID 10639642
 - An HWG inspection report dated May 15, 2019, cites 4 Class II violations. CERS reflects entries for 2 Class II violations and is missing the violation entries for the Class II violation cited for failure to keep HW containers closed, and the Class II violation cited for failure to properly manage empty HW containers.

Review of CERS CME information, inspection reports, administrative documents, and other information provided by the CUPA indicates the following APSA Program information is inaccurate or missing:

- CERS ID 10481962
 - An inspection report dated July 31, 2018, and the cited violation are not in CERS.
- CERS ID 10491088
 - A re-inspection report dated May 1, 2018, identifies RTC for all three violations originally cited on a routine inspection report dated March 6, 2018.
 - CERS has no record of the RTC for all three violations documented during the re-inspection dated May 1, 2018.
- CERS ID 10737586
 - An inspection report dated March 14, 2017, and the two cited violations are not in CERS.
- A CERS APSA CME report generated on February 22, 2022, indicates the following:
 - 34 inspections are reported as being conducted and 29 violations are reported as being cited between July 1, 2018, and June 30, 2019
 - 61 inspections are reported as being conducted and 56 violations are reported as being cited between July 1, 2017, and June 30, 2018
 - 27 inspections are reported as being conducted and 14 violations are reported as being cited between July 1, 2016, and June 30, 2017
 - 32 inspections are reported as being conducted and 1 violation is reported as being cited between July 1, 2015, and June 30, 2016

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

Note: This incidental finding was identified as a deficiency in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

CITATION:

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

RESOLUTION:

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

- Identification and correction of the cause(s) of missing or incorrect HWG and APSA Program CME information reported to CERS, including any data transfer from the CUPA's data management system to CERS;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure HWG and APSA Program CME information is consistently and correctly reported to CERS;
- Identification of all HWG Program CME information that was not previously reported to CERS, or reported to CERS incorrectly between April 1, 2019, and March 31, 2022;
- Identification of all APSA Program CME information that was not previously reported to CERS, or reported to CERS incorrectly between July 1, 2015, and June 30, 2019;
- A process for reporting HWG and APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports;
- A process for ensuring CUPA personnel and inspectors are trained in the consistent use of the most recent violation classifications and citations of the CUPA's data management system or CERS violation type numbers; and
- Future steps to ensure all HWG and APSA Program CME information is consistently and correctly reported to CERS.

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

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

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:

- an inspection report for an inspection conducted during the previous three months, or
- RTC documentation obtained during the previous three months, or
- in the absence of RTC documentation, a narrative of the applied enforcement taken by the CUPA.

In addition, the CUPA will also provide CalEPA with three APSA tank facility records, as requested by OSFM, that include RTC documentation or an inspection report.

By the 5th Progress Report, the CUPA will consistently and correctly report all current and previous HWG and APSA Program CME information to CERS. The CUPA will provide a statement confirming the completion of all prior HWG Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, between April 1, 2019, and March 31, 2022, as correctly being reported to CERS. The CUPA will provide a statement confirming the completion of all prior APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, between July 1, 2015, and June 30, 2019, as correctly being reported to CERS.

2. INCIDENTAL FINDING:

The CUPA did not consistently include all observations, citations, factual basis, and corrective actions for each violation cited in HWG inspection reports.

Review of HWG inspection reports finds:

- The inspection report checklist for “Hazardous Waste Components” only includes 6 regulatory citations.
- The regulatory citation for line Item 12 “Containers of Hazardous Waste Properly Labeled” is incorrect.
 - The current listed citation only refers to labeling HW containers with Department of Transportation (DOT) required labels prior to shipment.
 - The CUPA has been using the current listed citation to cite violations for failure to place a hazardous waste label on HW containers.
 - The correct regulatory citation for failure to place a hazardous waste label on HW containers is CCR, Title 22, Section 66262.34(f)
- The regulatory citation for line Item 13 “Containers of hazardous waste are in good condition and closed” is too general to use for citing a violation.
 - The specific regulatory citation for storing hazardous waste in a container that is not in good condition is CCR, Title 22, Section 66265.171 and the specific regulatory citation for open containers of HW is CCR, Title 22, Section 66265.173.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION PRELIMINARY SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

Review of HWG inspection reports and CERS CME information finds the following inconsistencies:

- CERS ID 10422052
 - CERS indicates three violations were identified during an inspection conducted on April 1, 2019.
 - The inspection report dated April 1, 2019, does not use the checklist version of the inspection report and does not: clearly identify whether violations were cited during the inspection, classify any violations, or cite any statutory or regulatory requirements.
- CERS ID 10654384
 - CERS indicates a Class II violation for “Failure to obtain an Identification Number,” a Class II violation for “Failure to keep a copy of each properly signed manifest,” and a Minor violation for “Failure to label a HW container” were identified during an inspection conducted on November 3, 2021.
 - The inspection report dated November 3, 2021, does not list or cite the violations identified in CERS.
- CERS ID 10639642
 - CERS indicates a Class II violation for “Failing to label HW containers” was identified during an inspection conducted on May 15, 2019.
 - The inspection report dated May 15, 2019, lacks factual basis for violations cited as follows:
 - the report comments, “Label drums and remove ASAP near fuel tank area under cover.” It is not clear how many HW containers lacked labels or whether or not HW was in the containers. An HMBP violation was also cited for failure to label containers of hazardous materials, which further obfuscates the factual basis for the violation.
 - a violation for HW containers that are not in good condition or closed is cited on Line 13. Observations or factual basis for citing the violation are not included.
 - a violation for not managing empty containers properly is cited on Line 15. The following corrective action is provided, “Mark empty containers ‘empty’ or upside down or on side,” however no factual basis for citing the violation is provided (i.e. how many containers, how the empty containers were managed).

Note: It is not necessary to revise the HWG inspection reports for the facilities identified as examples above.

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

CITATION:

HSC, Chapter 6.5, Section 25185(c)(2)(A)
[DTSC]

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

RESOLUTION:

By the 1st Progress Report, the CUPA will provide inspection report writing training to each CUPA inspector to ensure all violations cited in HWG inspection reports include observations, citations, factual basis, and corrective actions. The CUPA may include review of [HSC](#), Section 25185(c)(2)(A) as part of the inspector training. The CUPA may also request additional training from DTSC. The CUPA will provide CalEPA with training documentation, which at minimum will include the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance.

3. INCIDENTAL FINDING:

The CUPA is not 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 elements:

- CERS ID 10586389: Missing required site map components such as loading areas, access and exit points, and evacuation staging areas.
- CERS ID 10766512: Missing required site map components such as loading areas.
- CERS ID 10760728: Missing required site map components such as hazardous material handling and storage areas.
- CERS ID 10033516: Missing required site map components such as north orientation and loading areas.

CITATION:

HSC, Chapter 6.95, Sections 25505(a) and 25508(a)
[CalEPA]

RESOLUTION:

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 before being accepted in CERS. The action plan will include how the CUPA will follow up with rejected HMBP submittals that are not complete.

By the 2nd Progress Report, the CUPA will follow up with each facility identified above, as necessary, to ensure all required elements are included in the most recent HMBP submittal before being accepted in CERS.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

4. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not inspecting each 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:

- 18 of 91 (19%) APSA tank facilities storing less than 10,000 gallons of petroleum have not been inspected within the last three years.

Note: The CUPA meets the mandated triennial inspection frequency for APSA tank facilities storing 10,000 gallons or more of petroleum.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a) and (b)
CCR, Title 27, 15200(a)
[OSFM]

RESOLUTION: COMPLETED

During the evaluation, the CUPA completed additional APSA tank facility inspections. This incidental finding is considered resolved. No further action is required.

5. INCIDENTAL FINDING:

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

Review of the UST Facility/Tank Data Download report obtained from CERS on April 28, 2022, finds UST construction and monitoring information is incorrect as follows:

- 16 of 104 (15%) USTs with double-walled piping installed between January 1, 1984, and June 30, 2004, without continuous interstitial monitoring.
- 6 of 49 (12%) USTs installed after July 1, 2004, identified with single-walled components when required to have double-walled components.
- 6 of 49 (12%) USTs installed after July 1, 2004, identified as conducting Secondary Containment Testing triennially.
- 9 of 133 (7%) USTs with double-walled pressurized pipe identified without either mechanical or electronic line leak detectors.

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

Note: The following CERS Frequently Asked Questions (FAQs) may be referenced:

- "General Reporting Requirements for USTs"
- "When to Issue a UST Operating Permit"
- "Common CERS Reporting Errors"
- "Setting Accepted Submittal Status"
- "Which Forms Require Uploading to CERS"

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

INCIDENTAL FINDINGS REQUIRING RESOLUTION

Note: The following State Water Board correspondence may be referenced:

- “When to Review Underground Storage Tank Records,” dated November 29, 2016.

CITATION:

HSC, Chapter 6.7, Sections 25286 and 25288(a)
CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), 2636(a)(3), 2641(g) and (h), and 2711(d)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, and revise as necessary, the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to review CERS UST submittal information for accuracy and completeness regarding monitoring and construction requirements based on the UST installation date. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure. If no revisions are necessary, the CUPA will train UST inspection staff on the Data Management Procedure, or other applicable procedure.

By the 2nd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure, were necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, or other applicable procedure. The CUPA will train UST inspection staff on the amended Data Management Procedure, or other applicable procedure.

With respect to submittals already accepted in CERS, the CUPA will review the next UST submittal, provided no later than the next annual UST facility compliance inspection, to ensure information is accurate and complete regarding monitoring and construction requirements based on the UST installation date before being accepted.

6. INCIDENTAL FINDING:

The CUPA’s issuance procedure for the “Hazardous Materials Regulatory Programs CUPA Permit,” issued as the UPPF, includes steps for the permit application process, however the procedure does not include steps for the issuance of a permit to a regulated facility.

Note: This incidental finding was identified in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.11, Section 25404.2 (a)(1)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with the issuance procedure for the “Hazardous Materials Regulatory Programs CUPA Permit,” issued as the UPPF, which will include steps for the issuance of a permit to a regulated facility.

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By the 2nd Progress Report , the CUPA will, if necessary, amend the issuance procedure for the “Hazardous Materials Regulatory Programs CUPA Permit,” issued as the UPFP, based on feedback from CalEPA. The CUPA will provide the amended procedure to CalEPA.

7. INCIDENTAL FINDING:

The CUPA did not address referred HWG complaint #: COMP-18641.

Note: This incidental finding was identified in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

CCR, Title 27, Section 15200(a)(13)
[DTSC]

RESOLUTION:

By the 1st Progress Report and until considered corrected, the CUPA will address HWG complaint #: COMP-18641. The CUPA will provide CalEPA with follow-up documentation and explain the outcome of the complaint.

8. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not consistently conducting complete HWG inspections.

The following was observed during oversight inspections conducted at the following HWG facilities:

- CERS ID 10601005
 - Small Quantity Generator (SQG) facility inspection conducted on April 3, 2019.
 - The inspector did not fully understand HWG requirements including hazardous waste accumulation limits and labeling requirements for hazardous waste and used oil filters.
- CERS ID 10447672
 - A non-RCRA LQG facility inspection conducted on April 4, 2019.
 - The inspector did not fully understand HWG requirements, including hazardous waste characterizations of scrap metal fine powder, and hazardous waste tank system requirements that includes tank system certification.

Note: This incidental finding was identified in the 2019 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

CCR, Title 22, Sections 66260.10, 66262.32, 66262.34, 66265.192, and 66266.130
[DTSC]

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RESOLUTION: COMPLETED

During the evaluation, DTSC provided HWG inspection training to CUPA inspection staff and shadowed inspectors on oversight inspections (see Observation 15). The training provided by DTSC covered topics such as HWG requirements, hazardous waste violation classification, and elements of a violation. The oversight inspections were conducted successfully, and violations were cited and classified appropriately. DTSC considers this Incidental Finding resolved.

Additional resources for continued training are included below:

- Generator Requirements Fact Sheet
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf
- Generator Summary Chart
<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf>
- Managing Used Oil Filters for Generators
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>
- Hazardous Waste Tank System Requirements
<http://www.unidocs.org/hazmat/hazardous-waste/un-047.pdf>

9. INCIDENTAL FINDING:

The "Mendocino County Environmental Health UST Operating Permit" and permit conditions, issued under the "Hazardous Materials Regulatory Programs CUPA Permit," as the Unified Program Facility Permit (UPFP), are inconsistent with CCR, Title 23, Division 3, Chapter 16 (UST Regulations) and HSC, Division 20, Chapter 6.7 requirements.

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

- UST Program citations reference CCR, Chapter 18 and HSC, Chapter 6.75.
 - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite CCR, Chapter 18 and HSC, Chapter 6.75. The correct citations are as follows:
 - UST Regulations, Sections 2610 through 2717.7.
 - HSC, Sections 25280 through 25296 and 25298 through 25299.6.
 - Alternatively, the UST Program citations referenced could identify the sections of UST Regulations and HSC that are excluded.
- The UST Operating Permit states, "THIS PERMIT IS NOT TRANSFERABLE."
 - UST Regulations, Section 2712(d) indicates permits may be transferred to new UST owners or operators.

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

- Permit Condition 1 indicates the UST owner/operator must “report any unauthorized release” to the CUPA.
 - HSC, Section 25295(c) indicates UST owners or operators may be required to comply with additional reporting requirements, including, but not limited to, reporting requirements in Water Code, Sections 13271 and 13272 and reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time.
- Permit Condition 4 states, “The permittee must obtain permission from the CUPA prior to any modification of an UST system.”
 - UST Regulations nor HSC include this requirement.

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

CITATION:

HSC, Chapter 6.7, Section 25284(b), 25295(c), 25297.01(b)
CCR, Title 23, Section 2712(d)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the “Mendocino County Environmental Health UST Operating Permit” and permit conditions template, issued under the “Hazardous Materials Regulatory Programs CUPA Permit,” as the UPFP, to be consistent with UST Regulations and HSC. The CUPA will provide the revised “Mendocino County Environmental Health UST Operating Permit” and permit conditions template to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised “Mendocino County Environmental Health UST Operating Permit” and permit conditions template, based on feedback from the State Water Board, and will provide the amended “Mendocino County Environmental Health UST Operating Permit” and permit conditions template to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised “Mendocino County Environmental Health UST Operating Permit” and permit conditions template, under the “Hazardous Materials Regulatory Programs CUPA Permit,” as the UPFP, and will provide CalEPA with the “Hazardous Materials Regulatory Programs CUPA Permit” issued to five UST facilities using the revised “Mendocino County Environmental Health UST Operating Permit” and permit conditions template.

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By the 3rd Progress Report, if amendments to the revised “Mendocino County Environmental Health UST Operating Permit” and permit conditions template were necessary, the CUPA will begin to issue the amended “Mendocino County Environmental Health UST Operating Permit” and permit conditions template, under the “Hazardous Materials Regulatory Programs CUPA Permit,” as the UFPF, and will provide CalEPA with the “Hazardous Materials Regulatory Programs CUPA Permit” issued to five UST facilities using the amended “Mendocino County Environmental Health UST Operating Permit” and permit conditions template.

10. INCIDENTAL FINDING:

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 meet the following education, training, and experience requirements:

- 100 hours of training in regulatory investigative techniques

CITATION:

CCR, Title 27, Section 15260
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will establish and implement an education and training plan to ensure all CUPA personnel involved with Unified Program implementation meet the applicable training requirements. At minimum, the plan will include:

- The timeline for existing CUPA personnel to fulfill the training requirements of CCR, Title 27, Section 15260, if applicable.
- A procedure for how the CUPA will document and retain staff training information, including the total number of completed training hours that could be applied towards satisfying the 100-hour enforcement training requirement of CCR, Title 27, Section 15260.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with training documentation to demonstrate all applicable identified CUPA personnel have met the training requirements. Training documentation will include at minimum, the date training was completed, an outline of the training, and the identified CUPA personnel that completed the training.

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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:

HWG program inspections are being incorrectly entered in CERS.

The following is an example:

- CERS ID 10654378:
 - An inspection conducted on May 18, 2021, reflects 1 Class I violation and 1 Class II violation cited, and is reported in CERS as a “routine” inspection.
 - An inspection conducted on October 7, 2021, reflects no violations cited and is reported in CERS as a “routine” inspection. This inspection may possibly be associated with a UST reinspection. This inspection should likely be reported in CERS as an “other” inspection.

RECOMMENDATION:

Review repetitive inspections reported in CERS as “routine” and ensure “other” inspections are reported in CERS correctly.

2. OBSERVATION:

The information below is a summary of the overall implementation of the HWG Program and the CUPA’s hazardous waste related activities based upon review of policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between April 1, 2019, and March 31, 2022:

- CERS finds there are 322 regulated HWG facilities, including 6 RCRA LQG facilities, and 2 TP facilities.
- The CUPA inspected 251 unique HWG facilities and conducted 367 HWG routine inspections and 2 HWG “other” inspections. Conducting more HWG routine inspections than there are unique HWG facilities indicates the CUPA inspected some unique HWG facilities more often than the inspection frequency established in the I&E Plan.
 - 264 of 367 (72%) routine inspections had no violations cited.
 - 105 of 367 (28%) routine inspections had at least one violation cited.
 - 163 total violations were cited, consisting of:
 - 4 Class I violations
 - 158 Class II violations
 - 1 minor violation
 - The California average for routine inspections with at least one violation cited is approximately 40%.
 - CERS indicates the CUPA has ensured RTC for 47 of 163 (19%) violations cited.

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- CERS reflects no formal enforcement actions for hazardous waste related violations were completed.
- Inspection reports do not always document whether consent to inspect was requested prior to the inspection.
- The I&E Plan, Section VIII. On-Site Facility Inspection Procedures, subsection D. Inspection Follow-up, states CUPA inspectors shall prepare a Class I/II inspection report when Class I/II violations are identified during an inspection. There were no Class I/II inspection reports provided for review.

RECOMMENDATION:

Continue with the HWG inspection frequencies and applied enforcement efforts established per the I&E Plan. Review the inspection frequencies for RCRA LQG facilities and TP facilities and determine whether or not resources are available to meet those established inspection frequencies.

Ensure the detailed factual basis of each violation is included in inspection reports and in the CME information electronically transferred to CERS to support any enforcement efforts. Evaluate current HWG facility inspection forms to determine if revision is needed to ensure inspectors can succeed at writing quality inspection reports. Follow up with HWG facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan for those facilities that to not obtain RTC.

Refresh HWG Program inspector knowledge of violation classification for HWG violations. The CUPA cites noticeably fewer minor violations than the majority of other CUPAs. Ensure inspectors follow the HWG Inspection Procedures found in the I&E Plan and document consent to inspect in each HWG inspection report prior to conducting the inspection.

3. OBSERVATION:

The contact section in the area plan Appendix is well structured.

As the area plan was last updated 7 years ago, the following information is outdated:

- Regulatory citations for Title 19, Chapter 4, do not reflect the renumbering that occurred in May 2016.
 - Page II-1: 19 CCR Section 2701 is cited. Section 2630 is the current regulation.
 - Page II-2: 19 CCR Section 2703 is cited. Section 2632 is the current regulation.
- Page D-4 lists Cal OES as the state agency responsible for HSC, Chapter 6.5 and CCR, Title 19.
 - As of July 2021, Assembly Bill (AB) 148 transferred oversight of the CalARP Program and the HMBP Program from Cal OES to CalEPA.

RECOMMENDATION:

With the next review and revision of the area plan, address the outdated information identified above and validate all personnel and emergency contact information.

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4. OBSERVATION:

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

- HMBP Program:
 - April 1, 2021 – March 31, 2022
 - The CUPA conducted 172 routine inspections, of which 104 (60%) had no violations cited and 68 (40%) had at least one violation cited.
 - A total of 152 violations were cited, consisting of:
 - 2 (1%) Class I violations
 - 144 (95%) Class II violations
 - 6 (4%) minor violations
 - The CUPA has ensured RTC for 62 of 152 (41%) violations cited.
 - April 1, 2020 – March 31, 2021
 - The CUPA conducted 148 routine inspections, of which 85 (67%) had no violations cited and 63 (43%) had at least one violation cited.
 - A total of 155 violations were cited, consisting of:
 - 0 (0%) Class I violations
 - 155 (100%) Class II violations
 - 0 (0%) minor violations
 - The CUPA has ensured RTC for 85 of 155 (55%) violations cited.
 - April 1, 2019 – March 31, 2020
 - The CUPA conducted 142 routine inspections, of which 92 (65%) had no violations cited and 50 (35%) had at least one violation cited.
 - A total of 121 violations were cited, consisting of:
 - 2 (2%) Class I violations
 - 119 (98%) Class II violations
 - 0 (0%) minor violations
 - The CUPA has ensured RTC for 44 of 121 (36%) violations cited.
- CalARP Program:
 - April 1, 2019 – March 31, 2022
 - The CUPA conducted 2 routine inspections, of which 0 (100%) had violations cited.

RECOMMENDATION:

Maintain the three-year HMBP and CalARP inspection frequency, as required by statute. Ensure complete and thorough inspections are conducted to identify all violations at facilities. Maintain detailed inspection reports that include all factual basis of the violation and properly cite noted violations. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan when facilities do not obtain RTC.

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5. OBSERVATION:

The CUPA is not consistently ensuring HMBPs, provided to CERS by APSA tank facilities in lieu of a tank facility statement, are thoroughly reviewed and contain all required elements before being accepted in CERS include site maps that contain all applicable required elements.

Review of CERS indicates the following 4 of 13 (31%) recently accepted HMBP submittals provided by APSA tank facilities in lieu of a tank facility statement were missing site map elements:

- CERS ID 10480690 and CERS ID 10628428: missing emergency shutoff and evacuation staging area.
- CERS ID 10467379: missing emergency response equipment and evacuation staging area.
- CERS ID 10491088: missing evacuation staging area, emergency shutoff, and emergency response equipment.

RECOMMENDATION:

Ensure future HMBP submittals, provided to CERS by APSA tank facilities in lieu of a tank facility statement, are thoroughly reviewed and contain all required elements before being accepted in CERS, such as site maps that contain all applicable required elements.

6. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 125 APSA tank facilities. The CUPA’s data management system identifies 121 APSA related tank facilities.

- 115 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 10 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system. Some of these facilities are likely not APSA regulated, and the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable” for each facility. Some of these facilities are APSA regulated, and the CUPA should update the local data management system accordingly.
- 6 facilities identified as APSA related tank facilities in the CUPA’s data management system are not identified in CERS as APSA facilities. The CUPA should determine whether or not the facilities are APSA facilities. Those that aren’t APSA facilities 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.”
- There are over 17 farm facilities that the CUPA is regulating as APSA Conditionally Exempt facilities whose total oil storage capacity meet the Water Resources Reform and Development Act (WRRDA) exemption thresholds. Farms that are no longer regulated under APSA due to Senate Bill (SB) 612 and WRRDA oil applicability thresholds should be identified in CERS as “APSA Not Applicable.”

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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.

7. OBSERVATION:

SPCC Plans were submitted to CERS by APSA tank facilities as part of the APSA CERS submittals.

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

The APSA documentation upload section in CERS is for facilities to provide an annual tank facility statement, unless an HMBP is provided in lieu of a tank facility statement, or for providing other local reporting requirement documents.

RECOMMENDATION:

Utilize the regulator comments field in CERS to advise APSA tank facility owners and operators that SPCC Plans should not be included in future CERS submittals.

8. OBSERVATION:

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

- Page 1: The Unified Program elements list is missing the fire code Hazardous Materials Management Plans (HMMP) and Hazardous Materials Inventory Statements (HMIS) Program, which is consolidated with the HMBP Program to streamline the regulatory requirements for regulated facilities.
- Page 3: An inspection frequency is identified for each Program Element. It is also stated that the intent and goal of the CUPA is to inspect all sites annually as time and staffing allow. While not required annually by statute or regulation, an annual inspection frequency has been established for RCRA LQG facilities, Permit-By-Rule (PBR) facilities (including HHW, TP, Conditionally Authorized and Conditionally Exempt facilities) as well as CalARP facilities. For clarity, in reference to the intent and goal of annually inspecting all regulated sites, specifically identify the programs that have an inspection frequency other than annually.
- Page 8: Referenced citation of HSC, Section 25505(a)(2) should be HSC, Section 25508(a)(2), which is for failure to revise a CERS submittal. It is not an applicable citation for "return to compliance" for inspection deficiencies.
- Pages 11 – 21: Inspection Procedures Figures: There is no APSA Inspection Procedure.
- Page 22: Replace Section 25270.5 with "commencing with Section 25270."
- Page 49: Item B.2: HSC, Section 25270.5 is incorrectly referenced as violations of APSA. Replace Section 25270.5 with "Chapter 6.67 (commencing with Section 25270)."

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- Pages 53 and 55: Reference citation HSC, Section 25514.5 should be HSC, Section 25515.
- Page 56: Item 6.a.: HSC, Section 25270.5 is incorrectly referenced as violations of APSA. Update item 6.a. with the following statement, “For violations of HSC, Chapter 6.67, the violator shall be liable for a penalty of not more than \$5,000 for each day on which the violation continues, pursuant to HSC, Section 25270.12.”
- Multiple instances of referral to the APSA program as “AST” or “Above Ground Storage Tank” were observed, including the tables in Inspection Sections II and III, and pages 3, 5, 6, 22, 56 and 57.

RECOMMENDATION:

Update the I&E Plan as indicated above.

9. OBSERVATION:

Multiple APSA tank facilities submitted an HMBP to CERS in lieu of a tank facility statement using the 2011 emergency response and training plans template, which contains obsolete information.

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template as part of the HMBP submittal, in lieu of the tank facility statement, to use the current 2022 version. The current template is available in CERS.

10. OBSERVATION:

The CUPA’s website (<https://www.mendocinocounty.org/government/health-and-human-services-agency/envirnomenta-eh/hazardous-materials>) contains resources for the public and regulated community. However, the Tier II Qualified Facility SPCC Plan template at <https://www.mendocinocounty.org/home/showpublisheddocument/20074/636576577588530000> is outdated.

The current Tier II Qualified Facility SPCC Plan template, dated May 2021, is available on the OSFM APSA website at https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf.

RECOMMENDATION:

Update the website with the current Tier II Qualified Facility SPCC Plan template.

11. OBSERVATION:

Review of annual UST compliance inspection reports finds the CUPA consistently inspecting UST facilities for FY 2018/2019 and FY 2020/2021. During FY 2019/2020, while under restrictions of COVID-19, CERS CME data indicates 14 UST facilities were not inspected.

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The CUPA completed inspections at all regulated UST facilities in FY 2020/2021, thus enabling the State Water Board to certify meeting the triennial UST compliance inspection frequency established by the U.S. EPA.

RECOMMENDATION:

Develop a procedure to ensure all regulated UST facilities are inspected once every 12 months under adverse situations.

12. OBSERVATION:

Review of accepted CERS UST submittals finds the following 19 single-walled USTs and four USTs with single-walled pressurized product pipe require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10623757 (Tank IDs 001 and 002);
- CERS ID 10651147 (Tank IDs 001, 002, 003);
- CERS ID 10656433 (Tank IDs 001, 002, 003);
- CERS ID 10656547 (Tank IDs 001, 002, 003);
- CERS ID 10656562 (Tank IDs 001 and 002);
- CERS ID 10656604 (Tank IDs 001, 002, 003);
- CERS ID 10656607 (Tank IDs 001, 002, 003); and
- CERS ID 10033513 (Tank IDs 001, 002, 003, 004)

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 notification of the requirement to all applicable UST facility owners or operators. The written 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.

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.

13. OBSERVATION:

The information 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:

- Mendocino County Health Department Division of Environmental Health CUPA Application, dated December 27, 1995;

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OBSERVATIONS AND RECOMMENDATIONS

- CERS “Summary Regulated Facilities by Unified Program Element” report, generated on July 20, 2022; and
- CERS “UST Inspection Summary Report (Report 6),” generated on July 20, 2022.
- Mendocino County CUPA Program Overview for 2022 Evaluation PowerPoint Presentation (shown at Kickoff Meeting)

- Total Number of **Business Plan** Regulated Businesses and Facilities:
 - In 1995 Application: 450
 - Currently: 648
 - An increase of 198 facilities
 - Comments: The facility count provided in the original CUPA application is noted as being an approximation.

- Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
 - In 1995 Application: 172
 - Currently: 66
 - A decrease of 106 facilities

- Total Number of Regulated **USTs**:
 - In 1995 Application: 430
 - Currently: 173
 - A decrease of 257 USTs

- Total Number of Regulated **Hazardous Waste Generator** Facilities:
 - In 1995 Application: 109
 - Currently: 324
 - An increase of 215 facilities

- Total Number of Regulated **Household Hazardous Waste (HHW)** Facilities:
 - In 1995 Application: Not specified
 - Currently: 1
 - 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 (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt)**:
 - In 1995 Application: 10
 - Currently: 1
 - A decrease of 9 facilities

- Total Number of Regulated **Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities**:
 - In 1995 Application: Not specified
 - Currently: 3

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OBSERVATIONS AND RECOMMENDATIONS

- 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), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
 - In 1995 Application: 5
 - Currently: 2
 - A decrease of 3 facilities
- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
 - In 1995 Application: Not applicable
 - Currently: 124

Since the original application for certification was submitted in 1995, the CUPA has seen fluctuations in the number of regulated facilities in nearly all Unified Program elements. In particular, the total number of regulated HMBP facilities increased by 198 (or 44%) and the total number of regulated HWG facilities increased by 215 (or 197%). The incorporation of the APSA program also added another 124 facilities not previously regulated by the CUPA when first certified. The number of regulated UST facilities and regulated USTs decreased respectively by 106 (or 60%) and 257 (or 62%), the number of CalARP facilities decreased by 3 (or 60%) and the number of TP facilities decreased by 9 facilities (or 90%).

The information below is a comparison of the overall 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 increased or decreased. The information is sourced from the Mendocino County Health Department Division of Environmental Health CUPA Application, dated December 27, 1995, and recent information provided by the CUPA.

- Staff Information
 - In 1995 Application
 - 3 inspection staff positions at 3 budgeted FTEs
 - Currently
 - 4 inspection staff positions at 3.6 budgeted FTEs
 - 1 of 4 positions is vacant as of January 2022.
- Supervisory/Managerial Information
 - In 1995 Application
 - 1 Program Supervisor position at 0.5 FTE
 - Currently
 - 1 Program Manager position at 1 FTE.

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Additional program element responsibilities have been incorporated into the implementation of the Unified Program and the number of facilities regulated by the CUPA has change since the CUPA applied for certification in 1995. An expansion of responsibilities in the HMBP, HWG, and APSA programs has occurred, increasing the workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. Additionally, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms to the implementation of electronic data reporting through local data management systems and CERS.

RECOMMENDATION:

Based on the information above, consider conducting a fee study to determine if additional staffing resources are necessary to meet the changing needs of Unified Program implementation over time.

Continue to regularly assess the allocation of current staff assignments and existing resources to ensure adequate implementation of each program element within the Unified Program is obtained.

14. OBSERVATION:

DTSC evaluators provided hazardous waste training (including the distribution of various guidance documents) and conducted oversight inspections with the CUPA in Mendocino County on October 3, 4 and 5, 2022. The training topics covered general hazardous waste classification, inspection report writing and elements of a violation, general generator requirements and an overview of the Hazardous Waste Tracking System (HWTS).

The oversight inspections were conducted at CERS IDs: 10455583, 10623085, and 10687093 with the same lead inspector. DTSC's approach during these oversight inspections was to provide technical assistance and hands on training. The CUPA expressed the need for hazardous waste training during the 2022 CUPA Performance Evaluation Kick-Off Meeting and stated that the HWG Program was one of the most difficult Unified Program elements for the CUPA to implement. Overall, the inspections were handled professionally and were conducted in a timely manner. The DTSC evaluator helped the lead CUPA inspector identify and write violations and coached him on establishing a rapport with the facilities inspected. The lead inspector learned quickly and became comfortable asking the facility for consent to conduct the inspection, describing violations and corrective actions to facility representatives, and dealing with difficult facility operators.

In terms of understanding HWG requirements, the CUPA does need to ensure inspection staff receive continued training. The HWG program is a complex program, which necessitates constant training and field experience to implement effectively. Overall, the CUPA has a basic understanding of HWG requirements, but can be overly reliant on the inspection checklist when unfamiliar situations are encountered.

RECOMMENDATION:

Hazardous waste training is the most important next step for the CUPA in terms of improving implementation of the HWG program. Specific HWG Program topics to focus on are hazardous

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waste classification, HWG requirements, and consolidated manifesting. Hazardous Waste Classification Training is available on DTSC's website: <https://dtsc.ca.gov/california-hazardous-waste-classification-training/>.

Guidance for hazardous waste generator requirements and consolidated manifesting can also be found on the DTSC website.

In addition to training, it is recommended that CUPA inspectors focus on taking notes while conducting the inspection instead of completing the checklist. The CUPA inspector wrote more detailed violation comments and corrective actions when efforts were focused on taking notes during the inspection and completing the inspection checklist at the end of the inspection.

It is also highly recommended that the CUPA regularly attend the California CUPA Forum Board Northern California and Bay Area Region Hazardous Waste Technical Advisory Group meetings.