

October 23, 2023

Ms. Sara Chandler
Environmental Health Specialist
Lassen County Environmental Health
707 Nevada Street, Suite 5
Susanville, California 96130-3912

Dear Ms. Chandler:

During July 2022, through June 2023, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Lassen County Environmental Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, and California Environmental Reporting System information.

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

The 2022 CUPA Performance Evaluation identifies 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." Failure to adequately correct each of the deficiencies and resolve each of the incidental findings identified in the Final Summary of Findings report in a timely manner may result in the establishment of a PIA between CalEPA and the governing body of the CUPA.

To demonstrate progress towards the correction of program deficiencies and resolution of incidental findings identified in the final Summary of Findings report, the CUPA must submit an Evaluation Progress Report approximately 60 days from the date of this letter, and every 90 days thereafter, until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved by each issuing state agency. An Evaluation Progress Report template will be provided by the CalEPA Team Lead. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead,

Kaeleigh Pontif, via email at Kaeleigh.Pontif@calepa.ca.gov, or uploaded to the established SharePoint website.

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:

- 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.
- 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.
- 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.
- 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 enforcement regarding 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 frequency for California Accidental Release Prevention (CalARP) facilities- Deficiency 2
- Inspection frequency for Hazardous Materials Business Plan (HMBP) facilities- Deficiency 4
- Inspection frequency for Aboveground Petroleum Storage Act (APSA) tank facilities- Deficiency 9
- Inspection frequency for Hazardous Waste Generator (HWG) facilities- Deficiency 13
- Inspection frequency for Underground Storage Tank (UST) facilities- Deficiency 22

- Enforcement and Return to Compliance (RTC) documentation for HMBP, APSA, UST, and HWG Program facilities- Deficiencies 7, 11, 18, 25
- Reporting correct Technical Compliance Rate (TCR) criteria for the UST Program- Deficiency 21

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

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

If you have any questions or need further assistance, please contact Melinda Blum at Melinda.Blum@calepa.ca.gov.

Sincerely,



Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Maurice Anderson, Director
Lassen County Planning & Building Services
manderson@co.lassen.ca.us

Mr. Gaylon Norwood
Deputy Director
Lassen County Planning & Building Services
gnorwood@co.lassen.ca.us

Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board

Mr. Tom Henderson
Engineering Geologist, UST Unit Coordinator
State Water Resources Control Board

Ms. Sara Chandler
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cc sent via email:

Ms. Julie Pettijohn
Environmental Program Manager
CUPA Enforcement Branch
Department of Toxic Substances Control

Ryan Miya, Ph.D.
Senior Environmental Scientist, Supervisor
Department of Toxic Substances Control

Ms. Jennifer Lorenzo
Senior Environmental Scientist, Supervisor
CAL FIRE - Office of the State Fire Marshal

Ms. Jenna Hartman, REHS
Environmental Scientist
State Water Resources Control Board

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

Ms. Magnolia Busse
Environmental Scientist
State Water Resources Control Board

Mr. Brennan Ko-Madden
Senior Environmental Scientist
Department of Toxic Substances Control

Ms. Mary Wren-Wilson
Environmental Scientist
CAL FIRE - Office of the State Fire Marshal

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

Ms. Melinda Blum
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Ms. Sara Chandler
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cc sent via email:

Ms. Elizabeth Brega
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

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

Ms. Kaeleigh Pontif
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Lassen County Environmental Health Department

Evaluation Period: July 2022 through June 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Kaeleigh Pontif
- **CalEPA:** Esme Hassel-Thean
- **DTSC:** Brennan Ko-Madden
- **State Water Board:** Kaitlin Cottrell
- **CAL FIRE-OSFM:** Mary Wren-Wilson

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

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

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

Kaeleigh Pontif
CalEPA Unified Program
Phone: (916) 803-0623
E-mail: Kaeleigh.pontif@calepa.ca.gov

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

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at Kaeleigh.Pontif@calepa.ca.gov, or uploaded to the established SharePoint website. A narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report, and any applicable supporting documentation must be included in each Evaluation Progress Report.

The submittal date for the 1st Evaluation Progress Report is **January 5, 2024**.

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

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

1. STAFFING CHALLENGES:

In 2020, the Lassen County Environmental Health Department was reduced from a total staff of five to a staff of two employees as one staff member retired, and two inspectors departed from the CUPA. In the beginning of 2021, the Environmental Health Technician for the entire Environmental Health Department resigned, leaving only one staff person to implement all aspects of the CUPA Program. In addition to the staffing challenges, the CUPA Program transitioned from the Health and Social Services Department to the Planning and Building Services Department as a result of the organizational realignment of the Lassen County Environmental Health Department.

The impacts from the reduction in staff, the transition of the CUPA to another department, and reassignment of the scarce CUPA resources to assist the Environmental Health Department of Lassen County, have all contributed to the CUPA's inability to satisfactorily implement each element of the Unified Program. There is a significant shortfall in the oversight and enforcement efforts of the CUPA for each program element in ensuring regulated businesses comply with applicable requirements.

Despite the efforts to recruit and staff the four vacant positions, the CUPA remains significantly understaffed.

2. EMERGENCY RESPONSE:

In early 2020, the CUPA Program had only one staff position filled. This inspector was reassigned to the COVID-19 Pandemic response of the Lassen County Environmental Health Department and remained part of the response team as the operations manager for the remainder of the year and into 2021. The CUPA inspector also participated in disaster recovery efforts after experiencing the Beckwourth Complex and Dixie wildfires, as well as site evaluations, Phase 1 debris removal and coordination of Phase 2 debris removal.

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The Unified Program administrative procedures have components that are incomplete or inaccurate:

The following components are incomplete:

- Public participation
 - Coordinate, consolidate, and make consistent locally required public hearings and notices related to any Unified Program element.
 - The Public Participation Procedure states that the CUPA coordinates and consolidates public notices and hearings related to the UST Program. The CUPA is required to coordinate, consolidate, and make consistent locally required public hearings and notices related to any Unified Program element.
- Forwarding Hazardous Material Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities.
 - The CUPA has provided CERS access to emergency response personnel and other appropriate government entities but has not established a written procedure for doing so.
- Fee Dispute Resolution
 - The Fee Dispute Resolution Procedure does not include a plan to resolve fee disputes that arise between a regulated business and the state regarding the state surcharge.

The following components are inaccurate:

- Records maintenance
 - Minimum retention times
 - The Records Maintenance Procedures cite California Code of Regulations (CCR), Title 27, Section 15188. The correct citation is CCR, Title 27, Section 15185.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation relative to forwarding HMRRP information to emergency response personnel and other appropriate government entities and data management procedures. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

CITATION:

CCR, Title 27, Sections 15180(e), 15185(b) and (f), 15250 and 15290
[CalEPA]

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FINAL SUMMARY OF FINDINGS REPORT**

DEFICIENCIES REQUIRING CORRECTION

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.

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 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.

2. DEFICIENCY:

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

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS) between July 1, 2019, and June 30, 2022, finds:

- 2 of 2 (100%) facilities subject to CalARP Program requirements were not inspected within the last three years.
 - CERS ID 10421431 was last inspected on April 26, 2017.
 - CERS ID 10125457 has never received a CalARP inspection.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

CITATION:

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

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DEFICIENCIES REQUIRING CORRECTION

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 CalARP Program requirements is inspected at least once every three years. The action plan will include, at minimum:

- An analysis and explanation as to why the triennial inspection frequency is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each CalARP Program facility that has not been inspected within the last three years. For each CalARP Program facility listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID; and
 - Date of the last routine inspection.
- A schedule to inspect those CalARP Program facilities, prioritizing the most delinquent inspections to be completed prior to any other CalARP Program inspection based on risk.
- Future steps to ensure all CalARP Program 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 and a brief narrative of how the CUPA is continuing to ensure that all CalARP Program facilities will be inspected at least once every three years.

By the 5th Progress Report, the CUPA will have inspected each facility subject to CalARP Program requirements at least once in the last three years.

3. DEFICIENCY:

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

- 1 of 2 (50%) stationary sources in the CalARP Program have not updated the RMP in the last five years.
 - CERS ID 10125457 has not updated the RMP since January 2015.

CITATION:

CCR, Title 19, Section 2745.10(a)(1)
[CalEPA]

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

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

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

4. DEFICIENCY:

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

Review of CERS CME information between July 1, 2019, and June 30, 2022, finds:

- 237 of 243 (98%) facilities subject to HMBP requirements were not inspected within the last three years.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

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:

- An analysis and explanation as to why the triennial inspection frequency is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.
- 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 HMBP inspection based on risk.

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DEFICIENCIES REQUIRING CORRECTION

- Future steps to ensure 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 and a brief narrative of how the CUPA is continuing to ensure that all HMBP facilities will be inspected at least once every three years.

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

5. DEFICIENCY:

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

On October 28, 2022, review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 121 of 243 (50%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 123 of 243 (51%) 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. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

CITATION:

HSC, Chapter 6.95, Sections 25505(a) and 25508(a)
[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 annually submit an HMBP or a no-change certification to CERS. The action plan will include steps to follow up with rejected HMBP submittals that are not complete.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each

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DEFICIENCIES REQUIRING CORRECTION

regulated business subject to Business Plan reporting requirements that has not submitted an HMBP containing all required components or a no-change certification within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance, and rejection of incomplete HMBPs or no-change certifications; and
 - Enforcement applied by the CUPA to ensure regulated business annually submit a complete HMBP or no-change certification 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 sortable spreadsheet provided with the 2nd Progress Report, to ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP or a no-change certification has been submitted to CERS, or the CUPA will have applied enforcement.

6. DEFICIENCY:

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

Review of the last accepted HMBP submittal to CERS by the following regulated businesses subject to Business Plan reporting requirements finds HMBP submittals were accepted with missing or incomplete components:

- CERS ID 10125457
 - Missing required site map elements such as storm and sewer drains, emergency shutoffs, evacuation staging areas, and emergency response equipment.
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10125517
 - Missing required site map elements such as loading areas, storm and sewer drains, evacuation staging areas, and emergency response equipment.
- CERS ID 10125574
 - Missing required site map elements such as storm and sewer drains, emergency shutoffs, evacuation staging areas, and emergency response equipment.
- CERS ID 10128166
 - Missing required site map elements such as emergency response equipment.
- CERS ID 10169387
 - Missing required site map elements such as access and exits points and emergency response equipment.

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DEFICIENCIES REQUIRING CORRECTION

- CERS ID 10208152
 - Missing required site map elements such as loading areas and emergency response equipment.
 - Missing required training plan elements such as provisions for training all new employees.
- CERS ID 10405981
 - Missing required site map elements such as storm and sewer drains and emergency response equipment.
- CERS ID 10421431
 - Missing required site map elements such as adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, and emergency response equipment.
 - Missing required training plan elements such as provisions for training to be documented electronically or by hard copy made available for a minimum of three years.

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

CITATION:

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

CORRECTIVE ACTION:

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP containing all required components or a no-change certification within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance, and rejection of incomplete HMBPs or no-change certifications; and
 - Enforcement applied by the CUPA to ensure regulated businesses annually submit a complete HMBP or no change certification to CERS.

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

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

DEFICIENCIES REQUIRING CORRECTION

7. DEFICIENCY:

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

Review of CERS CME information between July 1, 2019, and June 30, 2022, finds there is no documented RTC for the following HMBP violations:

- 8 of 17 (47%)
 - 14 of 17 (82%) violations cited were classified as minor, of which 5 (36%) have no RTC.
 - 3 of 17 (18%) violations cited were classified as Class II, of which 3 (100%) have no RTC.

Review of CERS CME information and facility files finds there is no documented follow-up or enforcement activity applied by the CUPA to ensure all regulated businesses subject to Business Plan reporting requirements annually submit an HMBP or a no-change certification to CERS, after reasonable notice.

- CERS ID 10125517
 - HMBP submitted May 1, 2020, accepted May 14, 2020
 - A routine HMBP inspection conducted on August 27, 2017, cites the following 6 violations and documents RTC on the same day:
 - Minor violations:
 - Emergency response plan and procedures
 - Training not provided and/or documented
 - Class II violations:
 - Annual review/ certification
 - Hazardous materials inventory
 - Business activities page and/or business owner/ operator identification page
 - Site map
 - A routine HMBP inspection conducted on May 14, 2020, cites the same violations previously identified in the August 27, 2017, inspection, however, all but one are classified differently, and no RTC is documented:
 - Minor violations:
 - Annual review/ certification
 - Hazardous materials inventory
 - Business activities page and/or business owner/ operator identification page
 - Site map
 - Emergency response plan and procedures
 - Class II violations:
 - Training not provided and/or documented

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DEFICIENCIES REQUIRING CORRECTION

- CERS ID 10206790
 - HMBP submitted December 17, 2016, not accepted December 19, 2016
 - Last inspection conducted on January 20, 2017, cites 7 Class II violations, and no RTC is documented
- CERS ID 10477714
 - HMBP submitted January 15, 2014, not accepted August 4, 2014
 - Last inspection conducted on May 31, 2017, cites 2 minor violations, and no RTC is documented
- CERS ID 10125574
 - HMBP submitted May 1, 2020, accepted February 28, 2021
 - HMBP submitted September 14, 2022, under review September 22, 2022
 - Last inspection conducted on July 23, 2019, cites 5 minor violations, and no RTC is documented
- CERS ID 10133122
 - HMBP submitted June 12, 2019, not accepted June 19, 2019
 - HMBP submitted September 21, 2017, accepted September 21, 2017
 - Inspection conducted on February 23, 2022, cites 1 Class II violation for annual review/certification
 - Inspection conducted on October 25, 2018, cites 1 Class II violation for annual review/certification

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

CITATION:

HSC, Chapter 6.11, Section 25404(e)

HSC, Chapter 6.95, Section 25508(a)(4)

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

[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the Inspection and Enforcement (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 applied by the CUPA to ensure RTC, including provisions for appropriate action to enforce HMBP requirements through the imposition of administrative, civil, and criminal penalties as specified in HSC, Sections 25524 through 25516 when handlers fail, after reasonable notice, to electronically submit a business plan.

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 facility subject to business plan reporting requirements with an open violation (no RTC) cited between July 1, 2019, and June 30, 2022:

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DEFICIENCIES REQUIRING CORRECTION

- 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, the spreadsheet should contain a narrative of any applied enforcement or follow-up activity applied by the CUPA to ensure the facility obtains RTC.

By the 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train 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 inspection staff 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 five HMBP facility records, as requested by CalEPA, that include RTC documentation, or a narrative of the enforcement applied by the CUPA in the absence of RTC. The CUPA will prioritize follow-up actions with each facility based on the level of hazard violations present to public health and the environment.

8. DEFICIENCY:

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

- The last certification to CalEPA was December 2018.

Review of the December 2018 area plan finds the following required element is missing:

- Incident critique and follow-up provisions do not include an interagency meeting to evaluate the response, to improve future response, and to determine if any area plan revisions are required, as required by 19 CCR Section 2648.

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The December 2018 area plan contains the following broken links:

- Page 44 of 310
 - <http://www.caloes.ca.gov/FireRescueSite/Documents/304%20-%20Written%20Report%20Form.pdf>
- Page 106 of 316
 - The MHOAC Program Manual is available online here:
<https://www.cdph.ca.gov/Programs/CCLHO/CDPH%20Document%20Library/MedicalandHealthOperationalAreaCoordinationManual.pdf#search=mhoac%20manual>

CITATION:

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

CORRECTIVE ACTION:

By the 1st 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. If necessary, the CUPA can request financial assistance from Cal OES through the Hazardous Materials Emergency Preparedness (HMEP) grant program. Upon review of the area plan, the CUPA will ensure the area plan has all the required elements. The CUPA will provide CalEPA with the reviewed and revised area plan.

9. DEFICIENCY:

The CUPA is not inspecting each Aboveground Petroleum Storage Act (APSA) tank facility that stores 10,000 gallons or more of petroleum for compliance with the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements of APSA at least once every three years.

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

- 29 of 31 (94%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility that stores 10,000 gallons or more of petroleum is inspected at least once every three years for compliance with the SPCC Plan requirements of the APSA Program. The action plan will include at minimum:

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- A sortable spreadsheet exported from the CUPA's data management systems or CERS, identifying each APSA tank facility storing 10,000 gallons or more of petroleum that has not been inspected within the last three years. For each tank facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities with 10,000 gallons or more of petroleum (i.e., large volumes of petroleum and proximity to navigable water).
- Future steps to ensure each APSA tank facility storing 10,000 gallons or more of petroleum 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 OSFM. 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 APSA tank facility identified on the spreadsheet provided with the 1st Progress Report at least once every three years.

10. DEFICIENCY:

The CUPA is not consistently ensuring each APSA tank facility annually submits 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:

- 34 of 62 (55%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 34 of 62 (55%) APSA tank facilities have not submitted an emergency response and employee training plans within the last 12 months.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

CITATION:

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

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that future HMBPs provided in lieu of tank facility statements 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 enforcement applied 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.

11. DEFICIENCY:

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

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

- FY 2019/2020
 - 13 of 14 (93%) violations
- FY 2016/2017
 - 38 of 75 (51%) violations
- FY 2013/2014
 - 11 of 43 (26%) violations, including 4 violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasures (SPCC) Plan

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

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CITATION:

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

CORRECTIVE ACTION:

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 CERS, that includes at minimum the following information for each APSA tank facility with an open violation (no RTC) cited between July 1, 2013, and June 30, 2020, and for each APSA tank facility with open violations (no RTC) for not preparing an SPCC Plan in FY 2013/2014:

- 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 follow-up activity or enforcement applied by the CUPA.

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

By the 3rd Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM, that include RTC documentation, or a narrative of the enforcement applied 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 has achieved compliance, or the CUPA will have applied enforcement.

12. DEFICIENCY:

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

Review of CERS indicates the following 6 of 10 (60%) APSA tank facilities submitted an HMBP, in lieu of a tank facility statement, that was missing required elements in recently accepted site map submittals:

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- CERS IDs 10125574 and 10413856: missing emergency shutoff, emergency response equipment, and evacuation staging area.
- CERS ID 10418176: missing emergency shutoff and evacuation staging area.
- CERS IDs 10125517 and 10127920: missing evacuation staging area, and emergency response equipment.
- CERS ID 10124836: missing emergency shutoff, evacuation staging area, and emergency response equipment.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)
2022 California Fire Code, Chapter 50, Sections 5001.5.1 and 5001.5.2, and Appendix H [OSFM]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure future HMBPs submitted to CERS, in lieu of tank facility statements, are thoroughly reviewed and contain all applicable required elements. The action plan will include steps to follow up with rejected or incomplete HMBP submittals when an HMBP is submitted to CERS in lieu of a tank facility statement.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum, the following information for each APSA tank facility that submitted an HMBP, in lieu of a tank facility statement, that was missing applicable required elements in recently accepted site map submittals:

- Facility name,
- CERS ID, and
- Follow-up actions including a narrative of the enforcement applied by the CUPA to ensure the HMBP contains all required elements.

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

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13. DEFICIENCY:

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

Review of facility files, CERS CME information between October 1, 2019, and September 30, 2022, and additional information provided by the CUPA finds:

- 117 of 121 (97%) HWG facilities were not inspected once every three years.

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address correcting the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

CITATION:

CCR, Title 27, Section 15200(a)(3)(A)
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 once every three years. The action plan will include, at minimum:

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

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

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

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

14. DEFICIENCY:

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

Review of HWG inspection reports, CERS CME information and Notices of Violation finds inadequate or improper documentation of cited HWG violations for the following facilities:

- CERS ID 10128862: inspection dated March 5, 2020, cites the following violation: “CERS overdue.” The degree of violation cited in the inspection report provided is “Class.” The CUPA did not document the observations, factual basis, and corrective actions for the violation in the inspection report. CERS identifies the violation as a General type violation, described as a “Hazardous Waste Generator Program – Administration/Documentation – General” violation with a Class 2 designation, July 17, 2018 violation date, scheduled RTC date of April 5, 2020, and no actual RTC date provided.
- CERS ID 10133122: inspection dated February 23, 2022, cites the following violation: “CERS overdue.” The degree of violation cited in the inspection report provided is “Class.” The CUPA did not document the observations, factual basis, and corrective actions for the violation in the inspection report. CERS identifies the violation as a General type violation, described as a “Hazardous Waste Generator Program – Administration/Documentation – General” violation with a Class 2 designation, February 23, 2022 violation date, scheduled RTC date of March 23, 2022, and no actual RTC date provided.

Note: This finding was identified as a deficiency in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address resolving the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation.

Note: It is not necessary to revise the HWG or TP inspection reports for the inspections previously conducted at the facilities identified as examples above.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide inspection report writing training to each CUPA inspector to ensure all future violations cited in HWG inspection reports include observations,

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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 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.

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

15. DEFICIENCY:

Required components of the Inspection and Enforcement (I&E) Plan are missing:

Review of the I&E Plan finds the following components are missing:

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
- Provisions for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.

Note: This deficiency was identified as an incidental finding in the 2019 CUPA Performance Evaluation regarding missing complaint procedures and inaccurate inspection frequencies for certain program elements. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address resolving the incidental finding during the Evaluation Progress Report process. Thus, the incidental finding was carried forward to the current CUPA Performance Evaluation as a deficiency.

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.

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By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from 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 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 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.

16. DEFICIENCY:

The CUPA is not consistently maintaining underground storage tank (UST) testing and/or leak detection records.

Review of UST facility files finds the CUPA has not maintained the following UST testing and/or leak detection records for the following facilities:

- CERS ID 10125574
 - 2020 Annual Monitoring Certification
 - 2020 Spill Containment Testing Form
- CERS ID 10125589
 - 2021 Annual Monitoring Certification
 - 2021 Spill Containment Testing Form
 - 2019 Spill Containment Testing Form
- CERS ID 10126474
 - 2020 Spill Containment Testing Form
 - 2021 Spill Containment Testing Form

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

CITATION:

HSC, Chapter 6.7, Section 25288(b)
CCR, Title 23, Sections 2637(f), 2637.1(e), 2638(d), 2643(g) and 2644.1(a)(5)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised I&E Plan, or other applicable procedure, that ensures the establishment of a process for UST inspection staff to maintain testing and/or leak detection records for all UST facilities.

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA

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with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records for 5 UST facilities, as requested by the State Water Board, including but not limited to the following testing and/or leak detection records:

- monitoring certifications results
- spill containment test results

17. DEFICIENCY:

The “Hazardous Material Management Permit,” established in the “Consolidated Permit Plan,” and issued as the Unified Program Facility Permit (UPFP), has a component that is missing and is inconsistent with CCR, Title 23, Division 3, Chapter 16 (UST Regulations) and HSC, Chapter 6.7 requirements.

The UST Operating Permit and permit conditions, issued under the “Hazardous Material Management Permit,” are inconsistent with UST Regulations and HSC, Chapter 6.7 requirements.

Review of the “Hazardous Material Management Permit” finds:

- An addendum used to document the following permit conditions, as identified in the “Consolidated Permit Plan,” for each applicable element of the Unified Program is missing:
 - An addendum used to document permit conditions for each applicable element of the Unified Program. Tiered Permit grant of authorization to allow a HWG to treat hazardous waste on-site as permit-by-rule, conditionally authorized or conditionally exempt
 - Permit to APSA facilities with capacity of non-exempted petroleum products is 1,320 gallons or greater (Aboveground Storage Tank facility permit)
 - Permit to businesses with stationary sources producing, handling, processing, distributing, or storing certain chemicals above threshold quantities of regulated substances (CalARP facility permit)

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- Permit issued to businesses storing or handling hazardous materials is quantities requiring disclosure (HMBP facility permit)
- Permit to businesses that produce a hazardous waste through activities on-site (HW Generator permit)
- Permit to HMBP facilities in isolated areas that do not exceed certain quantities of hazardous material (Unstaffed Remote Facility permit)
- The “Hazardous Material Management Permit” is inconsistent with UST Regulations and HSC as follows:
 - The “Hazardous Material Management Permit” states:
 - “This permit may be suspended or revoked for cause.”
 - The CUPA does not have authority to suspend a UST operating permit, per HSC, Section 25285.1.
 - “POST IN A CONSPICUOUS PLACE”
 - This is more stringent than UST Regulations, Section 2712(i) which states, “A paper or electronic copy of the permit and all conditions and attachments, including monitoring plans, shall be readily accessible at the facility.”
 - “This permit is not transferable”
 - This is more stringent than UST Regulations, Section 2712(d) and HSC, Section 25284(b) which allows for the transfer of permits.

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

- UST operating permit condition 1 states “All applicable State UST requirements contained in the California Code of Regulations, Title 23, Division 3, Chapters 16 & 18 and the California Health & Safety Code, Division 20, Chapters 6.7 and 6.75, and all applicable local requirements.”
 - The CUPA does not have regulatory authority to implement cleanup of USTs, and therefore cannot cite Chapters 6.75 and 18. The correct citations are UST Regulations, Sections 2610 through 2717.7 and HSC, Sections 25280 through 25296 and 25298 through 25299.6.

Note: The “Hazardous Material Management Permit” does include associated permit conditions issued with the UST Operating Permit.

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25284(b), 25285.1, 25297.01(b)
CCR, Title 23, Section 2712(d) and (i)
CCR, Title 27, Section 15190(h)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the Hazardous Material Management Permit template to include an addendum which includes permit conditions for each applicable program

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element as identified in the “Consolidated Permit Plan,” and the UST operating permit and permit conditions template and to be consistent with UST Regulations and HSC. The CUPA will contact the State Water Board if any assistance is needed. The CUPA will provide the revised templates to CalEPA.

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

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

18. DEFICIENCY:

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

Review of CERS CME information finds the following testing and leak detection violations did not obtain RTC within 60 days or have no documented RTC:

- FY 2019/2020
 - 6 of 37 (16%) violations did not obtain RTC within 60 days
 - 10 of 37 (27%) violations have no RTC recorded in CERS
- FY 2020/2021
 - 1 of 9 (11%) violations did not obtain RTC within 60 days
 - 6 of 9 (66%) violations have no RTC recorded in CERS
- FY 2021/2022
 - 3 of 7 (43%) violations did not obtain RTC within 60 days
 - 3 of 7 (43%) violations have no RTC recorded in CERS

CITATION:

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

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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 applied by the CUPA to ensure RTC is achieved within 60 days by UST facilities cited with violations, and
- Document RTC in CERS.

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

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

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with five UST facility records, as requested by the State Water Board, that include RTC documentation, or a narrative of the enforcement applied by the CUPA in the absence of RTC.

19. DEFICIENCY:

The CUPA is not requiring UST owners or operators to perform testing and/or inspections required by UST Regulations and HSC.

Review of facility files and CERS CME information finds the following UST facilities have not performed initial overfill prevention equipment inspections and subsequent triennial inspections and testing:

- CERS ID 10125310
- CERS ID 10125574
- CERS ID 10125589
- CERS ID 10126855
- CERS ID 10127938

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Review of facility files and CERS CME information finds the following UST facilities last performed triennial secondary containment testing in 2019:

- CERS ID 10126855
- CERS ID 10127938

Note: State Water Board has distributed the following Local Guidance Letters (LG) and UST Program Monthly Updates to CUPAs regarding the requirement for UST facilities to implement overfill prevention equipment inspections and secondary containment testing.

- **LG 150:** Underground Storage Tank Overfill Prevention Systems
 - https://www.waterboards.ca.gov/ust/leak_prevention/lgs/docs/150-3.pdf
- **April 2021:** Regulatory Deadline to Overfill Prevention Equipment Inspection
 - https://www.waterboards.ca.gov/water_issues/programs/ust/cupa/updates/docs/2021apr_ust.pdf
- **LG 160:** Underground Storage Tank (UST) Secondary Containment Testing
 - https://www.waterboards.ca.gov/ust/leak_prevention/lgs/160.shtml

CITATION:

HSC, Chapter 6.7, Section 25288(b)
CCR, Title 23, Sections 2637.2 (a) and 2712(g)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of all UST facilities that have not performed overfill prevention equipment inspections and/or secondary containment testing. In addition, the CUPA will draft and provide to CalEPA written correspondence addressed to UST facility owners and operators to inform UST owners and operators of the requirement to perform testing, inspections, and certifications. The written correspondence will include language stating that failure to comply with leak detection testing and certifications specified in UST Regulations Sections 2637 and 2637.2 will lead to applied enforcement. The CUPA will include the State Water Board on the correspondence.

By the 2nd Progress Report, the CUPA will, if necessary, revise the draft written correspondence, based on feedback from the State Water Board and will provide the revised written correspondence to CalEPA. If no revisions to the draft written correspondence are necessary, the State Water Board will consider the written correspondence as adequate.

By the 3rd Progress Report, the CUPA will issue the written correspondence (considered adequate by the State Water Board) to the owner or operator of each UST facility identified by the CUPA as not having performed overfill prevention equipment inspections and/or secondary containment testing. The CUPA will include the State Water Board on the correspondence.

By the 4th Progress Report, if triennial overfill prevention and/or secondary containment testing has not been conducted, within 60 days, and every 36 months thereafter, the CUPA will apply enforcement.

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The State Water Board will consider this deficiency corrected when the CUPA has applied administrative enforcement, or when overflow prevention testing and/or secondary containment testing is performed at.

20. DEFICIENCY:

The CUPA is not issuing the UST Operating Permit to owners and/or operators prior to or upon the expiration date of the previously issued UST Operating Permit.

Review of facility files finds the following UST Operating Permits have expired with no issuance of a renewed permit:

- CERS ID 10125574
 - Issued July 1, 2020
 - Expired June 30, 2020
 - Expiration date should have been entered as “June 30, 2021.”
- CERS 10126222
 - Issued July 1, 2015
 - Expired June 30, 2016
- CERS 10126474
 - Issued July 1, 2020
 - Expired June 30, 2021
- CERS 10126855
 - Issued July 1, 2020
 - Expired June 30, 2021
- CERS 10127938
 - Issued July 1, 2020
 - Expired June 30, 2021

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

CITATION:

HSC, Chapter 6.7, Section 25285(b)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the “Consolidated Permit Plan,” to ensure the establishment of a process for issuing the UST Operating Permit prior to or upon the expiration date of the previously issued permit. The “Consolidated Permit Plan,” shall be consistent with permitting requirements outlined in HSC, Chapter 6.7, Section 25285.

By the 2nd Progress Report, if amendments to the revised “Consolidated Permit Plan,” are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended “Consolidated Permit Plan.” If no amendments are necessary, the CUPA will train UST inspection staff on the revised “Consolidated Permit Plan.” The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an

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outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised “Consolidated Permit Plan.”

By the 3rd Progress Report, if amendments to the “Consolidated Permit Plan,” were necessary, the CUPA will train UST inspection staff on the amended “Consolidated Permit Plan.” The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended “Consolidated Permit Plan.”

With respect to facilities that were not issued UST Operating Permits, the CUPA will issue UST Operating Permits upon approval of the revised and/or amended Hazardous Material Management Permit template and the UST operating permit and permit conditions template.

21. DEFICIENCY:

The CUPA is not correctly reporting UST violations cited on UST compliance inspection reports, including technical compliance rate (TCR) criteria, in CERS.

Review of annual UST compliance inspection reports, associated testing documentation, and CME information in CERS finds non-compliance is cited on the CUPA’s inspection report, but is not reported in CERS for the following facilities:

- CERS ID 10125574: UST Program Inspection Report dated December 14, 2020, identifies 12 violations, while CERS identifies 4.
- CERS ID 10126855: UST Program Inspection Report dated December 17, 2020, identifies 9 violations, while CERS identifies 4.
- CERS ID 10125589: UST Program Inspection Report dated December 16, 2021, identifies a violation for “2030055 – Spill buckets have been tested annually as required.” The violation is not reported in CERS.

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to correctly report all UST inspections and violations, including TCR criteria, in CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

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

By the 3rd Progress Report, if amendments to the revised Data Management Procedure or other revised applicable procedure were necessary, the CUPA will train UST inspection staff on the amended Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended Data Management Procedure, or other applicable procedure.

By the 4th Progress Report, and in each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with five UST facility records, as requested by the State Water Board, including annual UST compliance inspection reports, associated monitoring certifications, spill container testing, and any other necessary testing and compliance documentation.

22. DEFICIENCY:

The CUPA is not inspecting each UST facility at least once every 12 months.

Review of the UST Routine Inspection Frequency Report in CERS finds the following UST facilities have not had a routine inspection since 2020:

- CERS ID 10125547
- CERS ID 10126855

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each UST is inspected at least once every 12 months. The action plan will include, at a minimum:

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- An analysis and explanation as to why the inspection frequency requirement for the UST program is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19. The analysis and explanation will also address how staff will ensure UST facility inspection information is consistently and accurately uploaded to CERS.
- The “UST Routine Inspection Frequency Search” report, exported from CERS, identifying each UST facility that has not been inspected within the last 12 months, including those facilities that have not been inspected since 2020. In the “Comments” section of the “UST Routine Inspection Frequency Search” report, include a schedule to inspect each identified UST facility, or tentative date of the next routine inspection, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated “UST Routine Inspection Frequency Search” report and inspection schedule.

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

23. DEFICIENCY:

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

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

- Fiscal Year (FY) 2018/2019
 - 3rd Fiscal Quarter:
 - Due April 30, 2019, submitted July 1, 2019
 - 4th Fiscal Quarter:
 - No report received.
- FY 2020/2021
 - 4th Fiscal Quarter:
 - No report received.
- FY 2021/2022
 - 1st Fiscal Quarter:
 - Due October 30, 2021, submitted November 15, 2022
 - 2nd Fiscal Quarter:
 - Due January 30, 2022, submitted November 15, 2022
 - 3rd Fiscal Quarter:
 - Due April 30, 2022, submitted November 15, 2022
 - 4th Fiscal Quarter:

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- Due July 30, 2022, submitted November 15, 2022

Note: Effective June 25, 2021, CalEPA increased the Unified Program Oversight Surcharge by a total of \$35, from \$49 to \$84. The \$35 increase includes a \$27 allocation to fund the CERS NextGen Project support staff and resources for minimizing the risk of failure of the current CERS system and for the statewide transition to the CERS 3.0 system.

CalEPA has revised the Quarterly Surcharge Transmittal Report template to reflect the increased CUPA Oversight state surcharge, which became effective July 1, 2021, and includes an assessment for the CERS NextGen Project.

The revised quarterly Surcharge Transmittal Report template is available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2022/01/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf and should be submitted to cupa@calepa.ca.gov. Each line item on the Surcharge Transmittal Report template should be completed, including the check number. Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, the July 1, 2018, version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will have submitted to CalEPA the 1st, 2nd, and 3rd Quarterly Surcharge Transmittal Report for Fiscal Year 2022/2023 by the required due date using the current Quarterly Surcharge Transmittal Report template.

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

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24. DEFICIENCY:

The CUPA did not submit the Annual Single Fee Summary Report to CalEPA by September 30th for the following FYs:

- 2018/2019- report submitted on October 21, 2022
- 2019/2020- report submitted on October 13, 2020
- 2020/2021- report submitted on October 21, 2022
- 2021/2022- report not submitted

CITATION:

CCR, Title 27, Section 15290(a)(2)
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the completed Annual Single Fee Summary Report for FY 2021/2022.

By the 4th Progress Report, the CUPA will provide CalEPA with the completed Annual Single Fee Summary Report for FY 2022/2023. The CUPA will complete an Annual Single Fee Summary Report by September 30th for each subsequent FY.

25. DEFICIENCY:

The CUPA is not consistently following-up and documenting RTC information in CERS for HWG Program facilities cited with minor violations in Notices to Comply (NTC) or inspection reports.

Review of CERS CME information indicates 13 of 24 (54%) violations cited between July 1, 2015, through June 30, 2018, have no documented RTC.

Review of CERS CME information indicates 1 of 1 (100%) violation cited between October 1, 2019, through September 30, 2022, have no documented RTC.

Note: This deficiency was identified as a deficiency in the 2019 CUPA Performance Evaluation regarding. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address resolving the deficiency during the Evaluation Progress Report process. Thus, the deficiency was carried forward to the current CUPA Performance Evaluation as a deficiency.

CITATION:

HSC, Chapter 6.5, Section 25187.8(b) and (g)
HSC, Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a)
[DTSC]

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CORRECTIVE ACTION:

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

- 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 appropriate enforcement taken by the CUPA to ensure RTC.
-

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

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

The CUPA is not observing nor documenting noncompliance and is not citing UST violations observed during annual UST compliance inspections, in annual UST compliance inspection reports, or in CERS.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS information finds the CUPA did not consistently identify violations when the annual monitoring certification identifies that non-compliance was not observed, and a violation was not issued in CERS for the following:

- CERS ID 10126222
 - Annual Monitoring Certification, dated January 26, 2022, indicates “STP Sump sensor was replaced and tested with passing results.” A violation was not noted on the CUPA inspection report or recorded in CERS.

CITATION:

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

RESOLUTION:

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

- directing UST inspection staff to conduct complete annual UST compliance inspections;
- directing UST inspection staff to apply enforcement and utilize available enforcement tools as outlined in the I&E Plan
- reviewing and following up with testing and leak detection documents submitted by UST owners or operators as part of the annual UST compliance inspection;
- documenting and reporting observed noncompliance in annual UST compliance inspection reports and in CERS;
- conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components;
- conducting annual UST compliance inspections when UST inspection staff are not on-site and cannot witness the monitoring system certification and visually confirm all UST requirements are met;

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

- reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HCS, and the Unified Program violation library; and
- Accurate U.S. Environmental Protection Agency Technical Compliance Rate (TCR) reporting.

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

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

By the 3rd Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

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

By the 5th Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review TCR information in Report 6 and CERS for two consecutive Report 6 reporting periods to determine if the CUPA is consistently conducting complete UST compliance inspections.

2. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not always properly classifying HWG Program violations.

Review of facility files and CERS CME information finds the following instance where the CUPA classified a Class I or Class II HWG Program violation as minor:

- Violation for exceedance of authorized accumulation time (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).

- CERS ID 10126843: inspection report dated February 16, 2017

Note: This finding was identified as an incidental finding in the 2019 CUPA Performance Evaluation. Due to the late issuance of the 2019 Final Summary of Findings Report, upon agreement with the CUPA, time was not sufficient for the CUPA to address resolving the finding during the Evaluation Progress Report process. Thus, the incidental finding was carried forward to the current CUPA Performance Evaluation.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6
CCR, Title 22, Sections, 66260.10, 66262.34
[DTSC]

RESOLUTION: COMPLETED

During the assessment for the 2022 performance evaluation, no examples of misclassified violations were identified, however, only 1 violation was cited.

The CUPA is encouraged to ensure inspection staff review the following regarding how to properly classify HWG Program violations during inspections:

- The classification of minor, Class I, and Class II violations, as defined in:
 - HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
 - HSC, Chapter 6.11, Section 25404(a)(3)
 - CCR, Title 22, Section 66260.10
- 2020 Violation Classification Guidance for Unified Program Agencies
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>

DTSC will ensure HWG Program violations are properly classified in the next CUPA Performance Evaluation.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

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

Review of the I&E Plan finds the following information is incorrect:

- Page 3: The RTC timeframe after violations are noted in an inspection report or audit is thirty days from the date of the deficiency notice for facilities subject to HMBP requirements, per HSC, Section 25505(a)(2).
 - HSC, Section 25505(a)(2) references site map requirements and the responsibility of the Unified Program Agency to update the secretary within 30 days of a local ordinance that affects site map requirements.
 - The correct citation to reference is HSC, Section 25508(a)(3), which requires the handler to correct business plan information within 30 days of receiving notice of the deficiency from the CUPA.
- Page 17: Identifies the specific enforcement actions/penalties for each program area for Hazardous Materials Release Response Plans and Inventories as the provisions of HSC Chapter 6.95, including but not limited to: Sections 25514, 25414.3, 25514.5 and 25514, 25515.1.
 - HMBP penalties are identified in HSC Sections 25514, 25515 through 25515.6, and 25516.

Review of the I&E Plan finds the following information is missing:

- 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.

RECOMMENDATION:

With the next review, revise the I&E Plan to address the incorrect and missing information identified above.

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OBSERVATIONS AND RECOMMENDATIONS

2. 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:

- July 1, 2019, through June 30, 2020
 - o The CUPA conducted 5 routine inspections, of which 1 (20%) had no violations cited and 4 (80%) had at least one violation cited.
 - o A total of 17 total violations were cited, consisting of:
 - 0 (0%) Class I violations
 - 2 (12%) Class II violations
 - 14 (88%) minor violations
 - o The CUPA has ensured RTC for 9 of 17 (56%) violations cited.
- July 1, 2020, through June 30, 2021
 - o The CUPA conducted 0 routine inspections.
- July 1, 2021, through June 30, 2022
 - o The CUPA conducted 1 routine inspection, of which 1 had at least one violation cited.
 - 0 (0%) Class I violations
 - 1 (100%) Class II violations
 - 0 (0%) minor violations
 - o The CUPA has ensured RTC for 0 of 1 (0%) violation cited.

CalARP Program:

- July 1, 2019, through June 30, 2022
 - o The CUPA conducted routine inspections at 0 of 2 (0%) facilities.
 - o 0 total violations were cited.
- CERS ID 10421431 was last inspected on April 26, 2017.
 - o No violations were cited.
- CERS ID 10125457 has not received a CalARP inspection.

RECOMMENDATION:

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

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OBSERVATIONS AND RECOMMENDATIONS

3. OBSERVATION:

The CUPA's website contains multiple resources for the public and regulated community. The following are suggestions for improvement.

"Hazardous Material Management" webpage

(<https://www.lassencounty.org/dept/environmental-health/hazardous-material-management>):

- Add the HMMP/HMIS Program to the list of program elements.

"Aboveground Petroleum Storage Tanks (APSA)" webpage

(<https://www.lassencounty.org/dept/environmental-health/hazardous-material-management/aboveground-petroleum-storage-tanks-apsa>):

- 'Which Plan Do I Need to Implement?'
 - Remove or revise the first sentence of the paragraph ('The APSA program divides its facilities into qualified facilities and non-qualified facilities.'), since a 'qualified facility' is a Federal SPCC term.
 - Revise the last sentence of the paragraph as follows, 'Facilities that do not meet the qualified facility criteria are required to have a professional engineer (PE)-certified SPCC Plan. Each SPCC Plan is required to be reviewed every five years and the review documented.'
- Tier I [Qualified Facility] SPCC Plan
 - Replace petroleum storage capacity with **oil** storage capacity. SPCC Plan preparation must comply with the Federal SPCC rule, which regulates all oils, including petroleum.
- Tier II [Qualified Facility] SPCC Plan
 - Replace petroleum storage capacity with **oil** storage capacity.
- Non-qualified Facilities
 - Replace title (Non-qualified Facilities) with 'Professional Engineer (PE)-Certified SPCC Plan Facilities' or 'Full SPCC Plan Facilities'.
 - Replace petroleum storage capacity with **oil** storage capacity.
 - Second bullet item on reportable discharge history is incorrect and should be revised as follows: 'Within any 12-month period, three years prior to the Plan certification date, or since becoming subject to the SPCC rule if in operation for less than three years, **there has been...**'
- Oil Production Facilities
 - Information on APSA applicability at an oil and gas production facility is incorrect and should be removed or revised. A tank located within the lease areas of an oil and gas field, including a fuel tank to service trucks used on the lease, is attendant to oil and gas production and, therefore, is not subject to APSA. Refer to the memorandum of agreement between the Department of Conservation and Department of Forestry and Fire Protection for additional information (<https://osfm.fire.ca.gov/media/1mlbmxyi/moa-doggr-osfm-2014-accessible.pdf>).

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OBSERVATIONS AND RECOMMENDATIONS

- ‘Spill Prevention Control and Countermeasure (SPCC) Plan Matrix/Templates’ document
 - Replace ‘non-qualified facilities’ with PE-Certified SPCC Plan Facilities or Full SPCC Plan Facilities.
 - Replace petroleum storage capacity with **oil** storage capacity.
 - Format the reportable discharge history information, so that qualified facilities are those without a reportable discharge history, while those facilities that had a reportable discharge history are required to prepare a PE-certified SPCC Plan.
 - The last sentence within the ‘Oil Production Facilities’ section is incorrect and should be removed or revised.
- Tier II [Qualified Facility SPCC Plan] Template link is broken (including the link provided in the above SPCC Plan Matrix & Templates document) and should be replaced with https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf.
- APSA Applicability Chart & Guidance Sheets has no link. Remove or consider updating to ‘APSA & Guidance Documents’ with a link to <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/> and/or <https://osfm.fire.ca.gov/media/z4zlg3pr/apsa-faq-12apr2021-final.pdf>

RECOMMENDATION:

Update the website as indicated above.

4. OBSERVATION:

The CUPA utilizes the first version of the CUPA Forum Board APSA inspection checklists when conducting APSA tank facility compliance inspections. The CUPA Forum Board checklists are based on the Unified Program violation library which has been revised several times in the last several years.

The current Unified Program violation library contains 99 APSA Program violations, relative to the following:

- 10 general violation codes,
- 5 violations specific to conditionally exempt APSA tank facilities,
- 51 violations for Tier I qualified facilities,
- 79 violations for Tier II qualified facilities, and
- 78 violations for facilities with PE-certified SPCC Plans.

RECOMMENDATION:

Update the APSA inspection checklists to reflect changes made to the current violation library, or utilize the latest version of the California CUPA Forum Board APSA inspection checklists, available on the calcupa.org website (<https://calcupa.org/inspection-enforcement/index.html>).

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OBSERVATIONS AND RECOMMENDATIONS

5. OBSERVATION:

Review of the area plan indicates reference to responsibility over hazardous liquid pipelines in California is incorrect.

- Page 172, glossary of the Area Plan states, “The State Fire Marshal also has primary responsibility for the safety of all interstate and intrastate hazardous liquid pipelines in California.” The State Fire Marshal has responsibility over **intrastate** hazardous liquid pipelines only. The U.S. Department of Transportation, Pipeline Hazardous Materials Safety Administration has responsibility over **interstate** hazardous liquid pipelines.

RECOMMENDATION:

With the next revision of the area plan, update the State Fire Marshal information in the glossary.

6. OBSERVATION:

Some APSA tank facilities submitted an HMBP in lieu of a tank facility statement, using an outdated emergency response and training plans template, which contains obsolete information.

RECOMMENDATION:

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template to use the current 2022 version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available in CERS Central – Business webpage (<https://cers.calepa.ca.gov/businesses/>) and the CalEPA Unified Program Publications and Guidance webpage (<https://calepa.ca.gov/cupa/publications/>).

7. OBSERVATION:

The information below is a summary of the overall implementation of the HWG Program and the CUPA’s hazardous waste related activities based upon review of policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between October 1, 2019, and September 30, 2022:

- CERS finds 121 facilities self-identified as HWGs, three Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), and zero Tiered Permitted (TP).
- The three-year inspection frequency for all HWG facilities is not currently being met.
- The CUPA conducted 4 total HWG inspections including “routine” and “other” inspection types.
 - The CUPA conducted 4 routine HWG inspections, of which 2 (50%) had no violations cited and 2 (50%) had at least one violation cited.
 - In the 2 routine inspections performed, with at least one violation, 2 total violations were cited, consisting of:
 - zero Class I violations,
 - 2 Class II violations, and
 - zero minor violations.

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OBSERVATIONS AND RECOMMENDATIONS

- The CUPA has ensured RTC for zero of 2 (0%) violations cited.
- The CUPA did not complete any formal enforcement actions during the evaluation period.
- Inspection reports do not contain detailed comments that note the factual basis of cited violations nor do inspection reports indicate whether consent to inspect was requested prior to the inspection.

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

RECOMMENDATION:

Follow the I&E Plan that delineates a three-year HWG inspection frequency and apply all appropriate enforcement in order to gain compliance with violations cited. Write detailed inspection reports that include all factual basis of each violation and properly cite noted violations. Include detail in CERS violation comments. Conducting frequent inspections leads to better compliance rates and helps ensure that hazardous waste is being managed appropriately. Update the HWG inspection checklist to the most current CUPA Forum Board inspection checklist in order to ensure consistency is obtained and documented prior to conducting a HWG inspection.

8. OBSERVATION:

The information provided below summarizes a comparison of the regulated community and the necessary and reasonable resources for implementation of the Unified Program upon certification with the current regulated community and the current resources available to the CUPA for implementation.

Number of regulated facilities for each program element:

- *Original Certification Source: Lassen County Environmental Health Division 2001 CUPA Application*
- *Current CUPA Evaluation Sources: CERS "Summary Regulated Facilities by Unified Program Element Report" & CERS "UST Inspection Summary Report (Report 6)", both generated on November 28th, 2022.*

- Total Number of Regulated Businesses and Facilities:
 - Upon Certification in 2001: 250
 - Current CUPA Evaluation: 262
 - An additional 12 facilities
- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:
 - Upon Certification in 2001: 100
 - Current CUPA Evaluation: 244
 - An increase of 144 facilities

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OBSERVATIONS AND RECOMMENDATIONS

- Total Number of Regulated Underground Storage Tank (UST) Facilities:
 - Upon Certification in 2001: 18
 - Current CUPA Evaluation: 15
 - A decrease of 3 facilities
- Total Number of Regulated Underground Storage Tanks (USTs):
 - Upon Certification in 2001: 49
 - Current CUPA Evaluation: 46
 - A decrease of 3 Underground Storage Tanks
- Total Number of Regulated Hazardous Waste Generator (HWGs) Facilities:
 - Upon Certification in 2001: 55
 - Current CUPA Evaluation: 121
 - An increase of 66 facilities
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
 - Household Hazardous Waste Facilities were not regulated under the Unified Program upon certification in 2001
 - Current CUPA Evaluation: 5
- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
 - Upon Certification in 2001: 0
 - Current CUPA Evaluation: 0
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
 - RCRA LQG Facilities were not regulated under the Unified Program upon certification in 2001
 - Current CUPA Evaluation: 3
- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
 - Upon Certification in 2001: 15
 - Current CUPA Evaluation: 2
 - A decrease of 13 facilities
- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
 - Upon Certification in 2001: N/A
 - Current CUPA Evaluation: 62

Since the original application for certification was submitted in 2001, the CUPA has experienced changes in the number of regulated facilities for most Unified Program elements. In particular, the total number of regulated HMBP facilities increased by 144%, and the total number of HWG facilities increased by 120%. The number of CalARP facilities decreased by approximately 87%.

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OBSERVATIONS AND RECOMMENDATIONS

An expansion of responsibilities in the APSA and HWG programs has also occurred, increasing the total regulated facility count and attributing to an increased workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. Additionally, since the CUPA was certified, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms to the implementation of electronic data reporting through local data management systems and CERS.

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program 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 Lassen County CUPA Application and recent information provided by the CUPA.

CUPA Personnel:

- Inspection and other Staff
 - Upon Certification in 2001:
 - A specific number of FTEs is not identified. The application states staff will be hired and trained after certification.
 - Currently:
 - 2 Staff at a Part-Time Equivalent = 1.5 Full-Time positions
- Supervisory and Management Staff
 - Upon Certification in 2001:
 - 0 FTEs in CUPA Program
 - Currently:
 - 1 Staff at a Part-Time Equivalent = 0.5 Full-Time positions

RECOMMENDATION:

Conduct a fee accountability study to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. Examine how the CUPA's current resources are being used to ensure that required program elements are prioritized before any supplemental tasks. The CUPA completed and submitted the Rural Reimbursement Grant (RRG) application in order to receive funds critical to implementing the program.

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

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OBSERVATIONS AND RECOMMENDATIONS

9. OBSERVATION:

The "Consolidated Permit Plan" procedural document contains an inaccurate citation in the section discussing Unstaffed Remote Facilities (URF). The document cites HSC, Section 25503.5. The correct citation is HSC, Section 25507.2.

RECOMMENDATION:

Update the document to reference the correct citation.

10. OBSERVATION:

The CUPA has had no reported UST Closures since the previous CUPA evaluation. The CUPA must document in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure and soil and/ or groundwater sampling complies with CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672(d) (UST Regulations) and HSC, Division 20, Chapter 6.7, Section 25298(c).

RECOMMENDATION:

Review the State Water Board guidance on UST and Abandoned UST closures to ensure a documentation process is in place.