

January 30, 2024

Mr. Andrew Strader
Director of Environmental Health
Santa Cruz County Environmental Health
701 Ocean Street, Suite 312
Santa Cruz, California 95060-4073

Dear Mr. Strader:

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

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

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

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. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response, 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, Tim Brandt, via email at Timothy.Brandt@calepa.ca.gov, or uploaded to the established SharePoint website.

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

The 2023 CUPA performance evaluation has identified significant deficiencies and incidental findings regarding the CUPA's inspection and enforcement activities. HSC, Section 25404.4(a)(1) provides that, if the CalEPA Secretary finds that a CUPA has not met enforcement performance standards, a Program Improvement Agreement (PIA) must "make the improvement of enforcement the highest priority."

CalEPA recognizes that the CUPA may not have the resources to immediately and simultaneously correct each deficiency and resolve each incidental finding identified in the 2023 CUPA performance evaluation. Therefore, the CUPA is advised to prioritize addressing inspection and enforcement-related corrective actions and resolutions considering the following:

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

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

Within the 2023 CUPA Performance Evaluation, the following deficiencies and incidental findings are identified as inspection and/or enforcement-related and priority should be considered for correction and resolution:

- The CUPA is not inspecting the following Program facilities once every year in accordance with the Santa Cruz County Code, Section 7.100.240(D) and as established in the Inspection and Enforcement Program (I&E) Plan:
 - Aboveground Petroleum Storage Act (APSA)
 - Hazardous Waste Generator (HWG)
 - California Accidental Release Prevention (CalARP)
 - Hazardous Materials Business Plan (HMBP)
 - Underground Storage Tank (UST)

- The CUPA is not consistently following up and documenting return to compliance (RTC) information in CERS for the following Program facilities cited with violations:
 - APSA
 - HWG
 - CalARP
 - HMBP

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

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

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

Sincerely,



Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Nilo Alvarado
CUPA Inspector
Santa Cruz County Environmental Health
701 Ocean Street, Suite 312
Santa Cruz, California 95060-4073

Mr. Jose De Anda
Environmental Health Specialist III
Santa Cruz County Environmental Health
701 Ocean Street, Suite 312
Santa Cruz, California 95060-4073

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cc sent via email:

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

Mr. Tom Henderson
UST Leak Prevention Unit and
Office of Tank Tester Licensing Manager
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

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

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

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

Ms. Magnolia Busse
Environmental Scientist
State Water Resources Control Board

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

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

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

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cc sent via email:

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. Julie Unson
Environmental Scientist
California Environmental Protection Agency

Ms. Alexa Kostrikin, REHS
Environmental Scientist
California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Santa Cruz County Environmental Health

Evaluation Period: February 2023 through December 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **CalEPA:** Esme Hassell-Thean
- **DTSC:** Brennan Ko-Madden, Matthew McCarron, Pheleep Sidhom
- **State Water Board:** Tom Henderson, 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 **unsatisfactory**.

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

Timothy Brandt
CalEPA Unified Program
Phone: (916) 323-2204
E-mail: Timothy.Brandt@calepa.ca.gov

The CUPA is required to submit the first Evaluation Progress Report 60 days from receipt of the Final Summary of Findings Report. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response. For each identified deficiency and incidental finding, the CUPA must complete the corrective action and resolution as indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute. The Evaluation Progress Report process will continue until all deficiencies and incidental findings have been acknowledged as corrected or resolved by each issuing Unified Program state agency.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at Timothy.Brandt@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 the 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 May 10, 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.

1. STAFFING LIMITATIONS:

The CUPA has experienced significant management and inspector staffing limitations since the previous evaluation period concluded in June of 2020.

Following the retirement of the CUPA manager in August 2020, the position was filled by another manager who worked from September 2020 through September 2021 before departing. Starting November 2021 and through October 2022, a CUPA staff member served as the interim HMPM. Currently, the Interim Director of Environmental Health is fulfilling the role as the interim HMPM.

In August 2020, two trainee staff were hired to replace two senior inspectors who retired at the end of 2019. One trainee left the CUPA in December 2021 and was replaced with another trainee through interagency transfer in February 2022. Another senior staff left the agency in February 2022 and was replaced by a trainee through interagency transfer in May 2022. The CUPA trainees left the program in January and February 2023. One of the positions left vacant by a trainee was filled in March 2023 via an interoffice transfer of a senior inspector staff member. Between December 2021 and February 2023, a total of three trainee staff left the CUPA soon after successfully completing all training requirements and certifications.

Currently, four of the five CUPA inspection staff positions are filled; however, only one of those positions is filled by staff with more than five years of experience in CUPA specific work. The CUPA is in the process of filling the remaining vacancy with a trainee.

The CUPA Office Assistant left the CUPA in March 2021. The CUPA Office Assistant position was not filled until May 2022, and the incumbent missed a significant time from work during the fall and winter of 2022. This had a significant impact on the ability of the CUPA to provide quarterly surcharge reporting and remittance of collected Unified Program surcharges to CalEPA.

2. CORONA VIRUS 2019 (COVID-19), WILDFIRE RESPONSE AND RECOVERY, AND WINTER STORM IMPACTS:

Starting in early 2020, the COVID-19 pandemic created a number of requirements and restrictions that limited the ability of CUPA staff to schedule and conduct inspections.

On August 16, 2020, the first fires attributing to the Cal Fire San Mateo-Santa Cruz Unit (CZU) Lightning Complex Fire began to burn as a result of a thunderstorm that produced close to 11,000 bolts of lightning. With changes in wind conditions, the fires rapidly expanded and severely impacted a large geographical area within the jurisdiction of the CUPA. Though Cal Fire considered the CZU Lightning Complex Fire fully contained in September, after 86, 509 acres were burned, the fire was not considered fully extinguished until December 2020, with smoldering fires continuing to occur through early 2021. For a number of months, CUPA staff were redirected to address the needs of the County regarding hazardous materials response and cleanup efforts resulting from this devastating wildfire.

UNIFIED PROGRAM PERFORMANCE EVALUATION
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Beginning in December 2022 and lasting through the initial months of 2023, numerous powerful storm events impacted Santa Cruz County. Again, CUPA staff were redirected from normal work duties to assist in the response duties to the widespread flooding and damage within the local communities as a result of the severe wind and rain.

In conjunction with the significant staffing limitations experienced by the CUPA since 2020, impacts of the COVID-19 pandemic, the response and recovery efforts of the CZU Lightning Complex Fire, and the continued constraints to repair the damage to roads and infrastructure throughout Santa Cruz County as a result of the inclement storm weather, the CUPA has been continuously challenged to fully implement all aspects of the Unified Program over the past several years.

3. ELECTRONIC DATA TRANSFER (EDT):

A remote inspection system by Envision Connect (EC) is utilized in the field by inspectors. Since the 2020 CUPA Performance Evaluation, the CUPA has identified use of the EC remote system results in inconsistent and incomplete reporting of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information to the California Environmental Reporting System (CERS). If an inspection is conducted at a facility, covering more than one Unified Program element, the EC remote system does not consistently report the CME information for each applicable program element covered by the inspection at the facility to CERS.

The CUPA has identified the CERS Integration Wizard reporting tool as the cause for the discrepancy in the electronic transfer of CME information to CERS and remains engaged in actively troubleshooting the issue. The CUPA is also currently in the process of accepting proposals for transitioning to a new data management system.

4. FOLLOWING UP WITH REGULATED BUSINESSES TO ENSURE A HAZARDOUS MATERIALS BUSINESS PLAN (HMBP) IS SUBMITTED TO CERS

During the evaluation, the CUPA revised the process for accepting HMBP submittals to CERS by ensuring administrative staff will not accept HMBP submittals in CERS before the submittals are reviewed by inspection staff. In addition, the CUPA has put forth effort to develop and implement a process to distribute outreach to regulated businesses to remind and encourage the submittal of an HMBP prior to being considered delinquent with the annual requirement. The outreach has proven successful as the response received from regulated businesses has led to the correction of Deficiencies relative to ensuring annual submittal of HMBPs by APSA tank facilities that provide an HMPB in lieu of a tank facility statement to CERS and by business subject to HMBP requirements.

Implementing such program improvements prior to the conclusion of the CUPA Performance Evaluation, and with limited staffing resources, represents the proactiveness and commitment of the CUPA in improving the administration of the Unified Program.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

A program deficiency is considered a major deviation in implementation of the Unified Program from the expected standards set forth in statute or regulation. Commonly identified as a systemic problem in implementation of one or more program elements, a deficiency is likely to have an impact on the safety and protection of human health and the environment. Program deficiencies identify specific aspects regarding implementation of the Unified Program.

1. DEFICIENCY:

The CUPA is not inspecting each Aboveground Petroleum Storage Act (APSA) tank facility at least once every year in accordance with the Santa Cruz County Code, Section 7.100.240(D) and as established in the Inspection and Enforcement Program (I&E) Plan.

Review of CME information from the CERS and information provided by the CUPA finds the following APSA tank facilities were not inspected at least once every year between July 1, 2019, and June 30, 2022:

- July 1, 2019, through June 30, 2020
 - 45 of 109 (41%)
- July 1, 2020, through June 30, 2021
 - 31 of 65 (48%)
- July 1, 2021, through June 30, 2022
 - 47 of 89 (53%)
 - 1 APSA tank facility has never been inspected.

Note: The annual inspection frequency for APSA tank facilities established by the Santa Cruz County Code, Section 7.100.240(D), is more stringent than HSC, Section 25270.5(a), which requires APSA tank facilities that store 10,000 gallons or more of petroleum to be inspected at least once every three years. Review of facility files, CERS CME information and additional information provided by the CUPA finds the following APSA tank facilities that store 10,000 gallons or more of petroleum were not inspected within the last three years (September 30, 2020, and September 30, 2023):

- 4 of 17 (24%)

Note: The total number of regulated APSA tank facilities for each Fiscal Year (FY) was determined based on the number of APSA tank facilities assessed the APSA Program surcharge as reported in the Annual Single Fee Summary Report for FYs 2019/2020, 2020/2021, and 2021/2022.

Note: This deficiency was identified in the 2017 and 2020 CUPA Performance Evaluations and was corrected during each applicable Evaluation Progress Report process.

CITATION:

Health and Safety Code (HSC), Chapter 6.67, Section 25270.5(a) and (b)
California Code of Regulations (CCR), Title 27, Section 15200(a)
[OSFM]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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 is inspected at least once every year in accordance with the local ordinance and as established in the I&E Plan. The action plan will include at minimum:

- A sortable spreadsheet exported from the CUPA's data management system, identifying each APSA tank facility that has not been inspected within the last year. For each APSA tank facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - Category of APSA tank facility (such as 10,000 gallons or more; 1,320 – 9,999 gallons; Tank In an Underground Area with less than 1,320 gallons); and
 - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities (i.e., large volumes of petroleum, proximity to navigable water).
- Future steps to ensure each APSA tank facility will be inspected at least once every year.

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 annually inspected each APSA tank facility identified on the spreadsheet provided with the 1st Progress Report.

2. 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 on July 17, 2023, finds there is no documented RTC for the following violations cited between July 1, 2021, and June 30, 2022:

- January 1, 2020, through December 31, 2020
 - 4 of 17 (26%)
- January 1, 2021, through December 31, 2021
 - 6 of 24 (25%)
- January 1, 2022, through December 31, 2022
 - 14 of 19 (74%)

Note: This deficiency was identified in the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. This deficiency was identified in the 2020 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

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, that includes at minimum the following information for each APSA tank facility with an open violation (no RTC) cited between July 1, 2021, through 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.

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 follow-up activity and any enforcement applied in the absence of RTC.

3. DEFICIENCY:

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

Review of 20 HMBP CERS submittals finds the following 13 (65%) were recently accepted with missing or incomplete components:

- CERS ID 10192051
 - Inventory submitted and accepted on December 7, 2022
 - Missing required site map elements such as evacuation staging areas and emergency response equipment.
- CERS ID 10192138
 - Inventory submitted and accepted on November 16, 2022
 - Missing required site map elements such as adjacent streets and access and exit points.
 - Plans submitted and accepted on November 16, 2022
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10192267
 - Inventory submitted and accepted on February 27, 2023
 - Missing required site map elements such as hazardous material handling and storage areas.
- CERS ID 10193083
 - Plans submitted and accepted on October 19, 2022

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- Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10193497
 - Plans submitted and accepted on December 13, 2022
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10193896
 - Inventory submitted on November 18, 2022, and accepted on November 19, 2022
 - Missing required site map elements such as internal roads, evacuation staging areas, and emergency response equipment.
- CERS ID 10477939
 - Inventory submitted and accepted on December 1, 2020
 - Missing required site map elements such as access and exit points and emergency response equipment.
 - Plans submitted and accepted on December 1, 2020
 - Missing required training plan elements such as provisions for ensuring training is documented electronically or by hard copy and is available for a minimum of three years.
- CERS ID 10644430
 - Inventory submitted and accepted on February 21, 2023
 - Missing required site map elements such as evacuation staging areas and emergency response equipment.
- CERS ID 10192528
 - Plans submitted on November 25, 2019, and accepted on December 11, 2019
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
 - Missing required training plan elements such as provisions for trainings for all new employees, yearly refresher courses for all employees, and ensuring training is documented electronically or by hard copy and is available for a minimum of three years.
- CERS ID 10192831
 - Inventory submitted on September 17, 2019, and accepted on September 18, 2019
 - Missing required site map elements such as hazardous material handling and storage areas and emergency response equipment.
- CERS ID 10192942
 - Inventory submitted on March 22, 2023, and accepted on May 19, 2023
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10193164
 - Inventory submitted on March 22, 2023, and accepted on May 19, 2023
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10193884
 - Inventory submitted on March 1, 2021, accepted on March 4, 2021, and certified on February 1, 2023.
 - Missing required site map elements such as emergency response equipment.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

Review of 11 HMBP submittals provided to CERS by APSA tank facilities in lieu of a tank facility statement finds the following 9 (82%) were recently accepted with site maps missing applicable required elements:

- CERS ID 10192897
 - Missing emergency shutoff
- CERS ID 10192222
 - Missing north orientation, emergency response equipment, and evacuation staging area
- CERS ID 10192288 and CERS ID 10192489
 - Missing emergency shutoff and evacuation staging areas
- CERS ID 10193500
 - Missing access and exit points, emergency shutoff, hazardous materials handling and storage areas, and emergency response equipment
- CERS ID 10192225
 - Missing emergency shutoff and emergency response equipment
- CERS ID 10192348 and CERS ID 10450021
 - Missing emergency response equipment, emergency shutoff, and evacuation staging area
- CERS ID 10193854
 - Missing evacuation staging area

Review of 11 HMBP submittals provided to CERS by APSA tank facilities in lieu of a tank facility statement finds the following 7 (64%) were recently accepted with emergency response plans and procedures missing applicable required elements:

- CERS ID 10192222
 - Missing Emergency Coordinator contact, evacuation assembly area, and nearest medical facility
- CERS ID 10192348
 - Missing earthquake vulnerability section and CUPA phone number
- CERS ID 10192897
 - Missing facility evacuation signal and earthquake vulnerability
- CERS ID 10192288
 - Missing nearest medical facility and CUPA phone number
- CERS ID 10193500
 - Missing earthquake vulnerability
- CERS ID 10193854 and CERS ID 10192489
 - Missing earthquake vulnerability and evacuation assembly area

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

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)(2)

HSC, Chapter 6.95, Sections 25505(a), and 25508(a)(3) and (4)

California Fire Code (CFC), Chapter 50, Sections 5001.5.1 and 5001.5.2, and Appendix H [CalEPA, OSFM]

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each future HMBP submittal is thoroughly reviewed and contains all applicable required elements before being accepted in CERS. The action plan will include:

- Steps to follow-up with regulated businesses whose HMBP submittals were reviewed and identified with missing or incomplete components; and
- Steps to follow-up with APSA tank facilities whose HMBP submittals were reviewed and identified with missing or incomplete components.

By the 2nd Progress Report, the CUPA will train personnel on the steps in the action 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.

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.

By the 4th Progress Report, the CUPA will ensure:

- each HMBP facility has annually submitted a complete HMBP to CERS, or the CUPA will have applied enforcement, and
- each APSA tank facility has annually 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.

4. DEFICIENCY:

The CUPA is not inspecting each Hazardous Waste Generator (HWG) facility, nor each Tiered Permit (TP) facility at least once every year in accordance with the Santa Cruz County Code, Section 7.100.240(D) and as established in the I&E Plan.

Review of facility files, CERS CME information and additional information provided by the CUPA finds the following HWG facilities (excluding TP facilities, but including Household Hazardous Waste facilities) and the following TP facilities were not inspected at least once every year between January 1, 2020, and December 31, 2022:

- January 1, 2020 through December 31, 2020
 - 391 of 598 (65%) HWG facilities, excluding TP facilities, were not inspected
 - 4 of 7 (57%) TP facilities were not inspected
- January 1, 2021 through December 31, 2021
 - 358 of 598 (60%) HWG facilities, excluding TP facilities, were not inspected
 - 3 of 7 (43%) TP facilities were not inspected
- January 1, 2022 through December 31, 2022
 - 354 of 598 (59%) HWG facilities, excluding TP facilities, were not inspected
 - 3 of 7 (43%) TP facilities were not inspected

Note: The annual inspection frequency for TP facilities established by the Santa Cruz County Code, Section 7.100.240(D), is more stringent than HSC, Section 25201.4(b)(2), which requires TP facilities to be inspected within the first two years of notification and every three years

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thereafter. Review of facility files, CERS CME information and additional information provided by the CUPA finds the following TP facilities were not inspected every three years between January 1, 2020, and December 31, 2022:

- 3 of 7 TP (43%)

Note: This deficiency was identified in the 2017 and 2020 CUPA Performance Evaluations and was not corrected during each applicable Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.5, Section 25201.4(b)(2)
CCR, Title 27, Section 15200(a)(3)(A)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility (including each HHW facility) and each TP facility are inspected at least once every year. The action plan will include, at minimum:

- A sortable spreadsheet exported from the CUPA's data management system, identifying each HWG facility (including each HHW facility) and each TP facility that has not been inspected at least once every year. For each 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 facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG or TP inspection based on risk.
- Future steps to ensure that each HWG facility (including each HHW facility) and each TP, facility is inspected at least once every year (for example, the generation of a list of all HWG facilities and the anniversary date of the next routine HWG inspection for each listed facility).

By the 2nd Progress Report, 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 annually inspected each HWG facility (including each HHW facility) and each TP facility identified in the sortable spreadsheet provided with the 1st Progress Report.

5. DEFICIENCY:

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

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

- 156 of 624 (25%)
 - 36 of 116 (31%) Class II violations have no RTC
 - 120 of 502 (24%) Minor violations have no RTC
 - Note: 6 of 6 (100%) Class I violations have obtained RTC
- RTC was obtained for 382 of 502 (76%) Minor violations, however, 354 of 502 (71%) did not obtain RTC within 35 days of being cited.

Note: This deficiency was identified in the 2017 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process, however, this deficiency was re-identified in the 2020 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system, that includes at minimum the following information for each HWG 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 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HWG facility records, as requested by DTSC, that include RTC documentation, or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

6. DEFICIENCY:

The CUPA is not inspecting each facility subject to California Accidental Release Prevention (CalARP) Program requirements at least once every year, in accordance with the Santa Cruz County Code, Section 7.100.240(D) and as established in the I&E Plan.

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As of April 10, 2023, review of CERS CME information finds the following CalARP Program facilities were not inspected at least once every year between January 1, 2020, and December 31, 2022:

- January 1, 2020 through December 31, 2020
 - 9 of 33 (27%) facilities subject to CalARP Program requirements were not inspected.
- January 1, 2021 through December 31, 2021
 - 28 of 33 (85%) facilities subject to CalARP Program requirements were not inspected.
- January 1, 2022 through December 31, 2022
 - 23 of 33 (70%) facilities subject to CalARP Program requirements were not inspected.

Note: The annual inspection frequency for CalARP Program facilities established by the Santa Cruz County Code, Section 7.100.240(D), is more stringent than HSC, Section 25537(a) which requires CalARP Program facilities to be inspected once every three years. As of April 10, 2023, review of CERS CME information finds the following CalARP Program facilities were not inspected once every three years between January 1, 2020, and December 31, 2022:

- 4 of 33 (12%)

CITATION:

HSC, Chapter 6.95, Section 25537(a)
CCR, Title 19, Section 2775.3
[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 CalARP Program requirements is inspected at least once every year. The action plan will include, at minimum:

- A sortable spreadsheet exported from the CUPA's data management system, identifying each facility subject to CalARP requirements that has not been inspected within the last year. For each facility subject to CalARP requirements listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID; and
 - Date of the last routine inspection.
- A schedule to inspect those facilities subject to CalARP requirements, prioritizing the most delinquent inspections to be completed prior to any other CalARP inspections based on risk.
- Future steps to ensure all facilities subject to CalARP requirements will be inspected at least once every year.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet and a brief narrative of how the CUPA is continuing to ensure all CalARP Program facilities will be inspected at least once every year.

By the 5th Progress Report, the CUPA will have annually inspected each CalARP Program facility identified in the sortable spreadsheet provided with the 1st Progress Report.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

**UNIFIED PROGRAM PERFORMANCE EVALUATION
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7. DEFICIENCY:

The CUPA is not inspecting each facility subject to HMBP requirements at least once every year in accordance with the Santa Cruz County Code, Section 7.100.240(D) and as established in the I&E Plan.

As of April 10, 2023, review of CERS CME information finds the following facilities subject to HMBP Program requirements were not inspected at least once every year between January 1, 2020, and December 31, 2022:

- January 1, 2020, through December 31, 2020
 - 837 of 1,200 (70%) facilities subject to HMBP Program requirements were not inspected.
- January 1, 2021, through December 31, 2021
 - 795 of 1,200 (66%) facilities subject to HMBP Program requirements were not inspected.
- January 1, 2022, through December 31, 2022
 - 748 of 1,200 (62%) facilities subject to HMBP Program requirements were not inspected.

Note: The annual inspection frequency for facilities subject to HMBP requirements established by the Santa Cruz County Code, Section 7.100.240(D), is more stringent than HSC, Section 25511(b), which requires facilities subject to HMBP requirements to be inspected once every three years. As of May 9, 2023, review of CERS CME information finds the following facilities subject to HMBP requirements were not inspected once every three years between January 1, 2020, and December 31, 2022:

- 452 of 1,200 (38%)

Note: This deficiency was identified in the 2017 and 2020 CUPA Performance Evaluations and was not corrected during each applicable Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

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

- A sortable spreadsheet exported from the CUPA's data management system, identifying each facility subject to HMBP requirements that has not been inspected within the last year. 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 requirements that has not been inspected in the last year, prioritizing the most delinquent inspections to be completed prior to any other HMBP inspection based on risk.

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- Future steps to ensure each facility subject to HMBP requirements will be inspected at least once every year.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet and a brief narrative of how the CUPA is continuing to ensure all facilities subject to HMBP requirements will be inspected at least once every year.

By the 5th Progress Report, the CUPA will have annually inspected each facility subject to HMBP requirements identified in the sortable spreadsheet provided with the 1st Progress Report.

8. DEFICIENCY:

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

Review of CERS information finds:

- 16 of 33 (49%) stationary sources in the CalARP Program have not updated the RMP in the last five years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each stationary source in the CalARP Program has reviewed and updated the RMP every five years. The CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system, that includes, at minimum, each stationary source, and the date of the last RMP review and recent follow-up actions with each stationary source that has not revised and updated the RMP at least once every five years.

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

9. DEFICIENCY:

The 2022 area plan is missing required elements.

Review of the 2022 area plan finds the following required elements are missing:

- A description of the extent to which the administering agency has met the requirements of Title 19, Article 3, as required by CCR, [Title 19, Section 2640\(a\)](#).
 - Page 3 references HSC, Section 25503, however not CCR, Title 19.
- A form providing information on the elements within the area plan, substantially equivalent to the following optional model reporting form for area plans, as required by [CCR, Title 19, Section 2640\(d\)](#).

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- Provisions for pre-incident surveys of business sites by first responders for the purpose of site familiarization, if deemed necessary by the administering agency, as required by [CCR, Title 19, Section 2643\(a\)](#).
 - Page 21 discusses HMBP inspections, however, site familiarization for responders is not referenced.
- Procedures, developed in consultation with the Local Health Officer, to inform medical providers regarding eligibility for reimbursement pursuant to Section 12997.5 of the Food and Agricultural Code, where applicable, as required by [CCR, Title 19, Section 2643\(d\)](#).
 - Pages 13 and 14 discuss fiscal responsibility for hazardous materials spills, however, discussion is not specific to informing medical providers of eligibility for reimbursement.
 - Page 18 discusses the need for medical resources during an incident and the notification of the Public Health Emergency Medical Services coordinator, however discussion does not include informing medical providers of eligibility for reimbursement.
- Identification and utilization of alternative forms of emergency communications (such as amateur radio services), in the event of a loss of primary communications, as required by [CCR, Title 19, Section 2644\(b\)](#).
 - Page 17 discusses community notification and mentions radio and TV, however, there is not discussion of alternative communication methods in case of loss of primary communications.
- Designation of responsibility for the coordinated release of safety information to the public and to the local Emergency Broadcast System, as required by [CCR, Title 19, Section 2646\(e\)](#).
 - Pages 17 and 18 include public information procedures, however designation of responsibility for the coordinated release of safety information to the public and to the local Emergency Broadcast System is not included.
- Provisions for evacuation plans that provide for:
 - Centralized coordination of information with local law, fire, public health, medical, and other emergency response agencies, as required by [CCR, Title 19, Section 2646\(g\)\(2\)](#).
 - Provisions for evacuation plans that provide for properties of hazardous materials, such as quantity, concentration, vapor pressure, density, and potential health effects, as required by [CCR, Title 19, Section 2646\(g\)\(4\)](#).
 - Provisions for evacuation plans that provide for possible release scenarios, as required by [CCR, Title 19, Section 2646\(g\)\(5\)](#).
 - Provisions for evacuation plans that provide for facility characteristics, topography, meteorology, and demography of potentially affected areas, as required by [CCR, Title 19, Section 2646\(g\)\(6\)](#).
 - Provisions for evacuation plans that provide for ingress and egress routes and alternatives, as required by [CCR, Title 19, Section 2646\(g\)\(7\)](#).
 - Provisions for evacuation plans that provide for mass-care facilities, reception areas, and sheltering, as required by [CCR, Title 19, Section 2646\(g\)\(9\)](#).
 - Provisions for evacuation plans that provide for procedures for post-emergency period population recovery, as required by [CCR, Title 19, Section 2646\(g\)\(10\)](#).
 - Note: Pages 17 and 18 address many of the evacuation planning area plan requirements of CCR, Title 19, Section 2646, with the exception of those specified above.

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CITATION:

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

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will provide CalEPA with the revised area plan that includes all required elements.

10. DEFICIENCY

The CUPA is not consistently citing CalARP Program violations identified at the time of inspection.

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

- CERS ID 10192831
 - The RMP update has been overdue as of 2016.
 - A violation was not cited during the routine CalARP inspections conducted on March 28, 2018, and October 10, 2019.
 - Per inspection comments, the facility last updated the RMP in 2011.
 - An inspection conducted on March 4, 2021, cites nine CalARP violations, including a violation for the RMP being last updated in 2011. However, there is no documented RTC for this violation though the facility provided the RMP to the CUPA in June 2021 and the CUPA reviewed and considered the RMP complete in December 2022.
- CERS ID 10192924
 - The facility last updated the RMP in 2011.
 - The RMP update has been overdue as of 2016.
 - A violation was not cited during the routine CalARP inspections conducted on October 16, 2019, and December 17, 2020.
- CERS ID 10192942
 - The RMP was last updated in 2016.
 - An inspection conducted on April 8, 2020, does not cite violations for compliance audits being missing for 2016 and 2019.
 - An inspection conducted on January 18, 2022, cites 27 violations, for a number of significant requirements including compliance audits due in 2016 and 2019 not being completed.

CITATION:

HSC, Chapter 6.95, Section 25533(d)
CCR, Title 19, Sections 2745.10(a) and 2780.2
[CalEPA]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan as to how the CUPA will ensure:

- complete and thorough inspections are conducted to identify all violations at CalARP facilities;
 - all identified violations are cited on inspection reports, including all factual basis and applicable citations for each identified violation; and
 - all cited violations are reported to CERS.
-

11. DEFICIENCY

The CUPA is not consistently following-up and documenting RTC information in CERS for the CalARP Program.

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

- January 1, 2021, through December 31, 2021
 - 37 of 41 (90%)
- January 1, 2022, through December 31, 2022
 - 225 of 227 (99%)
- Note: One violation was cited between January 1, 2020, and December 31, 2020, and has obtained RTC.

CITATION:

HSC, Chapter 6.95, Section 25533(d)

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

[CalEPA]

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 that includes at minimum the following information for each CalARP Program 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.

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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 CalARP facility records, as requested by CalEPA, that include RTC documentation, or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

12. DEFICIENCY

The CUPA is not consistently following-up and documenting RTC information in CERS for regulated facilities subject to HMBP reporting requirements.

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

- January 1, 2020, through December 31, 2020
 - 2 of 150 (1%)
- January 1, 2021, through December 31, 2021
 - 26 of 247 (11%)
- January 1, 2022, through December 31, 2022
 - 82 of 209 (39%)

CITATION:

HSC, Chapter 6.95, Section 25508(a)(4)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[CalEPA]

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 that includes at minimum the following information for each regulated facility subject to HMBP reporting requirements 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 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HMBP facility records, as requested by CalEPA, 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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13. DEFICIENCY:

The permit issued to regulated facilities as the Unified Program Facility Permit (UPFP), which includes the Underground Storage Tank (UST) operating permit, is inconsistent with the Santa Cruz County Code, Section 7.100.060, CCR, Chapter 16, Sections 2670 and 2672(d), CCR, Title 27, Section 15190(h), and HSC, Chapter 6.7 requirements.

Review of issued permits finds the following inconsistencies:

- There is no expiration date.
- There is no addendum or documentation of permit conditions for each applicable element, including the UST Program.
- UST operating permit conditions are not listed.
- The UST CERS tank identification, tank capacity, and tank content are not listed.
- The following UST Program citations are missing:
 - CCR, Title 23, Sections 2610 through 2717.7.
 - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.
- The permit states "THIS FORM MUST BE POSTED IN A CONSPICUOUS PLACE"
 - This is more stringent than CCR, Title 23, Section 2712(i) which states, "A paper or electronic copy of the permit and all conditions and attachments, including monitoring plans, shall be readily accessible at the facility."

CITATION:

HSC, Chapter 6.7, Sections 25283(b) and 25297.01(b)
CCR, Title 23, Sections 2711(c) and 2712(d)
CCR, Title 27, Section 15190(h)
[CalEPA, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the permit template to be consistent with CCR, Title 32, Chapter 16, CCR, Title 27, and HSC, Chapter 6.7. The CUPA will contact the State Water Board for assistance with revising the permit template, if necessary. The CUPA will provide the revised permit template to CalEPA.

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

By the 3rd Progress Report, if amendments to the revised permit template were necessary, the CUPA will begin to issue the amended permit template. The CUPA will provide CalEPA with the permit issued to five UST facilities using the amended permit template.

14. DEFICIENCY:

The Semi-Annual UST Program Report (Report 6) for the reporting period of July 1, 2022, through December 31, 2022, was submitted after the regulatory deadline of March 1st.

Report 6 for the reporting period of July 1, 2022, through December 31, 2022, was received on March 3rd, 2023.

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Note: Report 6 regulatory deadline submittal dates are March 1st for the reporting period of July through December of the previous year and September 1st for the reporting period of January through June of the same year.

CITATION:

CCR, Title 23, Section 2713(c)
CCR, Title 27, Section 15290(a)(4)
[State Water Board]

CORRECTIVE ACTION:

By the 4th Progress Report, the CUPA will have submitted a complete and accurate Report 6 in accordance with the applicable regulatory deadline for two consecutive Report 6 reporting periods.

15. DEFICIENCY:

The CUPA is not consistently maintaining UST compliance inspection, testing and leak detection records.

Review of UST facility files finds the CUPA has not maintained UST compliance inspection records for the following facilities:

- CERS ID 10192882: Missing 2020 Official Inspection Report
- CERS ID 10192948: Missing 2021 and 2020 Official Inspection Reports
- CERS ID 10192918: Missing 2020 Official Inspection Report

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

- CERS ID 10128223
 - 2020 Annual Monitoring Certification
 - 2020 Spill Container Testing Form
- CERS ID 10192450
 - 2021 and 2020 Annual Monitoring Certifications
 - 2021 and 2020 Spill Container Testing Forms
 - 2021 Overfill Prevention Equipment Form
 - 2020 Secondary Containment Testing Form
- CERS ID 10192663
 - 2021 and 2020 Annual Monitoring Certifications
 - 2021 and 2020 Spill Container Testing Forms
 - 2021 Overfill Prevention Equipment Form
 - 2020 Secondary Containment Testing Form
- CERS ID 10192882
 - 2020 Annual Monitoring Certification
 - 2020 Spill Container Testing Form
 - 2018 Overfill Prevention Equipment Form

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

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CITATION:

HSC, Chapter 6.7, Section 25288(b)
CCR, Title 23, Sections 2637.1, 2637.2, 2638 and 2712(j)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review develop and provide a detailed records retention procedure document to ensure the establishment of a process for:

- UST facility owners or operators to submit UST testing and leak detection documents to the CUPA within 30 days of testing;
- Applying and documenting enforcement if the UST owner or operator fails to submit UST testing and leak detection documents to the CUPA within the required time frame; and how the CUPA will maintain records of UST compliance inspection reports and testing and leak detection records for all UST facilities.

Note: The records retention procedure document may be part of the I&E Plan or an independent document.

By the 2nd Progress Report, if amendments to the records retention procedure document are necessary based on feedback from the State Water Board, the CUPA will provide the amended I procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the records retention procedure document. The CUPA will provide training documentation 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 procedure.

By the 3rd Progress Report, if amendments to the detailed procedure were necessary, the CUPA will train UST inspection staff on the records retention procedure document. The CUPA will provide training documentation, 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 records retention procedures.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide the facility records for five UST facilities, as requested by the State Water Board, including but not limited to:

- UST compliance inspection reports,
- Annual monitoring certification results,
- Spill containment test results, and
- Overfill prevention equipment certification.

16. DEFICIENCY:

The CUPA is not inspecting each UST facility subject to UST Program requirements at least once every 12 months.

UST facilities not inspected at least once every three years jeopardize the ability of California to meet the U.S. Environmental Protection Agency (EPA) certification requirements of the Energy Policy Act of 2005.

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Review of the “UST Routine Inspection Frequency Report” in CERS finds:

- 5 of 106 (5%) UST facilities have not had a compliance inspection since 2019;
- 10 of 106 (9%) UST facilities have not had a compliance inspection since 2020;
- 23 of 106 (22%) UST facilities have not had a compliance inspection since 2021.

CITATION:

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

CORRECTIVE ACTION:

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

- A sortable spreadsheet exported from the CUPA’s data management system, identifying each UST facility that has not been inspected within the last 12 months, including those facilities that have not been inspected since 2019, 2020, and 2021. For each UST facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last UST compliance inspection.
- A schedule to inspect each identified UST facility, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

By the 1st Progress Report, the CUPA will review and revise the I&E Plan to ensure establishment of a process for UST inspection staff to inspect all UST facilities at least once every 12 months. The CUPA will provide the revised I&E Plan.

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

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised I&E Plan, based on feedback from the State Water Board. The CUPA will provide the amended I&E Plan.

17. DEFICIENCY:

The reported UST compliance inspections in Report 6 are inconsistent with CERS CME information.

Review of Report 6 and CERS CME information finds the following inconsistencies in the reported number of UST facility inspections conducted:

- January 1, 2020, through December 31, 2020
 - Report 6: 82
 - CERS CME information: 103, 17 of which are duplicates.
- January 1, 2021, through December 31, 2021
 - Report 6: 102
 - CERS CME information: 107, 29 of which are duplicates.

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- January 1, 2022, through December 31, 2022
 - Report 6: 70
 - CERS CME information: 81, 13 of which are duplicates.

Note: The CUPA has established Report 6 paperless reporting, where UST inspection information in Report 6 is derived directly from CERS CME information. Discrepancies in CERS CME information adversely affects the accuracy of Report 6, which is a requirement of the federal Energy Policy Act of 2005 and is integral for receiving federal grant funding for California's UST Program.

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 23, Section 2713(c)(3)
CCR, Title 27, Sections 15187(c) and 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with a detailed action plan that, at minimum, includes:

- A thorough analysis and explanation as to how Report 6 and CERS CME information have inconsistent UST compliance inspection information;
- A strategy to ensure UST compliance inspection information in Report 6 and CERS will be accurately reported;
- Correction of the previous Report 6 submissions to accurately reflect the CUPA total routine inspection counts and TCR rates.
- review and revise the Data Management procedure, or other applicable procedure, to ensure establishment of a process, which at minimum will address how UST compliance inspection information is accurately reported in Report 6 and CERS. The procedure, at minimum will address collecting, retaining, managing, and reporting inspection information in CERS and in Report 6. The CUPA will provide the revised Data Management Procedure, or other applicable procedure.

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 the amended Data Management Procedure or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised Data Management Procedure or other applicable procedure. The CUPA will contact the State Water Board Staff for training assistance if needed. The CUPA will provide training documentation, which at minimum will include the date training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised Data Management Procedure or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure, were necessary, the CUPA will train UST inspection staff on the amended Data Management Procedure, or other applicable procedure. The CUPA will contact the State Water Board Staff for training assistance if needed. The CUPA will provide training documentation, 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,

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the CUPA will implement the amended Data Management Procedure or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will accurately report UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

18. DEFICIENCY:

The CUPA is not remitting all collected state surcharges to CalEPA.

- The Single Fee Summary Report for FY 2020/2021 indicates \$61,799.50 in state surcharges were remitted to CalEPA.
- The Quarterly Surcharge Transmittal Reports for the 2nd FQ and 4th FQ of FY 2020/2021 indicate a total of \$47,647.50 in state surcharges were remitted to CalEPA.
- A Quarterly Surcharge Transmittal Report was not submitted for the 1st FQ nor the 3rd FQ of FY 2020/2021.
- CalEPA received remittance for \$47,647.50 of the reported \$61,799.50 state surcharges for FY 2020/2021
 - This leaves an amount of \$14,152 in unremitted state surcharges.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will remit the remaining balance of the collected state surcharges to CalEPA for FY 2020/2021.

19. DEFICIENCY:

The CUPA is not annually completing a Self-Audit Report.

A Self-Audit Report is required to be completed by September 30th of each year for the preceding FY.

The CUPA did not complete an annual Self-Audit Report for FYs 2019/2020 and 2020/2021.

Note: The Self-Audit Report for FY 2021/2022 did not include a date of completion to demonstrate compilation by September 30th, and the first page identifies FY 2020/2021.

CITATION:

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

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2023/2024 that includes all required components and incorporates a date of compilation to demonstrate the report was compiled by September 30th. For each subsequent year, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30th.

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20. DEFICIENCY: CORRECTED DURING EVALUATION

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.

On June 21, 2023, review of HMBPs submitted to CERS by APSA tank facilities in lieu of tank facility statements finds:

- 31 of 100 (31%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months, including 1 APSA tank facility that has never submitted a chemical inventory and site map.
- 31 of 100 (31%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months, including 1 APSA tank facility that has never submitted emergency response and employee training plans.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, on September 27, 2023, review of HMBPs submitted to CERS by APSA tank facilities in lieu of tank facility statements finds:

- 21 of 103 (20%) APSA tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 21 of 103 (20%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months.

The CUPA will ensure each APSA tank facility annually submits an HMBP to CERS when an HMBP is provided in lieu of a tank facility statement.

This Deficiency is considered corrected during the evaluation.

21. DEFICIENCY: CORRECTED DURING EVALUATION

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 2019/2020
 - 1st Fiscal Quarter (FQ):
 - Due October 30, 2019, submitted November 11, 2019.
 - 2nd FQ:
 - Due January 30, 2020, submitted February 20, 2020.

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- 3rd FQ:
 - Due April 30, 2020, submitted May 11, 2020.
- 4th FQ:
 - Due June 30, 2020, submitted October 26, 2020.
 - Note: The CUPA noted this Quarterly Surcharge Transmittal Report included information for both the 4th FQ of FY 2019/2020 and the 1st FQ of FY 2020/2021
- FY 2020/2021
 - 2nd FQ:
 - Due January 30, 2021, submitted March 22, 2021.
 - 3rd FQ:
 - Due April 30, 2021, not submitted.
 - 4th FQ:
 - Due June 30, 2021, submitted October 20, 2021
 - Note: CalEPA records indicate surcharges reported in the Quarterly Surcharge Transmittal Report provided for the 4th FQ were remitted on July 23, 2021, however, the date reflected on the check provided reflects October 20, 2021.
 - Note: The Quarterly Surcharge Transmittal Report for the 1st FQ was submitted prior to the due date.
- FY 2021/2022
 - 1st FQ:
 - Due October 30, 2021, submitted November 8, 2021.
 - Note: The Quarterly Surcharge Transmittal Reports for the 2nd, 3rd, and 4th FQs were submitted prior to the due date.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA indicated staffing challenges impacted the CUPA, as well as the County administrative team, which manages compilation and submittal of the Quarterly Surcharge Transmittal Reports.

The 1st Quarterly Surcharge Transmittal Report for Fiscal Year 2023/2024 was submitted to CalEPA on time using the correct template.

This Deficiency is considered corrected during the evaluation.

22. DEFICIENCY: CORRECTED DURING EVALUATION

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

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Review of HMBPs submitted to CERS between March 10, 2022, and April 10, 2023, by businesses subject to Business Plan reporting requirements finds:

- 381 of 1,200 (32%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 395 of 1,200 (33%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

Note: This deficiency was identified during the 2020 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation the CUPA developed a process to send reminders to facilities prior to their annual HMBP submittal deadline, making significant progress with this deficiency.

Review of HMBPs submitted to CERS between October 21, 2022, and November 21, 2023, by businesses subject to Business Plan reporting requirements finds:

- 116 of 1,219 (10%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 126 of 1,215 (10%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

This Deficiency is considered corrected during the evaluation.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

An incidental finding is considered a minor deviation in implementation of the Unified Program from the expected standards set forth in statute or regulation. Commonly identified as a minor issue that may be problematic in implementation of one or more program elements, an incidental finding is not likely to have an impact on the safety and protection of human health and the environment.

1. INCIDENTAL FINDING:

The CUPA is not consistently citing APSA Program violations and is not consistently classifying APSA Program violations properly.

Review of facility files and CERS CME information finds the following non-minor violation was classified as a minor violation in the following instance:

- Not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan was cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (EPA).
 - FY 2019/2020
 - CERS ID 10192048

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

Review of facility files and CERS CME information finds the following APSA tank facilities were cited a violation for not annually submitting an HMBP or not submitting a complete HMBP to CERS under the HMBP Program. However, the tank facilities were not cited a violation accordingly under the APSA Program for not annually submitting a tank facility statement or an HMBP (when an HMBP is provided in lieu of a tank facility statement) to CERS, or not submitting a complete tank facility statement or a complete HMBP (when an HMBP is provided in lieu of a tank facility statement) to CERS:

- CERS ID 10192288: Inspection on August 13, 2021
- CERS ID 10193500: Inspection on February 23, 2022
- CERS ID 10450021: Inspection on October 25, 2021
- CERS ID 10192348: Inspection on January 28, 2019
- CERS ID 10193854: Inspection on August 22, 2019
- CERS ID 10192489: Inspection on February 17, 2023
- CERS ID 10192225: Inspection on December 1, 2021

CITATION:

HSC, Chapter 6.67, Sections 25270.4.1(c), 25270.4.5(a), and 25270.6(a)(2)
HSC, Chapter 6.11, Sections 25404(a)(3) and 25404.2(a)(3)-(4)
CCR, Title 27, Section 15200(a) and (e)
[OSFM]

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RESOLUTION:

By the 1st Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and how to properly classify violations during compliance inspections as minor, Class I, and Class II. Training should include, at minimum, review of:

- Violation Classification Training Video 2014
 - <https://www.youtube.com/watch?v=RB-5V6RfPH8>
- 2020 Violation Classification Guidance for Unified Program Agencies
 - <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
- The SPCC violations in the “U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998,” which specifies that a no SPCC Plan violation is not considered minor
 - https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html
- Unified Program violation library on APSA Program violations in CERS.
 - <https://cersbusiness.calepa.ca.gov/Public/Violations/>

The CUPA will provide CalEPA with a statement that training has been conducted.

2. INCIDENTAL FINDING:

The CUPA is not consistently or correctly reporting CME information to CERS for the APSA Program.

Review of CERS CME information, inspection reports and information provided by the CUPA between July 1, 2019, and June 30, 2022, finds the following:

- CERS ID 10192897
 - An inspection report, dated March 16, 2020, cites five violations.
 - CERS reflects:
 - a routine inspection conducted March 16, 2020, and
 - five violations cited on March 12, 2020.
 - A follow-up email, dated April 11, 2020, refers to an inspection conducted March 6, 2020.
- CERS ID 10192288
 - An inspection report, dated September 13, 2022, cites three violations.
 - The facility file contains RTC documentation, dated February 6, 2023, for at least one APSA violation.
 - CERS does not reflect RTC information for the violation.
- CERS ID 10192489
 - An inspection report, dated February 17, 2023, cites one violation (adequate containment for a conditionally exempt tank facility).
 - The facility is not conditionally exempt from having to prepare an SPCC Plan under APSA.
 - CERS reflects a routine inspection conducted February 17, 2023, with no APSA violation cited.

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- CERS ID 10192918
 - A spreadsheet provided by the CUPA reflects an inspection conducted March 24, 2021.
 - CERS has no record of the March 24, 2021, APSA inspection.
- CERS ID 10193905
 - A spreadsheet provided by the CUPA reflects an inspection conducted on September 22, 2021.
 - CERS reflects the last APSA inspection conducted July 24, 2017.
- CERS ID 10193461
 - A spreadsheet provided by the CUPA reflects an inspection conducted March 15, 2021.
 - CERS reflects the last APSA inspection conducted June 1, 2018.
- CERS ID 10192648
 - A spreadsheet provided by the CUPA reflects a routine inspection conducted May 18, 2021.
 - CERS reflects the last routine inspection conducted September 25, 2018.
- CERS ID 10130134
 - A spreadsheet provided by the CUPA reflects an inspection conducted February 3, 2023.
 - CERS reflects the last routine inspection conducted January 25, 2023.
- CERS ID 10192348
 - A spreadsheet provided by the CUPA reflects an inspection conducted July 6, 2019.
 - CERS reflects the last routine inspection conducted June 4, 2020.

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

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure information in inspection reports and related APSA Program CME information is consistently and correctly reported to CERS. The action plan will include, at minimum:

- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure APSA Program CME information is consistently and correctly reported to CERS;
- Identification of all APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly, between July 1, 2019, and June 30, 2022;
- A process and timeframe, including the anticipated date of resolution, for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports; and
- Future steps to ensure all APSA Program CME information is consistently and correctly 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 three APSA tank facility records, as requested by OSFM, that include RTC documentation or an inspection report.

By the 3rd Progress Report, the CUPA will consistently and correctly report all current and previous APSA Program CME information to CERS. The CUPA will provide a statement confirming the complete entry of all prior APSA Program CME information to CERS that was not previously reported to CERS, or was previously reported incorrectly to CERS between July 1, 2019, and June 30, 2022.

3. INCIDENTAL FINDING:

The CUPA is not consistently classifying HWG Program violations properly.

Review of CERS CME information between January 1, 2020, and December 31, 2022, finds the following non-minor violations were classified as minor violations in the following instances:

- 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 a minor violation as defined in HSC, Section 25404(a)(3).
 - 56 of 60 (93%)
 - Accumulation timeframe violations were classified as minor and cited using the following Unified Program violation library number types in CERS:
 - 3030009, 3030010, 3030011, 3030012, 3130004, 3130039, and 3330012.
 - Violation comments in CERS describe instances when a facility stored hazardous waste well beyond the allowable timeframes (90/180/270 days). Every pickup of Hazardous Waste that a facility avoids by storing Hazardous Waste beyond the allowable accumulation time represents an economic benefit. Examples include:
 - CERS ID 10192078: Minor violation cited February 24, 2022, with Unified Program violation library number type 3030010. Comment states, "Start of accumulation date on containers holding hazardous waste was March of 2020."
 - CERS ID 10192081: Minor violation cited May 26, 2021, with Unified Program violation library number type 3030010. Comment states, "The container holding liquid hazardous waste had a start of accumulation date of 02-20-18."
 - CERS ID 10193002: Minor violation cited February 25, 2020, with Unified Program violation library number type 3030010. Comment states, "Observed two 55 gallon drums of used oil filters that had been on site since 8/7/2018."
- Violation for failure of the operator to adjust annually the closure cost estimate for inflation within 60 days prior to the anniversary date of the original establishment of the financial mechanism or to revise the closure cost estimate no more than 30 days after a change in the closure plan increases the cost of closure.
 - 1 of 1 (100%) financial assurance violation classified as minor and cited using the following Unified Program violation library number type 3310009.

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*Note: This deficiency was identified during the 2020 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and 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>
 - Additional violation classification classes are available in the video library on the CalCUPA Forum Board website at: <http://www.calcupa.org/videos.html>.
- 2020 Violation Classification Guidance for Unified Program Agencies
 - <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf>
 - This document provides examples of what is considered minor versus non-minor violations.

By the 2nd Progress Report, the CUPA will provide CalEPA with a statement that training has been conducted.

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

Note: The following additional HWG inspection, accumulation and generator requirement training resources are available to assist in training CUPA inspectors:

- Advanced Hazardous Waste Inspector Training Video 2016 (1 of 2)
 - <https://www.youtube.com/watch?v=Ign3TJftSUM>
- Advanced Hazardous Waste Inspector Training Video 2012 (5 of 7): Tanks and Sumps
 - <https://www.youtube.com/watch?v=oCrI3MvTd8M>
- Generator Requirements Fact Sheet
 - https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf
- Accumulation Time Fact Sheet
 - https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf

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- Universal Waste
 - https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf
 - Managing Used Oil Filters for Generators
 - https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf
 - Management of Spent Lead Acid Batteries
 - https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf
 - Generator Summary Chart
 - <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf> and https://www.acgov.org/forms/aceh/Generator_Requirements_Summary_Chart.pdf
-

4. INCIDENTAL FINDING:

The annual CalARP Performance Audit Report for FY 2021/2022 is missing required elements and has an inaccurate element.

The following elements are missing:

- A listing of stationary sources which have been requested to develop RMPs.
 - The CalARP Performance Audit Report references a listing of all current stationary sources; however, the listing is not included.
- A list of new or modified stationary sources.

The following element is inaccurate:

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

Note: Though requested, the CalARP Performance Audit Report for FYs 2019/2020 and 2020/2021 were not provided.

CITATION:

CCR, Title 19, Section 2780.5
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the annual CalARP performance audit report for FY 2022/2023 that accurately includes all required elements.

5. INCIDENTAL FINDING:

The CUPA is not consistently documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with CCR, Title 23, Division 3, Chapter 16, (CCR, Title 23) Sections 2670 and 2672(d) and HSC, Division 20, Chapter 6.7, Section 25298(c) (HSC).

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Review of UST facility files finds the following example:

- CERS ID 10192339

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

Note: This incidental finding was identified during the 2020 CUPA Performance Evaluation and was resolved during the Evaluation Progress Report process.

Note: The following may be referenced:

- State Water Board UST Program Leak Prevention Frequently Asked Question 15
 - https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25296.10(g) and 25298(c)
CCR, Title 23, Sections 2670 and 2672(d)
[State Water Board]

RESOLUTION:

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

- Document in sufficient detail, the 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 and HSC,
- Document identification of each UST removed from the site. UST identification can include the size of the UST, the contents of the UST, the UST CERS ID, and/or the construction of the UST (i.e., single-walled, double-walled, what the UST is made of).
- Maintain UST closure documents to demonstrate UST owners or operators closed in place or removed USTs correctly.
- Provide UST permanent closure notification to the UST owner or operator which demonstrates, to the satisfaction of the CUPA, that the UST permanent closure and soil and/or groundwater sampling complies with CCR, Title 23 and HSC.

Additionally, the CUPA will develop a UST closure notification template for sites with and without contamination, if separate notifications are issued for those scenarios to include the following items in the UST closure letter template:

- Site Address,
- CERS tank IDs,
- Date of removal or permanent closure, and
- Confirmation that UST(s) have been permanently closed in accordance with CCR, Title 23 and HSC. The following language is an example: “the Santa Cruz County Environmental Health CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Section 2670 and 2672 and HSC, Chapter 6.7, Section 25298(c).”

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

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By the 2nd Progress Report, if revisions to the developed UST closure procedure or other applicable procedure and/or revisions to the developed UST closure notification template(s) are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised UST closure procedure or other applicable procedure and/or the revised UST closure notification template(s).

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

For the next two UST closures, and until considered corrected, the CUPA will provide CalEPA with the UST closure documentation, including sampling results, that demonstrates to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with CCR, Title 23 and HSC. If no UST closures have occurred by the 4th Progress Report, the State Water Board will consider this Incidental Finding closed but not resolved upon completion of training, and implementation of the developed/revised or amended/revised UST closure procedure or other applicable procedure and the developed/revised or amended/revised UST closure notification template(s) determined acceptable by the State Water Board. The State Water Board will verify proper sampling and analysis of soil and/or groundwater occurred during or immediately after UST closure activities with the next CUPA performance evaluation.

6. INCIDENTAL FINDING:

The CUPA is not requiring UST facilities with single-walled UST component(s) within a 1,000-foot radius of a public drinking water well to implement initial and subsequent 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 or has not submitted a request for reconsideration (RFR) application form:

- CERS ID 10192633
 - On September 13, 2022, the CUPA issued a notice of violation for failure to conduct the triennial ELD testing. The CUPA did not red tag the facility and granted an extension until October 31, 2022.
 - The 2022 triennial ELD testing results have not been provided to the CUPA, nor the State Water Board and the CUPA has not followed-up with the facility nor has the CUPA applied enforcement.

Note: If a UST owner/operator believes the UST is not within 1,000 feet of a public drinking water well, an RFR application must be submitted to the State Water Board. The RFR application form can be found at: <http://www.waterboards.ca.gov/ust/eld/index.shtml>. 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.

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Note: The following State Water Board Local Guidance Letter (LG) regarding the requirement for UST facilities to implement triennial or complete one-time ELD testing may be referenced:

- LG-161-5: distributed March 25, 2008

CITATION:

HSC, Chapter 6.7, Section 25292.4

CCR, Title 23, Sections 2640(e) and 2644.1

[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will issue written correspondence addressed to the UST facility owner/operator having a UST within a 1,000 foot radius of a public drinking water well, to inform the UST owner/operator 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 triennial 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 portion of “Environmental Health Permit” issued as the UFPF 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 2nd Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure UST facilities requiring ELD testing are conducting initial ELD testing, and triennial ELD testing every 36 months thereafter. The action plan will include, at minimum:

- A sortable spreadsheet exported from the CUPA’s data management system, identifying each UST facility requiring initial ELD testing, and triennial ELD testing every 36 months thereafter. For each UST facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - Date of the last ELD testing conducted, and
 - Date of the upcoming scheduled ELD testing

By the 3rd Progress Report, if triennial ELD testing has not been conducted within 60 days of receiving the written correspondence, the CUPA will apply enforcement, including but not limited to revocation of the UST operating permit portion of the “Environmental Health Permit” and issuance of red tags, which will prohibit the deposit and withdrawal of fuel. If triennial ELD testing has been completed, the CUPA will provide CalEPA with the ELD test results for the 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

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- An RFR application has been approved by the State Water Board, or
 - fuel is removed from the tank(s).
-

7. INCIDENTAL FINDING:

The CUPA did not provide CalEPA with a Formal Enforcement Summary Report within 30 days of a judgement being issued or for each formal enforcement case that received a final judgement.

Review of CERS CME data between October 1, 2019, and September 30, 2022, finds that Formal Enforcement Summary Reports were not provided for the following formal enforcement cases:

- CERS ID 10192081, enforcement dated July 7, 2021
- CERS ID 10193536, enforcement dated November 19, 2021
- CERS ID 10193335, enforcement dated March 7, 2022
- CERS ID 10193140, enforcement dated September 28, 2022

CITATION:

CCR, Title 27, Section 15290(a)(5)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a Formal Enforcement Summary Report for each formal enforcement case that has received a final judgement for which a Formal Enforcement Summary Report has not yet been provided.

The CUPA will ensure a Formal Enforcement Summary Report is completed and provided to CalEPA within 30 days of any future final judgment being issued. The following information relates to the completion and submittal of a Formal Enforcement Summary Report:

- The Formal Enforcement Summary Report template is available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template-ADA-05.2019.pdf?emrc=d24388>
 - Instructions for completing the Formal Enforcement Summary Report template are available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions_9.9.2021.pdf?emrc=dc4518
 - Completed Formal Enforcement Summary Reports shall be submitted via email to CUPA@calepa.ca.gov
-

8. INCIDENTAL FINDING:

The I&E Plan has not been reviewed or revised annually and has components that are inaccurate or incomplete.

The I&E Plan reflects a revision date of January 2021.

The following components are inaccurate:

- Appendix B, Guidance for Administrative Enforcement Order and Hearing Procedures (page 29), Penalties (A)(1)(a) does not reflect the current maximum daily penalty amount

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of \$75,000. The citation referenced is correct, however, the statute has changed from \$25,000.

- Appendix B, Sample Policy with Matrixes for Administrative Penalties, Sample Penalty Matrices Hazardous Waste, does not reflect the current statutory maximum daily penalty of \$75,000 per day.

The following component is incomplete:

- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.
 - The CUPA identifies provisions to have samples analyzed at a California State Certified Laboratory.
 - Provisions do not include associated training on how to sample, equipment available for sampling or interpretation of lab results.

Note: This sampling provisions component of this incidental finding was identified during the 2020 CUPA Performance Evaluation and was resolved during the Evaluation Progress Report process.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to adequately incorporate and correctly address all required components, including the date of revision. 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 or DTSC, the CUPA will provide the amended I&E Plan to CalEPA. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. 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. Once training is complete, the CUPA will implement the amended I&E Plan.

9. INCIDENTAL FINDING:

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

The following administrative procedure components are incomplete:

- Financial management
 - A fee dispute resolution procedure in accordance with CCR, Title 27, Section 15210(k)
 - The fee dispute resolution procedure provided by the CUPA finds that any disputes involving state surcharges that are unable to be resolved between

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the CUPA and a regulated facility will be forwarded to DTSC for resolution. Disputes involving state surcharges that are unable to be resolved between the CUPA and a regulated facility should be forwarded to the Secretary of CalEPA for resolution.

CITATION:

CCR, Title 27, Section 15210
[CalEPA]

RESOLUTION:

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

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

By the 3rd Progress Report, if amendments to the revised Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended Unified Program administrative procedures. Once training is complete, the CUPA will implement the amended Unified Program administrative procedures.

10. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The Quarterly Surcharge Transmittal Reports for FYs 2021/2022 and 2022/2023 have inaccurate information.

Collection and remittance of the Refinery Safety State Surcharge was reported for the following Fiscal Quarters:

- FY 2021/2022: Fiscal Quarters 1, 2, 3 and 4
- FY 2022/2023: Fiscal Quarters 1, 2, 3 and 4

The current CUPA fee schedule does not include the Refinery Safety State Surcharge. No facilities within the jurisdiction of the CUPA should be assessed the Refinery Safety State Surcharge.

CITATION:

CCR, Title 27, Section 15250
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, it was discovered CUPA administrative staff utilized an incorrect location on the Quarterly Surcharge Transmittal Report template to identify applicable program elements for each facility and to document the amount of state surcharges assessed, collected, and remitted.

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The CUPA confirmed no facilities were assessed the Refinery Safety State Surcharge, and therefore, no funds were remitted to CalEPA for the Refinery Safety State Surcharge during FYs 2021/2022 and 2022/2023.

The CUPA provided revised Quarterly Surcharge Transmittal Reports for:

- FY 2021/2022: Fiscal Quarters 1, 2, 3 and 4
- FY 2022/2023: Fiscal Quarters 1, 2, 3 and 4

The revised Quarterly Surcharge Transmittal Reports do not identify assessment, collection, nor remittance of the Refinery Safety State Surcharge.

The CUPA will ensure each future Quarterly Surcharge Transmittal Report correctly identifies applicable program elements for each facility and documents the amount of state surcharges assessed, collected, and remitted before being submitted to CalEPA. The CUPA will ensure an electronic copy of each Quarterly Surcharge Transmittal Report is provided to CalEPA via email at cupa@calepa.ca.gov, using the current template.

Note: Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf, the July 1, 2018 version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27. Ensure each line item on the quarterly Surcharge Transmittal Report template is completed, including the check number.

This Incidental Finding is considered resolved during the evaluation.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

Some 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, 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 (<https://calepa.ca.gov/wp-content/uploads/sites/6/2022/03/Emergency-Response-Plan-corrected-6-27-22.pdf>), CERS Central, on the Businesses 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/>.

2. OBSERVATION:

An SPCC Plan was submitted to CERS and was accepted by the CUPA.

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

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

RECOMMENDATION:

Utilize the regulator comments field in CERS to provide feedback and advise APSA tank facilities that SPCC Plans should not be included in future CERS submittals.

3. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 102 APSA tank facilities. The CUPA’s data management system identifies 82 APSA tank facilities.

- 81 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 5 facilities are marked as “APSA Applicable” in CERS that, according to the submitted inventory, are not regulated under APSA. The CUPA should determine if these facilities are “APSA Applicable” tank facilities.
- 1 facility is identified as an APSA tank facility in the CUPA’s data management system but not in CERS. The CUPA should determine if the facility is an APSA Applicable tank facility.

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- 1 facility is an emergency generator and should be regulated under APSA.
- 3 facilities show an inventory of 10,000 gallons or more of petroleum that may need to be added to the CUPA's data management system. The CUPA should determine if the facilities are APSA applicable tank facilities.
- 3 facilities marked as APSA Applicable appear to be oil-filled electrical equipment with less than 50 PPM. The CUPA should determine if the facilities are APSA Applicable tank facilities.

RECOMMENDATION:

Review the list of APSA tank facilities and determine if each facility showing "APSA Applicable" in CERS is regulated under APSA.

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.

4. OBSERVATION:

The following CUPA webpages contain various resources for the public and regulated community; however, the following webpages also contain information that is incorrect and may benefit from improvement.

"Aboveground Petroleum Storage Tanks" webpage

<https://www.scceh.com/NewHome/Programs/HazardousMaterialsWaste/AbovegroundPetroleumStorageTanks.aspx>

- The Tier I and Tier II qualified facilities discussion on reportable discharge history is incorrect. A qualified facility is one that has had no single oil discharge to navigable water or adjoining shoreline exceeding 1,000 gallons or no two oil 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.
- The Tier II Qualified Facility SPCC Plan template developed by the CUPA Forum Board and the linked 2018 Tier II Qualified Facility SPCC Plan template are outdated. The current Tier II Qualified Facility SPCC Plan template is dated May 2021 and available on the OSFM APSA webpage at <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>.

"Hazardous Materials Management Plans" webpage

<https://www.scceh.com/NewHome/Programs/HazardousMaterialsWaste/HazardousMaterialsManagementPlans.aspx>

- The site map instructions are missing the evacuation staging area and emergency shutoff, if applicable.

RECOMMENDATION:

Update the webpages as indicated above.

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5. OBSERVATION:

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

- Page 3: Sections 8001.3.2 and 8001.3.3 of the fire code are outdated. The Hazardous Materials Management Plan and Hazardous Materials Inventory Statement requirements are found in the California Fire Code, Chapter 50, Sections 5001.5.1 and 5001.5.2 (or CCR, Title 24, Part 9 – CFC, Chapter 50, Sections 5001.5.1 and 5001.5.2).
- Page 7: The inspector training section does not include APSA training, which is required prior to conducting SPCC Plan compliance inspections of APSA.
- Page 22: Replace ‘AST’ with APSA and ‘criminal case’ may be included as an enforcement option for APSA as allowed under HSC, Section 25270.12.5.
- Page 23: Replace ‘AST’ with APSA. Add HSC, Sections 25270.12.1 and 25270.12.5 to the citations for APSA. Remove the following statements as they are not relevant to enforcement: “Facilities that have the storage capacity of at least 1,320 gallons and less than 10,000 gallons of petroleum are only subject to the SPCC requirements. Facilities with a storage capacity of 10,000 gallons or more are subject to both the SPCC and inspection requirements.”
- Page 23: Insert “5” after section 4 (APSA) and before the next section header (Generators).
- Appendix F: Update the 2006 violation classification guidance with the current 2020 version.

RECOMMENDATION:

Update the I&E Plan as indicated above.

6. 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 605 regulated HWG facilities, including 15 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQG) facilities and seven TP facilities within the jurisdiction of the CUPA.
 - The CUPA inspected 448 of 605 (74%) HWG facilities and conducted 766 HWG routine inspections.
 - Conducting more HWG routine inspections than there are HWG facilities indicates the CUPA inspected some HWG facilities more often than once in the three-year period.
 - 439 of 766 (56%) routine inspections had no violations cited.
 - 327 of 766 (44%) routine inspections had at least one violation cited.
 - 624 total violations were cited, consisting of:
 - 6 (<1%) Class I violations
 - 116 (19%) Class II violations
 - 502 (80%) Minor violations

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- CERS reflects the CUPA has ensured RTC for 468 of 624 (75%) violations cited.
- CERS reflects no formal enforcement actions for hazardous waste related violations were completed.
- Inspection reports document whether consent to inspect was requested prior to beginning the inspection.
- Violation observations and comments are consistently being entered into CERS.

RECOMMENDATION:

Continue with efforts to meet the annual HWG inspection frequency and apply enforcement as established in the I&E Plan. Ensure a detailed factual basis for each violation is included in inspection reports and in the CME information electronically transferred to CERS to support any applicable enforcement efforts. Evaluate current HWG facility inspection checklists to determine if revision is needed to update regulatory citations. 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.

7. OBSERVATION:

HWG inspection reports, in general, could include more thorough descriptions of observations and evidence to support alleged violations, in addition to more prescriptive corrective action language.

Descriptions of observations and evidence to support alleged violations, captured in inspection reports as “Inspector Comments,” should be detailed enough to clearly demonstrate how a regulatory requirement was not met. Corrective action language (i.e. language describing what must be done for the facility to obtain RTC) should be prescriptive and clearly describe what must be done to obtain RTC and to whom corrective action documentation should be provided for RTC consideration.

The following is an example of an HWG inspection report that would have benefited by including more thorough descriptions of observations and evidence to support alleged violations as well as more prescriptive corrective action language:

- CERS ID 10117243: Inspection report dated September 26, 2022
 - Violation: Failure to meet all requirements for hazardous waste satellite accumulation; 22 CCR section 66262.34(e)
 - Inspector Comments: “Some containers holding satellite accumulation hazardous waste were observed lacking some of the required information, the information varying from container to container. Keep satellite accumulation containers holding hazardous waste labeled with all information required by CCR T22 including the appropriate accumulation date.”

In lieu of stating “*some* containers holding satellite accumulation...lacking *some* of the required information...”, the inspection report should note the actual number of containers and the location of the containers at the facility. Recording the actual number of containers and the location of the containers provides the operator with more information regarding the violation relative to correcting the violation.

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The corrective action for this violation would also benefit from being more prescriptive. In lieu of stating, “Keep satellite accumulation containers...labeled with all information required by CCR T22...”, the inspection report should explicitly describe what the operator must do to show the violation has been corrected; for example, “By [date] label the 7 HW satellite containers in the storage area with the appropriate accumulation date and submit photographs of the labeled containers to Inspector X at [email address].”

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

RECOMMENDATION:

Ensure inspectors improve the documentation details of inspection reports by including more thorough descriptions of observations and evidence to support alleged violations, in addition to more prescriptive corrective action language. Violations with detailed factual basis and associated corrective actions with clear instructive language are easier for facility owners/operators to understand and complete, and requiring RTC documentation (photos, logs, etc.) is considered a best practice. CUPAs with a higher level of descriptive details in inspection reports and corrective actions tend to have a higher rate of facilities that obtain RTC.

Refer to the Inspection Report Writing Guidance for Unified Program Agencies for additional guidance on drafting violations and corrective actions.

8. OBSERVATION:

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

- CERS ID 10192882
- CERS ID 10192330
- CERS ID 10192414
- CERS ID 10192450
- CERS ID 10192633

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.

9. OBSERVATION:

On July 18, 2023, a UST oversight inspection was conducted at CERS ID 10192465 and CERS ID 10192468. Each UST compliance inspection was performed during the monitoring system certification and spill container test.

At CERS ID 10192465, the CUPA inspector examined the alarm history and found an alarm alert for liquid in the annular space. The designated operator failed to document any corrective actions taken. The CUPA inspector had difficulty explaining the importance of corrective action documentation to the owner/operator.

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At CERS ID 10192468, the CUPA inspector demonstrated sufficient knowledge of UST regulations by instructing the UST Service Technicians on-site to position a monitoring sensor at the lowest point of the sump to detect an unauthorized release at the earliest opportunity.

Overall, the CUPA inspector conducted two complete UST inspections, including visual observation of UST components and containment areas, review of alarm history and testing reports, review of designated operator (DO) training records, and review of DO monthly inspection reports. The CUPA inspector displayed sufficient knowledge of UST regulations and HSC requirements while conducting complete annual UST compliance inspections.

RECOMMENDATION:

Continue performing complete annual UST compliance inspections for to ensure consistency in implementation of UST Program requirements. Ensure CERS submittals are updated for CERS ID 10192465 and CERS ID 10192468 to reflect the changes at both sites. Continue to improve review of CERS submittals, maintenance of documentation (including inspection reports and leak detection records), and communication skills with UST owners/operators.

10. OBSERVATION:

On August 7, 2023, an HWG oversight inspection was conducted at CERS ID 10121440, a Small Quantity Generator (SQG) facility. On August 8, 2023, an HWG oversight inspection was conducted at CERS ID 10194040, a TP facility. Each oversight inspection was led by a different CUPA inspector. Additional CUPA inspectors also attended each oversight inspection.

The oversight inspection at the SQG facility, CERS ID 10121440, included all hazardous waste (HW) storage areas, but not all points of HW generation, namely the automotive bays. The lead inspector missed several open containers of used oil and did not check all containers storing HW in the automotive bay (ex: red kick cans with soiled oily rags). Supporting inspectors thoroughly checked HW containers in the Oil Room that were hard to reach and correctly identified missing information from HW labels. During the walkthrough, the lead inspector and supporting inspectors provided correct information on the management of universal waste lamps and empty containers.

The lead inspector reviewed documents required of SQGs, including manifests, HW training, bills of lading, and consolidated manifests, and asked pertinent questions about the documents reviewed. However, the lead inspector did not confirm the facility kept manifest records on site for three years and only reviewed a few examples of consolidated HW manifests. The lead inspector did not ask for tank assessments for the facility's antifreeze, three used oil tanks, nor the facility's contingency or emergency response plan to review. The lead inspector requested the facility operator to provide the HW training materials via email. Inspectors did not look for receipts of oily rags being laundered (reference DTSC's Reusable Soiled Textile Materials guidance at: <https://dtsc.ca.gov/managing-textile-materials-soiled-with-hazardous-waste/>). A supporting inspector correctly explained HW manifest exception reports and clarified that the generator must obtain the treatment, storage or disposal facility (TSDF) copy of the manifest.

Violations cited by the inspectors were consistent with the observations made by the DTSC evaluators and contained adequate factual basis. The lead inspector incorrectly cited the following violations:

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- Violation regarding secondary containment for HW containers incorrectly referenced a citation only applicable to HW tanks (HSC, Section 66265.193). HW containers do not have the same requirements for secondary containment as HW tanks.
- Violation for “Failure to manage a recyclable material...” incorrectly cited for universal waste. Universal waste, such as electronic devices and batteries, are not “recyclable materials” per regulatory and statutory definitions. The correct citations are CCR, Title 22, Section 66273.33 for batteries and CCR, Title 22, Section 66273.33.5 for electronic devices.
- Violation for “Failure to properly complete the Uniform Hazardous Waste Manifest [section 66262.23(a)] was incorrectly cited. The correct citation is CCR, Section 66232.42, for “Exception Reporting.”

The oversight inspection at the TP facility, CERS ID CERS ID 10194040, included all HW storage areas, points of generation, and the treatment unit. The CUPA permitted the facility as an SQG, though the facility provided a TP notification identifying treatment of approximately 3,000 gallons of HW per month.

To prepare for the inspection, the lead inspector reviewed the TP facility inspection checklist of the San Diego County CUPA to better identify which documents are specific to a Conditionally Authorized (CA) TP facility and prepared a list of documents to review. The lead inspector reviewed the CERS TP submittal for the facility. In conducting the inspection, the lead inspector asked the facility operator for the Phase 1 Environmental Assessment and provided the facility with the appropriate form when it could not be produced, reviewed treatment logs, and asked for the closure cost estimate for the treatment unit. The inspector correctly informed the facility operator that the closure cost estimate should be adjusted every year to accommodate for inflation. The lead inspector did not thoroughly review HW treatment logs to determine if the required information was included.

The lead inspector reviewed documents required of SQGs, including manifests and HW training. The lead inspector correctly noted that some manifests were not paired with the TSDf copy and informed the facility of the requirement to obtain the TSDf copy of the manifest or submit a manifest exception report to DTSC. However, the lead inspector did not confirm the facility keeps manifest records on site for three years, and sends HW manifest generator copies to DTSC, nor did the lead inspector review all the manifests to identify the different types of HW being sent offsite.

The lead inspector checked all containers labeled as HW to ensure the appropriate information was included. The lead inspector should have asked additional questions regarding two unlabeled buckets in the machining area containing fine metal shavings and could have spent more time determining how and what types of HW were generated from the plating process at the facility.

Violations cited by the inspectors were consistent with the observations made by the DTSC evaluators and contained adequate factual basis. The lead inspector incorrectly cited the following violation:

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- Violation for “Failure to properly complete the Uniform Hazardous Waste Manifest [section 66262.23(a)] was incorrectly cited. The correct citation is CCR, Section 66232.42, for “Exception Reporting.”

In summary, each lead inspector prepared for the inspection by reviewing past inspection reports and gathered information from CERS regarding the activities at each facility, including the hazardous materials inventory, site map, and previous violation history. The lead inspectors clearly obtained and documented consent to inspect prior to beginning the inspection. Each lead inspector took notes during the inspection and asked good questions to better understand HW management and operation at each facility inspected. Neither lead inspector reviewed HW manifests on the Hazardous Waste Tracking System (HWTS) beforehand, nor prepared a list of manifests to review during the inspection. Each lead inspector did not take photographs during either inspection, which would have been especially useful to document the treatment systems, the state of the Oil Room, and quantity of hazardous waste being generated.

In addition, while the lead inspectors notified the facility operators of identified violations or issues of concern, such as missing information and accumulation dates on labels, neither reviewed the violations or issues noted with the facility operator upon conclusion of the inspection. An inspection report, nor a summary of violations, findings, and observations was left with the facility operator at the conclusion of either inspection, as the CUPA’s procedures are to have inspectors return to the office to draft an inspection report and then provide the inspection report to the facility via email.

Overall, the inspections were conducted professionally and in a timely manner.

RECOMMENDATION:

The pre-inspection preparation was more suited for conducting an HMBP inspection, and incomplete for conducting a routine HWG inspection. Different categories of HWG facilities, such as SQG and LQG facilities, have slightly different requirements. Inspectors should better prepare for each inspection by determining the generator category of a facility before conducting the inspection, becoming familiar with the requirements for the applicable category of facility being inspected, and preparing for the relevant violations that could be identified when conducting the inspection, such as those applicable to used oil filters, consolidated manifesting, tanks versus containers, and general LQG or SQG specific requirements.

For pre-inspection preparation, ensure adequate time is allocated for the review of HW manifests from the HWTS and encourage inspectors to prepare a list of manifests to review during the inspection while at the facility. Reviewing HW manifests before conducting an inspection is not only useful to compare with copies of HW manifests maintained onsite at the facility, but also to determine the category of the generator being inspected (SQG or LQG).

Ensure that violations are classified properly. For example, a minor violation for accumulating HW past the applicable accumulation time limit can only be cited if the circumstances of the violation match the statutory definition of a minor violation and should otherwise be cited as a Class II or Class I violation. 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 HW generation activities.

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Whenever possible, provide inspectors with Hazardous Waste refresher training, encourage inspectors to attend external Hazardous Waste training, and have inspectors complete DTSC's free Hazardous Waste Classification Training (<https://dtsc.ca.gov/business-hazardous-waste-generators/#Training>) and review the many guidance documents available on the DTSC website (<https://dtsc.ca.gov/generators/>).

Provide the opportunity for inspectors to attend regional CUPA Forum Board Technical Advisory Group (TAG) and CUPA Forum Board meetings in order to stay abreast of current HWG Program topics and issues.

Encourage inspectors to take photographs during inspections.

11. OBSERVATION:

Inspectors do not routinely leave a written summary of all violations with the facility operator prior to leaving the facility. The existing inspection procedure requires the inspector to return to the office to finalize the inspection report upon completion of the HWG facility inspection, and once finalized, the inspection report is emailed or mailed to the facility.

RECOMMENDATION:

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).

At minimum, the inspector should review the inspection report and/or inspection checklist with the facility operator and discuss any questions the facility operator might have. If an electronic inspection report is utilized, the inspector should review the electronic report with the facility operator at the conclusion of the inspection and e-mail the finalized inspection report to the facility operator upon returning to the office.

Develop a Notice of Violation (NOV) or other applicable form, which will summarize all violations documented during the inspection, and be provided to the facility operator upon conclusion of the inspection while awaiting the final inspection report to be provided to the facility operator via email or mail. It is common practice for many CUPA inspectors to leave the inspection checklist and/or inspection report with the facility operator prior to leaving the facility and email the full inspection report to the facility operator by the end of the same business day which the inspection was conducted.

12. OBSERVATION:

On July 25, 2023, a CalARP oversight inspection was conducted at CERS ID 10193602. Prior to arriving at the facility, the inspector prepared for the inspection by reviewing relevant information, including CERS submittals, past inspection reports, and the most current RMP (2017).

During the inspection, the inspector toured the entire site, verified training records, and ensured ammonia alarm levels met minimum safety specifications. The ammonia refrigeration system was initially installed in 1962, with the most recent significant modifications made in 1992. The system was well maintained with appropriate labeling and regular safety inspections, however, documentation such as inspection, testing, and maintenance records were not accessible during

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the inspection. The inspector continued to communicate with the facility owner following the inspection to verify whether information that was not accessible during the inspection was complete and up to date.

The inspector cited all applicable CalARP Program Level 1 violations for an outdated and incomplete RMP, missing Emergency Response Program components, and an incomplete Hazard Assessment.

RECOMMENDATION:

Continue to conduct thorough CalARP inspections.

To better understand industry codes and standards that apply to CalARP sites, specifically ammonia refrigeration systems, inspectors will benefit from increased familiarity with engineering, operation, and maintenance codes, technical reports, and overall recommended best practices, all of which assist with understanding the industry and are made available as published resources by standard-setting organizations such as:

- The American national Standards Institute (ANSI)
- American Petroleum Institute (API)
- American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE)
- American Society of Mechanical Engineers (ASME)
- American Society of Testing and Materials (ASTM)
- National Fire Protection Association (NFPA)
- Instrument Society of America (ISA)
- International Institute of Ammonia Refrigeration (IIAR)
 - IIAR 9, published in 2021, discusses minimum safety requirements for existing ammonia refrigeration systems, including standards for machinery room eyewash/safety showers (Section 7.3.8) and machinery room entrances and exits (Section 7.3.9), among other guidelines for ammonia refrigeration.

13. OBSERVATION:

On July 26, 2023, an HMBP oversight inspection was conducted at CERS ID 10193632. The inspector was well prepared for the inspection. Prior to arriving at the facility, the inspector reviewed relevant information, including current CERS submittals and past inspection reports. The inspector established rapport with the facility operators, verified inventory and site map information on site, and effectively communicated to the facility how to submit business plan information to CERS. The inspector toured most of the site however did not look inside a storage unit. The inspector did not verify employee emergency response training on site, however, the facility has not had employees for over a year.

RECOMMENDATION:

When conducting an inspection, inspectors should tour the entire site, including review of all storage unit interiors.

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When applicable, inspectors should verify employee emergency response training on site during inspections. HSC, Section 25505(a)(4) requires training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the emergency response plans and procedures required by HSC, Section 25505(a)(3). This training must be documented electronically or by hard copy and made available for a minimum of three years.
