

November 15, 2023

Mr. Mark Moss, MS, REHS
Environmental Management Manager
El Dorado County Environmental Management Department
2850 Fairlane Court, Building C
Placerville, California 95667-4100

Dear Mr. Moss:

During December 2022, through September 2023, CalEPA and the Unified Program state agencies conducted a performance evaluation of the El Dorado County Environmental Management Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections.

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

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

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

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

To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned

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to Melinda Blum, at Melinda.blum@calepa.ca.gov. If you would like to have specific comments remain anonymous, please indicate so on the survey.

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

Sincerely,



Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Jeffrey Warren
Interim Director
El Dorado County Environmental Management Department
2850 Fairlane Court, Building C
Placerville, California 95667-4100

Mr. Aron Faria
Supervising Waste Specialist
El Dorado County Environmental Management Department
2850 Fairlane Court, Building C
Placerville, California 95667-4100

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. 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

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cc sent via email:

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

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

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

Mr. Garrett Chan
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: El Dorado County Environmental Management Department

Evaluation Period: December 2022 through September 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Kaeleigh Pontif
- **CalEPA:** Garrett Chan
- **DTSC:** Brennan Ko-Madden
- **State Water Board:** Kaitlin Cottrell, Jenna Hartman
- **CAL FIRE-OSFM:** Denise Villanueva

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered satisfactory with improvement needed.

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

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

The CUPA is required to submit the first Evaluation Progress Report 60 days from receipt of this Final Summary of Findings Report. The Evaluation Progress Report process will continue thereafter, with the submittal of each subsequent Evaluation Progress Report upon receiving response from each applicable Unified Program state agency, 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 31, 2024**

UNIFIED PROGRAM PERFORMANCE EVALUATION
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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. IMPACTS OF CORONAVIRUS AND EMERGENCY RESPONSE:

The CUPA's ability to administer and implement all aspects of the Unified Program since the 2019 CUPA Performance Evaluation, has been greatly impacted due to the Coronavirus (COVID-19) pandemic. During this time, access to facilities was restricted. Facility inspections were limited to scheduled inspections that were not considered a risk to staff, with the prioritization of higher risk facilities, such as Underground Storage Tank (UST) facilities and Hazardous Waste Large Quantity Generators (LQGs). In addition to the COVID-19 pandemic, the response and recovery efforts of the Caldor and Mosquito Fires severely impacted the department, including but not limited to:

- Collection and review of applications for the Right-of-Entry (ROE) and Alternative Program participants
 - Review and approve work plans/sampling plans for the Alternative Program
 - Review and accept/deny sampling reports and final summary reports for the Alternative Program
 - Public outreach (emails, phones, staffing call centers and emergency operations centers, develop and circulate information, etc.). This includes meeting with property owners and contractors in person.
 - Inspector on-site during building/property assessments in the burn scar area
 - Inspector on-site as a county representative for DTSC Phase I operations
 - Inspector on-site for Alternative Program sampling activities
-

2. ABANDONED BUSINESSES AND CHANGE OF OWNERSHIP:

Since the 2019 CUPA Performance Evaluation was conducted, the CUPA has experienced many challenges in regulating businesses that have become abandoned and businesses that undergo changes in ownership. Review of inspection reports for Hazardous Waste Generator (HWG) facilities and supporting documentation find instances where the CUPA has inspected facilities that generate hazardous waste that have been abandoned by the business, leaving hazardous waste onsite. In the instances observed during this evaluation, the CUPA has successfully worked with property owners and other stakeholders to properly manage and dispose of the hazardous waste remaining on site at facilities abandoned by businesses. The CUPA provided regulatory guidance and customer assistance to the impacted stakeholders, such as property owners, who may not have had any experience managing and disposing of hazardous waste. The CUPA's efforts to manage these challenges is recognized as a unique accomplishment.

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3. OBSERVATIONS AND NOTES ON HWG INSPECTION REPORTS:

The CUPA's HWG inspection reports contain highly descriptive observations and factual basis for cited violations. This also translates to the California Environmental Reporting System (CERS) as violations entered have comments that detail observations and corrective actions. Inspectors note the reasoning behind when, where, and how a violation occurred, and observations are written in a way that is concise and understandable. The attention to detail and thoroughness of information provided regarding violations cited in inspection reports and in CERS demonstrates inspectors are well trained in identifying and citing HWG program violations, which is considered a unique accomplishment of the CUPA in implementing the HWG Program.

Furthermore, review of the detailed information within HWG inspection reports and within comments associated with CERS CME information identifies progressive enforcement efforts applied by the CUPA to obtain return to compliance from facilities with HWG Program violations. Such progressive enforcement efforts include elevating the classification of recalcitrant minor violations to Class II violations.

4. COMPLETION OF SELF-AUDIT REPORTS:

During the 2019 CUPA Performance Evaluation, Incidental Finding 2 in the Final Summary of Findings issued November 14, 2022, identified a Self-Audit Report was not completed for Fiscal Year 2015/2016. Review of information for the 2022 CUPA Performance Evaluation finds a Self-Audit Report has been completed for each subsequent Fiscal Year. The Incidental Finding in the 2019 Final Summary of Findings is considered resolved.

5. CME REPORTING:

During the 2019 CUPA Performance Evaluation, Deficiency 15 in the Final Summary of Findings issued November 14, 2022, identified a CME reporting issue for a variety of program elements. No CME issues were detected during the 2022 CUPA Performance Evaluation. The Deficiency in the 2019 Final Summary of Findings is considered corrected.

6. EMERGENCY RESPONSE TO HAZARDOUS MATERIALS INCIDENTS:

El Dorado County does not have a county-wide hazmat team of Fire Department personnel or any other agency representatives that are responsible for handling hazardous materials incidents. El Dorado County Environmental Management Department (EMD) staff are the only people trained to deal with hazardous materials incidents in El Dorado County. EMD staff are trained to the CSTI Tech/Specialist level, which is a certification obtained by attending an intensive multiple week's long training course. Having CUPA staff trained to this level while being responsible for county-wide hazardous material responses, including spills, releases, unknown substances/containers, First Responder support, and cleanup/mitigation, is considered to be an example of outstanding protection of human health and the environment.

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7. ADDITIONAL DUTIES:

EMD currently operates a Household Hazardous Waste program. In addition to holding regular and temporary HHW events, staff provide outreach, education, and participate in local events. This falls outside of the normal duties of the CUPA program and takes additional time and resources for EMD to implement. This is both a unique challenge and accomplishment of the CUPA.

8. ENFORCEMENT:

Since the last CUPA Performance Evaluation, the CUPA has pursued increased enforcement actions on 17 facilities. Types of elevated enforcement include, but are not limited to: Office Hearings, Red Tag events, non-inspection NOVs, Consent Orders, Administrative Enforcement Orders, and participation in State-wide enforcement cases.

9. STAFFING CHALLENGES:

The CUPA has experienced significant staffing challenges over the last several years, which has impacted overall implementation of the Unified Program. The CUPA program is currently supported by a Department Manager, one Supervising Environmental Specialist, and three Environmental Specialist inspector positions (two of which are vacant).

With minimal staff, maintaining the inspection frequency for regulated facilities and ensuring facilities return to compliance (RTC) with cited violations will continue to be a challenge for the CUPA. Currently, there are approximately 1,000 facilities regulated within the jurisdiction of the CUPA, and only one of the three inspector positions is filled. Recruitment efforts for the two open field staff inspector positions is ongoing. Unfortunately, the last inspector position filled was open for an entire year. Once candidates are selected to fill the open inspector positions, the CUPA estimates it will take close to one year to properly train the inspectors upon hiring. Once fully staffed, the newly trained inspectors and the existing inspector will begin to make progress in meeting and maintaining the inspection frequency for regulated facilities, ensuring RTC and applying enforcement.

In the interim, schedules of the Department Manager, Supervising Environmental Specialist and existing inspector are constantly adjusting to meet daily challenges and address immediate needs of the CUPA and regulated community, which has an impact on the ability of the CUPA to meet required inspection frequencies for facilities subject to the HWG Program, the Aboveground Petroleum Storage Act (APSA) Program, UST Program, and businesses subject to Hazardous Material Business Plan (HMBP) reporting requirements, and to follow up with facilities cited with violations to ensure RTC and apply enforcement when necessary.

Similar to challenges in maintaining inspection frequency, as a result of ongoing staffing issues, response and recovery efforts of several wildfires and impacts of COVID-19), the CUPA is also experiencing challenges in the ability to process CERS submittals within 30 days, and ensure facilities annually submit an HMBP.

Furthermore, until the CUPA has each of the two open inspector positions filled, and until each new inspector is adequately trained, the ability for the CUPA to document and demonstrate progress

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towards the correction of Deficiencies and resolution of Incidental Findings as identified during the 2022 CUPA Performance Evaluation will significantly be impacted.

10. UST INSPECTIONS:

During the 2019 CUPA Performance Evaluation, Deficiency 2 in the Final Summary of Findings issued November 14, 2022, identified the CUPA was not inspecting all UST facilities at least once every 12 months. Since the 2019 CUPA Performance Evaluation, the CUPA has completed annual UST inspections at an acceptable rate. The Deficiency in the 2019 Final Summary of Findings is considered corrected.

In addition to annually inspecting UST facilities, EMD staff also attend Senate Bill (SB) 989, Overfill Prevention, and permitted activities (repairs, installations, cold starts, etc.) to oversee and ensure:

- Testing/installation procedures of UST service contractors;
 - UST service contractors notify the CUPA of significant violations; and
 - Accuracy of statements on testing reports
-

11. UST TESTING AND LEAK DETECTION DOCUMENTS:

During the 2019 CUPA Performance Evaluation, Deficiency 9 in the Final Summary of Findings issued November 14, 2022, identified the CUPA was not consistently requiring the owner or operator to submit UST testing and leak detection documents within 30 days. Since the 2019 CUPA Performance Evaluation, the CUPA provided all but two documents requested. The Deficiency in the 2019 Final Summary of Findings is considered corrected.

12. ACCURATE AND COMPLETE UST SUBMITTAL INFORMATION:

During the 2019 CUPA Performance Evaluation, an Incidental Finding was identified for not consistently ensuring UST related information in CERS was accurate and complete, regarding monitoring and construction information.

The 2019 Final Summary of Findings report was issued on November 14, 2022. Due to extenuating circumstances, completion of the Progress Report process for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation, combined with response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, presented a significant hardship to the CUPA with limited resources.

Review of the UST Facility/Tank Data Download report obtained from CERS finds significant improvement in the quality and accuracy of information in accepted UST CERS submittals. The incidental finding identified in the 2019 CUPA Performance Evaluation is considered resolved.

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

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

The CUPA is not inspecting each Tiered Permit (TP) facility within the first two years of operations and every three years thereafter, as established by Health and Safety Code (HSC), Section 25201.4(b)(2).

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from CERS between January 1, 2020, and December 31, 2022 finds:

- 307 of 478 (64%) HWG facilities (excluding TP facilities) were not inspected once every three years
- 4 of 6 (67%) TP facilities were not inspected once within the first two years and every three years thereafter
 - At this time, CERS ID 10204456 is not identified as a TP facility not being inspected in accordance with HSC, Section 25201.4(b)(2) as the facility submitted a TP Submittal on December 15, 2021, and must be inspected no later than December 25, 2023. However, the facility is identified as an HWG facility not being inspected once every three years as the facility's last HWG inspection was conducted on August 20, 2014.

Note: This deficiency was identified during the 2015 and 2019 CUPA Performance Evaluations. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus Deficiencies 4 and 5 as identified in the 2019 Final Summary of Findings issued November 14, 2022, remain uncorrected.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15200(a)(3)
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 and each TP facility is inspected within the first two years of operations and every three years thereafter. The action plan will include, at minimum:

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- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that was not inspected once every three years and each TP facility that was not inspected within the first two years of operation and every three years thereafter. For each HWG facility and each TP facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those identified HWG and TP facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG or TP facility inspections based on risk. It is understood that facilities regulated under multiple Unified Program elements, including the HWG Program, will be inspected more frequently in conjunction with the inspection frequency of those Programs. Inspection of HWG facilities that are not regulated under additional Unified Program elements, should be prioritized according to the most delinquent inspections.

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet and a brief narrative of how the CUPA is continuing to ensure each HWG facility is inspected once every three years and each TP facility is inspected within the first two years of operation and every three years thereafter.

By the 5th Progress Report, the CUPA will have inspected each delinquent HWG facility identified in the spreadsheet provided with the 1st Progress Report once every three years and each TP facility identified in the spreadsheet provided with the 1st Progress Report within the first two years of operation and every three years thereafter.

2. DEFICIENCY:

The CUPA is not consistently following up and documenting RTC information in CERS for HWG and TP program facilities cited with violations.

Review of CERS CME information and information from the CUPA's data management system between January 1, 2020, and December 31, 2022, finds there is no documented RTC for the following HWG or TP violations:

- 72 of 261 (28%)
 - 1 of 261 (<1%) is a Class I violation
 - 12 of 261 (5%) are Class II violations
 - 28 of 40 (70%) Class II violations have obtained RTC
 - 59 of 261 (23%) are Minor violations
 - 161 of 220 (73%) Minor violations have obtained RTC
 - 149 of 220 (68%) Minor violations did not obtain RTC within 35 days
 - 101 of 220 (46%) Minor violations did not obtain RTC within 90 days

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Note: This deficiency was identified during the 2019 CUPA Performance Evaluation as Deficiency 7 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Deficiency remains uncorrected.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g), and 25508(a)(4)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[DTSC]

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, and
- document RTC in CERS.

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

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS that includes at minimum, the following information for each HWG and each TP facility with an open violation (no RTC) cited between January 1, 2020, and December 31, 2022:

- 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 any applied enforcement or follow-up activity to ensure the facility obtains RTC.

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 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from DTSC, 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 training was

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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 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 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 three HWG or TP facility records, as requested by DTSC, that include RTC documentation, or a narrative of the enforcement applied by the CUPA in the absence of RTC.

3. DEFICIENCY:

The CUPA is not properly classifying HWG Program violations.

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

- 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. 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).
 - 26 of 38 (68%) accumulation time limit violations were cited as minor violations.
 - Examples include:
 - CERS ID 10202443: Routine HW inspection dated August 1, 2022. The violation comment state, “At the time of the inspection it was noted that the facility had one 55-gallon steel drum that was full, containing hazardous waste oily water, that had an accumulation start date of 8/2020. The last manifest record for this waste stream took place on 5/1/2020. Corrective Action: This facility needs to ensure that all hazardous wastes do not exceed the hazardous waste accumulation time limit of 180 days for small quantity generators or if your facility utilizes the conditionally exempt status then the 180 days start once you have generated 220lbs of material. Dispose of the hazardous waste within 30 days and provide a copy of the manifest to this office. Additionally, the start date on this label only stated 8/20. For all future start dates, you will need to include the month, date and year.”
 - CERS ID 10202515: Routine HW inspection dated July 6, 2021. The violation comment states, “Observation: At the time of inspection, it was observed that one 55-gallon steel drum, approximately 3/4 full, located behind a facility out building, containing oily/wastewater did not have a label, so no accumulation start date could be determined. The owner was unaware

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- of drum disposal needs. No hazardous waste disposal has occurred since the facility was bought by the current owner (December of 2018).”
- CERS ID 10202815: Routine HW inspection dated November 3, 2021. The violation comment states, “Since this facility is a Small Quantity Generator it must dispose of its waste within 160 days. Your waste records show the following pick-up dates, exceeding accumulation times on multiple occasions: 1. Used oil: 800 gallons on 8/23/2019, 200 gallons on 11/20/2020, 980 gallons on 9/3/2021. Only 1 oily debris record was found for the last three years, 8/5/2020. Only 1 water/gas mixture record was found for the last three years, 4/10/2019. No records were found for the disposal of used antifreeze in the last three years.”

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation, as Deficiency 14 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Deficiency remains uncorrected.

Note: Previously cited Class I and/or Class II violations that were identified as being mis-classified as minor violations during the 2019 CUPA Performance Evaluation, have subsequently been correctly classified during the time period assessed for the current evaluation. Previously cited Class I and/or Class II violations mis-classified as minor violations include failure to obtain a tank integrity assessment and illegal disposal of hazardous waste. The previously cited violation for not having treatment logs and/or records of amounts of wastes treated incorrectly classified as a minor violation, was not cited during the time period assessed for the current evaluation.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
CCR, Title 22, Sections, 66260.10, 66262.34(a)(4), 66262.34(d)(2), and 66265.16
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and Class I and Class II violations as defined in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6, and CCR, Title 22, Section 66260.10. The CUPA will train inspection staff on how to properly classify HWG Program violations as minor, Class I, and Class II. Training should include, at minimum, review of the following:

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
 - Additional violation classification classes are available in the video library on the CalCUPA Forum Board website at: <http://www.calcupa.org/videos.html>.

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- [2020 Violation Classification Guidance for Unified Program Agencies](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf)
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
 - This document provides examples of what is considered minor versus non-minor violations.

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, DTSC will review CERS CME information for five HWG facilities, including Resource Conservation and Recovery Act (RCRA) LQGs, LQGs, Small Quantity Generators, and TP facilities, to ensure violations for exceedance of authorized accumulation time have been properly classified. For each violation, CERS CME information will include full observations and factual basis to correctly identify and classify each observed HWG Program violation.

4. DEFICIENCY:

Required components of the I&E Plan are missing, incomplete or inaccurate.

The following components are missing or incomplete:

- Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory.
- A description of how the CUPA minimizes or eliminates duplications, inconsistencies, and lack of coordination within the inspection and enforcement program.
- Identification of all available enforcement options.
 - Enforcement options listed are specific to the UST Program.
- Identification of penalties and enforcement actions that are consistent and predictable for similar violations and no less stringent than state statute and regulations.
 - Page 10 cites, “3. An Excel spreadsheet has been developed to assist staff in the calculation of penalties using both documents.” A penalty matrix is not included.

The following components are inaccurate:

- Page 3, Inspection Frequency Chart – The Household Hazardous Waste (HHW) statutes incorrectly reference Universal Waste regulations. The correct citation is HSC, Section 25201.4(b)(2).

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- Enforcement Plan is inconsistent with UST Regulations and HSC as follows:
 - Section IV. General Information, (A)(3) states “Revoke, suspend, modify permit (UST)”
 - The CUPA does not have the authority to Suspend a UST operating permit
 - Section V. Enforcement Option Details
 - Multiple references to Suspension language
 - Red Tag Procedures (USTs only)
 - The red tag enforcement option does not incorporate the amendments of HSC, Chapter 6.7, Section 25292.3, which became effective January 1, 2019, including language such as a person shall not input or withdraw from a UST that has been red tagged and a CUPA having the authority to require an owner/operator to remove contents from USTs which have a red tag is affixed.

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation, as Deficiency 8 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources were limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire. Thus, the Deficiency remains uncorrected regarding procedures for addressing complaints, sampling capability, a description of minimizing or eliminating duplication, and identification of all available enforcement options.

CITATION:

HSC, Chapter 6.7, Sections 25288(d), 25285(b), 25292.3(a)(2)(A) and (c)(1)(C)
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to adequately incorporate and correctly address all required components. The CUPA will provide the revised I&E Plan to CalEPA.

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

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5. DEFICIENCY:

The CUPA is not inspecting each 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 facility files, CERS CME information, and information provided by the CUPA finds:

- 19 of 27 (70%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years, including 1 APSA tank facility that has never been inspected.

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation, as Deficiency 3 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Deficiency remains uncorrected.

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 APSA. The action plan will include at minimum:

- A sortable spreadsheet exported from the CUPA's data management system 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 APSA tank facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - 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 or 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 for compliance with the SPCC Plan requirements of APSA, and to ensure CME information is accurately reported to CERS.

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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 APSA tank facility identified on the spreadsheet provided with the 1st Progress Report at least once every three years.

6. DEFICIENCY:

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

Review of HMBPs submitted to CERS by APSA tank facilities in lieu of tank facility statements finds:

- 52 of 121 (43%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months, including 5 APSA tank facilities that do not have a submittal in CERS.
- 56 of 121 (46%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months, including 6 APSA tank facilities that do not have a submittal in CERS.

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation as Deficiency 12 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Deficiency remains uncorrected regarding emergency response and training plans submittals.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HMBP is annually submitted to CERS by an APSA tank facility, when an HMBP is provided 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 a narrative of the implementation of the action plan, including any applied enforcement.

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.

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7. 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 finds there is no documented RTC for the following violations:

- Fiscal Year (FY) 2018/2019
 - 5 of 21 (24%)
- FY 2019/2020
 - 3 of 5 (60%)
- FY 2020/2021
 - 17 of 21 (81%)
- FY 2021/2022
 - 14 of 18 (78%)

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation as Deficiency 6 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Deficiency remains uncorrected regarding FY 2018/2019.

CITATION:

HSC Chapter 6.11, Section 25404.1.2(e)

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 the CUPA's data management system or CERS, that includes at a minimum the following information for each APSA tank facility with an open violation (no RTC) cited between July 1, 2018, and June 30, 2022.

- 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 any applied enforcement or follow-up activity to ensure the facility obtains RTC.

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

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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.

8. DEFICIENCY:

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

As of April 12, 2023, review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 315 of 939 (34%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 325 of 939 (35%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

CITATION:

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

CORRECTIVE ACTION:

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

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

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

Note: If a sortable spreadsheet obtained from the CUPA's data management system or CERS is not provided by the CUPA, CalEPA will utilize CERS to evaluate the progress made towards the correction of this deficiency.

By the 4th Progress Report, the CUPA will follow up with each facility subject to Business Plan reporting requirements identified in the sortable spreadsheet provided with the 1st Progress Report, to ensure each business subject to Business Plan reporting requirements submits a

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complete HMBP or a no-change certification to CERS, or the CUPA will have applied enforcement.

9. DEFICIENCY:

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

Review of CERS CME information between January 1, 2020, and December 31, 2022, finds:

- 562 of 939 (60%) facilities subject to HMBP requirements were not inspected within the last three years.

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation as Deficiency 1 in the 2019 Final Summary of Findings issued November 14, 2022, Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Deficiency remains uncorrected.

CITATION:

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

CORRECTIVE ACTION:

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

- An analysis and explanation as to why the 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 facility subject to HMBP reporting requirements that has not been inspected within the last three years. For each facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID; and
 - Date of the last routine inspection
- A schedule to inspect each facility subject to HMBP reporting requirements that has not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other HMBP facility inspection based on risk, and within an expedited period of time.
- Future steps to ensure all facilities subject to HMBP reporting requirements will be inspected at least once every three years; for example, the generation of a list of all

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facilities subject to HMBP reporting requirements and the anniversary date of the next routine HMBP inspection for each listed facility.

Note: If a sortable spreadsheet obtained from the CUPA's data management system or CERS is not provided by the CUPA, CalEPA will utilize CERS to evaluate the progress made towards the correction of this deficiency.

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

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

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

10. DEFICIENCY:

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

The following Unified Program administrative procedure is missing:

- Forwarding Hazardous Material Release Response Plan (HMRRP) Information
 - Procedures for forwarding HMRRP information to emergency response personnel and other appropriate government entities in accordance with HSC, Section 25504(c).

The following Unified Program administrative procedures are incomplete:

- Public Information Request
 - The CUPA's procedural document, "El Dorado County Information Request Response," addresses information requests from the public, but not from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.
- Information collection, Retention, and Management
 - The CUPA's procedural document, "El Dorado County CUPA Records Maintenance Procedures," does not identify the following documents are being maintained for a minimum of five years:
 - Detailed records used to produce the summary reports submitted to the State
 - Surcharge billing and collection records following the closure of any billing period
 - Training records required by Section 15260 and any other training records specific to each program element
 - Copies of self-audit reports

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- Fee Accountability
 - The CUPA's Fee Accountability Program document does not identify:
 - Direct program expenses, including durable and disposable equipment
 - Indirect program expenses, including overhead for facilities and administrative functions

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation as Incidental Finding 1 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire. Thus, the Incidental Finding remains unresolved regarding missing procedures for forwarding HMRRP information and records maintenance retention.

CITATION:

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

CORRECTIVE ACTION:

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

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

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

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11. DEFICIENCY:

The U.G.S.T. Annual Operating Permit Conditions, issued under the Annual Operating Permit for the Underground Storage Tank (UST) Program as the Unified Program Facility Permit (UPFP), are inconsistent with UST Regulations and HSC.

Review of the U.G.S.T. operating permit conditions finds the following item required by UST Regulations and HSC is missing:

- UST tank identification numbers

Review of the U.G.S.T. operating permit conditions finds the following inconsistencies with UST Regulations and HSC:

- Permit condition 1 states “This permit is not transferable and may be suspended or revoked for failure to comply with State/Federal Laws and County Ordinances that govern underground storage tanks. Failure to renew ... will result in the assessment of a “double permit” fee penalty.”
 - This is more stringent than CCR, Chapter 16, Section 2712(d) and HSC, Section 25284(b), allowing for the transfer of permits.
 - The CUPA does not have authority to suspend a UST operating permit, per HSC, Section 25285.1.
 - The CUPA does not have the authority to enforce federal laws.
- Permit condition 3 states “The approved monitoring, response, and plot plans shall be maintained on site with the permit.”
 - This is more stringent than CCR, Chapter 16, Section 2712(i), which requires a paper or electronic copy of the permit and all conditions and attachments, including monitoring plans, shall be readily accessible at the facility.
- Permit condition 4 states “The permittee must notify the Division within thirty days after any changes in the usage of any UST including the storage of new hazardous substances.”
 - This is inconsistent with CCR, Section 2711(c), which requires the CUPA to be notified 30 days prior to any change in substance stored.
- Permit condition 5 states “Notification of testing must be made to the Department at least 2 business days in advance (not including county holidays) ...”
 - This is more stringent than regulations, which only requires notification to a local agency at least 48 hours prior to conducting testing.
- Permit condition 6 states “The permittee must obtain approval from this division and local fire and building authorities ...”
 - A requirement to contact the Fire and Building authorities is outside the scope of the UST permit.
- Permit condition 9 states “The permittee must submit an annual report documenting compliance with the above conditions within thirty days of the anniversary of the permit issuance date.”
 - This is more stringent than CCR, Chapter 16, and HSC, which do not require the above-mentioned annual compliance report.

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- Permit condition 10 cites HSC, Chapter 6.75 and CCR, Chapter 18.
 - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Chapter 6.75 and CCR, Chapter 18.
 - The correct citations are as follows:
 - CCR, Chapter 16, Sections 2610 through 2717.7.
 - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.
- Permit condition 11 states “Post permit in a conspicuous place on site.”
 - This is more stringent than CCR, Chapter 16, Section 2712(i), which requires a paper or electronic copy of the permit to be readily accessible at the facility.

Note: This deficiency was identified during the 2019 CUPA Evaluation as Incidental Finding 3 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Incidental Finding remains unresolved regarding posting the permit in a conspicuous place.

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25284(b), and 25285
CCR, Title 23, Sections 2637(g), 2637.1(f), 2637.2(f), 2638(e), 2643(g), 2644.1(a)(4), and 2712(c), (d), and (i)
[State Water Board]

CORRECTIVE ACTION:

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

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

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

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12. DEFICIENCY:

The CUPA is not conducting complete annual UST compliance inspections.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds the following tank construction and testing discrepancies:

- CERS ID 10202518
 - Monitoring System Certification Forms dated November 15, 2021, and November 17, 2022, state In-Tank Gauging as only being used for inventory control, while the tank construction reported in CERS requires monthly 0.2 GPH ATG testing.
- CERS ID 10509229
 - Monitoring System Certification Form dated July 30, 2020, identifies testing for Mechanical Line Leak Detectors.
 - Monitoring System Certification Forms dated June 22, 2021, and June 15, 2022, identify the system as not having Line Leak Detectors installed.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds non-compliance was not observed, and a violation was not issued in CERS for the following:

- CERS ID 10202815
 - Secondary Containment Testing Report dated August 31, 2020, states “87 DSL line failed due to crack in piping sump.” No violation was issued in CERS for “2030047 - Secondary Containment.”
- CERS ID 10202518
 - Secondary Containment Testing Report dated June 23, 2021, cites “Visual Fail of UDC’s 1&2, 3&4, and 5&6.” No violation was issued in CERS for “2030048 - Secondary Containment Testing (USEPATCR 9d).”
- CERS ID 10202443
 - Secondary Containment Testing Report dated June 21, 2022, states “87 STP Leaking below product lines.” No violation was issued in CERS for “2030047 – Secondary Containment.”
- CERS ID 10202458
 - The Monitoring System Certification Form completed August 10, 22 was a month late. No violation was issued in CERS for “2030002 - Release Detection (USEPATCR 9d).”
- CERS ID 10505242
 - The Monitoring System Certification Form completed May 22, 2019, and May 8, 2020, were each a month late. The Monitoring System Certification Form completed June 4, 2021, was two months late. No violations were issued in CERS for “2030002 - Release Detection (USEPATCR 9d).”
- CERS ID 10202443
 - The Inspection Summary for the Routine Inspection on August 11, 2022, cites “No violations were observed at the time of the inspection. Please note that your facility still has an outstanding violation from 6/21/2022. The old float and chain holes in

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your UDC's need to be fixed so that your system can detect a leak at the earliest possible moment.” No violation was issued in CERS for “2030047 - Secondary Containment.”

Note: CME information for non-routine inspection types, also known as follow-up inspections, overfill inspections, secondary containment testing inspections, and inspections relative to repairs, installations, site visits, and complaints are not transferred from the CUPA's data management system, Envision Connect, to CERS.

Note: The CUPA expressed the continuous challenge of receiving accurate UST testing results from multiple UST service companies, despite numerous attempts at requesting revisions, amendments, and corrections.

Note: During the 2019 CUPA Evaluation, not consistently citing violations for failure to conduct an overfill prevention equipment inspection was identified as Deficiency 10 in the 2019 Final Summary of Findings issued November 14, 2022. This is relative to the not conducting complete annual UST compliance inspections, and not observing non-compliance and issuing the violation in CERS. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Incidental Finding remains unresolved regarding posting the permit in a conspicuous place.

CITATION:

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 revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to conduct complete annual UST compliance inspections and document violations observed in annual UST compliance inspection reports and in CERS. The revised I&E Plan, or other applicable procedure will, at minimum include:

- A process for the review and follow-up of submitted UST testing and leak detection documents by the UST owner or operator as part of the annual UST compliance inspection or as part of a non-routine or “other” inspection;
- A process for conducting complete annual UST compliance inspections at all UST facilities, including single-walled UST facilities;
- Ensuring violations observed during annual UST inspections or as part of non-routine or “other” inspections are correctly and consistently cited on the inspection report; and
- Documenting and reporting observed noncompliance in UST inspection reports to CERS.

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.

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

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

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

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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 2021 area plan is missing required elements.

Review of the 2021 area plan finds the following elements are missing:

- Provisions for integrating, in the final area plan, information from business plans submitted by handlers within the jurisdiction of an administering agency.
- Monitoring guidelines for emergency response personnel and equipment.
- Area plans must establish provisions for training of emergency response personnel in identification of medical facilities capable of providing treatment appropriate for hazardous material incidents, to include pesticide drift exposure incidents.
- Provisions for informing medical and health facilities of the nature of the incident and the substance(s) involved in an incident.

Note: Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire.

CITATION:

HSC, Chapter 6.95, Section 25503(d)(2)
CCR, Title 19, Sections 2640 and 2642 through 2648
[CalEPA]

RESOLUTION:

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. Upon review of the area plan, the CUPA will ensure all required elements are present, and that emergency contact information is current. The CUPA will provide CalEPA with the reviewed and revised area plan.

2. INCIDENTAL FINDING:

A required component of the Self-Audit Report for FYs 2019/2020, 2020/2021 and 2021/2022 is missing.

The following component is missing:

- A report of deficiencies with a plan of correction.

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CITATION:

CCR, Title 27, Section 15280
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the Self-Audit Report for FY 2022/2023 that includes all required components and incorporates a date of compilation to demonstrate the report was compiled by September 30th.

3. INCIDENTAL FINDING:

The CUPA is not consistently citing nor requiring the correction of construction violations identified in State Water Board Local Guidance (LG) Letter 150 dated February 2021, at existing used oil UST systems.

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

- CERS Tank ID 10509229-001

Note: The following may be referenced:

- State Water Board CUPA Evaluation Guidance Documents, Single-Walled Vent or Riser Piping (<https://www.waterboards.ca.gov/ust/single-walled-vent-riser.html>) and the
- State Water Board LG 150-3
https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf.

CITATION:

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

RESOLUTION:

The CUPA must ensure UST systems are properly constructed and meet the secondary containment requirements of CCR, Title 23, Section 2636(a).

During the evaluation, the CUPA confirmed the owner/operator of CERS Tank ID 10509229-001 has been provided with notice of non-compliance and several options to return to compliance, including installation of an approved overfill prevention method, secondary containment of riser and vent piping, or permanently closing the UST.

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities (including the CERS ID and Tank ID) which are incorrectly utilizing the overfill prevention equipment exemption.

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

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

By the 3rd Progress Report, if appropriate steps have not been taken by the UST owner(s) or operator(s) to remedy the construction violations, the CUPA will apply enforcement. The CUPA will provide CalEPA with documentation of the applied enforcement.

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

4. INCIDENTAL FINDING:

The CUPA has not fully implemented the TP component of the HWG Program.

The following requirements of the TP component of the HWG Program have not been implemented:

- Administrative review of TP notifications are not completed accurately.
- Annual Onsite Hazardous Waste Treatment Notifications for facilities with a Fixed Treatment Unit (FTU) are not reviewed, processed, or authorized within 45 calendar days of receipt.

Review of CERS CME information finds the following Onsite Hazardous Waste Treatment Notifications under Permit-By-Rule (PBR) were not reviewed by the CUPA within 45 days, or, where administrative and technical review of TP notifications was incorrect and/or inaccurately verified during inspection:

- CERS ID 10203325
 - During the 2019 CUPA Performance Evaluation, review found:
 - Two PBR notifications were submitted to CERS on July 9, 2019, and were under review by the CUPA since August 14, 2019.
 - Seven PBR notifications were incomplete or inaccurate for both PBR units, of which, six were accepted by the CUPA with incorrect information.
 - A PBR notification was submitted to CERS on May 20, 2021, and accepted on June 29, 2021 (70 days)

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- A PBR notification was submitted to CERS on May 23, 2022, and has not been accepted or rejected (437 days as of August 4, 2023).

Review of CERS CME information finds administrative review of the following TP notifications was not completed accurately:

- CERS ID 10203379
 - During the 2019 CUPA Performance Evaluation, a notification for a Conditionally Exempt Small Quantity Treatment (CESQT) unit was submitted and accepted with incorrect information on April 3, 2015.
 - The notification has incomplete information regarding the “Specific Waste Type Treated.” The generator should identify the metals contained in the wastewater.
 - A CESQT notification was submitted to CERS on December 5, 2022, and has not been accepted or rejected (242 days as of August 4, 2023).
 - The notification has incomplete information regarding the “Specific Waste Type Treated.” The generator should identify the metals contained in the wastewater.
- CERS ID 10204456
 - During the 2019 CUPA Performance Evaluation, a notification for a Conditionally Exempt Limited (CEL) unit was submitted with incorrect information on May 22, 2015, and accepted on June 9, 2015.
- CERS ID 10019731: a Large Quantity Generator (LQG) facility
 - During the 2019 CUPA Performance Evaluation, review found a PBR notification was submitted to CERS on January 26, 2016. The CUPA rejected the submittal stating, “This submittal is not applicable to your operations,” on August 9, 2016 (196 days).
 - This facility conducts bronze, copper, silver, and gold plating using cyanide, as well as nickel plating. This facility uses cyanide in plating operations, yet no onsite treatment of the cyanide is occurring and there have been no offsite manifests since 2014 that list F007 waste (spent cyanide plating bath solutions), nor F008 waste (plating bath residues where cyanides are used).
 - The PBR notification incorrectly states the facility is a federal CESQG and evaporates aqueous waste with metal (950 gallons per month). To be considered a federal CESQG the facility has to generate less than 27 gallons (100 kg or 220 lbs.) of waste facility-wide per month.
 - The CUPA should have entered a more detailed comment as to why the notification was determined “not applicable.”
 - An oversight inspection was conducted at this facility and testing of the hazardous waste identified in the PBR notification was required by the CUPA.

Note: This deficiency was identified during the 2019 CUPA Performance Evaluation, as Deficiency 13 in the 2019 Final Summary of Findings issued November 14, 2022. Due to extenuating circumstances, completion of the Progress Report for the 2019 CUPA Performance Evaluation while simultaneously preparing for the upcoming 2022 CUPA Performance Evaluation

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presented a hardship to the CUPA as resources are limited with combined response and recovery efforts of COVID-19, the 2021 Caldor Fire, and the 2022 Mosquito Fire, thus the Deficiency remains uncorrected.

CITATION:

HSC, Chapter 6.11, Section 25404.2(a)(1)(A);
CCR Title 22, Sections 67450.2(b)(4) and 67450.3(c)
CCR, Title 27, Sections 15100 (b)(3) and 15200(a)(3)(A);
[DTSC]

RESOLUTION:

During the evaluation, regarding CERS ID 10019731, the CUPA provided the following response relative to the required hazardous waste testing, "EDC EMD had the facility conduct a number of hazardous waste determinations to see if they fell under the TP program. All lab reports supported the decision to keep them out of the TP program." Regarding CERS ID 10204456, an oversight inspection on August 18, 2023, revealed the facility had made the TP submittal in anticipation of installing the treatment unit, and that the treatment unit described in the submittal had not been installed.

By the 1st Progress Report, the CUPA will provide an update to CalEPA on the status of the progress made toward accurately reviewing, processing, and accepting or rejecting the Onsite Hazardous Waste Treatment Notification submittal for CERS ID 10203325 and CERS ID 10203379.

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

1. OBSERVATION:

The CESQT notification submitted by CERS ID 10203379 on December 5, 2022, has incomplete information regarding the “Specific Waste Type Treated.” The facility states, “Tumbler water is placed into tank and individual pieces are rinsed before being placed into tumbler,” and conducts, “Evaporation of tumbler water through process of heating.” There is no identification of the hazardous waste characteristics of the waste in the notification. For example, “Aqueous wastes containing metals,” does not specify why the waste is hazardous, nor what metals are exceeding the regulatory thresholds causing it to be a hazardous waste.

Since each tiered permitting is specific to a type of waste stream the CUPA will be unable to accurately review the notification without knowing the metals contained in the waste stream.

RECOMMENDATION:

Do not accept the December 5, 2022, CESQT notification. Require the facility to resubmit the CESQT notification with an updated narrative describing the hazardous waste being treated at the facility. If the facility is treating hazardous waste under treatment process 2 (Aqueous wastes containing metals listed in CCR, Title 22, Section 66261.24(a)(2) and/or fluoride salts), the updated narrative should also describe which metals from Section 66261.24(a)(2) are contained in the hazardous waste.

2. OBSERVATION:

The information below is a summary of the overall implementation of the HWG Program and the CUPA’s hazardous waste related activities based upon review of policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between January 1, 2020, and December 31, 2022:

- CERS reflects there are 484 regulated HWG facilities, including 10 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), 6 TP facilities, and 5 HHW facilities within the jurisdiction of the CUPA.
- The CUPA inspected 180 HWGs and conducted a total of 197 HWG routine inspections and 17 HWG “Other” inspections. Conducting more HWG routine inspections indicates the CUPA inspected some HWG facilities more often than once every three years.
 - 78 of 286 (27%) routine inspections had no violations cited.
 - 208 of 286 (73%) routine inspections had at least one violation cited.
 - 261 total violations were cited, consisting of:
 - 1 (<1%) Class I violation
 - 40 (15%) Class II violations
 - 220 (84%) minor violations
 - CERS reflects the CUPA has ensured RTC for 189 of 261 (72%) violations cited.

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- CERS reflects no formal enforcement actions for hazardous waste related violations were completed.
- Inspection reports generally document whether consent to inspect was requested prior to beginning the inspection.
- The CUPA's web page: https://www.edcgov.us/Government/emd/HazardousMaterials/Pages/tiered_permitting.aspx has a link for obtaining a California EPA ID, but it refers to the Federal EPA main webpage. The link should refer to the DTSC webpage at <https://dtsc.ca.gov/apply-for-hazardous-waste-epa-id-number/>, which provides direction on how to apply for a California EPA ID (see text: *To obtain a California EPA ID number please complete and submit the [application](#) to DTSC.*)
- Violation observations and corrective action language are consistently included in inspection reports and are being entered into CERS.

RECOMMENDATION:

Continue with the three-year HWG inspection frequency and applied enforcement efforts in addition to generating inspection reports with detailed comments describing the factual basis for cited violations. Continue to ensure that detailed factual basis of each violation is included in inspection reports and in the CME information transferred to CERS, to support any enforcement efforts.

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

Ensure CUPA personnel remain current on required and continuing HWG training. Contact DTSC for additional training opportunities.

Continue with efforts to increase staffing levels to be able to meet the needs of the CUPA's operations.

Update the web page link for obtaining a California EPA ID number to <https://dtsc.ca.gov/apply-for-hazardous-waste-epa-id-number/>.

3. OBSERVATION:

CERS reflects the following 5 Household Hazardous Waste Collection Facilities (HHWCFs) have been receiving "HW" coded inspections:

- CERS ID 10203256
- CERS ID 10202941
- CERS ID 10203844
- CERS ID 10846942
- CERS ID 10884766

Inspections at HHWCFs should be entered in CERS as the unique inspection type "HHW", however, CERS reflects no HHW coded inspections.

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The CUPA's I&E Plan dated January 5, 2023, identifies 3 HHWCFs.

Note: The CUPA has indicated that two of the listed facilities are incorrectly reporting as HHWCFs.

RECOMMENDATION:

Review the business activities pages of the Facility Submittals for the 5 CERS IDs listed above to ensure the facilities did not incorrectly identify as an HHWCF. If a facility has incorrectly notified as an HHWCF, advise the facility to correct the submittal. If a facility is a HHWCF, ensure inspections at the facility are coded using the "HHW" inspection type in CERS in addition to any other applicable inspection type.

Ensure each HHWCF facility has submitted the appropriate PBR notification (DTSC Form 1094B) to operate as an HHWCF and is complying with all requirements of HSC, Section 25218.1 and CCR, Title 22, Section 67450.25.

4. OBSERVATION:

Multiple APSA tank facilities submitted an HMBP to CERS in lieu of a tank facility statement using an outdated consolidated emergency response and training plans template.

RECOMMENDATION:

Encourage each APSA tank facility to utilize the current 2022 version of the consolidated emergency response and training plans template as part of the HMBP submittal, when providing an HMBP in lieu of the tank facility statement. The 2022 template is available in CERS, on the CERS Central Businesses webpage at <https://cers.calepa.ca.gov/businesses/> under Consolidated Emergency Response/Contingency Plan/Template, and on the CalEPA Unified Program Publications and Guidance webpage at <https://calepa.ca.gov/cupa/publications/> under "Business-to-CUPA Reporting Forms."

5. OBSERVATION:

The CERS reporting requirement is currently set as "APSA Applicable" for 124 tank facilities. The CUPA's data management system identifies 115 APSA tank facilities.

- 110 APSA tank facilities are identified in both CERS and the CUPA's data management system.
- 14 APSA tank facilities are reported as "APSA Applicable" in CERS but are not identified as APSA tank facilities in the CUPA's data management system. Some of these facilities are likely not APSA regulated, and the CUPA should change the CERS APSA reporting requirement to "APSA Not Applicable" for each facility. Some of these facilities are APSA regulated, and the CUPA should update the local data management system accordingly.
- 5 facilities are identified as APSA tank facilities in the CUPA's data management system but are not in the CERS list of APSA facilities. The CUPA should determine if the facilities are APSA facilities. If a facility is not subject to APSA, the APSA reporting requirement should be set to "Not Applicable," and the facility should not be identified as an APSA tank

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facility in the CUPA's data management system. If a facility is subject to APSA, the APSA reporting requirement should be set to "Applicable."

RECOMMENDATION:

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

6. OBSERVATION:

The Self-Audit Reports for FYs 2019/2020, 2020/2021 and 2021/2022 contain information that may benefit from improvement.

FY 2019/2020

- Self-Audit states 'FY 2017/2018' in the aboveground storage tank violations section.

FY 2020/2021

- Self-Audit states the CUPA issued one Class I violation, three Class II violations, and four minor violations under the APSA Program. CERS CME information reflects a total of 21 APSA violations issued: one Class I violation, four Class II violations, and 16 minor violations.

FY 2021/2022

- Self-Audit states the CUPA issued no Class I or Class II violations, and ten minor violations under the APSA Program. CERS CME information reflects no Class I or Class II violations, and a total of 18 minor APSA violations.
- Self-Audit states 12 APSA inspections were conducted. CERS CME information reflects 13 inspections were conducted.

RECOMMENDATION:

In future Self-Audit Reports, ensure the information reported is correct and consistent with CERS CME information.

7. OBSERVATION:

The area plan contains information that is inaccurate and may benefit from improvement.

- Page 6, Appendix A-1: The glossary states the California State Fire Marshal oversees interstate and intrastate hazardous liquid pipelines. OSFM no longer oversees interstate pipelines. Interstate pipelines are now under the authority of the U.S. Department of Transportation – Pipeline and Hazardous Materials Safety Administration.
- Page 16: The citation, "H&SC 25507.10)." should be "HSC, Section 25510.3."
- Pages 13: The citation, "Section 2725" should be "Section 2645."
- Page 15: The citation, "Section 2703" should be "Section 2631."

RECOMMENDATION:

Update the area plan as indicated above.

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8. OBSERVATION:

The CUPA's webpages contain information that is inaccurate and may benefit from improvement.

Environmental Management- CUPA

https://www.edcgov.us/Government/emd/HazardousMaterials/Pages/cupa_program.aspx:

- The Unified Programs list shows "Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control, and Countermeasure (SPCC) Plans," which is incorrect as not all APSA tank facilities are required to prepare an SPCC Plan under APSA. Revise the text to state "Aboveground Petroleum Storage Act."
- The Unified Programs list shows "California Uniform Fire Code: Hazardous Materials Management Plans and Hazardous Materials Inventory Statements." Revise the text to state "California Fire Code: Hazardous Materials Management Plans and Hazardous Materials Inventory Statements."

Environmental Management- APSA

[https://www.edcgov.us/Government/emd/HazardousMaterials/pages/aboveground_storage_tanks_\(ast_s\).aspx](https://www.edcgov.us/Government/emd/HazardousMaterials/pages/aboveground_storage_tanks_(ast_s).aspx):

- The webpage states, "require facilities to have a current business plan under the Hazardous Materials Release Response Plans and Inventories Program." APSA tank facilities that are not subject to the HMBP Program, such as federal facilities, are required to annually submit a tank facility statement CERS.
- Under "Who is subject to the Act?", the first sentence captures the majority of the tank facilities subject to APSA. However, APSA regulates not only tank facilities with a storage capacity of 1,320 gallons or more of petroleum, but also tank facilities that are subject to the Federal SPCC rule, and tank facilities with one or more stationary tanks in an underground area with a shell capacity of 55 gallons or more of petroleum.
- Under "How is 'tank facility' defined?", update the definition of 'tank facility' to be consistent with statute. The last two sentences should be moved to the section under "Who is subject to the Act?"
- Under "What does the act require?", the first sentence states APSA requires tank facilities to prepare and implement an SPCC Plan. However, not all APSA tank facilities are required to prepare an SPCC Plan if certain conditions are met. The last sentence states, a "complete copy [of the SPCC Plan] must be maintained on site," which is true for facilities that are normally manned at least four hours per day, otherwise the SPCC Plan must be at the nearest field office if the facility is not so attended.
- Under "What is a qualified facility?" and "What are the qualified facilities tiers?", the reportable discharge history information is incorrect. A qualified facility is one that has had no single discharge to navigable water or adjoining shoreline exceeding 1,000 gallons or no two discharges (to navigable water or adjoining shoreline) each exceeding 42 gallons within any 12-month period in the three years prior to the SPCC Plan certification date, or since becoming subject to the Federal SPCC rule if the facility has been in operation for less than three years.

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- Under the “What are the qualified facilities tiers?”, provide a link to the Tier II qualified facility template found under the OSFM APSA webpage at <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>.
- Update and replace the link “California Environmental Protection Agency – Aboveground Petroleum Storage Act” (<https://calepa.ca.gov/cupa/>) with OSFM – APSA (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>).
- Update and replace the link “US Environmental Protection Agency (EPA) – Emergency Management” (<https://www.epa.gov/emergency-response>) with the relevant US EPA – SPCC webpage (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>).

RECOMMENDATION:

Update the webpages as indicated above.

9. OBSERVATION:

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

Inspection Plan:

- Page 1, Statutory Authority: Unless the CUPA has fire code authority, the “CFC [California Fire Code] Title 24” is incorrectly referenced as authority for APSA. Replace the Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) references ‘CFC Section 50’ with “CCR, Title 24, Part 9 – California Fire Code, Chapter 50, Sections 5001.5.1 and 5001.5.2”
- Pages 6 and 7, Item B.2.g. – Pre-inspection Procedures for APSA: It states staff review a facility SPCC Plan prior to an on-site inspection if available. Consider adding a procedure to verify the APSA facility information in CERS is consistent with the HMBP chemical inventory submittal and SPCC Plan, if available.
- Page 7, Item C.11. – RTC timeframe: The RTC timeframe for the APSA Program is not included. Although there are no established RTC timeframes for APSA violations, all Unified Program regulated facilities, including APSA tank facilities, cited with a minor violation have 30 days from the date of the notice to return to compliance, in accordance with HSC, Section 25404.1.2(c)(1).

Enforcement Plan:

- Page 17, Section D.1.: HSC, Section 25270.5 is incorrectly referenced as violations of APSA. The correct reference is HSC, Chapter 6.67 (commencing with Section 25270).

RECOMMENDATION:

Update the I&E Plan as indicated above.

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10. OBSERVATION:

Review of CERS CME information and APSA tank facility inspection reports indicate the following inconsistent information for CERS ID 10202602:

- An inspection report dated January 25, 2022, cites 2 violations, including overfill prevention systems or procedures used and tested routinely to ensure proper operation.
- An inspection dated January 25, 2022, in CERS reflects 2 violations, including an overfill prevention implementation for a Tier I qualified facility.
- The inspection report, chemical inventory and APSA Facility Information in CERS identify the tank facility stores more than 10,000 gallons of petroleum.
 - The tank facility does not meet the qualified facility criteria.

RECOMMENDATION:

Ensure a quality assurance and quality control process is in place for ensuring all APSA Program CME information is reported to CERS consistently and correctly.

11. OBSERVATION:

The following is a summary of inspection and violation information for facilities subject to HMBP reporting requirements based on review of facility files and CERS CME information.

- January 1, 2020, through December 31, 2020
 - The CUPA conducted routine inspections at 106 facilities, of which 47 (44%) had no violations cited and 59 (56%) had at least one violation cited.
 - A total of 106 violations were cited, consisting of:
 - 15 (14%) Class II violations and
 - 91 (86%) Minor violations.
 - The CUPA has ensured RTC for 81 of 106 (76%) violations cited.
- January 1, 2021, through December 31, 2021
 - The CUPA conducted routine inspections, at 182 facilities, of which 94 (52%) had no violations cited and 88 (48%) had at least one violation cited.
 - A total of 205 violations were cited, consisting of:
 - 59 (29%) Class II violations and
 - 146 (71%) Minor violations.
 - The CUPA has ensured RTC for 168 of 205 (82%) violations cited.
- January 1, 2022, through December 31, 2022
 - The CUPA conducted routine inspections at 108 facilities, of which 44 (41%) had no violations cited and 64 (59%) had at least one violation cited.
 - A total of 114 violations were cited, consisting of:
 - 26 (23%) Class II violations and
 - 88 (77%) Minor violations.
 - The CUPA has ensured RTC for 83 of 114 (73%) violations cited.

Note: There are no California Accidental Release Prevention (CalARP) Program facilities identified within the jurisdiction of the CUPA.

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RECOMMENDATION:

Maintain the three-year inspection frequency for all HMBP 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 and proper citation for each identified violation. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan.

12. OBSERVATION:

The CUPA does not utilize an itemized inspection checklist for summarizing UST inspection observations and violations.

RECOMMENDATION:

Revise the El Dorado CUPA Program Inspection Report to encompass the utilization of an itemized inspection checklist that readily identifies and summarizes inspection observations and identified violations for all applicable inspection items. This will ensure inspection reports reflect the same criteria during the inspections and correctly reference applicable statutory and/or regulatory citations when citing a violation. Utilizing an itemized inspection checklist will aid in ensuring accurate CME information is reported to CERS.

13. OBSERVATION:

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

- CERS ID 10202518
- CERS ID 10202632

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

RECOMMENDATION:

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

14. OBSERVATION:

On June 20, 2023, an oversight inspection was conducted by two International Code Council (ICC) Certified inspectors as part of the Annual Monitoring System Certification and Spill Containment Testing of two adjacent facilities, one with two Motor Vehicle Fuel (MVF) tanks, and one with a single waste oil tank.

Each inspector was knowledgeable regarding UST requirements and performed a full visual inspection for sumps, spill buckets, under dispenser containment (UDCs), and the measurements taken by the testing team. The inspectors cited multiple violations for the waste oil tank, including failure to upgrade single-walled piping while utilizing the overfill exemption

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pursuant to CCR, Chapter 16, Section 2666(a). The inspectors provided a summary of findings to the owner of the MVF facility. It is noted that a testing company amended the formatting of one Annual Monitoring Certification form, and that the owner of the MVF facility was using the incorrect Designated Operator Forms.

Additionally, the CUPA supported the State Water Board in utilizing the oversight inspection at the adjacent facilities as a training opportunity for new evaluation staff. Such generosity and hospitality of the CUPA is appreciated as it allowed for a productive and collaborative learning environment. The CUPA expressed interest in hosting future training opportunities.

RECOMMENDATION:

Ensure forms that are being accepted by the CUPA are not amended from the original format and that the proper Designated Operator Forms are being used on site.

15. OBSERVATION:

On August 16, 2023, two HMBP oversight inspections were conducted by different inspectors at CERS ID 10204456 and CERS ID 10202620.

During the oversight inspection at CERS ID 10204456, the inspector was prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory, site map, and emergency response plans and training information on site, and effectively communicated technical information to the facility operators. Upon review of training information, the inspector determined the facility did not maintain training records for the year 2021.

During the oversight inspection at CERS ID 10202620, the inspector was prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory, site map, and emergency response plan information on site, and effectively communicated technical information to the facility operators.

RECOMMENDATION:

Cite a violation when training documentation is not maintained for a minimum of three years as required by HSC, Section 25505(a)(4).

16. OBSERVATION:

On August 16, 2023, an oversight inspection was conducted at CERS ID 10202620, a Small Quantity Generator (SQG) and CERS ID 10204456, a TP facility. Each oversight inspection was led by a different lead inspector from the CUPA. Additional CUPA inspectors attended each inspection as back-up inspectors.

Each lead inspector prepared for the inspection by looking at past inspection reports and used CERS to gather information on the facility's activities, hazardous materials inventory, site map, and previous violation history. Inspectors also reviewed hazardous waste manifests on the Hazardous Waste Tracking System (HWTS), printing the HWTS profile, and confirming the status of the EPA ID number. Inspectors utilized a Generator Inventory Worksheet to perform

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rough calculations of the amount of hazardous waste generated and document the types of hazardous waste expected to be generated. Overall, the pre-inspection preparation was detailed, thorough, and appropriate for the nature of each facility being inspected.

Each inspection covered all hazardous waste storage areas and points of generation. At each inspection, the lead inspector obtained consent to inspect prior to the inspection, established good rapport with the facility operators, and took notes and photos during the inspection without the need for an inspection checklist as a reference tool to conduct the inspection. During the walkthrough, the inspector asked questions to better understand the facility operations and to better determine compliance. Throughout the inspection, each inspector remained focused, in control, and was able to clearly explain HWG requirements and observations when issues of non-compliance or potential violations arose. Overall, the inspections were conducted professionally, in a timely manner, and demonstrated the inspectors were well versed in HW regulations.

During the inspection at CERS ID10202620, the inspector discovered the Conditionally Exempt (CE) unit was never installed, and the facility operator was appropriately informed by the inspector that TP submittals should not continue to be made. The inspector also demonstrated knowledge of hazardous waste determinations by asking questions about the pH of dye water before it is discharged. The appropriate documents required of CE/SQGs were reviewed or requested, except for Bills of Lading for universal waste. No violations were cited.

During the inspection at CERS ID 10204456, the inspector had a clear and communicative style, very adept at describing observations and questions. The appropriate documents required of an SQG were reviewed or requested and the violations cited aligned with the observations of the accompanying DTSC evaluator. The version of the inspection report sent to DTSC contained detailed observations and corrective actions, but no regulatory citations with the violations.

The CUPA's inspection procedures are to return to the office to draft an inspection report and provide it to the facility via email and mail upon completion. The inspection reports contained detailed violation observations and corrective actions. It was noted that some versions of the CUPA's inspection report did not include regulatory citations.

RECOMMENDATION:

Continue to follow the current pre-inspection and inspection procedures as noted above and ensure HWG violations are reviewed with the facility operator at the conclusion of the inspection or as close to the end of the inspection as possible.

Review inspection reports to ensure all applicable regulatory citations are included.