

**UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT****CUPA: Monterey County Health Department****Evaluation Period:** May 2021 – February 2022**Evaluation Team Members:**

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Matthew McCarron
- **Cal OES/CalEPA:** Garrett Chan, Jack Harrah
- **State Water Board:** Jessica Botsford
- **CAL FIRE-OSFM:** Glenn Warner, Denise Villanueva

This Final Summary of Findings includes:

- 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:

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

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead and must include a narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report.

Evaluation Progress Report submittal dates for the first year following the evaluation are:

**1<sup>st</sup> Progress Report:** February 1, 2023**2<sup>nd</sup> Progress Report:** May 3, 2023**3<sup>rd</sup> Progress Report:** August 7, 2023**4<sup>th</sup> Progress Report:** November 9, 2023

\*Effective July 1, 2021, oversight of the Hazardous Materials Release Response Plans and Inventory and the California Accidental Response Prevention Program transitioned from Cal OES to CalEPA.

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**DEFICIENCIES REQUIRING CORRECTION**

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

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**1. DEFICIENCY:**

The CUPA is not inspecting each Hazardous Waste Generator (HWG) facility once every three years.

Review of facility files, inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information from the California Environmental Reporting System (CERS), and additional information provided by the CUPA finds:

- 478 of 1,438 (33%) HWG facilities were not inspected once every three years between July 1, 2018, through June 30, 2021.

**CITATION:**

California Code of Regulations (CCR), Title 27, Section 15200(a)(3)(A)  
[DTSC]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility is inspected once every three years. The action plan will include, at minimum:

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

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

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

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**DEFICIENCIES REQUIRING CORRECTION**

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each delinquent HWG facility once every three years.

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**2. DEFICIENCY:**

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

Review of CERS CME information from July 1, 2018, through June 30, 2021, finds there is no documented RTC for the following violations:

- 70 of 85 (82%)

Review of facility files finds there is no documented follow-up or RTC information for the following HWG facilities:

- CERS ID 10434286: Inspection dated July 21, 2020, cites four violations. As follow-up, the CUPA conducted a re-inspection on April 13, 2021, which resulted in the issuance of two additional violations. The six violations remain open, having no documented follow-up or RTC noted by the CUPA in the facility file.
- CERS ID 10595065: Inspection dated December 4, 2019, cites four violations. The four violations remain open, having no documented follow-up or RTC.
- CERS ID 10432888: Inspection dated October 29, 2019, cites four violations. The four violations remain open, having no documented follow-up or RTC. CUPA did not follow up with re-inspection. No follow-up actions were noted by the CUPA in the facility file.

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

Note: This deficiency was identified in the 2015 and 2018 CUPA Performance Evaluations and was not corrected during either Evaluation Progress Report Process.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review the Inspection and Enforcement (I&E) Plan, or other applicable procedure, and revise as necessary, to ensure establishment of a delineated process to:

- ensure facilities cited with violations RTC through applied appropriate enforcement; and
- document follow-up actions taken by the CUPA with facilities and document RTC in CERS.

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

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**DEFICIENCIES REQUIRING CORRECTION**

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

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the applied appropriate enforcement by the CUPA to ensure RTC.

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

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

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

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

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**3. DEFICIENCY:**

The CUPA has not fully developed and implemented the Tiered Permitting (TP) component of the HWG Program.

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#### DEFICIENCIES REQUIRING CORRECTION

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

- From July 1, 2018, through June 30, 2021:
  - 4 of 6 (66%) TP facilities were not inspected once within the first two years of operation and once every three years after the initial inspection.
  - The following facilities have provided Conditionally Authorized (CA) submittals to CERS but have no recorded inspections:
    - CERS ID 10461301
    - CERS ID 10461289
  - The following automotive repair facilities were issued violations citing a TP violation; however, it is unlikely that automotive repair facilities are performing on-site treatment:
    - CERS ID 10431058
    - CERS ID 10432888
    - CERS ID 10433680
    - CERS ID 10434037
    - CERS ID 10595065 (the violation description uses a CA code for not completing CERS)
    - CERS ID 10779065
- From July 1, 2018, through June 30, 2021, the following 6 of 9 (67%) facilities submitted on-site waste treatment information in CERS and provided a TP submittal in CERS, however no violations have been issued to the facilities since July 2013:
  - CERS ID 10406563
  - CERS ID 10430557
  - CERS ID 10430554
  - CERS ID 10461289
  - CERS ID 10461301
  - CERS ID 10434418
- CERS ID 10430554 provided a TP submittal to CERS on December 31, 2020, December 27, 2019, December 5, 2018, and September 27, 2017. Each TP submittal was not required to be submitted and was not accepted or rejected by the CUPA. On October 18, 2016, the facility provided a Conditionally Exempt (CE) submittal to CERS, which was required, and accepted by the CUPA.
- CERS ID 10434418 was last inspected on June 18, 2018. The inspection report utilized was a standard HWG inspection report and was not tailored for a TP facility.

#### CITATION:

HSC, Chapter 6.5, Section 25201.4(b)(2)  
[DTSC]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each TP facility is inspected at least once within the first two years of operation and every three years thereafter. The action plan will include, at minimum:

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- An analysis and explanation as to why the inspection frequency for the TP component of the HWG Program is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of the Coronavirus (COVID-19).
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each TP facility that has not been inspected at least once within the first two years of operation and every three years thereafter. For each TP facility listed, the spreadsheet will include, at minimum:
  - Facility name,
  - CERS ID, and
  - Date of the last routine inspection.
- A schedule to inspect those TP facilities, prioritizing the most delinquent inspections to be completed prior to any other TP inspection.
- Future steps to ensure that all TP facilities are inspected once within the first two years of operation and every three years thereafter.

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

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

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**4. DEFICIENCY:**

The CUPA is not inspecting all Underground Storage Tank (UST) facilities 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.

Review of the Semi-Annual Report (Report 6) in CERS for the following Fiscal Years (FYs) finds:

- FY 2017/2018
  - 34 of 221 (15%) UST facilities were not inspected.
- FY 2018/2019
  - 22 of 221 (10%) UST facilities were not inspected.

Note: During the COVID-19 pandemic the CUPA temporarily stopped conducting annual UST compliance inspections, therefore the inspection frequency for FY 2019/2020 is much lower, as 51 of 217 (24%) UST facilities were not inspected.

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations and was not corrected during either Evaluation Progress Report process.

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#### DEFICIENCIES REQUIRING CORRECTION

##### **CITATION:**

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

##### **CORRECTIVE ACTION:**

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

- An analysis and explanation as to why the annual UST compliance inspection frequency is not being met. Factors to consider include existing UST inspection staff resources, the number of UST facilities scheduled to be inspected each year, and response to declared emergencies such as wildfire response and recovery efforts, and impacts of the Coronavirus (COVID-19).
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each UST facility that has not been inspected within the last 12 months. 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 for facilities having single-walled UST components and proximity to drinking water wells.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from the State Water Board. The CUPA will provide the revised action plan to CalEPA. If no revisions to the action plan are necessary, until considered corrected, the CUPA will provide CalEPA with annual UST compliance inspection reports until all UST facilities have been inspected within the last 12 months.

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

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#### **5. DEFICIENCY:**

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

The CUPA's Technical Compliance Rate (TCR) indicates not all UST violations are being cited as the TCR reported by the CUPA is significantly higher in comparison to the average TCR for California and the Nation.

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- The TCR is a measurement of how a UST facility complies with performance measures as determined by the United States Environmental Protection Agency (U.S. EPA).
  - A low TCR indicates a low rate of compliance.
  - A high TCR indicates a high rate of compliance.
- When a CUPA's TCR is significantly higher than the California and National TCR average it is indicative that the CUPA is not citing UST violations at the same frequency as other CUPAs and States comprising the National average.

The CUPA's TCR information in comparison with the average TCR for California during the specified reporting periods identifies the following trend:

- July – December 2020:
  - Monterey: 137/143 (96%)
  - California average: 3,698/6,048 (61%)
- January – June 2020:
  - Monterey CUPA: 53/55 (96%)
  - California average: 4,036/6,646 (60%)
- July – December 2019:
  - Monterey CUPA: 111/111 (100%)
  - California average: 2,902/6,141 (47%)
- January – June 2019:
  - Monterey CUPA: 101/105 (96%)
  - California average: 3,039/7,540 (40%)

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds the following examples where the CUPA did not consistently conduct complete annual UST compliance inspections:

- CERS ID 10125508:
  - Monitoring System Certification Form dated November 11, 2017, identifies the diesel annular sensor failed.
  - The UST inspection staff did not observe non-compliance. A violation for failure of the diesel annular sensor was not issued in the annual UST compliance inspection report nor was the violation reported in CERS.
- CERS ID 10165921:
  - Monitoring System Certification Form dated July 13, 2020, identifies the primary sump sensor failed.
  - The UST inspection staff did not observe non-compliance. A violation for failure of the diesel annular sensor was not issued in the annual UST compliance inspection report nor was the violation reported in CERS.
- CERS ID 10430188:
  - Monitoring System Certification Form dated October 31, 2018, identifies the Jet A overfill prevention equipment inspection failed.
  - The UST inspection staff did not observe non-compliance. A violation for failure of the Jet A overfill prevention equipment inspection was not reported in CERS.



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- CERS ID 10460467:
  - An “other” inspection report dated November 28, 2018, indicates the 87 east flapper valve could not be removed for Overfill Prevention Equipment testing.
  - The annual UST inspection report dated October 8, 2019, does not issue a violation for failure to complete Overfill Prevention Equipment testing.
  - The UST inspection staff did not observe non-compliance. A violation for failure to complete Overfill Prevention Equipment testing was not issued in the annual UST compliance inspection report nor was the violation reported in CERS.
- CERS ID 10148125:
  - Monitoring System Certification Form dated May 20, 2020, indicates the 208 sensor in the unleaded STP sump failed.
  - The UST inspection staff did not observe non-compliance. A violation for failure of the 208 sensor was not reported in CERS.

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

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

- Local Guidance letter 164-4, dated June 30, 2020, and
- State Water Board correspondence, “When to Review Underground Storage Tank Records,” dated November 29, 2016.

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.

#### CITATION:

HSC, Chapter 6.7, Sections 25288(b), 25292.2 and 25299  
CCR, Title 23, Sections 2713(c)(4), 2711(a)(11), and 2809(a)  
CCR, Title 27, Section 15290(a)(3)  
[State Water Board]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will perform a thorough analysis of the UST element of the Unified Program and identify why complete annual UST compliance inspections are not consistently conducted. This analysis shall include, at minimum:

- discussion of what procedures and tools may be needed to consistently conduct complete annual UST compliance inspections (e.g. identifying areas of the annual UST compliance inspection checklist that can be improved, such as adding review of UST financial responsibility documentation to the File Review section). Refer to the California CUPA Forum Board “UST Inspection Checklist,” at: <https://calcupa.org/inspection-checklist/index.html>.
- a plan for addressing why complete annual UST compliance inspections are not consistently conducted.
- identification of the types and frequency of training needed to consistently conduct complete annual UST compliance inspections.

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#### DEFICIENCIES REQUIRING CORRECTION

By the 2<sup>nd</sup> Progress Report, based on the findings identified in the CUPA's analysis, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure, at minimum:

- the establishment of a process directing UST inspection staff to conduct complete annual UST compliance inspections.
- a process for the review and follow-up of submitted testing and leak detection documents by the UST owner or operator as part of the annual UST compliance inspection.
- a process for documenting and reporting the observed noncompliance in annual UST compliance inspection reports and in CERS.
- a process for conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all required UST components.
- a process for conducting annual UST compliance inspections when UST inspection staff are not on-site to witness the monitoring system certification and visually confirm all UST requirements are met.
- a process for reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and CERS violation type numbers.
- accurate TCR reporting for Report 6.

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

By the 3<sup>rd</sup> Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at minimum, will include the date the training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan, or other applicable procedure.

By the 4<sup>th</sup> Progress Report, if amendments were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. The CUPA will provide training documentation to CalEPA which, at minimum, will include the date the training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

By the 5<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide UST facility records, for eight UST facilities, as requested by the State Water Board, including, at minimum, annual UST compliance inspection reports and associated testing, and leak detection documents.

By the 6<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review TCR information in Report 6 and CERS for two

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consecutive Report 6 reporting periods to determine if the CUPA is consistently conducting complete annual UST compliance inspections.

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**6. DEFICIENCY:**

The CUPA is not consistently ensuring RTC is obtained within 60 days or is not consistently following up and documenting RTC information in CERS for UST testing or leak detection violations.

Review of CERS CME information finds testing and leak detection violations did not obtain RTC within 60 days for the following FYs:

- FY 2020/2021
  - 29 of 39 (74%)
- FY 2019/2020
  - 30 of 30 (100%)
- FY 2018/2019
  - 22 of 23 (95%)

Review of CERS CME information finds the following testing and leak detection failures have no documented RTC in CERS:

- CERS ID 10433182:
  - Double-walled Pressurized pipe for under dispenser containment (UDC) 7/8 violation dated September 14, 2020, indicates failure of double-walled pressurized pipe to be continuously monitored.
- CERS ID 10033618:
  - Install or maintain a liquid-tight spill container violation dated October 11, 2019, indicates 89 Spill bucket failed hydrostatic test.
- CERS ID 10434766:
  - Monitoring Equipment violation dated July 27, 2018, indicates failure of the leak detection equipment to be installed, calibrated, operated, and/or maintained properly.
- CERS ID 10433596:
  - Secondary Containment Testing violation dated October 18, 2018, indicates failure to conduct secondary containment testing.

Note: The examples provided above may not represent all instances of this deficiency and only include testing and leak detection violations.

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.

**CITATION:**

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

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**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure, to ensure establishment of a process for UST inspection staff to document:

- follow-up actions taken by the CUPA to ensure RTC is achieved within 60 days by UST facilities cited with violations,
- RTC in CERS for facilities that obtain RTC within 60 days, and
- any applied appropriate enforcement.

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

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

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

By the 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records for eight UST facilities, as requested by the State Water Board, that include RTC or documentation of an applied appropriate enforcement.

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**7. DEFICIENCY:**

The CUPA is not consistently following up and documenting RTC information in CERS for Aboveground Petroleum Storage Act (APSA) tank facilities cited with violations.

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

- FY 2020/2021: 43 of 43 (100%) violations
  - Including 3 violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan.
- FY 2019/2020: 2 of 2 (100%) violations
  - Including 1 violation for not having, or failure to prepare, an SPCC Plan.
- FY 2018/2019: 1 of 1 (100%) violation

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- FY 2017/2018: 15 of 16 (94%) violations
  - Including 1 violation for not having, or failure to prepare, an SPCC Plan
- FY 2016/2017: 21 of 22 (95%) violations
  - Including 4 violations for not having, or failure to prepare, an SPCC Plan.
- FY 2015/2016: 18 of 31 (58%) violations
  - Including 5 violations for not having, or failure to prepare, an SPCC Plan.
- FY 2014/2015: 6 of 8 (75%) violations
  - Including 3 violations for not having, or failure to prepare, an SPCC Plan.

Review of CME information within the CUPA's data management system, Envision, indicates there is no documented RTC for the following violations:

- FY 2020/2021: 11 of 76 (14%) violations
  - Including 1 violation for not having, or failure to prepare, an SPCC Plan.
- FY 2019/-2020: 0 of 3 (0%) violations
- FY 2018/2019: 2 of 7 (29%) violations
- FY 2017/2018: 6 of 93 (6%) violations
  - Including 1 violation for not having, or failure to prepare, an SPCC Plan
- FY 2016/2017: 6 of 33 (18%) violations
  - Including 2 violations for not having, or failure to prepare, an SPCC Plan.
- FY 2015/2016: 5 of 42 (12%) violations
  - Including 1 violation for not having, or failure to prepare, an SPCC Plan.
- FY 2014/2015: 2 of 14 (14%) violations
  - Including 2 violations for not having, or failure to prepare, an SPCC Plan.

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

#### CITATION:

HSC Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

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

[OSFM]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each APSA tank facility with open violations (no RTC) cited July 1, 2014, through June 30, 2021:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and

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- In the absence of obtained RTC, a narrative of the applied appropriate enforcement by the CUPA.

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

By the 3<sup>rd</sup> 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 description of the applied enforcement by the CUPA in the absence of RTC.

By the 4<sup>th</sup> Progress Report, the CUPA will have ensured each APSA tank facility identified in the spreadsheet provided with the 1<sup>st</sup> Progress Report as having been cited with a violation for not having, or failure to prepare, an SPCC Plan has achieved compliance, or the CUPA will have applied appropriate enforcement.

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**8. DEFICIENCY:**

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

Review of CERS CME information finds:

- 910 of 2,014 (45%) facilities subject to Business Plan requirements were not inspected within the last three years.

**CITATION:**

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

**CORRECTIVE ACTION:**

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

- An analysis and explanation as to why the inspection frequency for each facility subject to Business Plan requirements is not being met.
- A spreadsheet exported from the CUPA's data management system or CERS identifying each facility subject to Business Plan requirements that has not been inspected within the last three years. 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 facilities subject to Business Plan requirements, prioritizing the most delinquent inspections to be completed prior to any other inspection based on risk.

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- Future steps to ensure that all facilities subject to Business Plan requirements will be inspected at least once every three years.

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

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

By the 5<sup>th</sup> Progress Report, the CUPA will have inspected each facility subject to Business Plan requirements at least once in the last three years.

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#### 9. DEFICIENCY:

The CUPA is not correctly citing HWG Program violations in inspection reports.

Review of facility files finds HWG violations were incorrectly cited in inspection reports for the following facilities during July 1, 2018, through June 30, 2021:

- CERS ID 10433110: inspection dated February 21, 2021
- CERS ID 10433320: Inspection dated October 30, 2019
- CERS ID 10432888: inspection dated October 29, 2019
- CERS ID 10432984: inspection dated July 20, 2018

Review of the HWG inspection checklist finds:

- Sections 1(4) and 5(4) reference CCR, Title 22 violations that are for Resource Conservation and Recovery Act (RCRA) permitted facilities, not HWG facilities.
  - During the evaluation, the CUPA revised the HWG inspection checklist, however, the revision did not omit the RCRA violations.
- 36 of over 250 HWG violations in the CERS violation library (CERS violation type numbers) are included on the checklist.
  - It is not clear if inspectors solely rely on the inspection checklist or if inspectors apply additional knowledge and experience to be able to identify and cite all HWG violations observed during an inspection.
  - Use of incorrect citations to identify violations may jeopardize the enforcement process if pursued.
- Section V of the inspection checklist references CCR, Title 22, Sections 66264.14, 66264.32, 66264.33, and 66264.35 for Requirements for Preparedness and Prevention violations. Sections 66264.14, 66264.32, 66264.33, and 66264.35 only apply to fully permitted Treatment Storage and Disposal facilities (TSDFs).
  - During the evaluation, the CUPA revised the HWG inspection checklist and removed two of the four incorrect citations.
- The inspection checklist does not include indication as to whether or not a facility is identified as a Small Quantity Generator (SQG) or Large Quantity Generator (LQG). The allowed monthly generation of hazardous waste is different for SQGs and LQGs. Once the

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facility is identified as an SQG or an LQG, the appropriate regulatory compliance criteria can be applied to correctly cite any observed violation.

Note: It is unknown if inspectors or supervisors verify quality assurance of inspection and violation data by conducting a review of CME information or any other data.

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

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

#### CITATION:

CCR, Title 22, Sections 66262.34, 66264.14, 66264.32, 66264.33, and 66264.35  
[DTSC]

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will ensure all inspection staff that conduct HWG facility inspections review the HWG training materials listed below to properly identify and cite HWG violations during future inspections and fully detail observations, violations, factual basis for the violations, and corrective actions on inspection reports:

- Advanced Hazardous Waste Inspector Training Video  
<https://www.youtube.com/watch?v=Ign3TJftSUM>
- Hazardous Waste Generator Requirements  
[https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM\\_FS\\_Generator\\_Requirements.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf)
- Hazardous Waste Accumulation Time for Generators  
[https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS\\_OAD\\_Accumulation.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf)
- U.S. Environmental Protection Agency Process Based Investigation Guide  
<https://www.epa.gov/sites/production/files/documents/process-basedguide.pdf>
- [Inspection Report Writing Guidance For Unified Program Agencies](#)  
(provided to CUPA by CalEPA)

The CUPA will provide CalEPA with a narrative stating all HWG inspection staff have reviewed the training materials listed above, listing the name of each HWG inspector that reviewed the training materials, and the date the review was completed.

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the HWG inspection checklist to:

- include the ability for an inspector to indicate whether or not the facility is identified as an SQG or an LQG,
- ensure violation citations are correct and applicable to the type of HWG facility being inspected, and
- reference as many HWG violations as possible so that an inspector can be able to cite all HWG violations observed during an inspection.



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The HWG inspection checklist provided by the CUPA Forum Board identifies most pertinent HWG violations correctly and can be used in place of the existing HWG inspection checklist, or as the basis for updating the existing HWG inspection checklist.

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process to review information in inspection reports for accuracy of cited violations and confirmation that accurate CME information is reported to the CUPA's data management system and to CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

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#### 10. DEFICIENCY:

The CUPA is not consistently or correctly reporting complete and accurate CME information to CERS for the HWG Program.

Review of CERS CME information, inspection reports, and other information provided by the CUPA finds the following:

- CERS ID 10401226:
  - CERS has no record of the inspection report dated August 15, 2018
- CERS ID 1010432195:
  - Inspection report dated November 6, 2020, documents two violations.
  - CERS has no record of the inspection, nor violations.
- CERS ID 10433320:
  - Inspection report dated August 9, 2018, documents one violation.
  - CERS has no record of the violation.
- CERS ID 100433110:
  - Inspection report dated February 21, 2021, documents 14 violations.
  - CERS has no record of 11 of 14 violations.

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

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

#### CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)

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

[DTSC]

#### CORRECTIVE ACTION:

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

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- Identification and correction of the cause(s) of missing or incorrect HWG Program CME information reported to CERS, including any data transfer from the CUPA's data management system to CERS;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure HWG Program CME information is consistently and correctly reported completely and accurately to CERS.
- Identification of all HWG Program CME information that was not previously reported to CERS, or reported to CERS incorrectly from July 1, 2018, through June 30, 2021;
- A process for reporting HWG Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports;
- A process for ensuring CUPA personnel and inspectors are trained in the consistent use of the most recent violation classifications and citations of the CUPA's data management system or CERS violation type numbers; and
- Future steps to ensure all HWG Program CME information is consistently and correctly reported completely and accurately to CERS. This may generate the need for a comparison of HWG Program CME information in the CUPA's data management system with CERS to identify CME information not being reported or being reported incorrectly to CERS.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised CME reporting component of the Data Management Procedure, or other applicable procedure are necessary based on feedback from DTSC, the CUPA will provide CalEPA with the amended CME reporting component of the Data Management Procedure or other applicable procedure. If amendments are not necessary, the CUPA will train CUPA personnel on the revised CME reporting component of the Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA which will include, at minimum, the date the training was conducted, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised CME reporting component of the Data Management Procedure or other applicable procedure.

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

By the 3<sup>rd</sup> 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 documentation of RTC obtained within the last three months or a narrative of the applied appropriate enforcement in the absence of RTC documentation.

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By the 5<sup>th</sup> Progress Report, the CUPA will consistently and correctly report all current and previous HWG Program CME information to CERS completely and accurately. The CUPA will provide a statement confirming the completion of all prior HWG Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, from July 1, 2018, through June 30, 2021.

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**11. DEFICIENCY:**

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

Review of Self-Audit Reports provided by the CUPA and CERS CME information indicates the following inspections were reported inconsistently:

- FY 2018/2019:
  - 59 inspections were reported in the Self-Audit Report
  - 66 routine inspections were reported in CERS
- FY 2016/2017:
  - 175 inspections were reported in the Self-Audit Report
  - 153 routine inspections were reported in CERS
- FY 2015/2016:
  - 187 inspections were reported in the Self-Audit Report
  - 185 routine inspections were reported in CERS
- FY 2014/2015:
  - 189 inspections were reported in the Self-Audit Report
  - 195 routine inspections were reported in CERS

Review of CME information within the CUPA's data management system, Envision, and CERS CME information indicates the following violations were reported inconsistently from July 1, 2014, through June 30, 2021:

- 268 violations were reported to Envision.
  - 146 of 268 (54%) violations in Envision are not reported to CERS.
  - 122 of 268 (46%) violations in Envision are reported to CERS.
- 123 violations were reported to CERS.

Note: The significant difference in APSA Program CME information reported to Envision and CERS occurs each FY beginning with FY 2014/2015.

Review of CERS CME information and inspection reports indicates the following:

- CERS ID 10397722:
  - Inspection report dated June 8, 2017, cites no violations.
  - Inspection report dated June 25, 2018, cites two violations.
  - CERS has no record of the June 8, 2017, inspection, nor the two violations cited during the June 25, 2018, inspection.

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- CERS ID 10430458:
  - Inspection report dated June 11, 2019, cites one violation.
  - CERS has no record of the violation.
- CERS ID 10430494:
  - Inspection reports dated January 6, 2015, and March 10, 2016, each cite multiple violations.
  - CERS has no record of the violations.
- CERS ID 10433929:
  - RTC documentation is signed by the facility owner/operator on December 1, 2017, for two violations cited on August 31, 2017.
  - CERS has no record of the RTC.
- CERS ID 10459900:
  - Inspection report dated August 2, 2017, cites 10 violations.
  - CERS has no record of 5 of 10 violations.
- CERS ID 10433761:
  - Inspection report dated November 9, 2017, cites one violation.
  - CERS has no record of the violation.
- CERS ID 10412899:
  - Inspection report dated May 3, 2016, cites one violation.
  - CERS has no record of the violation.
- CERS ID 10431445:
  - Inspection report dated February 10, 2015, cites multiple violations.
  - CERS has no record of the violations.
- CERS ID 10433062:
  - Inspection reports dated May 11, 2017, and May 4, 2018, each cite one violation.
  - CERS has no record of either inspection nor the violations.
- CERS ID 10434019:
  - Inspection report dated May 11, 2018, cites multiple violations.
  - CERS has no record of the inspection nor the violations.
- CERS ID 10434316:
  - Inspection report dated March 12, 2015, cites multiple violations.
  - CERS has no record of the violations.
- CERS ID 10639426:
  - Inspection report dated September 24, 2015, cites one violation.
  - CERS has no record of the violation.
- CERS ID 10434565:
  - Inspection reports dated June 7, 2016, and May 21, 2018, each cite one violation.
  - CERS has no record of the violations.

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

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

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#### **CITATION:**

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

#### **CORRECTIVE ACTION:**

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

- Identification and correction of the cause(s) of missing or incorrect APSA Program CME information reported to CERS, including any data transfer from the CUPA's data management system to CERS;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure APSA Program CME information is consistently and correctly reported completely and accurately to CERS;
- Identification of all APSA Program CME information that was not previously reported to CERS, or reported to CERS incorrectly, from July 1, 2014, through June 30, 2021;
- A process 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 completely and accurately to CERS. This may generate the need for a comparison of APSA Program CME information in the CUPA's data management system with CERS to identify CME information not being reported or being reported incorrectly to CERS.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised CME reporting component of the Data Management Procedure or other applicable procedure are necessary based on feedback from OSFM, the CUPA will provide CalEPA with the amended CME reporting component of the Data Management Procedure or other applicable procedure. If amendments are not necessary, the CUPA will train CUPA personnel on the revised CME reporting component of the Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA which will include, at minimum, the date the training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised CME reporting component of the Data Management Procedure or other applicable procedure.

By the 2<sup>nd</sup> 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 5<sup>th</sup> Progress Report, the CUPA will consistently and correctly report all current and previous APSA Program CME information to CERS completely and accurately. The CUPA will provide a statement confirming the completion of all prior APSA Program CME information not

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previously reported to CERS, or previously reported incorrectly to CERS from July 1, 2014, through June 30, 2021.

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**12. DEFICIENCY:**

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

Review of HMBPs submitted to CERS by regulated businesses finds:

- 555 of 2,014 (27%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.

**CITATION:**

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

**CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that business plan facilities annually submit an HMBP or a no-change certification to CERS.

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

- Facility name;
- CERS ID;
- Follow-up actions including:
  - recent review, acceptance, and rejection of HMBP or no-change certifications, and
  - for those businesses that have not complied, the applied appropriate enforcement by the CUPA to ensure regulated businesses annually submit a complete HMBP or no-change certification to CERS.

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

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**13. DEFICIENCY:**

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

- FY 2019/2020
- FY 2018/2019
- FY 2017/2018

**CITATION:**

CCR, Title 19, Section 2780.5  
[CalEPA/Cal OES]

**CORRECTIVE ACTION:**

By the 2nd Progress Report, the CUPA will conduct an annual audit of its activities to implement the CalARP Program and provide CalEPA with the annual CalARP performance audit report for FY 2021/2022.

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**14. DEFICIENCY:**

The CUPA is not consistently citing violations for failure to conduct an overfill prevention equipment inspection. All initial overfill prevention equipment inspections must have been completed no later than October 13, 2018. Upon adoption of this provision in UST Regulations, the CUPA did not consistently cite violations to ensure it was implemented.

Review of annual UST compliance inspection reports, associated Overfill Prevention Equipment Inspection Report Forms, and CERS CME information finds the CUPA did not cite violations for the following overfill prevention equipment inspections conducted after October 13, 2018:

- CERS ID 10431640:
  - Overfill Prevention Equipment Inspection Report Form dated June 2, 2021.
  - The CUPA did not cite the violation for failure to conduct the overfill prevention equipment inspection during the annual UST compliance inspection conducted on February 8, 2019.
- CERS ID 10403044:
  - Overfill Prevention Equipment Inspection Report Form dated September 23, 2019.
  - The CUPA did not cite the violation for failure to conduct the overfill prevention equipment inspection during the annual UST compliance inspection conducted on September 23, 2019.
- CERS ID 10460467:
  - Overfill Prevention Equipment Inspection Report Form dated October 6, 2020.
  - The CUPA did not cite the violation for failure to conduct the overfill prevention equipment inspection during the annual UST compliance inspection conducted on October 8, 2019.
- CERS ID 10165921:
  - Overfill Prevention Equipment Inspection Report Form dated December 3, 2018.

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- The CUPA did not cite the violation for failure to conduct the overfill prevention equipment inspection during the annual UST compliance inspection conducted on July 24, 2019.

**CITATION:**

CCR, Title 23, Sections 2637.2(a) and 2665(b)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to correctly cite all UST violations on inspection reports, report all UST violations in CERS, and provide accurate TCR reporting. The process will, at minimum, delineate how the CUPA will ensure UST inspection staff are trained on new provisions of UST Regulations and HSC and on how to consistently and correctly cite UST violations for failure to implement those provisions. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

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

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with the annual UST compliance inspection report and Overfill Prevention Equipment Inspection Report Form for five UST facilities, as requested by the State Water Board, that have been inspected after training has been completed. For each UST facility that has not had a completed overfill prevention equipment inspection, the CUPA will provide CalEPA with a narrative of the applied appropriate enforcement.

For each UST facility that is not in compliance with overfill prevention equipment inspection requirements, the CUPA will provide CalEPA with a narrative of the applied appropriate enforcement, which may include, but not be limited to, affixing red tags to non-compliant USTs.



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**15. DEFICIENCY:**

The UST operating permit and permit conditions, issued under the Unified Program Facility Permit (UPFP), as the “Permit to Operate” are inconsistent with and missing information required by UST Regulations and HSC.

Review of UST operating permits and permit conditions finds the following required information is missing:

- UST identification numbers

Review of UST operating permits and permit conditions finds the following is inconsistent with UST Regulations and HSC:

- Issued UST operating permits are valid for one year, however, HSC, Section 25285 and Monterey County California Code of Ordinances Section 10.65.040(G) requires a UST operating permit to be valid for five years.
- The UST operating permit template references HSC, Chapters 6.75 and 18. The CUPA is not authorized to implement HSC, Chapters 6.75 and 18. The correct citations are as follows:
  - UST Regulations, Sections 2610 through 2717.7;
  - HSC, Sections 25280 through 25296 and 25298 through 25299.6.
  - Alternatively, the permit conditions could identify what section are excluded from the HSC and CCR reference.
- The UST operating permit template states: “This permit must be posted conspicuously on the premises”, which is more stringent than UST Regulations and HSC, and where no local ordinance authority exists. UST Regulations require a paper or electronic copy of the UST operating permit be readily accessible at the facility.
- Permit condition 1 must also include reference to HSC, Sections 25294, 25295, 25295.5, and 25296.
- Permit condition 2 states the monitoring, response, and plot plans must be maintained on-site, while the regulatory requirement is for these plans to be submitted to CERS or a local reporting portal.
- Permit condition 3 states UST owners or operators shall notify the CUPA of changes in substance stored within 30 days, while the regulatory requirement is to notify the CUPA 30 days prior to any change in substance stored.
- Permit condition 4 states maintenance testing of all leak detection equipment is required yearly; however, the regulatory requirement of maintenance testing is once every 12 months.
- Permit condition 5 states secondary containment testing must be performed every three years, while the regulatory requirement specifically states every 36 months. The permit should clearly indicate whether or not secondary containment testing is applicable, as not all facilities may be required to conduct secondary containment testing.
- Permit condition 6 states overspill containment testing must be performed annually, while the regulatory requirement specifically states at least once every 12 months.
- Permit condition 7(a) states annual cathodic protection testing must be provided for single-walled UST systems; however, cathodic protection systems can be installed on double-

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walled systems as well. The regulatory requirement is for all cathodic protection systems to be tested by a cathodic protection tester within six months of installation and at least once every 36 months thereafter.

- Permit condition 7(b) states tri-annual testing of single-walled piping systems must be completed; however, it is unclear what testing this is in reference to.
- Permit condition 8 states the permittee must obtain approval from local Fire and Building authorities, however, fire and building requirements cannot be incorporated into the UST operating permit and permit conditions issued as the "Permit to Operate" under the UPFP.
- Permit condition 9 states all monitoring records must be maintained on-site for a period of three years, however, the regulatory requirement specifically states records must be maintained for 36 months.
- Permit condition 11 states "the permittee shall submit an annual report documenting compliance with the above conditions..." however the CUPA is no longer requiring an annual report to be submitted. Additionally, the condition states facilities will be inspected annually for compliance, while the regulatory requirement specifically states facilities must be inspected at least once every 12 months.

Note: State Water Board correspondence dated April 7, 2017, "Amended Requirements for UPFP Effective January 1, 2017," may be referenced.

**CITATION:**

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25285, 25294, 25295, 25295.5, 25296, and 25297.01(b)

CCR, Title 23, Sections 2632(d), 2711(c), and 2712

[State Water Board]

**CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will provide CalEPA with a revised UST operating permit and permit conditions template, issued as the "Permit to Operate" under the UPFP, consistent with UST Regulations and HSC.

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

By the 3<sup>rd</sup> Progress Report, if amendments to the revised UST operating permit and permit conditions template were necessary, the CUPA will begin to issue the amended UST operating permit and permit conditions as the "Permit to Operate" under the UPFP. The CUPA will provide CalEPA with the "Permit to Operate" issued to five UST facilities using the amended UST operating permit and permit conditions template.

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**DEFICIENCIES REQUIRING CORRECTION**

**16. DEFICIENCY:**

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

Review of CERS facility information and UST facility files finds the following UST facilities have not completed the initial ELD test and subsequently have not completed triennial ELD testing:

- CERS ID 10431247:
  - UST facility owner or operator was provided formal notification by the State Water Board to implement ELD testing on March 6, 2003, and April 11, 2004.
- CERS ID 10433248:
  - UST facility owner or operator was provided formal notification by the State Water Board to implement ELD testing on April 11, 2004.
- CERS ID 10434568:
  - UST facility owner or operator was provided formal notification by the State Water Board to implement ELD testing on April 11, 2004.
- CERS ID 10456717:
  - UST facility owner or operator was provided formal notification by the State Water Board to implement ELD testing on April 11, 2004.

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

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

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

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.

**CITATION:**

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

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DEFICIENCIES REQUIRING CORRECTION

**CORRECTIVE ACTION:**

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

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

By the 1st Progress Report, the CUPA will draft and provide to CalEPA written correspondence addressed to UST facility owners/operators having a UST within a 1,000 foot radius of a public drinking water well, to inform the UST owners/operators of the requirement to either complete initial ELD testing within 60 days of receiving the written correspondence, and implement triennial ELD testing every 36 months thereafter, or submit a request for reconsideration (RFR) application to the State Water Board within 30 days. The written correspondence will include language stating that failure to complete initial ELD testing within 60 days and implement triennial ELD testing every 36 months thereafter, or failure to submit an RFR application to the State Water Board within 30 days will lead to applied appropriate enforcement, including but not limited to revocation of the UST operating permit portion of the "Permit to Operate" issued under the UPFP 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, for those UST facility owners/operators that have not completed initial ELD testing or implemented triennial ELD testing every 36 months thereafter within 60 days of notification from the CUPA to do so, or for those UST facility owners/operators that have not submitted an RFR application to the State Water Board within 30 days of notification from the CUPA to do so, the CUPA will apply appropriate enforcement, including but not limited to revocation of the UST operating permit portion of the "Permit to Operate" issued under the UPFP and issuance of red tags, which will prohibit the deposit and withdrawal of fuel. For those UST facility owners/operators that have completed initial ELD testing and implemented triennial ELD testing every 36 months thereafter, the CUPA will provide CalEPA with the ELD test results for each facility.

The State Water Board will consider this deficiency corrected 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
- State Water Board approval of a submitted RFR application.

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**17. DEFICIENCY:**

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

Review of the UST Facility/Tank Data Download report obtained from CERS on July 16, 2021, finds UST construction and leak detection information is incorrect as follows:

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- 15 of 59 (25%) USTs installed on, or after, July 1, 2004, list secondary containment testing.
- 11 of 59 (19%) USTs installed on, or after, July 1, 2004, have single-wall components listed.
- 63 of 381 (17%) USTs with double-walled piping installed between January 1, 1984, and June 30, 2004, have no continuous interstitial monitoring listed.
- 16 of 52 (31%) Single-walled USTs list secondary containment construction.
- 124 of 561 (22%) USTs show no striker plate/bottom protectors.

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

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

- Common CERS Reporting Errors
- Setting Accepted Submittal Status
- General Reporting Requirements for USTs
- Which Forms Require Uploading to CERS

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

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

Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.

#### **CITATION:**

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

#### **CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will review the Data Management Procedure, or other applicable procedure, and revise as necessary, to ensure the establishment of a process for UST inspection staff to review CERS UST submittal information regarding construction and leak detection requirements for accuracy and completeness based on the UST installation date, which will, at minimum, include the following:

- When UST CERS submittal information is identified as incorrect, the CUPA will either:
  - accept UST CERS submittals with minor errors utilizing a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;
  - not accept UST CERS submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When the UST CERS submittal is not corrected and resubmitted within the time specified by the CUPA, the CUPA will apply appropriate enforcement per the I&E Plan.

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**DEFICIENCIES REQUIRING CORRECTION**

The CUPA will provide the revised Data Management Procedure, or other applicable procedure to CalEPA.

By the 2nd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the 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 provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended Data Management Procedure, or other applicable procedure. With respect to UST Program submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete UST Program submittals when the next submittal is made, but no later than the next annual UST compliance inspection.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review five UST submittals accepted by the CUPA in CERS subsequent to UST inspection staff receiving training.

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**18. DEFICIENCY:**

UST compliance inspection information and facility inventory in Report 6 is inconsistent with CERS CME information and CUPA Self-Audit Reports.

Review of Report 6, CERS CME information and CUPA Self-Audit Reports finds the following UST facilities were inspected:

- FY 2019/2020
  - Report 6: 166 of 217 (76%)
  - CERS CME information: 165 of 217 (76%)
  - CUPA Self-Audit Report: 210 of 210 (100%)
- FY 2018/2019
  - Report 6: 199 of 221 (90%)
  - CERS CME information: 198 of 221 (90%)
  - CUPA Self-Audit Report: 223 of 223 (100%)

Note: A Self-Audit Report was not provided for FY 2017/2018.

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Note: This deficiency was identified during the 2015 and 2018 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process.. For the 2018 CUPA Performance Evaluation assessment, the State Water Board utilized CME information from the CUPA's data management system as CME information was not available in CERS. For the 2021 CUPA Performance Evaluation assessment, as CME information was available in CERS, the State Water Board utilized CERS CME information rather than CME information from the CUPA's data management system in comparison with Report 6 and the applicable CUPA Self-Audit Reports.

#### **CITATION:**

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

#### **CORRECTIVE ACTION:**

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

- A thorough analysis and explanation as to how Report 6, CERS CME information, and CUPA Self-Audit Reports have inconsistent UST compliance inspection information; and
- A strategy to ensure UST compliance inspection information in Report 6, CERS CME information and CUPA Self-Audit Reports will be accurately reported.

By the 1<sup>st</sup> Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process, which at minimum will address how UST compliance inspection information is accurately reported in Report 6, CERS CME information, and CUPA Self-Audit Reports. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended Data Management Procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the 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 3<sup>rd</sup> Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once

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training is complete, the CUPA will implement the amended Data Management Procedure, or other applicable procedure.

By the 4<sup>th</sup> 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.

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**19. DEFICIENCY:**

The CUPA is not consistently issuing closure documentation and is not 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 UST Regulations [CCR, Title 23, Division 3, Chapter 16, Section 2670 and 2672(d)] and HSC [HSC, Division 20, Chapter 6.7, Section 25298(c)].

Review of UST facility files finds the following:

- CERS ID 10431205:
  - No closure documentation was provided to the UST owner or operator.
- CERS ID 10423993:
  - The letter provided to the owner or operator does not:
    - document in sufficient detail UST removal complied with UST Regulations and HSC.
    - Include identification of the UST(s) that were 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).

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

Note: State Water Board UST Program Leak Prevention [Frequently Asked Question 15](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) (https://www.waterboards.ca.gov/ust/leak\_prevention/faq15.shtml) may be referenced.

**CITATION:**

HSC, Chapter 6.7, Section 25298(c)  
CCR, Title 23, Section 2672(d)  
[State Water Board]

**CORRECTIVE ACTION:**

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

- Document in sufficient detail, the owner or operator has demonstrated to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC, and



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- Provide UST closure documentation to the UST owner or operator, which demonstrates to the satisfaction of the CUPA that UST closure and soil and/or groundwater sampling complies with UST Regulations 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 owner or operators closed in place or removed USTs correctly.

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

By the 1<sup>st</sup> Progress Report, the CUPA will develop a UST closure letter template for sites with and without contamination if separate letters are issued for those scenarios. The CUPA should consider including the following language in the UST closure letter template:

- Date(s) removal or closure in place occurred
- If the UST was closed in place or removed
- UST identification (i.e., single-walled, double-walled, what the UST is made of)
- “the Monterey County CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Sections 2670 and 2672 and HSC, Chapter 6.7, Section 25298(c).”

The CUPA will provide the developed UST closure letter template(s) to CalEPA.

By the 2<sup>nd</sup> Progress Report, if revisions to the developed UST closure procedure or other applicable procedure and/or revisions to the developed UST closure letter 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 revised UST closure letter template(s). If no revisions to the developed UST closure procedure or other applicable procedure and/or no revisions to the developed UST closure letter template are necessary, the CUPA will train UST inspection staff on the developed UST closure procedure or other applicable procedure and/or the developed UST closure letter template(s). The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the developed UST closure procedure or other applicable procedure and/or the developed UST closure letter template(s).

By the 3<sup>rd</sup> Progress Report, if revisions to the developed UST closure procedure or other applicable procedure and/or revisions to the developed UST closure letter template(s) were necessary, the CUPA will train UST inspection staff on the revised UST closure procedure or other applicable procedure and/or the revised UST closure letter template(s). The CUPA will provide training documentation to CalEPA, which at minimum, will include the date the training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised UST closure procedure or other applicable procedure and/or the revised UST closure letter template(s).

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With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the developed or revised UST closure letter template(s) and will provide the updated closure documentation upon request.

By the 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, for the next two UST closures, the CUPA will provide CalEPA with the UST closure records, including sampling results, that demonstrate to the satisfaction of the CUPA, UST closure and soil and/or groundwater sampling complies with UST Regulations and HSC. If no UST closures have occurred by the 4<sup>th</sup> Progress Report, the State Water Board will consider this Deficiency closed but not corrected upon completion of training and implementation of the developed or revised UST closure procedure or other applicable procedure and developed or revised UST closure letter template(s). 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.

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**20. DEFICIENCY:**

The CUPA is not consistently requiring proper sampling and analysis of soil and/or groundwater as part of UST closure activities.

Review of UST facility files finds the CUPA did not properly sample soil and/or groundwater as part of UST closure activities at the following facility:

- CERS ID 10431205
  - A Chain of Custody report documents only one soil sample provided, and the presence of water in the pit of at least one UST.
  - A CERS submittal dated December 18, 2017, indicates two USTs were removed from the facility, which would result in a minimum of four soil samples to be taken, as required.
  - The CUPA did not properly require:
    - a minimum of two samples to be taken immediately beneath the removed portions of the UST, at a minimum of two feet into native material;
    - separate samples to be taken for each 20 linear-feet of trench for piping;
    - groundwater samples when groundwater is present in the pit of the UST; and
    - submittal of documentation of proper disposal of the removed USTs or documentation that the USTs were filled with an inert solid.

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

**CITATION:**

CCR, Title 23, Section 2672(d)  
[State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will develop a UST closure procedure, or other applicable procedure, to ensure the establishment of a process for requiring UST closure activities, which will at minimum address:

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- Taking soil samples immediately beneath the removed portions of the UST, at a minimum of two feet into native material at each end of the UST and/or groundwater samples if groundwater is found in the excavation pit;
- Proper analysis of soil and/or groundwater samples;
- Taking separate samples for each 20 linear-feet of trench for piping;
- Permanent closure where USTs are closed, including taking a minimum of one boring sample as close as possible to the midpoint beneath the UST using a slant boring or other appropriate method;
- Providing documentation of proper disposal of the removed USTs or documentation that the USTs were filled with an inert solid; and
- Providing a chain of custody for the proper number of samples taken.

The CUPA will provide CalEPA with the developed UST closure procedure, or other applicable procedure.

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

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

By the 4<sup>th</sup> Progress Report, and with each subsequent Progress Report until considered corrected, for the next two UST closures, the CUPA will provide CalEPA with the UST closure records, including sampling results. If no UST closures have occurred by the 4<sup>th</sup> Progress Report, the State Water Board will consider this Deficiency closed but not corrected upon completion of the corrective actions pertaining to training UST inspection staff and implementation of the developed or revised UST closure procedure or other applicable procedure. 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.

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**21. DEFICIENCY:**

The local ordinance, Monterey County California Code of Ordinances, is less stringent and inconsistent with UST Regulations and HSC.

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Review of the local ordinance finds the following is less stringent:

- Section 10.65.030(A)(4) states “primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this paragraph,” which is less stringent than UST Regulations and HSC.
- Section 10.65.030(D)(1) states “no tank shall be abandoned unless properly monitored and safeguarded in accordance with regulations promulgated by the Department of Health.” This provision is less stringent than UST Regulations, which do not allow for any abandonment of USTs.
- Section 10.65.040(D) provides for provisional permits, which is not authorized by UST Regulations and HSC, which could lead to less stringent operation of USTs.
- Section 10.65.040(E) allows for a temporary permit, which is less stringent than UST Regulations and HSC.
- Section 10.65.040(G) allows for abandonment permits, which is less stringent than UST Regulations and HSC.

Review of the local ordinance finds the following inconsistencies:

- Definition H does not include all meanings as found in HSC, Chapter 6.7, Section 25281(h).
- Definition S does not include all meanings as found in HSC, Chapter 6.7, Section 25281(t).
- Definition U is not consistent with HSC, Chapter 6.7, Section 25281(x).
- Section 10.65.030(A) is out of date with Title 23, Division 3, Chapter 16, Article 3.
- Section 10.65.030(B) is out of date with Title 23, Division 3, Chapter 16, Article 4.
- Section 10.65.030(C) provides provisions for alternative monitoring methods, however, UST Regulations or HSC do not allow for alternative methods of monitoring.
- Section 10.65.030(D)(2) states “tanks which are temporarily out of service and are intended to be returned to use must continue to be monitored and inspected.” UST Regulations, Section 2671 requires all USTs that are placed into temporary closure to be brought back into use. Additionally, Section 2671(b) allows for the local agency to modify the required monitoring, pursuant to the permit, during the temporary closure period.
- Section 10.65.030(F)(2) must include that the owner or operator may also be subject to reporting requirements in Water Code, Sections 13271 and 13272 and subject to reporting to the Office of Emergency Services if emergency response personnel and equipment were involved at any time.
- Section 10.65.040(A)(1) refers to Federal statute, code, or regulation, however, the CUPA is not authorized to implement, and therefore reference, Federal statute, code, or regulation.
- Section 10.65.040(B) states application for new, amended, or renewed permits shall be made to the Department of Health on the form provided by the County, while the regulatory requirement is to submit applications for permits through CERS.
- Section 10.65.040(F)(1) does not include CERS IDs and tank IDs, which are required to be on the UST operating permit.
- Section 10.65.040(I)(1) and (2) sets civil penalties per day, while the statutory requirement is for penalties be set for each UST, for each day of violation, for each violation.

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Additionally, these sections do not include all violations as listed in HSC, Chapter 6.7, Section 25299.

**CITATION:**

HSC, Chapter 6.7, Sections 25281, 25290.1, 25291, 25294, 25295, 25295.5, 25296, 25298, 25299, 25299.2, and 25299.3

CCR, Title 23, Article 3 and 4, Sections 2620(c), 2632, 2671, and 2712  
[State Water Board]

**CORRECTIVE ACTION:**

The CUPA will no longer implement provisions of the local ordinance that are less stringent or inconsistent with UST Regulations and HSC.

By the 1st Progress Report, the CUPA will provide CalEPA with a detailed plan to revise and adopt the revised local ordinance or repeal the existing local ordinance. The revised local ordinance will be consistent with UST Regulations and HSC. The plan will at minimum include:

- a timeline for revising, and adopting the revised local ordinance, including
  - provisions for the CUPA to provide a draft of the revised local ordinance to the State Water Board for review (before being adopted), which will allow the State Water Board to work with the CUPA to ensure the revised draft is consistent with UST Regulations and HSC, the CUPA certification approval, and meets all other requirements.

OR

- A timeline for repealing the existing local ordinance.

By the 2nd Progress Report, the CUPA will, if necessary, revise the plan based on feedback from the State Water Board.

Considering the length of time required to revise and adopt the revised local ordinance, or repeal the existing local ordinance, the State Water Board will consider this Deficiency closed, but not corrected, after the CUPA has provided an acceptable plan for the revision and adoption of the revised local ordinance and an opportunity for the State Water Board to review a draft of the revised local ordinance, or after the CUPA has provided an acceptable plan for repealing the existing local ordinance as outlined above.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinance was adopted, or that the existing local ordinance was repealed.

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**22. DEFICIENCY:**

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

The CUPA is not utilizing the Surcharge Transmittal Report template, effective July 1, 2018.

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

- FY 2020/2021
  - The 1<sup>st</sup> Quarterly Surcharge Transmittal Report, showing no funds remitted, was submitted to CalEPA on November 11, 2020. The due date to submit this report was October 30, 2020.
- FY 2019/2020
  - The 4<sup>th</sup> Quarterly Surcharge Transmittal Report was not submitted to CalEPA. Surcharges collected during the 4<sup>th</sup> quarter were remitted to CalEPA on August 27, 2020. The due date to submit this report and remit surcharges to CalEPA was July 30, 2020.
- FY 2018/2019
  - The 1<sup>st</sup> Quarterly Surcharge Transmittal Report was not submitted to CalEPA. Surcharges collected during the 1<sup>st</sup> quarter were remitted to CalEPA on November 26, 2018. The due date to submit this report and remit surcharges to CalEPA was October 30, 2018.
- FY 2017/2018
  - The 4<sup>th</sup> Quarterly Surcharge Transmittal Report was submitted to CalEPA on August 22, 2018. The due date to submit this report was July 30, 2018.

#### CITATION:

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

#### CORRECTIVE ACTION:

By the 1<sup>st</sup> Progress Report, the CUPA will have submitted to CalEPA the 2<sup>nd</sup> quarterly Surcharge Transmittal Report for Fiscal Year 2021/2022 by the required due date using the current Quarterly Surcharge Transmittal Report template. Thereafter, the CUPA will ensure that state surcharge remittance and each Quarterly Surcharge Transmittal Report are provided to CalEPA no later than 30 days after the end of each fiscal quarter during which the state surcharge was collected.

Note: CalEPA has revised the Quarterly Surcharge Transmittal Report template to reflect the increased CUPA Oversight state surcharge, which became effective July 1, 2021, and includes an assessment for the CERS NextGen Project. The revised Quarterly Surcharge Transmittal Report is available at: [https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT\\_20210709-ADA.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf). Though CalEPA has requested use of the revised Quarterly Surcharge Transmittal Report, the July 1, 2018, version of the Quarterly Surcharge Transmittal Report may be used, until the revised Quarterly Surcharge Transmittal Report is incorporated into Title 27.

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DEFICIENCIES REQUIRING CORRECTION

**23. DEFICIENCY:**

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

- The following components are missing:
  - Provisions for ensuring sampling capability and analysis performed by a state certified laboratory.
    - Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
  - A description of an application of graduated series of enforcement.
  - Provisions to ensure the I&E Plan shall at minimum be reviewed annually.
- The following component is incomplete:
  - Identification of all available enforcement options:
    - While the CUPA discusses the process for administering Administrative Enforcement Orders (AEOs) at length, the enforcement component of the I&E Plan does not include a definition for what the CUPA considers to be informal enforcement, nor does it include a description of all the formal and informal enforcement options available to apply.
- The following components are inaccurate:
  - Red tag provisions of HSC, Chapter 6.7, Section 25292.3 were amended and became effective January 1, 2019. As written, the I&E Plan is not consistent with the requirements when USTs are affixed with red tags.
  - The “Initial Penalty Matrix” for USTs shows a minimum penalty of \$0, which is less stringent than HSC. The minimum penalty must be no less than \$500 per day, per UST, per violation.
  - The citation for HSC, Section 25514.5 no longer exists.
  - The administrative penalty referenced for HSC, Chapter 6.95, Article 2, Section 25540(a) has an updated penalty.

**CITATION:**

CCR Title 27, Section 15200(a)  
HSC, Chapter 6.7, Sections 25292.3 and 25299  
HSC, Chapter 6.95, Article 2, Section 25540  
[CalEPA, CalEPA/Cal OES, DTSC, State Water Board]

**CORRECTIVE ACTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that adequately incorporates and correctly addresses all required components.

By the 2<sup>nd</sup> Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, DTSC, and the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include the date the training was conducted, an outline of the training conducted,

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**DEFICIENCIES REQUIRING CORRECTION**

and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3<sup>rd</sup> Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include the date the training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended I&E Plan.

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**24. DEFICIENCY:**

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

Review of HMBPs submitted to CERS by the following regulated businesses finds the HMBP was accepted by the CUPA though site maps do not contain all required elements, such as emergency shutoffs, evacuation staging areas, and storm and sewer drains:

- CERS ID 10435048
- CERS ID 10430821
- CERS ID 10468930
- CERS ID 10169417

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

**CITATION:**

HSC, Chapter 6.95, Sections 25505  
[CalEPA/Cal OES]

**CORRECTIVE ACTION:**

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP containing all required components within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
  - recent review, acceptance and rejection of incomplete HMBPs; and



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**DEFICIENCIES REQUIRING CORRECTION**

- applied appropriate enforcement by the CUPA to ensure regulated businesses annually submit a complete HMBP to CERS.

By the 4th Progress Report, the CUPA will ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP to CERS.

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**25. DEFICIENCY:**

The area plan is missing a required element.

Review of the area plan finds the following element is missing:

- Area plan reporting form

**CITATION:**

HSC, Chapter 6.95, Section 25503(d)(2)  
CCR, Title 19, Section 2640(c)  
[CalEPA/Cal OES]

**CORRECTIVE ACTION:**

By the 3rd Progress Report, the CUPA will provide CalEPA with the revised area plan that includes the required element.

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**26. DEFICIENCY: CORRECTED DURING EVALUATION**

The CUPA is not inspecting each APSA tank facility at least once every three years in accordance with the I&E Plan.

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

- 19 of 65 (29%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.
- 32 of 158 (20%) other APSA tank facilities have not been inspected within the last three years.

**CITATION:**

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

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, the CUPA performed a sufficient number of APSA tank facility inspections such that this deficiency is now considered corrected. No further action is required.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

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**1. INCIDENTAL FINDING:**

The Unified Program administrative procedures have components that are missing.

Review of the Public participation administrative procedures finds how the CUPA solicits and responds to comments from the public and regulated community is adequately addressed, however, the following provisions are missing:

- Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element;
- Coordinate, consolidate, and make consistent locally required public notices for activities related to any Unified Program element.

**CITATION:**

CCR, Title 27, Sections 15180(e), 15185, 15190 and 15220  
[CalEPA]

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with the revised public participation administrative procedures that adequately incorporate all required components.

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

By the 3<sup>rd</sup> Progress Report, if amendments to the revised public participation administrative procedures were necessary, the CUPA will train CUPA personnel on the amended public participation administrative procedures. Once training is complete, the CUPA will implement the amended public participation administrative procedures.

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**2. INCIDENTAL FINDING:**

The CUPA did not complete an annual Self-Audit Report for FY 2017/2018. A Self-Audit Report is required to be completed by September 30<sup>th</sup> of each year for the preceding FY.

**CITATION:**

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

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

**RESOLUTION:**

By the 1<sup>st</sup> Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2021/2022 that includes all required components and incorporates a date of compilation to demonstrate the report was compiled by September 30<sup>th</sup>. For each subsequent FY, the CUPA will complete a Self-Audit Report, which will include all required components and incorporate a date of compilation by September 30<sup>th</sup>.

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**3. INCIDENTAL FINDING: RESOLVED DURING EVALUATION**

The CUPA did not provide CalEPA with a Formal Enforcement Summary Report within 30 days of a judgement being issued.

A Formal Enforcement Summary Report was not provided for the following formal enforcement case:

- CERS ID 10433458

**CITATION:**

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

**RESOLUTION: COMPLETED**

During the evaluation, the CUPA provided CalEPA with a Formal Enforcement Summary Report for CERS ID 10433458. The CUPA has no other pending formal enforcement cases.

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

- The [Formal Enforcement Summary Report template](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template.pdf) is available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template.pdf>
- [Instructions for completing the Formal Enforcement Summary Report](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions.pdf) template are available at: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Instructions.pdf>
- Completed Formal Enforcement Summary Reports shall be submitted via email to [CUPA@calepa.ca.gov](mailto:CUPA@calepa.ca.gov).

This incidental finding is considered resolved. No further action is required.

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**OBSERVATIONS AND RECOMMENDATIONS**

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

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**1. OBSERVATION:**

Review of overall implementation of the HWG Program, including policies and procedures, CERS data, facility file information, information provided by the CUPA and Self-Audit Reports for July 1, 2018, through June 30, 2021, is summarized below:

- Information from the CUPA indicates there are:
  - 1,438 regulated HWG facilities,
  - 16 RCRA LQG facilities, and
  - 10 TP facilities.
- The three-year inspection frequency for all HWG facilities is currently not being met.
- The CUPA conducted 2,087 “routine” and “other” inspections, of which, 2,023 (98%) had no violations cited and 51 (2%) had at least one violation cited.
  - In the 2,087 “routine” and “other” inspections conducted, 85 total violations were issued, consisting of:
    - 0 Class I violations,
    - 42 Class II violations, and
    - 43 minor violations.
  - The CUPA has ensured RTC for 15 of 85 (18%) violations.
- CERS CME information does not reflect any applied formal enforcement since 2013, when information was required to be reported to CERS.
- The CUPA is adequately responding to complaints referred by the CalEPA complaint system. However, the CUPA Complaint procedure in the I&E Plan does not include a process to close out the referred complaints in the CalEPA complaint system.
- Inspection reports are inconsistent with detailed comments that note the factual basis of cited violations.

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

**RECOMMENDATION:**

Revise the HWG inspection checklist to ensure consent is obtained and documented prior to conducting an HWG inspection.

Continue with the three-year HWG inspection frequency as identified in the I&E Plan. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply appropriate enforcement for facilities that do not RTC, per the I&E Plan. Ensure that complete and thorough inspections are conducted to identify all violations at facilities.

Revise the CUPA Complaint procedure in the I&E Plan to include a process to close out the referred complaints in the CalEPA complaint system and train staff that receive complaints referred by the CalEPA Complaint system to close out complaints in the system.

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OBSERVATIONS AND RECOMMENDATIONS

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**2. OBSERVATION:**

Many APSA CERS submittals have not been reviewed in over a year.

**RECOMMENDATION:**

Review the CalEPA Unified Program Policy Memo UP-13-02 regarding “CERS General Use Policy for CUPAs and PAs,” and, when possible, apply the defined timeframes for reviewing CERS submittals as suggested to further ensure the efficiency and effectiveness of statewide electronic reporting.

CalEPA Unified Program Policy Memo UP-13-02 is available at: <https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2017/04/california-environmental-reporting-system.pdf>.

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**3. OBSERVATION:**

The I&E Plan (dated 2021) contains information that is inaccurate, outdated or may benefit from improvement.

- Pages 5, 6, 7, 9, 17, 20 and 44: The APSA program is improperly referenced as Above Ground Storage Tank.
- Pages 17-18: The discussion on the Aboveground Petroleum Storage question in the Business Activities section should reference “greater than or equal to 1,320 gallons of petroleum” instead of “over 1,320 gallons of petroleum.”
- Page 18: The discussion related to CERS APSA submittal review should include verification of submittal of a complete HMBP when an HMBP is provided in lieu of a Tank Facility Statement submittal and should omit reference to farms, nurseries, construction sites, and logging sites claiming an exemption. Conditionally exempt tank facilities should not claim exemption on the APSA documentation upload in CERS, since the facilities are not exempt from the Tank Facility Statement (or HMBP in lieu of a Tank Facility Statement).

**RECOMMENDATION:**

Update the I&E Plan as indicated above.

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**4. OBSERVATION:**

Multiple APSA tank facilities submitted an HMBP in lieu of a tank facility statement using the 2011 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 the tank facility statement. The current template is available in CERS.

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**5. OBSERVATION:**

The CUPA regulates some farms. Effective January 1, 2016, Senate Bill (SB) 612 aligned the applicability threshold for farms with that of the Federal SPCC rule, which has increased to 2,500 gallons of oil or 6,000 gallons of oil (with no reportable discharge history), per the Federal Water Resources Reform and Development Act (WRRDA) of 2014.

The OSFM information on APSA and farms is available at:

<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/>.

More information on farms under the Federal SPCC rule may be found on the U.S.

Environmental Protection Agency website at: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>.

**RECOMMENDATION:**

Review the list of conditionally exempt tank facilities at farms, verify if the total oil storage capacity meets the WRRDA thresholds, and determine if the facilities are still regulated as conditionally exempt tank facilities under APSA.

Identify farms that are no longer regulated under APSA due to SB 612 and WRRDA oil applicability thresholds and change the CERS APSA facility reporting requirement from “Applicable” to “Not Applicable” for such farms.

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**6. OBSERVATION:**

The CERS reporting requirement is currently set as “APSA Applicable” for 482 tank facilities. The CUPA’s data management system identifies 418 APSA tank facilities.

- 359 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 115 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s local data management system.
  - Approximately 70 facilities are likely not APSA regulated, and the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable” for each facility.
  - Approximately 43 facilities are APSA regulated, and the CUPA should update the local data management system appropriately.
- 43 facilities identified as APSA tank facilities in the CUPA’s data management system are not in the CERS list of APSA facilities. The CUPA should investigate if the facilities really are APSA facilities.
  - Approximately 26 facilities have the APSA reporting requirement set to “Not Applicable,” and should not be identified as APSA tank facilities in the CUPA’s data management system.
  - Approximately 16 facilities should have the APSA reporting requirement set to “Applicable.”

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- The CUPA's data management system contains duplicated CERS IDs for approximately 11 APSA facilities.
- There are approximately 16 small farm facilities that the CUPA is regulating as APSA facilities (codes 5511, 5516 or 5517) whose total oil storage capacity meets the WRRDA exemption threshold. Farms that are no longer regulated under APSA due to SB 612 oil applicability thresholds should be identified in CERS as "APSA Not Applicable".

**RECOMMENDATION:**

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

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**7. OBSERVATION:**

The CUPA's website at: <https://www.co.monterey.ca.us/government/departments-a-h/health/environmental-health/hazardous-materials-management/aboveground-petroleum-storage-tank-program-apsa> contains various resources for the regulated community. However, reference to the 'Uniform Fire Code Hazardous Materials Management Plan' should be revised to the 'Hazardous Materials Management Plans and Hazardous Materials Inventory Statements.' The Uniform Fire Code has been replaced with the California Fire Code.

The CUPA's APSA website at: <https://www.co.monterey.ca.us/government/departments-a-h/health/environmental-health/hazardous-materials-management/aboveground-petroleum-storage-tank-program-apsa> contains various information on the APSA Program that could benefit from improvement as follows:

- 'Who is subject to APSA' – update reference to HSC, Section 25270.2(a)(1)-(8).
- 'What does the Act require' – not all tank facilities are required to prepare an SPCC Plan under APSA if certain conditions are met.
- Under the APSA FAQ section:
  - 'Who is subject to the requirements of APSA' –include discussion on tank facilities that are subject to the SPCC rule and tank facilities with one or more tanks in underground areas (TIUGAs).
  - 'What is the difference between SPCC and APSA' –include discussion on tank facilities subject to the SPCC rule and tank facilities with one or more TIUGAs; the U.S. EPA does not oversee the APSA Program.
  - 'What does SPCC stand for' –include discussion on conditionally exempt tank facilities that are not required to prepare an SPCC Plan under APSA if certain conditions are met.
  - 'What is a storage tank' –include TIUGAs
  - 'What is a tank facility' –include the tank(s) is used by an owner/operator at a single location or site.
  - 'What is a storage capacity' –include the total or aggregate of all shell capacities of aboveground tanks, containers, and equipment with a 55-gallon or larger shell capacity of petroleum.
  - 'Are hazardous waste tanks regulated under APSA' –include hazardous waste tanks under a permit by rule authorization from a Unified Program Agency, which are also

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excluded under the definition of aboveground storage tank or storage tank under APSA.

- 'What is the definition of farm' – update the farm link to <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spill-prevention-control-and-countermeasure-spcc>; currently, the link goes to the US EPA Emergency Response website (<https://www.epa.gov/emergency-response>).
- 'Which type of APSA facility am I' – replace 'APSA exempt facilities' to 'conditionally exempt APSA tank facilities' or 'APSA SPCC Plan exempt tank facilities'; update the reference to the 1,320 gallons of any types of oil to the WRRDA thresholds; update the link to the Tier II Qualified Facility SPCC Plan template to [https://osfm.fire.ca.gov/media/2wgeyhtl/calfire-osfm\\_tierii\\_spcc\\_plantemplate\\_05-2021-accessible.pdf](https://osfm.fire.ca.gov/media/2wgeyhtl/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf) (the current link goes to a DTSC website).
- 'How often and who can review my SPCC Plan' – professional engineer (PE)-certified SPCC Plans are not required to be reviewed or certified by the PE if there are no technical amendments to the plan.

**RECOMMENDATION:**

Update the website as indicated above.

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**8. OBSERVATION:**

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

- CERS ID 10430212 (Tank IDs 1 - 4);
- CERS ID 10431247 (Tank IDs 1 - 3); and
- CERS ID 10434562 (Tank IDs 1 - 4).

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

**RECOMMENDATION:**

Continue to provide written and verbal reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Consider providing written notification of the requirement to all applicable UST facility owners or operators. The written notification should inform facility owners or operators that in order to remain in compliance, owners or operators must replace or remove single-walled USTs by December 31, 2025. Additional information regarding single-walled UST closure requirements may be found at: [https://www.waterboards.ca.gov/ust/single\\_walled.html](https://www.waterboards.ca.gov/ust/single_walled.html).

Notify facility owners or operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project USTs. More information on funding sources may be found at: [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html).



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OBSERVATIONS AND RECOMMENDATIONS

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**9. OBSERVATION:**

A deficiency for issuing the UST Operating Permit, under the UPFP, to facilities with USTs that are not in compliance at the time of issuance was identified during the 2015 and 2018 CUPA Performance Evaluations. The final Evaluation Progress Report for the 2018 CUPA Performance Evaluation notes the deficiency as closed, but not corrected. In the final closing letter for the 2018 CUPA Performance Evaluation, CalEPA incorrectly identified the deficiency as being carried forward to the 2021 CUPA Performance Evaluation.

Amendments to HSC, Chapter 6.7, Section 25285, effective January 1, 2019, absolved the need for the CUPA to correct the deficiency during the 2018 CUPA Performance Evaluation Progress Report process.

**RECOMMENDATION:**

Ensure all information regarding issuance of the UST Operating Permit, under the UPFP, reflects the amendments to HSC, Chapter 6.7, Section 25285, effective January 1, 2019, which no longer requires a facility to be in compliance with all requirements of HSC, Chapter 6.7 prior to the CUPA issuing a UST operating permit. The amendments specify a UST operating permit shall not be issued where a red tag is affixed, if the facility is subject to an enforcement action, or has not paid the appropriate fees.

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**10. OBSERVATION:**

The information below is a comparison of the total number of regulated facilities within each Unified Program element upon certification of the CUPA with present-day circumstance and the degree to which the number of regulated facilities has increased or decreased. The information is sourced from the following:

- Monterey County Health Department, Environmental Health Division CUPA Application, dated December 12, 1995;
- CERS "Summary Regulated Facilities by Unified Program Element" report, generated on September 1, 2021; and
- CERS "UST Inspection Summary Report (Report 6)," generated on September 1, 2021.
- Monterey County Environmental Health CUPA Organizational Chart
  
- Total Number of Regulated Businesses and Facilities:
  - In 1995 Application: 1,850
  - Currently: 2,335
  - An increase of 485 facilities
  - Comments: In the original application, the CUPA specifies that 1,850 represents the total number of businesses that fall under one or more program elements.

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- Total Number of **Business Plan** Regulated Businesses and Facilities:
  - In 1995 Application: 1,293
  - Currently: 2,335
  - An increase of 1,042 facilities
- Total Number of Regulated **Underground Storage Tank (UST)** Facilities:
  - In 1995 Application: 392
  - Currently: 217
  - A decrease of 175 facilities
- Total Number of Regulated **USTs**:
  - In 1995 Application: 772
  - Currently: 551
  - A decrease of 221 USTs
- Total Number of Regulated **Hazardous Waste Generator** Facilities:
  - In 1995 Application: 927
  - Currently: 1,443
  - An increase of 516 facilities
- Total Number of Regulated **Household Hazardous Waste (HHW)** Facilities:
  - In 1995 Application: Not specified
  - Currently: 2
- Total Number of Regulated **Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt)**:
  - In 1995 Application: 50
  - Currently: 11
  - A decrease of 39 facilities
- Total Number of Regulated **Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities**:
  - In 1995 Application: Not specified
  - Currently: 28
- Total Number of Regulated **Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities**:
  - In 1995 Application: 160
  - Currently: 79
  - A decrease of 81 facilities
- Total Number of Regulated **Aboveground Petroleum Storage Act (APSA) Tank Facilities**:
  - In 1995 Application: Not applicable
  - Currently: 481

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### OBSERVATIONS AND RECOMMENDATIONS

Since the original application for certification was submitted in 1995, the CUPA has seen significant fluctuations in the number of regulated facilities in nearly all Unified Program elements. In particular, the total number of regulated HMBP facilities increased by 1,042 (or 81%) and the total number of regulated HWG facilities increased by 516 (or 56%). The incorporation of the APSA program also added another 481 facilities not previously regulated by the CUPA. The number of regulated UST facilities decreased by 175 (or 45%), the number of TP facilities decreased by 39 facilities (or 78%), and the number of CalARP facilities decreased by 81 (or 51%); although, in general, the total number of regulated facilities increased by 485 (or 26%).

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

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the Monterey CUPA 1995 Application and recent information provided by the CUPA.

- Inspection and other Staff
  - In 1995 Application:
    - 6 Staff working 11,070 hours/year on CUPA activities
      - Equates to roughly 5.3 FTE based on 2,080 working hours/year
  - Currently:
    - 6 Staff working 6.0 FTE
- Supervisory and Management Staff
  - In 1995 Application:
    - 1 Branch Chief working 1,040 hours/year on CUPA activities
      - Equates to 0.5 FTE based on 2,080 working hours/year
  - Currently:
    - 1 Supervisor working 1.0 FTE

Though additional program element responsibilities have been incorporated into the implementation of the Unified Program and the number of facilities regulated by the CUPA has changed since the CUPA applied for certification in 1995, the full-time equivalent of inspection and supervisory personnel has remained relatively unchanged.

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**OBSERVATIONS AND RECOMMENDATIONS**

**RECOMMENDATION:**

Conduct a fee study to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. Reevaluate the current budget, including revenue sources and expenditures, single fee assessment for each regulated entity, and funding allocation for program services. Determine if it is necessary to increase the single fee for program elements to ensure revenue is reasonably adequate for implementing the Unified Program and CUPA operations, regarding the need to acquire support of additional staff or other resources as necessary and reasonable to ensure adequate implementation of program services and regulatory oversight for each program element.

Examine how current CUPA resources are being allocated, specifically in areas of inspection and enforcement. Ensure that required program elements are implemented as a first priority before supplemental efforts that may not be specifically required or associated with the Unified Program. Having adequate resources to obtain and maintain adequate staff may assist in addressing the cause and recurrence of identified deficiencies and findings, such as falling short of meeting mandated inspection frequency for various program elements and ensuring facilities cited with violations return to compliance by way of an applied appropriate enforcement. The ability to apply each aspect of inspection, compliance, monitoring, and enforcement for all Unified Program elements is not only vital to the success of the program, but further ensures the protection of health and safety of the community and the environment.