

November 2, 2023

Mr. Craig Wetherbee  
Director of Environmental Health  
Lake County Environmental Health Department  
922 Bevins Court  
Lakeport, California 95453-9754

Dear Mr. Wetherbee:

During October 2022, through August 2023, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Lake County Environmental Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, 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](mailto: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](mailto: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](mailto:Melinda.Blum@calepa.ca.gov).

Sincerely,



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

Enclosure

cc sent via email:

Ms. Ashley Brown, Sr. REHS  
CUPA Program Manager  
Lake County Environmental Health Department  
922 Bevins Court  
Lakeport, California 95453-9754

Ms. Christina Geahart, REHS  
CUPA UST Program  
Lake County Environmental Health Department  
922 Bevins Court  
Lakeport, California 95453-9754

Mr. Daniel Goold  
Hazardous Material Specialist - CUPA  
Lake County Environmental Health Department  
922 Bevins Court  
Lakeport, California 95453-9754

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

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

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cc sent via email:

Ms. Julie Pettijohn  
Environmental Program Manager  
CUPA Enforcement Branch  
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Ryan Miya, Ph.D.  
Senior Environmental Scientist, Supervisor  
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Ms. Jennifer Lorenzo  
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CAL FIRE - Office of the State Fire Marshal  
P.O. Box 944246  
Sacramento, California 94244-2460

Ms. Kaitlin Cottrell  
Environmental Scientist  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, California 95812-2231

Mr. Brennan Ko-Madden  
Senior Environmental Scientist  
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Ms. Mary Wren-Wilson  
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Sacramento, California 94244-2460

Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

Mr. John Elkins  
Environmental Program Manager  
California Environmental Protection Agency

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cc sent via email:

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

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

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

Ms. Kaeleigh Pontif  
Environmental Scientist  
California Environmental Protection Agency

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### CUPA: Lake County Environmental Health Department

**Evaluation Period:** October 2022 through August 2023

#### Evaluation Team Members:

- **CalEPA Team Lead:** Kaeleigh Pontif
- **CalEPA:** Esme' Hassell-Thean
- **DTSC:** Brennan Ko-Madden
- **State Water Board:** Kaitlin Cottrell, Char'Mane Robinson
- **CAL FIRE-OSFM:** Mary Wren-Wilson

This Final Summary of Findings includes:

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

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered: 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](mailto:Kaeleigh.pontif@calepa.ca.gov)

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

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at [Kaeleigh.ponti@calepa.ca.gov](mailto:Kaeleigh.ponti@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 1<sup>st</sup> Evaluation Progress Report following the evaluation is:  
**January 9, 2024.**

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES**

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

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**1. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM IMPLEMENTATION:**

Since the 2019 CUPA Performance Evaluation, the CUPA has met the mandated triennial inspection frequency for APSA tank facilities storing 10,000 gallons or more of petroleum.

The CUPA has also ensured APSA tank facilities annually submitted a tank facility statement or a Hazardous Materials Business Plan (HMBP), when an HMBP was provided in lieu of a tank facility statement, to the California Environmental Reporting System (CERS).

These efforts are above and beyond the standard implementation expectations of the APSA Program during the statewide restrictions and challenges resulting from the Coronavirus 2019 (COVID-19).

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**2. HAZARDOUS WASTE GENERATOR (HWG) PROGRAM FACILITY INSPECTIONS:**

Since the 2019 CUPA Performance Evaluation, the CUPA has maintained a 94% inspection frequency, meaning 94% of HWG facilities have been inspected once within the last three years, including the time impacted by the statewide restrictions due to COVID-19. The CUPA put forth significant efforts in 2021 and 2022 to inspect HWG facilities and meet the triennial inspection frequency established in the Inspection and Enforcement (I&E) Plan. The Self-Audit Report for Fiscal Year 2021/2022 reports the CUPA completed 191 HWG inspections, which is 160 inspections more than the number reported as completed in Fiscal year 2020/2021.

These efforts are above and beyond the standard implementation expectations of the HWG Program during the statewide restrictions and challenges resulting from COVID-19.

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**3. EMERGENCY RESPONSE:**

The Lake County Environmental Health Department CUPA's implementation of the Unified Program was significantly impacted by the COVID-19 pandemic. Most inspections were delayed or cancelled due to stay-at-home orders and social distancing requirements. CUPA inspections returned in a limited capacity by June of 2020, and normal inspection operations resumed by September of 2020. Lake County declared an emergency as a result of the LNU Lightning Complex Fire in September of 2020, and the Cache Creek Fire in September of 2021. Though both fires were small in scope, they did divert CUPA staff away from normal activities.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
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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.

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**1. DEFICIENCY:**

The UST operating permit and permit conditions, issued under the “Underground Storage Tank Operating Permit”, are inconsistent with Lake County Ordinance No. 1358, California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Sections 2670 and 2672(d) (UST Regulations) and Health and Safety Code (HSC) requirements.

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

- Condition 1 references include 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 (LOP) agency, and therefore cannot cite HSC, Chapter 6.75 and CCR, Chapter 18.
    - The correct citations are:
      - CCR, Chapter 16, Sections 2610 through 2717.7.
      - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.
- The header on the UST operating permit and permit conditions indicates UST owners or operators shall notify the CUPA within 30 days of any changes to the permit or UST system.
  - The regulatory requirement is to notify the CUPA 30 days prior to any change in substance stored.
- The “UST Operating Permit” states, “PERMIT IS ... NOT TRANSFERABLE.”
  - This is more stringent than CCR, Title 23, Section 2712(d) and HSC, Section 25284(b), which allows for the transfer of permits.
  - This is more stringent than the Lake County, California Code of Ordinances No. 1358, Section 1, 12-27-83, which allows for the transfer of permits.

**CITATION:**

HSC, Chapter 6.7, Sections 25283(b) and 25297.01(b)  
CCR, Title 23, Sections 2711(c) and 2712(d)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise the “Underground Storage Tank Operating Permit” template and permit conditions to be consistent with Lake County Ordinance No. 13587, HSC and UST Regulations. The CUPA will contact the State Water Board for assistance in revising the UST operating permit and permit conditions as needed. The CUPA will provide the revised UST operating permit and permit conditions to CalEPA.

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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**DEFICIENCIES REQUIRING CORRECTION**

Note: The State Water Board will review the revised “Underground Storage Tank Operating Permit” template submitted by the CUPA during the evaluation process, on May 16, 2023, and will provide a response with the 1<sup>st</sup> Evaluation Progress Report.

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

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

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**2. DEFICIENCY:**

The CUPA is not consistently applying the “Graduated Series of Enforcement Actions” as outlined in Section II. General Information, subsection D, of the I&E Plan.

Review of inspection, violation, and enforcement information, also known as compliance, monitoring and enforcement (CME) information in CERS finds the following UST facilities have been cited with repeat violations without obtaining RTC or without applied enforcement:

- CERS ID 10212748
  - 2 Class I, 2 Class II, and 7 minor violations were issued on March 30, 2021. Comments from the CUPA include:
    - “Facility does not have a permit to operate and has been out of compliance since at least January 1, 2020.”
    - “We have no record of any UST monitor certification since 4/10/2019”
  - 2 Class I, 6 Class II, and 4 minor violations were issued on March 28, 2022. Comments from the CUPA include:
    - “This site has been out of compliance for over a year. Please bring the site into compliance within 30 days.”
    - “The vacuum system has not been compliant for at least up to 2.5 years. Please repair within 30 days.”
- CERS ID 10821874
  - 1 Class I, and 15 minor violations were issued on July 21, 2020. Comments from the CUPA include:
    - “Our office has no record of a passing secondary containment testing results since 2015. Secondary containment testing was attempted, but incomplete on 10/25/18”

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

- 1 Class I, 11 Class II, and 2 minor violations were issued on July 14, 2021. Comments from the CUPA include:
  - “Many of the violations in the 2021 inspection are repeats of the 2020 violations. Please bring this site into compliance to avoid potential fines and upgraded enforcement.”
  - “Overfill prevention testing was due by 10/13/18, but no testing has been completed based on our records and records available onsite at time of inspection. Please complete testing within 30 days.”
- CERS ID 10029454
  - 3 Class I and 4 minor violations were issued on September 22, 2020. Comments from the CUPA include:
    - “The S11 smart sensor for the regular product line was completely inactivated/offline at time of inspection ... test line within 7 days to verify it is not an actual leak in the line.”
  - 1 Class I and 6 minor violations were issued on November 17, 2021. Comments from the CUPA include:
    - “Failure of leak detection equipment to be installed, maintained and located such that the equipment is capable of detecting a leak at the earliest possible opportunity.”

Review of CERS CME information finds the following testing and leak detection violations have no documented RTC in CERS and the CUPA is not consistently applying the “Graduated Series of Enforcement Actions” as outlined in Section II. General Information, subsection D, of the I&E Plan:

- Fiscal Year (FY) 2019/2020
  - 18 of 83 (22%)
- FY 2020/2021
  - 65 of 114 (57%)
- FY 2021/2022
  - 106 of 127 (83%)

The Technical Compliance Rate (TCR) reported by the CUPA between July 1, 2019 and June 30, 2022, is significantly lower than the average TCR for California, indicating a low rate of compliance, as the CUPA is not consistently applying enforcement as outlined in Section II. General Information, subsection D, of the I&E Plan:

- July – December 2019
  - CUPA: 39%
  - California average: 47%
- January – June 2020
  - CUPA: 23%
  - California average: 61%
- July – December 2020
  - CUPA: 41%

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

- California average: 61%
- January – June 2021
  - CUPA: 57%
  - California average: 59%
- July - December 2021
  - CUPA: 47%
  - California average: 60%
- January - June 2022
  - CUPA: 50%
  - California average: 60%

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

Note: The following may be referenced:

- Local Guidance (LG) letter 159 “Annual Underground Storage Tank Compliance Inspection”
- LG letter 164-4, dated June 30, 2020
- State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records”
  - [https://www.waterboards.ca.gov/ust/adm\\_notices/rvw\\_ust\\_records.pdf](https://www.waterboards.ca.gov/ust/adm_notices/rvw_ust_records.pdf)
- State Water Board guidance dated July 1995, “Petroleum Underground Storage Tank Financial Responsibility Guide”
  - [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/financial\\_responsibility\\_guide/financialresponsguide.pdf](https://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/financial_responsibility_guide/financialresponsguide.pdf)

#### CITATION:

HSC, Chapter 6.7, Section 25288(d)  
CCR, Title 23, Section 2712(g)  
CCR, Title 27, Section 15290(a)(3)  
[State Water Board]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will apply progressive enforcement in accordance with Section II. General Information, subsection D, of the I&E Plan in instances where there is an open violation (no RTC).

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By the 1<sup>st</sup> 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

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

management system or CERS, that includes at minimum the following information for each UST facility with an open violation (no RTC) cited between July 1, 2019 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, the spreadsheet should include a narrative of any applied enforcement or follow-up activity to ensure the facility obtains RTC. The CUPA is encouraged to ensure the I&E Plan is implemented to pursue compliance at facilities.

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 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide UST facility records, for five UST facilities, as requested by the State Water Board, that include RTC documentation or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

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### 3. DEFICIENCY:

The CUPA is not consistently ensuring RTC is obtained or is not consistently following up and documenting RTC information in CERS for the HWG and APSA Programs.

Review of CME information in CERS and the CUPA's data management system between October 1, 2019, and September 30, 2022, finds there is no documented RTC for the following HWG Program violations:

- 129 of 304 (42%)
  - 3 of 5 (60%) Class I violations have no RTC
  - 11 of 36 (31%) Class II violations have no RTC
  - 115 of 263 (44%) Minor violations have no RTC
    - 168 of 263 (64%) Minor violations did not obtain RTC within 35 days
    - 135 of 263 (51%) Minor violations did not obtain RTC within 90 days

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

- FY 2021/2022
  - 27 of 62 (44%), including 1 violation for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### DEFICIENCIES REQUIRING CORRECTION

Note: This deficiency was identified in the 2019 CUPA Performance Evaluation regarding the APSA Program and the HWG Program. The deficiency was considered corrected during the Evaluation Progress Report process relative to the APSA Program and was considered partially corrected during the Evaluation Progress Report process relative to the HWG Program.

#### CITATION:

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

HSC, Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

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

[DTSC, OSFM]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> 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 facility with an open violation (no RTC) cited between October 1, 2019, and September 30, 2022, and for each APSA tank facility with an open violation (no RTC) cited between July 1, 2020, 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 actions taken by the CUPA to ensure the facility obtains RTC. The CUPA is encouraged to ensure the I&E Plan is implemented to pursue compliance at facilities.

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 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with HWG facility records, including RTC documentation, a statement of RTC, or a narrative of the enforcement applied by the CUPA in the absence of RTC, for the following facilities identified as having open violations cited between July 1, 2016, and June 30, 2019, in the 2019 CUPA performance evaluation:

- CERS ID 10136347, inspection dated June 20, 2019
- CERS ID 10136245, inspection dated April 17, 2019
- CERS ID 10212736, inspection dated November 15, 2018
- CERS ID 10212721, inspection dated October 16, 2018
- CERS ID 10136941, inspection dated May 21, 2018
- CERS ID 10686838, inspection dated May 17, 2018
- CERS ID 10136407, inspection dated December 1, 2017

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
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**DEFICIENCIES REQUIRING CORRECTION**

- CERS ID 10135333, inspection dated September 28, 2017
- CERS ID 10212745, inspection dated September 12, 2017
- CERS ID 10510915, inspection dated August 8, 2017
- CERS ID 10136635, inspection dated July 27, 2017
- CERS ID 10135624, inspection dated May 25, 2017
- CERS ID 10136899, inspection dated May 24, 2017

By the 3<sup>rd</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with five HWG facility records, as requested by DTSC, and three APSA facility records, as requested by OSFM, that include RTC documentation, or a narrative of the enforcement applied by the CUPA in the absence of RTC.

By the 4<sup>th</sup> Progress Report, the CUPA will have ensured the APSA tank facility identified in the spreadsheet provided with the 1<sup>st</sup> Progress Report as having an open violation (no RTC) for not having, or failure to prepare, an SPCC Plan has achieved compliance, or the CUPA will have applied enforcement.

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**4. DEFICIENCY:**

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

- The last certification of the area plan was July 2017.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will provide CalEPA with the revised area plan that includes all required elements.

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**5. DEFICIENCY:**

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

- FY 2020/2021 – report submitted on December 7, 2022
- FY 2021/2022 – report submitted on December 7, 2022

**CITATION:**

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

**CORRECTIVE ACTION:**

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

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

**DEFICIENCIES REQUIRING CORRECTION**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the completed Annual Single Fee Summary Report for FY 2022/2023. The CUPA will complete an Annual Single Fee Summary Report and provide it to CalEPA by September 30<sup>th</sup> for each subsequent FY.

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**6. DEFICIENCY:**

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

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

- FY 2020/2021
  - 1<sup>st</sup> Fiscal Quarter:
    - Due October 30, 2020, submitted February 4, 2021
  - 2<sup>nd</sup> Fiscal Quarter:
    - Due January 30, 2021, submitted February 4, 2021
  - 3<sup>rd</sup> Fiscal Quarter:
    - Due April 30, 2022, submitted May 28, 2022
  - 4<sup>th</sup> Fiscal Quarter:
    - No records of a report for this quarter.
- FY 2021/2022
  - 1<sup>st</sup> Fiscal Quarter:
    - Due October 30, 2021, submitted January 20, 2022
  - 3<sup>rd</sup> Fiscal Quarter:
    - Due April 30, 2022, submitted July 31, 2022

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will have submitted the 1<sup>st</sup> Quarterly Surcharge Transmittal Report for FY 2023/2024 by October 30, 2023, using the current Quarterly Surcharge Transmittal Report template, along with any state surcharge remittance, to the California Air Resources Board via mail at:

Air Resources Board  
Attn: Accounting  
P.O. Box 1436  
Sacramento, CA 95812

The CUPA will also ensure an electronic copy of the 1<sup>st</sup> Quarterly Surcharge Transmittal Report for Fiscal Year 2023/2024 is provided to CalEPA via email at [cupa@calepa.ca.gov](mailto:cupa@calepa.ca.gov), by the required due date using the current template.

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### DEFICIENCIES REQUIRING CORRECTION

Thereafter, no later than 30 days after the end of each fiscal quarter, the CUPA will ensure each Quarterly Surcharge Transmittal Report, and any state surcharge remittance are provided to the California Air Resources Board (CARB) via mail, and each Quarterly Surcharge Transmittal Report is provided to CalEPA via email.

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#### 7. DEFICIENCY: CORRECTED DURING EVALUATION

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

The following components are missing:

- Forwarding HMRRP Information:
  - Though the CUPA is tracking personnel with CERS access, a procedure has not been established for forwarding Hazardous Material Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities in accordance with HSC, Section 25504(c), or for providing access to CERS.
- Records Maintenance:
  - Minimum retention times
    - The CUPA has not stipulated a retention time for Self-Audit Reports and Training Records.

The following component is incomplete:

- Public Participation
  - The CUPA has not established a procedure to ensure receipt and consideration of comments from regulated businesses and the public, nor a procedure for coordinating, consolidating, and making consistent locally required public hearings and notices related to any Unified Program element.

#### CITATION:

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

#### CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA provided the following administrative procedures, which address the missing and inaccurate components identified above:

- established procedures for forwarding HMRRP information to emergency response personnel and other appropriate government entities and for providing access to CERS;
- revised Records Maintenance procedures that include an adequate retention time for Self-Audit reports and training records;
- a revised Public Participation Policy, that includes a procedure for ensuring receipt and consideration of comments from regulated businesses and the public, as well as a procedure for coordinating, consolidating, and making consistent locally required public hearings and notices related to any Unified Program element.

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**DEFICIENCIES REQUIRING CORRECTION**

In addition, the CUPA provided training documentation to CalEPA, which demonstrated CUPA personnel were trained on the developed and revised administrative procedures.

The CUPA will implement the developed and revised Unified Program administrative procedures. This deficiency is considered corrected. No further action is required.

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# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

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#### 1. INCIDENTAL FINDING:

The CUPA is not consistently requiring UST facilities with single-walled UST component(s) within a 1,000-foot radius of a public drinking water well to implement triennial enhanced leak detection (ELD) testing.

Review of CERS facility information and GeoTracker finds the following UST facility has not completed the initial ELD test and subsequent triennial ELD testing:

- CERS ID 10155691

Review of CERS facility information and GeoTracker finds the following UST facility has not completed the triennial ELD testing since 2015:

- CERS ID 10212745

Note: If a UST owner/operator believes the UST is not within 1,000 feet of a public drinking water well, a Request for Reconsideration (RFR) application must be submitted to the State Water Board. The RFR application form can be found at: [https://www.waterboards.ca.gov/ust/forms/docs/request\\_rfr\\_form.pdf](https://www.waterboards.ca.gov/ust/forms/docs/request_rfr_form.pdf). Once the RFR application is received from the UST owner/operator, the State Water Board will make a final determination whether ELD testing is required.

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

Note: The State Water Board has distributed the following Local Guidance Letters (LGs) to CUPAs regarding the requirement for UST facilities to implement triennial or complete one-time ELD testing:

- LG 161: distributed September 18, 2001, to provide notification of Senate Bill 989 requirements
- LG 161-2: distributed May 15, 2003, to provide an update on ELD testing requirements and responses to questions
- LG 161-3: distributed October 23, 2006, to provide an update on ELD testing requirements and responses to questions
- LG 161-4: distributed June 12, 2007, to provide an update on ELD testing requirements and responses to questions
- LG-161-5: distributed March 25, 2008, to provide an update on ELD testing requirements and responses to questions

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**CITATION:**

HSC, Chapter 6.7, Section 25292.4  
CCR, Title 23, Sections 2640(e) and 2644.1  
[State Water Board]

**RESOLUTION:**

The CUPA will no longer allow USTs to continue to operate without having completed ELD testing.

By the 1<sup>st</sup> Progress Report, the CUPA will identify and provide CalEPA with a list of all UST facilities having a UST with single-walled components within a 1,000-foot radius of a public drinking water well that have not implemented initial and/or subsequent triennial ELD testing.

Additionally, the CUPA will draft and provide to CalEPA written correspondence addressed to UST facility owners/operators having a UST within a 1,000-foot radius of a public drinking water well, to inform the UST owners/operators of the requirement to either complete initial ELD testing within 60 days of receiving the written correspondence, and implement triennial ELD testing every 36 months thereafter, or submit an RFR application to the State Water Board within 30 days of receiving the written correspondence. The written correspondence will include language stating that failure to complete initial ELD testing within 60 days of receiving the written correspondence and implement ELD testing every 36 months thereafter, or failure to submit an RFR application to the State Water Board within 30 days of receiving the written correspondence, will lead to applied enforcement, including but not limited to revocation of the "UST Operating Permit" and issuance of red tags, which will prohibit the deposit and withdrawal of fuel. The CUPA will include the State Water Board on the correspondence.

By the 2<sup>nd</sup> Progress Report, for those UST facility owners/operators that have not completed initial ELD testing or implemented triennial ELD testing every 36 months thereafter within 60 days of notification from the CUPA to do so, or for those UST facility owners/operators that have not submitted an RFR application to the State Water Board within 30 days of notification from the CUPA to do so, the CUPA will apply enforcement, including but not limited to revocation of the "UST Operating Permit" and issuance of red tags, which will prohibit the deposit and withdrawal of fuel. For those UST facility owners/operators that have completed initial ELD testing and implemented triennial ELD testing every 36 months thereafter, the CUPA will provide CalEPA with the ELD test results for each facility.

The State Water Board will consider this incidental finding resolved when one of the following conditions applies to each UST with single-walled components within a 1,000-foot radius of a public drinking water well:

- Initial and/or triennial ELD testing has been completed and the CUPA has provided the ELD test results to CalEPA, or
- Issuance of a red tag if ELD testing has not been completed, or
- An RFR application has been approved by the State Water Board.

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**2. INCIDENTAL FINDING:**

The I&E Plan has components that are inaccurate, missing, or incomplete.

The following components are inaccurate:

- Section VIII. Revocation, Modification or Suspension of Permit
  - The CUPA does not have authority to suspend a UST Operating Permit. The CUPA has authority to revoke or modify a UST Operating Permit.
- Red Tag Procedures (USTs Only), Section (5)(A)
  - As written, the procedure of “No owner or operator of a UST system may deposit or allow for the deposit of any petroleum product into a UST which has a red tag affixed,” is inconsistent with the requirements of HSC, Division 20, Chapter 6.7, Section 25292.3(c)(1)(c), effective January 1, 2019.
- Section XII. Administrative Penalties, Table 5 UST Penalties
  - The minimum penalty is listed as \$0, and the average penalty is listed as \$250. This is inconsistent with HSC, Section 25299 (a) and (b), which requires penalties to be no less than \$500 or no more than \$5,000 per day, per violation, per UST.

The following components are missing:

- A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.
- An indication that the I&E Plan is reviewed annually, at minimum.

The following components are incomplete:

- Provisions for ensuring sampling capability.

**CITATION:**

CCR, Title 27, Section 15200

HSC, Chapter 6.7, Sections 25285.1(a), 25292.3(c)(1)(C), 25299

[CalEPA, State Water Board, DTSC]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will revise the I&E Plan to accurately incorporate all required components and provide the revised I&E Plan to CalEPA.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and/or the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train personnel, including UST inspection staff, on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

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By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train personnel, including UST inspection staff, on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan.

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**3. INCIDENTAL FINDING:**

The CUPA is not consistently ensuring technicians performing UST testing and/or equipment inspections of UST systems are trained and certified by the manufacturer of the equipment.

Review of UST facility files finds the certification of the technician was expired prior to the date of testing for the following facilities:

- CERS ID 10029454
  - Overfill Prevention Equipment Inspection was conducted May 14, 2021, by a technician with certification expired on April 22, 2021.
- CERS ID 10212739
  - Spill Container Testing on August 4, 2022, was completed by a technician with certification expired on February 17, 2022.
- CERS ID 10212748
  - Spill Container Testing on March 20, 2021, was completed by a technician with certification expired on February 28, 2021.

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

**CITATION:**

CCR, Title 23, Sections 2715(f)(3) and 2638(b)  
[State Water Board]

**RESOLUTION:**

By the 1st Progress Report, the CUPA will provide CalEPA with a revised I&E Plan, or other applicable procedure, that ensures the establishment of a process for UST inspection staff to confirm equipment manufacturer certifications of technicians conducting Overfill Prevention Equipment Inspections and completing Spill Container Testing for the equipment being inspected or tested. The process will include, at minimum, the methods the CUPA will use to confirm manufacturing certifications of the technician meet the requirements of the inspection or testing being performed.

By the 2<sup>nd</sup> Progress Report, if amendments to the 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. If no amendments are necessary, the CUPA will train UST Inspection staff on the revised I&E Plan, or other applicable procedure. Once training is complete, the CUPA will implement the revised I&E Plan.

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By the 3<sup>rd</sup> 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. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

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#### 4. INCIDENTAL FINDING:

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

Review of the UST Facility/Tank Data Download report obtained from CERS on January 13, 2023, finds the UST monitoring and construction information is incorrect for the following single-walled USTs:

- 3 of 4 (75%) Single-walled piping listed as "Yes" for continuous secondary monitoring;
- 3 of 3 (100%) Single-walled pressurized piping without pipeline integrity test;
- 1 of 1 (100%) Single-walled conventional suction pipe installed before July 1, 1987, without daily visual pipeline monitoring;
- 3 of 4 (75%) Single-walled piping listed as "Yes" for continuous secondary monitoring.

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

#### CITATION:

CCR, Title 23, Sections 2632 (d)(1), 2634(d)(2), 2641(g), (h), 2643(c), (d) and 2711(d)  
[State Water Board]

#### RESOLUTION:

By the 1<sup>st</sup> Progress Report, the CUPA will review the Data Management Procedure, or other applicable procedure, and revise as necessary, to ensure establishment of a process for UST International Code Council certified inspection staff to review CERS UST submittal information regarding construction and monitoring requirements for accuracy and completeness before being accepted in CERS. The procedure will, at minimum, include the following:

- When CERS UST submittal information is identified as correct, the CUPA will accept the submittal.
- When CERS UST submittal information is identified as incorrect, UST International Code Council certified inspection staff will either:
  - Accept the submittal with minor errors using a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe, or
  - Not accept the submittal and provide comments with the requirement to resubmit UST information within a specified timeframe.
- When CERS UST submittal information is not corrected and resubmitted within the timeframe specified by the CUPA, the CUPA will apply enforcement per the I&E Plan.

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The CUPA will provide the revised Data Management Procedure, or other applicable procedure to CalEPA. The CUPA will contact the State Water Board for any assistance needed.

By the 2nd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST International Code Council certified inspection staff on the revised Data Management Procedure or other applicable procedure. Once training is complete, the CUPA will implement the revised Data Management Procedure or other applicable procedure.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised Data Management Procedure or other applicable procedure were necessary, the CUPA will train UST International Code Council certified inspection staff on the amended Data Management Procedure or other applicable procedure. Once training is complete, the CUPA will implement the amended Data Management Procedure or other applicable procedure.

With respect to UST submittals already accepted in CERS, the CUPA will ensure UST International Code Council certified inspection staff review UST related information and require accurate and complete UST Program submittals when the next submittal is made, but no later than the next annual UST facility compliance inspection, to ensure information is accurate and complete regarding monitoring and construction requirements based on the UST installation date before being accepted.

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#### 5. INCIDENTAL FINDING:

The 2017 area plan is missing required elements.

Review of the 2017 area plan finds the following elements are missing:

- Provisions for pre-incident surveys of business sites by first responders.
  - [CCR, Title 19, Section 2643\(a\)](#)
- Provisions for access to state approved and permitted hazardous waste disposal facilities and emergency response contractors.
  - [CCR, Title 19, Section 2643\(e\)](#)
  - [HSC, Section 25503\(c\)\(7\)](#)
- Provisions for regular testing, if applicable, and proper maintenance of emergency response equipment under the direct control of the county or city as the case may be.
  - [CCR, Title 19, Section 2647\(b\)](#)
- Provisions for the critique and follow-up of major incidents of a release or threatened release of hazardous material, including pesticide drift exposure incidents. The critique shall include an interagency meeting to evaluate the response, to improve future response, and to determine if any area plan revisions are required.
  - [CCR, Title 19, Section 2648](#)

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**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

**CITATION:**

HSC, Chapter 6.95, Section 25503(c)  
CCR, Title 19, Sections 2640(c) and 2462 through 2648  
[CalEPA]

**RESOLUTION:**

By the 1st Progress Report, the CUPA will provide CalEPA with the revised area plan that includes all required elements.

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**6. INCIDENTAL FINDING:**

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

Review of HMBPs submitted to CERS by APSA tank facilities in lieu of a tank facility statement indicates the chemical inventory was recently accepted though it did not correspond to the site map:

- CERS ID 10136953
- CERS ID 10478728
- CERS ID 10136194

Review of CERS indicates the following APSA tank facilities submitted an HMBP in lieu of a tank facility statement that was missing required elements in recently accepted emergency response and training plans:

- CERS ID 10136245: missing earthquake vulnerability
- CERS ID 10404328: missing earthquake vulnerability and training program
- CERS ID 10136194: missing earthquake vulnerability and mitigation, prevention, or abatement of hazardous materials

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

**CITATION:**

HSC, Chapter 6.67, Section 25270.6(a)  
California Fire Code (CFC), Chapter 50, Sections 5001.5.1 and 5001.5.5, and Appendix H  
[OSFM]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each future HMBP submitted to CERS by an APSA tank facility in lieu of a tank facility statement is thoroughly reviewed, contains all applicable required elements, and information is consistent and accurate. The action plan will include steps to follow up with rejected or incomplete HMBP submittals when an HMBP is submitted to CERS in lieu of a tank facility statement.

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By the 2<sup>nd</sup> progress report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes, at minimum, the following information for each APSA tank facility that submitted an HMBP in lieu of a tank facility statement that was missing applicable required elements or had information that was inconsistent or inaccurate:

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

By the 4<sup>th</sup> Progress Report, the CUPA will ensure each APSA tank facility has submitted a complete 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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**OBSERVATIONS AND RECOMMENDATIONS**

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

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**1. OBSERVATION:**

Review of CERS finds the following 3 UST facilities have single-walled components which require permanent closure by December 31, 2025, in accordance with HSC Chapter 6.7, Section 25292.05:

- CERS ID 10155691
- CERS ID 10212739
- CERS ID 10212745

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

**RECOMMENDATION:**

Provide verbal and written reminders to all applicable UST owners or operators regarding the December 31, 2025, requirement for permanent closure of single-walled USTs and UST systems. Additional information regarding single-walled UST closure requirements may be found at: [https://www.waterboards.ca.gov/ust/single\\_walled\\_systems.html](https://www.waterboards.ca.gov/ust/single_walled_systems.html)).

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**2. OBSERVATION:**

The CUPA has had no reported UST Closures since the 2019 CUPA performance evaluation. The CUPA must document in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672(d) (UST Regulations) and HSC, Division 20, Chapter 6.7, Section 25298(c).

**RECOMMENDATION:**

Review the State Water Board guidance on UST and Abandoned UST closures to ensure a process is in place for documenting in sufficient detail whether a UST owner or operator has demonstrated UST closure to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling is in compliance. A closure letter template provided by the State Water Board is available at:

[https://www.waterboards.ca.gov/water\\_issues/programs/ust/docs/ust-closure-letter-template-final.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/docs/ust-closure-letter-template-final.pdf).

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**OBSERVATIONS AND RECOMMENDATIONS**

**3. OBSERVATION:**

Review of HWG inspection reports finds the following:

- The inspection report software may have a glitch that causes violation and corrective action language to populate even when no violation has been selected in the inspection checklist (see CERS ID 10136053, inspection report dated December 2, 2019).
  - Some inspection reports reviewed had violation and corrective action language on inspection checklist lines when the violation box was not checked.
- The inspection report doesn't generate a violation comment or auto populate the violations section at the end of the report when a violation is noted as "Corrected Onsite (COS)." The checklist portion of the inspection report does indicate whether a violation was noted as "COS."
  - The inspection report would benefit from including observations and completed corrective actions for violations noted as "COS," especially since the checklist portion of the report does not include regulatory citations.
  - The violations that are noted as "COS" are transferred to CERS, so it appears that the violation information is collected, however, it doesn't display in the violation section at the end of the inspection report with violations that are not noted as "COS."
- The inspection report template has some sections for citing violations that could benefit from updated descriptions. For example:
  - There is a line for failing to label HW tanks with an accumulation start date (Line 48), but there isn't a line for failing to label HW containers.
  - The equivalent checklist item for accumulation start dates on HW containers appears to be Line 34 which reads, "labeled all containers or portable tanks containing hazardous waste." The requirements for labeling tanks and containers are the same. For consistency, it would be best to have similar descriptions for these checklist items.
  - Additionally, labeling the accumulation start date is only one of the requirements of section 66262.34(f).
  - A more comprehensive description for these checklist items would be, "labeled all containers or tanks containing hazardous waste with the accumulation start date, the words 'Hazardous Waste,' composition and physical state of the wastes, statement or statements which call attention to the particular hazardous properties of the waste (e.g., flammable, reactive, etc.), and name and address of the person producing the waste."
- The HWG inspection report does not include the violation classification (i.e. Minor, Class II, Class I) for each violation cited. It is best practice to include violation classifications in HWG reports.

Review of noted observations that accompany violations in inspection reports finds the following:

- Observations are good at documenting the regulatory language and providing a basic corrective action, but don't always contain details specific to the nature of the violation. For example:

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**OBSERVATIONS AND RECOMMENDATIONS**

- The October 28, 2021, inspection report for CERS ID 10343392 cites a violation for a HW tank failing to have secondary containment. The observation for the violation is technically sound, but overall is too generic. The observation doesn't describe the HW tank, the contents, or how the requirement was not complied with. The corrective action shares the same qualities and, in addition, doesn't match the violation.
- An example of a good violation observation is in the April 25, 2022, inspection report for CERS ID 10136821 (see violation concerning open HW container).
- When citing a violation for HW accumulation timeframe (i.e. 90/180 days) and classifying it as a minor violation, adequate observations must demonstrate how the violation meets the definition of "minor" classification.
  - Violations for exceedance of authorized accumulation time, generally can't be 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. Violations that result in an economic benefit do not meet the definition of a minor violation for the HWG program as defined in HSC, Section 25404(a)(3).

**RECOMMENDATION:**

Regarding the inspection report template, determine if the observations noted above are commonly occurring. Revise the inspection report template to address the observations identified above before the next CUPA performance evaluation. Ensure the inspection report template and inspection report checklist accurately reflect hazardous waste regulations and that all observations and citations for violations are correctly noted in the inspection report.

Regarding noted observations that accompany violations in inspection reports, ensure all inspectors include detailed observations and corrective actions for each violation cited, specifically to demonstrate the classification of a violation. For corrective actions, it is best practice to include what and where information can be sent by the facility for consideration to correct the violation, such as the email or mailing address.

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**4. OBSERVATION:**

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

- The number of regulated HWG facilities range between 269 in FY 2020/2021 and 243 in FY 2021/2022. The number of HWG facilities is provided as a range due to the number of HWGs changing year to year.
- There are no Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs) or Tiered Permitted (TP) facilities within the jurisdiction of the CUPA.
- The CUPA inspected 253 of 269 (94%) HWG facilities during the three-year period evaluated.

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### OBSERVATIONS AND RECOMMENDATIONS

- However, there are instances when more than three years occurred between HWG facility routine inspections that are not identified in the 2019 CUPA performance evaluation nor the current CUPA performance evaluation. For example:
  - CERS ID 10136821: An HWG inspection was conducted on December 20, 2017, and an HWG inspection was conducted four years and four months later, on April 22, 2022. The inspection frequency for HWG facilities is once every three years. Since the two inspections occur during the independent three-year time periods evaluated for the 2019 and 2022 CUPA performance evaluations neither CUPA performance evaluation identifies the facility as not being inspected once every three years.
- The CUPA conducted 302 total HWG inspections including 286 “routine” and 16 “other” inspection types.
  - Conducting 286 “routine” inspections at 253 HWG facilities indicates the CUPA inspected some HWG facilities more often than the inspection frequency established in the I&E Plan.
  - 150 of 286 (52%) routine inspections had no violations cited.
  - 136 of 286 (48%) routine inspections had at least one violation cited.
    - 304 total violations were cited, consisting of:
      - 5 (2%) Class I violations
      - 36 (12%) Class II violations
      - 263 (86%) minor violations
    - CERS indicates the CUPA has ensured RTC for 175 of 304 (58%) violations cited.
- CERS reflects no formal enforcement actions for hazardous waste related violations were completed.
- Inspection reports do not always document whether consent to inspect was requested prior to beginning the inspection. Consent is sometimes documented in CERS inspection comments, but not on the inspection reports themselves.
- Violation observations and corrective action language are not consistently being entered into CERS. Even within the same inspection report, some violations have associated comments while other violations don't, for example, CERS ID 10136821, inspection report dated April 25, 2022).

### RECOMMENDATION:

Continue with the HWG inspection frequencies and applied enforcement efforts established per the I&E Plan. Ensure the detailed factual basis of each violation is included in inspection reports and in CME information electronically transferred to CERS to support any enforcement efforts. Evaluate current HWG facility inspection forms to determine if revision is needed to ensure inspectors have the tools to successfully write quality inspection reports.

Follow up with HWG facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan for those facilities that do not obtain RTC. Ensure inspectors follow the HWG Inspection Procedures found in the I&E Plan and document consent to inspect in each HWG inspection report prior to conducting the inspection.

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**OBSERVATIONS AND RECOMMENDATIONS**

Further improve the documentation details of observations and factual bases when citing violations as well as the detail of associated corrective action language. Violations with detailed factual basis and associated corrective actions with clear instructive language assist facility owners/operators in understanding the violation, completing corrective actions, and ultimately contribute to obtaining return to compliance. CUPAs with a higher level of descriptive details in inspection reports and corrective actions tend to have a higher rate of obtaining RTC.

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**5. OBSERVATION:**

CERS ID 10136176 has EPA ID number CAH111000378 indicating it is a Household Hazardous Waste (HHW) Collection Facility. Inspections of this facility dated May 16, 2016, and January 18, 2022, for the HWG program are entered in CERS using the “HW” inspection type. Inspections of HHW collection facilities should be entered into CERS using the “HHW” inspection type.

**RECOMMENDATION:**

Correct the CERS inspection type for CERS ID 10136176 by changing the code from “HW” to “HHW.” Ensure that future HWG program inspections, including those at HHW collection facilities, are correctly entered into CERS using the applicable inspection type.

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**6. OBSERVATION:**

The annual CalARP Performance Audit Reports for FYs 2019/2020, 2020/2021, and 2021/2022 have an inaccurate component.

The following component is inaccurate:

- A summary of the personnel and personnel years (PYs) necessary to directly implement, administer, and operate the CalARP Program.
  - The CUPA summarizes personnel in the terms of a Full-Time Equivalent rather than PYs. CCR, Title 19, Section 2780.5(b)(7) requires the personnel time dedicated to CalARP Program implementation be summarized in PYs.

**RECOMMENDATION:**

With the annual CalARP Performance Audit for FY 2022/2023, ensure all components required by CCR, Title 19, Section 2780.5 are addressed, including a summary of the personnel and PYs necessary to directly implement, administer, and operate the CalARP Program.

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**7. OBSERVATION:**

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

HMBP Program

- October 1, 2019, through September 30, 2020
  - The CUPA conducted 65 routine inspections, of which 57 (88%) had no violations cited and 8 (12%) had at least one violation cited.

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- A total of 16 violations were cited, consisting of:
  - 16 (100%) minor violations
- The CUPA has ensured RTC for 5 of 16 (31%) violations cited.
- October 1, 2020, through September 30, 2021
  - The CUPA conducted 62 routine inspections, of which 46 (74%) had no violations cited and 16 (26%) had at least one violation cited.
  - A total of 147 violations were cited, consisting of:
    - 5 (3%) Class II violations
    - 142 (97%) minor violations
  - The CUPA has ensured RTC for 134 of 147 (91%) violations cited.
- October 1, 2021, through September 30, 2022
  - The CUPA conducted 292 routine inspections, of which 247 (85%) had no violations cited and 45 (15%) had at least one violation cited.
  - A total of 100 violations were cited, consisting of:
    - 1 (1%) Class I violations
    - 13 (13%) Class II violations
    - 86 (86%) minor violations
  - The CUPA has ensured RTC for 70 of 100 (70%) violations cited.

#### CalARP Program

- October 1, 2019, through September 30, 2020
  - The CUPA conducted 2 routine inspections
  - 0 violations were cited.
- October 1, 2020, through September 30, 2021
  - The CUPA conducted 0 routine inspections.
- October 1, 2021, through September 30, 2022
  - The CUPA conducted 9 routine inspections, of which 8 (89%) had no violations cited and 1 (11%) had at least one violation cited.
  - A total of 1 minor violation was cited.
  - The CUPA has ensured RTC for 1 of 1 (100%) violation cited.

#### **RECOMMENDATION:**

Maintain the three-year inspection frequency for all HMBP facilities and all CalARP facilities, as required by statute. Ensure complete and thorough inspections are conducted to identify all violations at facilities. Maintain detailed inspection reports that include all factual basis 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 when facilities do not obtain RTC.

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#### **8. OBSERVATION:**

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

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#### Number of regulated facilities for each program element:

- *Original Certification Source: Lake County Health Services Department Environmental Health Division CUPA Application, dated December 22, 1995.*
- *Current CUPA Evaluation Sources: CERS “Summary Regulated Facilities by Unified Program Element Report” & CERS “UST Inspection Summary Report (Report 6)”, both generated on March 13, 2023.*
  
- Total Number of Regulated Businesses and Facilities:
  - Upon Certification in 1996: 242
  - Current CUPA Evaluation: 405
  - An addition of 163 facilities
  
- Total Number of Hazardous Materials Release Response Plan and Inventory (Business Plan) Regulated Businesses and Facilities:
  - Upon Certification in 1996: 232
  - Current CUPA Evaluation: 371
  - An addition of 139 facilities
  
- Total Number of Regulated Underground Storage Tank (UST) Facilities:
  - Upon Certification in 1996: 103
  - Current CUPA Evaluation: 32
  - A decrease of 71 facilities
  
- Total Number of Regulated Underground Storage Tanks (USTs):
  - Upon Certification in 1996: 236
  - Current CUPA Evaluation: 96
  - A decrease of 140 Underground Storage Tanks
  
- Total Number of Regulated Hazardous Waste Generator (HWGs) Facilities:
  - Upon Certification in 1996: approximately 50
  - Current CUPA Evaluation: 226
  - An additional 176 facilities
  - Note: Upon certification, the CUPA was not authorized to implement the HWG Program. The application states approximately 50 HWG facilities will be regulated by the CUPA once authorized to do so.
  
- Total Number of Regulated Household Hazardous Waste (HHW) Facilities:
  - Household Hazardous Waste Facilities were not regulated under the Unified Program upon certification in 1996
  - Current CUPA Evaluation: 2

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- Total Number of Regulated Tiered Permitting Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):
  - Upon Certification in 1996: 6
  - Current CUPA Evaluation: 0
  - A decrease of 6 facilities
  
- Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:
  - RCRA LQG Facilities were not regulated under the Unified Program upon certification in 1996
  - Current CUPA Evaluation: 4
  
- Total Number of Regulated Risk Management Prevention Plan (RMPP) or California Accidental Release Prevention (CalARP) Program Facilities:
  - Upon Certification in 1996: approximately 30
  - Current CUPA Evaluation: 13
  - A decrease of 17 facilities
  
- Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:
  - Upon Certification in 1996: 19
  - Current CUPA Evaluation: 72
  - An addition of 53 facilities

Since the CUPA applied for certification in 1995, the number of regulated facilities in the HMBP, HWG, and APSA programs has occurred, increasing the workload undertaken by the CUPA to further implement regulatory oversight of each of these programs. Additionally, the management of compliance, monitoring, inspection, and enforcement information transitioned from the use of Unified Program Consolidated Forms (UPCFs) to the implementation of electronic data reporting through local data management systems and CERS.

The information below is a comparison of the overall full time equivalent (FTE) of CUPA personnel allocated to implementation of the Unified Program upon certification of the CUPA with present-day circumstance.

#### **CUPA Personnel:**

- Inspection and other Staff
  - Upon Certification in 1996:
    - 1 Inspection Staff and 1 Office Assistant, each at a Full-Time Equivalent = 2 FTE positions
  - Currently:
    - 3 Inspection Staff, 1 at a Full Time Equivalent and 2 at a Part-Time Equivalent = 2.5 FTE positions
    - The Environmental Health Director also performs inspections.
    - The County Department of Environmental Health's clerical staff provides approximately 5% of an FTE to the CUPA.

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- Supervisory and Management Staff
  - Upon Certification in 1996:
    - No CUPA Program Manager or Supervisor.
    - Activities are supported by the Division Director.
  - Currently:
    - No CUPA Program Manager or Supervisor.
    - Activities are supported by the Environmental Health Director and the Program Lead for the CUPA Program.

#### **RECOMMENDATION:**

Continue to conduct the annual review and update of the fee accountability program to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element.

The ability to apply each aspect of inspection, compliance, monitoring, and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large.

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#### **9. OBSERVATION:**

The CUPA's website (<https://www.lakecountyca.gov/374/Hazardous-Materials-Management-CUPA>) contains the following information that is incorrect or outdated and may benefit from improvement:

- Replace the outdated Tier II Qualified Facility SPCC Plan template with the updated version (May 2021): [https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm\\_tierii\\_spcc\\_plantemplate\\_05-2021-accessible.pdf](https://osfm.fire.ca.gov/media/13bddwhw/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf)
- Replace the outdated APSA Frequently Asked Questions (FAQ) document with the updated version (April 2021): <https://osfm.fire.ca.gov/media/z4zlg3pr/apsa-faq-12apr2021-final.pdf>

#### **RECOMMENDATION:**

Update the website as indicated above, and consider adding a link to the OSFM APSA website: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/>.

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#### **10. OBSERVATION:**

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

#### **RECOMMENDATION:**

Encourage each APSA tank facility that utilizes the consolidated emergency response and training plans template to use the current 2022 version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available in CERS Central, on the Business

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webpage at <https://cers.calepa.ca.gov/businesses/>. And on the CalEPA Unified Program Publications and Guidance webpage at <https://calepa.ca.gov/cupa/publications/>.

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**11. OBSERVATION:**

The CERS reporting requirement is currently set as “APSA Applicable” for 77 tank facilities. The CUPA’s data management system identifies 66 APSA tank facilities.

- 64 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 1 tank facility identified in the CUPA’s data management system is currently identified in CERS as “APSA Not Applicable.” The CUPA should determine if the facility is subject to APSA and update the data management system appropriately.
- 13 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system. The CUPA should determine if the facilities are subject to APSA and update the data management system appropriately.
- CERS shows at least 5 small farms as “APSA Applicable.” However, these facilities may not be APSA regulated due to the Federal Water Resources Reform and Development Act (WRRDA) oil applicability threshold.

**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.

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**12. OBSERVATION:**

The area plan references the outdated Uniform Fire Code. The current fire code is the California Fire Code.

**RECOMMENDATION:**

In the next review and revision of the area plan, update the fire code reference.

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**13. OBSERVATION:**

The Self-Audit Reports for FYs 2019/2020, 2020/2021, and 2021/2022 list the Unified Program elements implemented by the CUPA. However, the fire code Hazardous Materials Management Plan and Hazardous Materials Inventory Statement (HMMP-HMIS) Program is missing. The HMMP-HMIS Program is consolidated with the HMBP Program to streamline the regulatory requirements for regulated facilities.

**RECOMMENDATION:**

Ensure future Self-Audit Reports address the above observation.

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**14. OBSERVATION:**

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Upon closure of the 2019 CUPA Performance Evaluation, the CUPA continued to work towards improving Unified Program implementation to meet the inspection frequency identified in the I&E Plan for HMBP and CalARP Program facility inspections. The inspection frequency deficiencies for the HMBP and CalARP Program identified in the 2019 CUPA Performance Evaluation are no longer considered uncorrected or applicable to the 2022 CUPA Performance Evaluation.

#### **RECOMMENDATION:**

Continue to inspect each HMBP and each CalARP Program facility at least once every three years. Continue obtaining assistance from CalEPA to ensure CalARP facilities are in compliance.

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#### **15. OBSERVATION:**

Two oversight inspections were conducted with the CUPA on April 5 and 6, 2023, at a non-RCRA LQG facility (CERS ID 10149005) and at a Small Quantity Generator (SQG) (CERS ID 10136161). Each 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 using both CERS and the DTSC Hazardous Waste Tracking System (HWTS) to gather information on the facility's activities, previous violation history, and hazardous waste shipments. Both inspectors downloaded Manifest Data Reports for use during the inspections. Overall, the pre-inspection preparation was detailed and appropriate for the nature of the facilities being inspected. Additional preparation for the non-RCRA LQG could have been conducted, such as becoming familiar with the requirements for used oil collection centers, consolidated manifesting, and general LQG specific requirements.

The inspection of the non-RCRA LQG facility covered all hazardous waste storage areas and points of generation, such as the pharmacy and the auto shop. The inspector took notes during the inspection and used a checklist as a reference tool. During the walkthrough, the inspector asked questions to better understand the facilities operations and to better determine questions of compliance. The appropriate documents required of LQGs were reviewed, except for tank assessments for the facility's three used oil tanks. Though the contingency plan was not reviewed, the facility's SPCC plan was reviewed as part of the APSA Program inspection, which satisfies the requirements of reviewing a contingency plan. The inspector requested the facility to provide the Hazardous Waste training materials via email.

The inspection of the SQG facility covered all hazardous waste storage areas and the points of generation. The inspector took notes during the inspection and used a checklist as a reference tool. The appropriate documents required of SQGs were reviewed. During the document review, the inspector asked pertinent questions about hazardous waste generation activities and management of hazardous waste at the facility. During the walkthrough, the inspector provided correct information on the management of dried latex paint and aerosol cans, and the requirements for closing hazardous waste containers.

Overall, the inspections were conducted professionally and in a timely manner. Prior to beginning each inspection, the inspector asked for consent to inspect, and documented consent

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to inspect on the inspection report. An inspection report or summary of violations, findings, and observations was not left with the facility at the conclusion of the inspection, as the CUPA's procedures are to return to the office to draft an inspection report and then provide it to the facility. No violations were cited as a result of either inspection.

In terms of understanding HWG requirements, the CUPA inspectors demonstrated they were well versed in the following topics: SQG requirements, used oil, used oil filters, latex paint, lead-acid automotive batteries, and aerosol cans.

#### **RECOMMENDATION:**

For pre-inspection preparation, utilize the HWTS or other tools to determine the generator category of an HWG facility (i.e. Small Quantity, Large Quantity). SQG and LQG facilities have slightly different requirements and knowing the generator category of a facility before conducting an inspection allows inspectors to prepare for the relevant circumstances. Additionally, it is recommended that inspectors include inspection field notes in inspection reports, including but not limited to, relevant conversations with the facility operator, descriptions of the facility operations, and hazardous waste generation activities. The inspection report for each facility did not contain inspection notes.

Whenever possible it is recommended that the CUPA provide inspectors with Hazardous Waste refresher training or encourage inspectors to attend external Hazardous Waste training. Having inspector attendance at the regional CUPA Technical Advisory Group (TAG) and CUPA Forum Board meetings would be beneficial for staying abreast of current HWG Program topics and issues.

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#### **16. OBSERVATION:**

The CUPA's I&E Plan (page 13, Figure 1 Onsite Procedures) includes inspection procedures requiring inspectors to leave a Notice of Violation (NOV) and inspection checklist with the facility operator at the time of the inspection. Upon conclusion of the HWG facility oversight inspections, inspectors did not routinely leave a written summary of all violations prior to leaving the facility, and instead were following procedure to return to the office to complete the inspection report, which would be emailed or mailed to the facility at a later date.

When an HWG facility inspection is conducted, the CUPA is required to deliver a written summary of all violations to the operator prior to the conclusion of an HWG inspection, per HSC, Section 25185(c)(1). The inspector should discuss any questions or observations that the operator might have, concerning the inspection. If an electronic inspection report is utilized, the inspector should review the electronic report with the operator at the conclusion of the inspection and e-mail the report to the operator upon returning to the office.

#### **RECOMMENDATION:**

Develop an NOV or other form, summarizing all violations, to leave with the facility operator upon conclusion of the inspection while awaiting the final inspection report to be provided via email or mail. Also, provide the facility with the inspection checklist, per the I&E Plan (page 13, Figure 1 Onsite Procedures). It is common practice for many CUPA inspectors to leave the inspection

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checklist and/or inspection report with the facility operator prior to leaving the facility and email the inspection report to the facility operator by the end of the same business day. At minimum, the CUPA inspector should review the inspection report and/or inspection checklist with the facility operator, reviewing all violations and corrective actions.

Additionally, the Onsite Procedures of the CUPA's I&E Plan (page 13), would benefit from incorporating reference to HSC, Section 25185(c)(1), to ensure staff are aware of the requirement.