

August 1, 2025

Fred Chun  
Assistant Fire Marshal and CUPA Manager  
Santa Clara City Fire Department Hazardous Materials Division  
1675 Lincoln Street  
Santa Clara, California 95050-4653

Dear Mr. Chun:

During July 2024, through April 2025, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Santa Clara City Fire Department Hazardous Materials Division Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections.

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

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

To demonstrate progress towards the correction of program deficiencies and resolution of incidental findings identified in the final Summary of Findings report, the CUPA must submit an Evaluation Progress Report approximately 60 days from the date of this letter. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response, until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved by each issuing state agency. An Evaluation Progress Report template will be provided by the CalEPA Team Lead. Each Evaluation Progress Report must be submitted to the CalEPA Team Lead, Timothy Brandt, via email at [Timothy.Brandt@calepa.ca.gov](mailto:Timothy.Brandt@calepa.ca.gov), or uploaded to the established SharePoint website.

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

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

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

If you have any questions or need further assistance, please contact Melinda Blum at [Melinda.Blum@calepa.ca.gov](mailto:Melinda.Blum@calepa.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Boetzer".

Jason Boetzer  
Deputy Secretary  
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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California Environmental Protection Agency  
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## **UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT**

CUPA: Santa Clara City Fire Department Hazardous Materials Division

2024 Evaluation Assessment: July 2024 through April 2025

Timeframe Evaluated: December 15, 2020, through March 30, 2024

Evaluation Team Members:

- CalEPA Team Lead: Tim Brandt
- DTSC: Pheleep Sidhom, Mia Goings, Jessica Harris
- CalEPA: Alexa Kostrikin
- State Water Board: Michelle Suh
- CAL FIRE-OSFM: Mary Wren-Wilson

The findings contained within this evaluation report are considered final.

The Unified Program implementation and performance of the CUPA is considered satisfactory with improvement needed.

The CUPA shall submit the first Evaluation Progress Report to CalEPA 60 days from receipt and subsequent Progress Reports in accordance with the specified due date until each Deficiency and Incidental Finding is acknowledged by CalEPA as being corrected or resolved.

With each Progress Report, the CUPA will continue to revise and/or submit any plan, policy, document, or facility information required for any Deficiency or Incidental Finding until acknowledged by CalEPA as being corrected.

Each Progress Report must be submitted to the CalEPA Team Lead via email or uploaded to the established SharePoint website. Questions or comments regarding this evaluation should be directed to the CalEPA Team Lead.

Tim Brandt  
Phone: (916) 323-2204  
E-mail: [timothy.brandt@calepa.ca.gov](mailto:timothy.brandt@calepa.ca.gov)

The submittal date for the 1<sup>st</sup> Evaluation Progress Report is **October 10, 2025**.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

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

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

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**1. CUPA COLLABORATION WITH REGULATORY PARTNERS:**

The CUPA is an active participant in a number of CUPA Forum Board (CFB) Technical Advisory Groups (TAGs), Steering Committees, Workgroups, and other collaborative entities related to the implementation and further development of the Unified Program. In particular, the CUPA is involved in the Unified Program Administration and Advisory Group (UPAAG), the Hazardous Materials Business Plan (HMBP) Steering Committee and TAG, the Legislative Steering Committee, and the Data Steering Committee. The CUPA also participates in the Hazardous Waste Strike Force, the Regional per- and polyfluoroalkyl substances (PFAS)/Fire Discharge Water Committee and assists in countywide code adoption.

The CUPA not only plays a key role in the development and instruction of courses at the California Unified Program Annual Training Conference but also continues to dedicate a strong commitment of time and attention to planning the conference, attended by nearly 3000 regulatory and industry representatives, while simultaneously implementing all Unified Program elements.

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**2. CUPA STAFFING CHALLENGES:**

Since December 2020, the CUPA has experienced a consistent staffing shortage. There are currently budgeted positions for a program supervisor and four CUPA inspectors; however, at least one inspector position has been vacant since Fiscal Year (FY) 2018/2019, and two inspector positions were vacant during FY 2021/2022.

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**3. CUPA ADMINISTRATIVE CHALLENGES AND IMPROVEMENTS:**

Since the last evaluation in 2020, the CUPA has worked to improve administrative operations that have historically caused issues with the Data Management and Financial Management aspects of the program. Previously, the CUPA relied on HdL as the primary data management system (DMS). The HdL DMS had limitations that impeded the ability of the CUPA to fully implement the permitting and billing programs to the extent of the standards required California Code of Regulations (CCR), Title 27.

As of December of 2024, the CUPA fully transitioned to the use of Accela as the primary DMS. In doing so, Accela allows the CUPA to gain more autonomy over the permitting and billing programs, thereby allowing full accessibility to address historic implementation issues currently, and in the future.

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UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**4. 2020 CUPA PERFORMANCE EVALUATION DEFICIENCY CORRECTED:**

In conducting the assessment for the 2024 CUPA Performance Evaluation, the following deficiency previously identified as uncorrected upon closure of the 2020 CUPA Performance Evaluation is now considered corrected and no longer requires further action:

- *The CUPA is not regulating all facilities subject to the HWG program element.*

*The CUPA provided a list of 502 HWG facilities currently permitted within the Santa Clara City jurisdiction. DTSC reviewed CERS, the Hazardous Waste Tracking System (HWTS) and Transporter Quarterly Report (TQR) data and noted the following:*

- *CERS indicates 645 facilities that self-identified as HWG on the business activities page.*
- *HWTS and TQR data show the following:*
  - *Between 2014-2017, approximately 996 facilities shipped hazardous waste (this data was collected as part of the 2017 evaluation cycle);*
  - *Between 2017-2020, data indicates approximately 884 facilities shipped hazardous waste.*

During the 2020 Evaluation Progress Report process, the CUPA utilized the HWTS, CERS, and the local City permitting system to identify facilities subject to being regulated under the HWG Program, reconciled CERS CME information with the local data management system, identified facilities that had closed, and continued to focus efforts in conducting inspections. The CUPA also began migrating to a new data management system.

Review of CERS on November 18, 2024, finds 661 facilities that self-identified as HWGs on the business activities page.

Review of the HWTS on November 18, 2024, finds 577 facilities with either U.S. Environmental Protection Agency (EPA) Identification (ID) or California issued numbers shipped hazardous waste between July 1, 2021, and June 30, 2024. This does not include counts of facilities with provisional U.S. EPA ID numbers issued for emergency or one-time removal actions.

The CUPA provided a list of 717 currently permitted HWG facilities.

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

**DEFICIENCIES REQUIRING CORRECTION**

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

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**1. DEFICIENCY:**

The CUPA is not consistently following up and documenting return to compliance (RTC) information in the California Environmental Reporting System (CERS) for Hazardous Waste Generator (HWG) Program facilities, Aboveground Petroleum Storage Act (APSA) tank facilities, and HMBP facilities cited with violations.

Review of inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information in CERS and information from the CUPA's data management system finds there is no documented RTC for the following violations:

- HWG Program
  - 338 of 800 (42%) cited between July 1, 2021, and June 30, 2024, as of November 18, 2024
    - 392 of 550 (71%) Minor violations did not obtain RTC within 35 days.
- APSA Program
  - 8 of 11 (73%) cited between July 1, 2023, and March 31, 2024, as of March 10, 2025
    - Including 1 violation for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan
  - 1 violation for not having, or failure to prepare, an SPCC Plan cited between July 1, 2022, and June 30, 2023, as of March 10, 2025
  - 16 of 38 (42%) cited between July 1, 2021, and June 30, 2022, as of March 10, 2025
  - 27 of 40 (68%) cited between July 1, 2020, and June 30, 2021, as of March 10, 2025
- HMBP Program
  - 116 of 209 (56%) cited between April 1, 2023, and March 31, 2024, July 29, 2024
  - 105 of 269 (39%) cited between April 1, 2022, and March 31, 2023, July 29, 2024
  - 91 of 264 (34%) cited between April 1, 2021, and March 31, 2022, July 29, 2024



## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

Note: This Deficiency was identified during the 2020 CUPA Performance Evaluation for HWG facilities, APSA tank facilities, and Underground Storage Tank (UST) facilities and was corrected during the Evaluation Progress Report process for APSA tank facilities. For UST facilities, this deficiency is addressed as incidental finding #4 in the 2024 CUPA Performance Evaluation. Additionally, during the Progress Report process, an issue causing RTC information to be inconsistent when generating CERS reports was identified. Though the Progress Report process concluded, the CUPA continued to address and work towards resolving the issue.

#### **CITATION:**

Health & Safety Code (HSC), Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)

HSC, Chapter 6.11, Section 25404.1.2(c)

HSC Chapter 6.67, Section 25270.4.5(a)

HSC, Chapter 6.95, Sections 25508(a)(4) and 25533(d)

California Code of Regulations (CCR), Title 27, Sections 15185(a) and (c), and 15200(a) and (e)

[CalEPA, DTSC, OSFM]

#### **CORRECTIVE ACTION:**

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

- Ensure facilities cited with violations RTC through applied enforcement
- Document follow-up actions taken by the CUPA to ensure RTC, and
- Document RTC in CERS.

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

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS for the following:

- HWG facilities with open violations cited between July 1, 2021, and June 30, 2024;
- APSA tank facilities with open violations cited between July 1, 2020, and March 31, 2024, including open violations for not having, or failure to, prepare an SPCC Plan; and
- HMBP facilities with open violations cited between January 1, 2021, and December 31, 2023.

At minimum, the sortable spreadsheet will include the following information for each facility with an open violation (no RTC):

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

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

- RTC qualifier; and
- In the absence of obtained RTC, a narrative of any applied enforcement or follow-up activity to ensure the facility obtains RTC.

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

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

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HWG and HMBP Program facility records, as requested by state agency, that include RTC documentation, or a narrative of the follow-up activity and any enforcement applied in the absence of RTC.

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## 2. DEFICIENCY:

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

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

- HWG Program
  - As of November 18, 2024, 302 of 661 (46%) facilities were not inspected between July 1, 2021, and June 30, 2024.
- HMBP Program
  - As of July 29, 2024, 451 of 1,029 (44%) facilities were not inspected between April 1, 2021, and March 31, 2024.
- CalARP Program
  - As of July 29, 2024, 5 of 7 (71%) facilities were not inspected between April 1, 2021, and March 31, 2024.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

Note: The DTSC component of this Deficiency was identified during the 2017 and 2020 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process. The HMBP component of this Deficiency was identified during the 2020 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. The CalARP Program component of this Deficiency was identified during the 2020 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

#### **CITATION:**

HSC, Chapter 6.5, Section 25201.4(b)(2)  
HSC, Chapter 6.95, Sections 25511(b)  
CCR, Title 27, Section 15200(a)(3)(A)  
[CalEPA, DTSC]

#### **CORRECTIVE ACTION:**

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

- An analysis and explanation as to why the inspection frequency is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of the Coronavirus (COVID-19).
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each facility subject to HWG, HMBP, and CalARP Program requirements that has not been inspected within the last three years. For each HWG, HMBP and CalARP Program facility listed, the sortable spreadsheet will include at minimum:
  - Facility name;
  - CERS ID;
  - Date of the last routine inspection; and
  - A schedule to inspect each facility that has not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other facility inspection based on risk. For each facility, the schedule to inspect should reflect an estimated date, or date range.
- A narrative as to the logic of prioritization for determining the estimated date, or date range of the next routine HWG Program inspections, and a plan for conducting the prioritized next HWG Program routine inspections.
- A narrative of future actions to ensure all facilities subject to HWG, HMBP, and CalARP Program requirements will be inspected at least once every three years.

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

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

narrative as to how the CUPA is continuing to ensure all facilities subject to HWG, HMBP, and CalARP Program requirements will be inspected at least once every three years.

By the 5th Progress Report, the CUPA will have inspected each facility subject to HWG, HMBP, and CalARP Program requirements identified in the sortable spreadsheet provided with the 1st Progress Report at least once every three years.

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### 3. DEFICIENCY:

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

On November 19, 2024, review of HMBPs submitted to CERS between May 30, 2023, and July 29, 2024, by businesses subject to Business Plan reporting requirements finds:

- 272 of 1,029 (26%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification.
- 290 of 1,019 (28%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification.

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

### CITATION:

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

### CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all businesses subject to Business Plan reporting requirements annually submit an HMBP or a no-change certification to CERS. The action plan, at minimum, will include how the CUPA will follow up with facilities that have not annually submitted 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 business subject to Business Plan reporting requirements that has not annually submitted an HMBP or a no-change certification:

- Facility name;
- CERS ID;
- Follow-up actions including:
  - Enforcement applied by the CUPA to ensure an HMBP or no-change certification is annually submitted to CERS.

By the 4th Progress Report, the CUPA will ensure each business subject to Business Plan reporting requirements has annually submitted an HMBP or a no change certification to CERS, or the CUPA will have applied enforcement.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

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**4. DEFICIENCY:**

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

Review of information provided by the CUPA finds:

- 3 of 7 (43%) stationary sources have not updated the RMP at least once in the last five years.

**CITATION:**

CCR, Title 19, Section 5070.11(a)(1) and (b)(1)  
[CalEPA]

**CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each stationary source in the CalARP Program has reviewed and updated the RMP at least once every five years. As part of the action plan, the CUPA will provide CalEPA with a sortable spreadsheet that includes, at minimum the following for each stationary source:

- Facility name;
- CERS ID;
- Date the RMP was last reviewed and updated by the stationary source; and
- Recent follow-up actions with facilities that have not revised and updated the RMP at least once every five years. If a facility is no longer regulated as a CalARP facility, provide a brief explanation regarding the closure of the facility and de-registration pursuant to CCR, Title 19, Section 5070.11 (c) or (d).

By the 2nd Progress Report, the CUPA will provide a statement to CalEPA confirming each stationary source has either reviewed and updated the RMP at least once within the last five years, or the CUPA will have applied enforcement.

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**5. DEFICIENCY:**

The CUPA is not consistently conducting complete annual UST compliance inspections and repeat violations are not being reissued during the subsequent routine UST Inspection.

The CUPA is not citing UST violations identified during annual UST compliance inspections in inspection reports, is not reissuing repeat violations during subsequent routine UST inspections, and is not correctly reporting cited violations to CERS, including technical compliance rate (TCR).

Review of UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information on November 18, 2024, between December 15, 2020, and March 30, 2024, finds the following discrepancies:

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

- Non-compliance was not cited as a violation in an inspection report, and no violation was reported to CERS:
  - CERS ID 10159517
    - Overfill Prevention Equipment Inspection Report dated March 17, 2021, notes “Need to check for ball floats. I was unable to inspect because vapor adapters were stuck on.”
      - No violation was cited in the inspection report or reported to CERS for Unified Program Violation Library Type Number 2030036 – Overfill Prevention (USEPATCR 9b).
  - CERS ID 10084975
    - Monitoring System Certification was completed a month late on October 11, 2022.
      - No violation was cited in the inspection report or reported to CERS for Unified Program Violation Library Type Number 2030002 – Leak Detection Equipment Maintenance (USEPATCR 9d) for late Annual Compliance Testing.
    - Spill Container testing was completed a month late on October 11, 2022.
      - No violation was cited in the inspection report or reported to CERS for Unified Program Violation Library Type Number 2060020 – Spill Container (USEPATCR 9d) for late Spill Container Testing.
- Non-compliance was incorrectly cited as a violation in an inspection report and was incorrectly reported to CERS:
  - CERS ID 10084420
    - Inspection report dated August 20, 2021, notes “Spill bucket did not hold. Technician re- tightened the fitting and retested for 60 min” and cites Unified Program Violation Library Type Number 2030036 – Overfill Prevention (USEPATCR 9b). The correct violation is Unified Program Violation Library Type Number 2060020 – (USEPATCR 9a).
  - CERS ID 10159517
    - Inspection report dated March 8, 2022, notes “UDC 9/10 for diesel bravo float and chain did not activate upon detection of liquid. It was readjusted by the tech and retested and passed. Corrected on site, no further action required at this time” and cites Unified Program Violation Type Number 2030003 – Audible Visual Alarm (USEPA Priority). The correct violation is Unified Program Violation Library Type Number 2030043 – Monitoring Equipment (USEPATCR 9d)
  - CERS ID 10084984
    - Inspection report dated September 21, 2022, notes “Premium mechanical line leak detector did not restrict flow upon detection of a 3.0gph leak at 10psi” and cites Unified Program Violation Library Type Number 2030002 - Leak Detection Equipment Maintenance (USEPATCR 9d). The correct violation is Unified Program Violation Library Type Number 2030025 - Line Leak Detector (LLD) -Double-Walled Pressurized Pipe (USEPATCR 9d).

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

- CERS ID 10084975
  - Inspection report dated September 26, 2023, notes “Missing Secondary containment test; Overfill test report. Cannot locate in the files. Please keep all UST records in organized manner fashion to be able to locate” and cites Unified Program Violation Library Type Number 2010012 - Record Keeping: General The correct violations are Unified Program Violation Library Type Numbers 2030036 - Overfill Prevention (USEPATCR 9b) and 2030048 - Secondary Containment Testing (USEPATCR 9d).
- Incomplete or inaccurate testing information:
  - CERS ID 10084414
    - Monitoring System Certification Form dated August 4, 2022, does not cite results in section 6 for the under-dispenser containment (UDC) float and chain.
  - CERS ID 10473358
    - Secondary Containment Testing Report dated April 30, 2021, does not cite results for the Sumps and UDCs.
- Inconsistent identification of UST construction and inspection information:
  - CERS ID 10159517
    - Monitoring System Certification Form dated March 8, 2022, notes tank gauging is used only for inventory control in Section 8 when the facility has two single-walled tanks.
  - CERS ID 10088173
    - Overfill Prevention Equipment Inspection Report dated April 26, 2023, cites the method as “Fill Tub Shut-off Valve” while CERS states “Audible/Visual Alarm.”

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

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

#### **CITATION:**

HSC, Chapter 6.7, Sections 25288(b) and 25299

CCR, Chapter 16, Sections 2637, 2637.1, 2637.2, 2638, 2711(d), 2713(c) and (d), 2715(f)(2)

CCR, Title 27, Section 15290(a)(3)

[State Water Board]

#### **CORRECTIVE ACTION:**

By the 1st Progress Report, the CUPA will provide CalEPA with an analysis and explanation as to why complete annual UST compliance inspections are not consistently conducted. The analysis and explanation will include, at minimum:

- Discussion of what procedures and tools may be needed to consistently conduct complete annual UST compliance inspections and correctly report CME information to CERS

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

- e.g., identifying areas of the annual UST compliance inspection checklist that can be improved (refer to California CUPA Forum Board “UST Inspection Checklist,” at <https://calcupa.org/inspection-checklist/index.html>);
- Identification of the types and frequency of training needed to consistently conduct complete UST compliance inspections, identify non-compliance, and ensure CME information is reported to CERS;
- A plan to address all reasons why complete annual UST compliance inspections were not consistently conducted.

By the 2nd Progress Report, based on the findings identified in the analysis and explanation, the CUPA will review and revise the I&E Plan, or other applicable procedure, to establish a process for consistently conducting complete annual UST compliance inspections and correctly reporting UST CME information to CERS. The revised I&E Plan, or other applicable procedure will, at minimum include a process for:

- Conducting complete annual UST compliance inspections at all UST facilities, including single-walled UST facilities;
- Review of and follow-up with UST testing and leak detection documents submitted by UST owners or operators as part of the annual UST compliance inspection;
- Documenting observed non-compliance identified during annual UST compliance inspections in UST compliance inspection reports;
- Reporting all inspections, observed non-compliance identified in UST compliance inspection reports and CME information to CERS;
- Conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components;
- Conducting annual UST compliance inspections when UST inspection staff are not on-site and cannot witness the monitoring system certification and visually confirm all UST requirements are met;
- Reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the Unified Program Violation Library in CERS;

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

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



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

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

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**6. DEFICIENCY: CORRECTED DURING EVALUATION**

The CUPA is not inspecting each APSA tank facility that stores 10,000 gallons or more of petroleum for compliance with the SPCC Plan requirements of APSA at least once every three years.

On December 5, 2024, review of information provided by the CUPA and CERS CME information between March 31, 2021, and March 31, 2024, reflects the following APSA tank facilities that store 10,000 gallons or more of petroleum were not inspected:

- 14 of 39 (36%)

**CITATION:**

HSC, Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.5(a)

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

**CORRECTIVE ACTION: COMPLETED**

During the evaluation, additional inspections were conducted by the CUPA. On March 10, 2025, review of information provided by the CUPA and CERS CME information reflects the following APSA tank facilities that store 10,000 gallons or more of petroleum remain uninspected:

- 2 of 39 (5%)

This Deficiency is considered corrected.

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

**INCIDENTAL FINDINGS REQUIRING RESOLUTION**

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

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**1. INCIDENTAL FINDING:**

The CUPA is not consistently classifying APSA Program violations properly.

Review of facility files and CERS CME information on December 4, 2024, between July 1, 2020, and March 31, 2024, reflects the following non-minor APSA Program violation was classified as a minor violation:

- Not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan was cited as a minor violation. Facilities that operate without an SPCC Plan does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. Environmental Protection Agency (US EPA).
  - CERS ID 10134112
  - CERS ID 10088701
  - CERS ID 10633816

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

**CITATION:**

CCR, Title 19, Section 1612(d)  
[OSFM]

**RESOLUTION:**

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

- Violation Classification Training Video 2014  
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
- 2020 Violation Classification Guidance for Unified Program Agencies  
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
- SPCC violations in the "U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act," August 1998, which specifies that a no SPCC Plan violation is not considered minor

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

(<https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998 .html>)

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

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### 2. INCIDENTAL FINDING:

The CUPA is not consistently citing nor requiring the correction of construction violations at UST systems identified in State Water Board Local Guidance (LG) Letter 150-3, dated February 2021.

Review of the UST Facility/Tank Data Download report obtained from CERS on November 12, 2024, finds:

- The following USTs with single-walled vent or riser piping utilizing the overfill prevention equipment (OPE) exemption:
  - CERS ID 10086160-005
  - CERS ID 10085143-004
  - CERS ID 10085674-001
  - CERS ID 10521814-005
- The following UST system, installed between July 1, 1987, and June 30, 2003, with single-walled vent or riser/fill piping and equipped with only Audible/Visual alarms with no Ball Float or Fill Tube Shut-off Valve:
  - CERS ID 10128409-001
- The following UST systems indicate “No” for Audible/Visual Alarms, Ball Floats, Fill Tube Shut-off Valve, and Exempt:
  - CERS ID 10119793-004
  - CERS ID 10088056-002

### CITATION:

CCR, Title 23, Sections 2635(d), 2636(a), and 2665(c)  
[State Water Board]

### RESOLUTION:

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities, including the CERS UST tank ID, with incorrect or incomplete OPE construction.

By the 1st Progress Report, the CUPA will provide written correspondence addressed to the UST facility owners/operators, informing the UST owners/operators of the requirement for installation of OPE, or to construct secondary containment for single-walled vent and fill risers. The written correspondence will include language stating that failure to comply with OPE requirements specified in CCR, Chapter 16, Section 2635(c)(1)(B) or (C) or (D) or secondary containment exemptions in CCR, Chapter 16, Section 2636(a) will lead to enforcement. The CUPA will include the State Water Board as a carbon copy recipient on the correspondence.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

By the 3rd Progress Report, if appropriate steps have not been taken by the UST owners/operators to resolve the construction violations, the CUPA will apply enforcement, including but not limited to revocation of the UST Operating Permit and issuance of red tags, which prohibit the deposit and withdrawal of product. The CUPA will provide CalEPA with documentation of the applied enforcement.

The State Water Board will consider this Incidental Finding resolved when the UST owners/operators install and correct OPE or secondarily contain vent and fill piping.

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### 3. INCIDENTAL FINDING:

The CUPA is not consistently implementing proper UST temporary closure requirements.

Review of Report 6 and CERS information finds temporary closure requirements were not met for CERS UST Tank IDs 10473358-001 and 10473358-002.

- Review of Report 6 information finds the following for each UST Tank ID:
  - Reporting Period January – June 2024 reported August 30, 2024
    - UST placed into temporary closure on November 13, 2023
- Review of CERS information finds the following for each UST Tank ID:
  - There are no CERS submittals that accurately capture the temporary closure. The most recent accepted submittal is dated August 14, 2023.

### CITATION:

HSC, Chapter 6.7, Sections 25293 and 25298(b)

CCR, Chapter 16, Sections 2670(b), 2671(c), and 2672(d)

[State Water Board]

### RESOLUTION:

By the 1st Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with a list of all USTs in temporary closure and the following documentation for each UST facility:

- CERS UST Tank ID
- Facility address
- Date UST was placed into temporary closure
- Sampling assessment allowing extension of 12 months, if temporary closure extends beyond 12 months
- Annual UST compliance inspection reports
- Quarterly inspection reports conducted by the owner or operator, and

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

- Temporary closure permit

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure establishment of a process to correctly implement UST temporary closure requirements, which will include, at minimum:

- Issuing a temporary closure extension of no more than an additional 12 months only after the CUPA reviews and approves a site assessment conducted by the owner or operator or issuing a temporary closure permit that does not extend beyond 12 months.
- Requiring documentation from the owner or operator to show inspections were conducted at least once every three months while the UST was in temporary closure.
- Reviewing the quarterly inspections during the UST compliance inspection to ensure the owner or operator is complying with the temporary closure permit requirements.
- Correctly reporting USTs in a temporary closure in CERS and Report 6, including the date in which the USTs were put in a temporary closure, and
- Putting only those USTs into temporary closure that are intended to be brought back into operation.

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, were 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. Once training is complete, the CUPA will implement the revised I&E Plan, or other applicable procedure and provide CalEPA with a statement that training has been conducted.

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. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure and provide CalEPA with a statement that training has been conducted.

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## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### 4. INCIDENTAL FINDING:

The UST Operating Permit, issued as a Unified Program Facility Permit (UPFP), includes components that are inconsistent with CCR, Title 23, Division 3, and HSC, Division 20, Chapter 6.7 requirements.

Review of the UST Operating Permit finds the following inconsistencies with CCR, Chapter 16 and HSC, Chapter 6.7:

- Page 1 states “The permit holder must notify the City of Santa Clara Fire Department within 30 days of any changes to the permit or UST systems, unless required to obtain approval before making the changes”
  - The correct method of notification is for the permit holder to “submit to the local agency through the California Environmental Reporting System (CERS)”
- Page 3 cites “HSC Division 20, Chapter 6.7 and 6.75 and Title 23 CCR Chapter 16 and 18”
  - The CUPA does not have regulatory authority to implement clean-up of USTs as a Local Oversight Program agency, and therefore cannot cite CCR, Chapter 18 and HSC, Chapter 6.75. The correct citations are as follows:
    - CCR, Title 23, Sections 2610 through 2717.7
    - HSC, Chapter 6.7 Sections 25280 through 25296 and 25298 through 25299.6
- Page 3 states “The permittee must notify the City of Santa Clara Fire Department within thirty (30) days after any changes in the usage of any UST including: a) changes in any monitoring procedure; b) change of owner/operator; c) changes in construction details. Notification must be made thirty (30) days before changing the substance currently stored in any UST Title 23 Section 2711. The City of Santa Clara Fire Department may review, modify, or terminate the Permit to Operate upon receiving notification of the above changes.”
  - This combines components from CCR 2711 and 2712 (d), resulting in inconsistencies with UST regulations.

#### CITATION:

HSC, Sections 25284, 25285(b), 25285.1, 25286, 25292.05, and 25297.01(b)  
CCR, Chapter 16, Sections 2711 and 2712  
[State Water Board]

#### RESOLUTION:

By the 1st Progress Report, the CUPA will revise the UST Operating Permit template, to be consistent with CCR, Chapter 16 and HSC, Chapter 6.7. An example UST Operating Permit and permit conditions template has been made available by the State Water Board at: [https://www.waterboards.ca.gov/water\\_issues/programs/ust/docs/permit-template2.docx](https://www.waterboards.ca.gov/water_issues/programs/ust/docs/permit-template2.docx)

The CUPA will contact the State Water Board for assistance with revising the UST Operating Permit template, if necessary. The CUPA will provide the revised UST

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

Operating Permit template, including the revised UST Operating Permit and Permit Conditions to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST Operating Permit template, based on feedback from the State Water Board. The CUPA will provide the amended UST Operating Permit template to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST Operating Permit.

By the 3rd Progress Report, if amendments to the revised UST Operating Permit template were necessary, the CUPA will begin to issue the amended UST Operating Permit.

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#### 5. INCIDENTAL FINDING:

The CUPA is not consistently including all observations, citations, factual basis, and corrective action documentation for each violation cited in HWG Program inspection reports.

Review of HWG Program inspection reports, CERS CME information and Notices of Violation (NOVs) finds information such as full detail of each observation, factual basis, and corrective actions to ensure RTC, are inadequately or improperly documented for cited violations at the following facilities:

- CERS ID 10084831: Inspection report dated October 19, 2023
  - Statements regarding observations are inadequate such as:
    - "Employee training record due March 2023 or HMBP; HW; and Universal waste."
    - "Area does not appear to be inspected as oils are outside and open."
    - "Currently located inside the shed and is hard to get to and labels are not visible."
- CERS ID 10085113: Inspection report dated March 7, 2023
  - Observations, factual basis, and corrective actions are not documented for the following violation cited: "Failure to properly label hazardous waste accumulation containers and portable tanks with the following requirements: "Hazardous Waste", name and address of the generator, physical and chemical characteristics of the Hazardous Waste, and starting accumulation date."
- CERS ID 10087300: Inspection report dated November 5, 2021
  - Observations and factual basis are not documented for the following violation cited: "Provide waste determination for the drained rinsate and chemical bath rinse. Split sample taken and provide site with one of the samples. Samples to be tested for CAM 17 at a certified laboratories."
- CERS ID 10088017: Inspection report dated November 13, 2023
  - Detail regarding the type and amount of unlabeled containers is not documented.
- CERS ID 10088266: Inspection report dated September 25, 2023
  - Statements regarding observations are inadequate such as:

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

- “As demonstrated by the number and type of hazardous waste violations observed at the time of inspection, personnel are not adequately trained to perform their duties in a way that ensures the facility's compliance with hazardous waste laws and regulations, and/or employee training records have not been kept or do not contain all required information, or employees were not trained within 180 days after their hire date or assignment to a new facility or position, and annually thereafter.”
- “Owner/Operator failed to send hazardous waste offsite for treatment, storage, or disposal within 90 days of accumulation start date.”
- CERS ID 10154459: Inspection report dated March 13, 2023
  - Observations, factual basis, and corrective actions are not documented for the following violation cited: “Owner/Operator failed to send hazardous waste offsite for treatment, storage, or disposal within 90 days of accumulation start date.”
- CERS ID 10418803: Inspection report dated February 14, 2024
  - Detail on the type and amount of open containers is not documented.

Note: It is not necessary to revise the HWG/TP inspection reports for the facilities identified as examples above.

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

Note: This Incidental Finding was identified as a Deficiency during the 2020 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

#### **CITATION:**

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

#### **RESOLUTION:**

By the 1st Progress Report, the CUPA will ensure HWG Program inspectors:

- Receive inspection report writing training to include observations, factual basis, citations and corrective actions for each violation cited in an HWG Program inspection report by reviewing the “Elements of a Violation” training.
- Review the following DTSC HWG fact sheets and information:
  - DTSC Hazardous Waste Generator Requirements Fact Sheet  
<https://dtsc.ca.gov/hazardous-waste-generator-requirements-fact-sheet/>.
  - Accumulating Hazardous Wastes at Generator Sites  
<https://dtsc.ca.gov/accumulating-hazardous-wastes-at-generator-sites/>.
  - HSC, Section 25185(c)(2)(A)  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.5.&article=8](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.5.&article=8)



## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

The CUPA will provide CalEPA with a statement that all staff conducting HWG Program facility inspections have reviewed the training materials, fact sheets and information listed above, including the name of each HWG Program facility inspector that reviewed the training materials, and the date the review was completed.

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

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#### 6. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not properly/consistently reviewing, processing, and authorizing each annual Onsite Hazardous Waste Treatment Notification for Permit-by-Rule (PBR) facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.

During the 45-day review process the CUPA must:

- Authorize operation of the FTU; or
- Deny authorization of the FTU in accordance with PBR laws and regulations; or,
- Notify the owner/operator that the notification submittal is inaccurate or incomplete.

Review of CERS information finds the following Tiered Permitting submittals submitted between July 1, 2021, and June 30, 2024, were not reviewed, processed, or authorized by the CUPA within 45 days of receipt:

- 0 of 152 (0%)
  - 92 of 152 (61%) Tiered Permitting submittals were processed in excess of 90 days, with 667 days being the longest.

Note: This Incidental Finding was identified as a Deficiency during the 2020 CUPA Performance Evaluation and was corrected during the Evaluation.

#### CITATION:

CCR Title 22, Sections 67450.2(b)(4) and 67450.3(c)(1) and (d)  
HSC, Chapter 6.5, Sections 25200.3(e)(3) and 25201.5(d)(7)  
[DTSC]

#### RESOLUTION: COMPLETED

During the evaluation, the CUPA accurately reviewed, processed and authorized each pending Onsite Hazardous Waste Treatment PBR notification.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### 7. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The 2024 area plan is missing a required element.

Review of the 2024 area plan finds the following required element is missing:

- Public Safety and Information
  - Procedures to identify all languages known to be spoken in the administering agency's county or city, as the case may be, and ensure that any individual is able to access services in their native language, as required by required by Section 11135 of the Government Code per [CCR, Title 19, Section 5020.6\(d\)](#). The area plan will outline what these services are and how they will be provided in the languages identified.

#### CITATION:

HSC, Chapter 6.95, Section 25503(c)

CCR, Title 19, Division 5, Article 2, Sections 5020.1-5020.8

[CalEPA]

#### RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with an updated area plan that included all required elements. This Incidental Finding is considered resolved.

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#### 8. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

Required components of the I&E Plan are inaccurate.

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

- Page 23, Section B (2) Chapter 6.95 HSC, Section 25540 states: (a) civil penalties not to exceed \$2,000 per day for each violation
  - Chapter 6.5, HSC, Section 25540 (a)(2) states not more than \$5,000 per day per violation.
- Page 25 Section C states: "Chapter 6.7 HSC section 25299.01 - When any person has engaged in, is engaged in, or is about to engage in any acts or practices which violate this chapter or Chapter 6.75 or any rule, regulation, permit, standard, requirement, or order issued, adopted, or executed pursuant to this chapter or Chapter 6.75, the city attorney, the district attorney or the Attorney General may apply to the superior court for any order enjoining these acts or practices, or for an order directing compliance."
  - The CUPA does not have authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Chapter 6.75.

#### CITATION:

HSC, Chapter 6.7 Sections 25283(b)(3), 25297.01

CCR, Title 27, Section 15200(a)

[CalEPA, State Water Board]

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**RESOLUTION:**

During the evaluation, the CUPA provided CalEPA with an updated I&E Plan that addressed all requirements previously identified as inaccurate.

This Incidental Finding is considered resolved.

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

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

The following Unified Program administrative procedures are incomplete:

- Data Management Procedures
  - The provided Data Management Procedures do not include the following records required to be retained for a minimum of five years:
    - Self-Audit reports
    - Informal and formal enforcement actions
    - Surcharge billing and collection records following closure of any billing period, or until completion of any audit process

Note: This Incidental Finding was identified during the 2020 CUPA Performance Evaluation regarding incomplete Records Maintenance and Permitting procedures. During the Evaluation Progress Report process the CUPA provided acceptable Records Maintenance and Permitting Procedures.

**CITATION:**

CCR, Title 27, Sections 15185(g)  
[CalEPA]

**RESOLUTION: COMPLETED**

During the evaluation, the CUPA provided CalEPA with an updated Data Management Procedure that included all required elements.

This Incidental Finding is considered resolved.

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# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

### 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:

The information below is a summary of the overall implementation of the HWG Program and the CUPA's hazardous waste related activities based upon review of policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between July 1, 2021, and June 30, 2024:

- CERS reflects 661 regulated HWG facilities, including 51 Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), and 39 Tiered Permitted facilities within the jurisdiction of the CUPA.
- The CUPA's data management system reflects 717 regulated HWG facilities, 37 TP facilities, and 43 RCRA LQG facilities.
- The difference in the total number of HWG facilities reflected in CERS and the total number of HWG facilities reflected in the CUPA's data management system is likely due to some regulated facilities incorrectly identifying as HWGs in CERS.
- The three-year inspection frequency for all HWG Program facilities is currently being met.
- CERS reflects the CUPA inspected 465 unique HWG facilities and conducted 560 HWG routine inspections. Conducting more HWG routine inspections than there are HWG facilities indicates the CUPA inspected some HWG facilities more often than once every three years (or the inspection frequency established in the I&E Plan). Conducting frequent inspections leads to better compliance rates and helps ensure that hazardous waste is being managed appropriately.
  - 245 of 560 (44%) routine inspections had no violations cited
  - 315 of 560 (56%) routine inspections had at least one violation cited.
  - The CUPA conducted 176 "other" HWG inspections, of which 24 (14%) had at least one violation cited.
    - In the 339 inspections conducted having at least one violation, 800 total violations were cited, consisting of:
      - three (<1%) Class I violation,
      - 247 (31%) Class II violations, and
      - 550 (69%) minor violations.
  - The CUPA has ensured RTC for 462 of 800 (58%) violations cited.
  - Note: RCRA LQG violation information is transferred from CERS to the U.S. EPA RCRA info (RCRA Info) public data base. If RTC is not present in CERS, it will not be present in RCRA Info. If a facility is determined to be out of compliance in RCRA Info, the facility may not be able to operate fully,

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

obtain insurance, or be seen in the public eye as a compliant facility for conducting business.

- CERS reflects no formal enforcement actions were completed for hazardous waste related violations.
- The CUPA completed a separate formal enforcement action for four different facilities with hazardous waste related violations having a cumulative total penalty amount of \$139,500.00.
- Inspection reports document when consent to inspect was requested prior to beginning the inspection.
- Violation observations and comments are consistently being entered into CERS.

#### **RECOMMENDATION:**

Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement when facilities do not RTC, per the I&E Plan. Continue to ensure complete and thorough inspections are conducted to identify all violations at facilities.

Ensure inspection reports contain a detailed description of observations and the factual basis for each cited violation, and ensure comments in CERS reflect these details, to support any applicable enforcement efforts. Descriptions of observations and the factual basis to support alleged violations, should be detailed enough to clearly demonstrate how a regulatory requirement was not met and support the violation classification. Corrective action language (i.e. language describing what must be done for the facility to obtain RTC) should be appropriately prescriptive and clearly describe what must be done for the facility to obtain RTC, including how corrective action documentation should be provided for RTC consideration.

Revise appropriate citation sections in inspection report templates to reference the U.S. EPA Generator Improvement Rule requirements adopted and incorporated into California regulations. For example, CCR, Title 22, Section 66262.34 has been repealed.

Increase staffing and any other resources needed to effectively implement the HWG Program and On-Site Hazardous Waste Treatment Activities.

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#### **2. OBSERVATION:**

The CERS reporting requirement is currently set as "APSA Applicable" for 128 APSA tank facilities. The CUPA's data management system identifies 118 APSA tank facilities.

- 111 APSA tank facilities are identified in both CERS and the CUPA's data management system.
- 15 facilities identified as "APSA Applicable" in CERS that, according to the submitted inventory, should not be regulated under APSA.
- 6 facilities identified as APSA tank facilities in the CUPA's data management system are not identified in CERS as APSA tank facilities.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

**RECOMMENDATION:**

Review the APSA tank facilities identified as "APSA Applicable" in CERS and determine if each facility is regulated under APSA.

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

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**3. OBSERVATION:**

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

**RECOMMENDATION:**

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

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**4. OBSERVATION:**

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

Review of the CERS submittals related to the facility files finds UST construction and leak detection information are incorrect as follows:

- CERS ID 10159517
  - Tank Information cites "None" for the containment sump, while "Fiberglass" is cited for Riser Pipe Secondary Containment under the Vent, Vapor Recovery, and Riser/Fill Pipe Piping Construction section
- CERS ID 10521814
  - Tank Information cites "None" for Piping/Turbine Containment Sump, while the Monitoring Plan cites 208 sensors being used to monitor the Piping Secondary Containment.
- CERS ID 10084975
  - Monitoring Plan cites "Yes" for "UDC Monitoring Stops Flow of Product at Dispenser, while 208 sensors are cited under "UDC Leak Sensor model"

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

**RECOMMENDATION:**

Review CERS submittals to ensure construction information is accurate and complete. Contact the State Water Board for additional training.

UNIFIED PROGRAM PERFORMANCE EVALUATION  
FINAL SUMMARY OF FINDINGS REPORT

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**5. OBSERVATION:**

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

- CERS ID 10084984 with 3 single-walled USTs
- CERS ID 10159517 with 2 single-walled USTs

Review of the facility file for CERS ID 10084984 finds the UST Operating Permit expires on April 17, 2029.

**RECOMMENDATION:**

Provide verbal and written reminders to all applicable UST owners/operators regarding the December 31, 2025, deadline for permanent closure of single-walled USTs. The CUPA must ensure that all permits to operate for single-walled UST facilities expire on or before December 31, 2025, and must take enforcement action on any single-walled UST that is not permanently closed by December 31, 2025. Contact the State Water Board for red tag supplies.

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**6. OBSERVATION:**

Review of UST inspection reports finds the following statement is included at the bottom of each report:

“**NOTICE:** You are hereby notified to correct the violation(s) stated above within 30 day(s) from the date of this notice. All deficiencies must be corrected within 45 days of the inspection date unless otherwise noted above. Please write a brief description of corrective actions taken to bring this facility into compliance in the right column above, sign the certification statement below and submit it to this Office within 35 days of the inspection date”

**RECOMMENDATION:**

Ensure that the dates in the statement above align with each other and with HSC.

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**7. OBSERVATION:**

Review of CERS and CME information on November 12, 2024, finds RTC was entered as “Not Resolvable” for 5% of UST program violations. The following are examples:

- CERS ID 10119793
  - Routine Inspection dated February 2, 2023
    - Unified Program Violation Library Violation Type Number 2030043 - Monitoring Equipment (USEPATCR 9d)
- CERS ID 10521814
  - Routine Inspection dated December 20, 2022

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

- Unified Program Violation Library Violation Type Number 2030036 -  
Overfill Prevention (USEPATCR 9b)
- CERS ID 10086160
  - Routine Inspection dated July 31, 2023
    - Unified Program Violation Library Violation Type Number 2030036 -  
Overfill Prevention (USEPATCR 9b)
- CERS 10156275
  - Routine Inspection dated March 25, 2022
    - Unified Program Violation Library Violation Type Number 2030025 - Line  
Leak Detector (LLD)-Double-Walled Pressurized Pipe (USEPATCR 9d)

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

#### **RECOMMENDATION:**

UST Violation qualifier “Not Resolvable” is intended for unique situations where the initial violation cannot be resolved. UST Program violations for missed testing, and/or failures in testing for leak detection equipment are resolvable. “Not Resolvable” will be added to the Data Dictionary in 2026, and these current procedures will be incorrect.

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

On January 28 and 29, 2025, an HWG Program oversight inspection was conducted at CERS ID 10088335, a RCRA LQG and TP facility. The inspection was conducted by one lead CUPA inspector, and one other CUPA inspector with the CUPA manager present.

The inspectors had access to regulation and statute. The lead inspector informed the facility of the purpose of the inspection, stating as representatives of the CUPA, as part of implementing the Unified Program, the facility was due for inspection. The inspector did not ask for nor receive consent to inspect. However, the CUPA manager asked for and received consent to inspect.

The lead inspector arranged logistics by assuring the respective facility was active. For example, the lead inspector stated that the HDL internal database is reviewed to ensure the facility has an operating permit, for inspection and violation history, and to determine whether the facility is active, and HWTS is reviewed for EPA IDs and shipments. The lead inspector had all applicable information available, such as permits, files, applications, and prior inspection reports. The lead inspector prepared a packet of printed materials, standard for inspections, using information from the internet, HWTS, and CERS, including the site map, hazardous materials inventory, Contingency Plan, inspection checklists for several Program Elements, a CERS Violation Library “cheat sheet,” and a list of hazardous waste manifests to compare to the manifests maintained at the facility.

All areas were inspected, and all appropriate documents were reviewed. For example, on January 28, 2025, each building at the facility was inspected, including clean room areas, laboratories, the manufacturing area, outdoor gated areas, satellite accumulation containers, municipal trash containers, the new and raw material storage bunker, intermodal storage containers, the roof, wastewater lift stations, HW treatment



## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

tanks, and the outdoor hazardous waste central accumulation container. However, an unlabeled container of liquid raw material, an uncovered bin collecting oily water from a leaking oil-water separator, and an unknown green substance leaking from a fixed pipe, were inspected only when brought to the attention of the inspector. On January 29, 2025, hazardous waste manifests, employee training records, Land Disposal Restriction documents, emergency coordinator contact information, the Contingency Plan, logs for weekly inspection of the hazardous waste central accumulation area, the 2024 Biennial Report, Source Reduction Plan, and CERS submittals, including the treatment tank closure cost estimate, were reviewed. The tank assessment, notification to the city and first responders about managing hazardous materials, and the Quick Reference Guide, were not available for review upon request. Daily tank inspection logs were available for review digitally (on a tablet at the time of inspection), however were not reviewed upon inquiry. The 2022 Biennial Report and the training plan were not reviewed.

The inspector correctly interpreted and applied requirements in accordance with the type of inspection conducted. Regulations were adequately explained to the facility representative. The inspector applied new requirements and changes in requirements appropriately. For example, the inspector inquired about notification to the city and first responders about managing hazardous materials and the Quick Reference Guide. The inspector asked for help in determining correct regulatory interpretations and whether the tank assessment requirement specified that a tank must be inspected only or certified.

The inspector acted in a professional manner and developed rapport with facility personnel. For example, the inspector introduced themselves to the facility, provided an overview of what would be inspected, and assertively directed the inspection. The inspector remained engaged in conducting the inspection by asking questions about the facility layout, processes, and regulatory requirements to clarify their understanding of the facility and its operations. On January 29, 2025, a closing conference was conducted with facility personnel to provide the opportunity to ask any questions as well as explain and review findings and expectations from the inspection, including observations of requirements in compliance, all alleged violations and corrective actions.

Not all violations were correctly classified in the inspection report. For example, a violation for exceedance of authorized accumulation time and a violation for failure to obtain and maintain a written tank assessment certified by a professional engineer were both incorrectly cited as minor violations. Violation notations included detailed observations, the factual basis, and corrective actions; however, container capacities were not noted, and corrective actions were not provided for all violations cited. Violations notations did not include individual "Correct By" dates; the "Correct By" dates in the inspection report template simultaneously note three different "Correct By" dates of "30 day(s)," "45 days," and "35 days" for all violations.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

#### **RECOMMENDATION:**

Reference and revise appropriate citation sections in inspection reports to reflect U.S. EPA Generator Improvement Rule requirements adopted and incorporated into California regulations. For example, CCR, Title 22, Section 66262.34 has been repealed.

Ensure complete and thorough inspections are conducted to identify all violations at facilities, including inspection of unlabeled containers, uncovered bins and unknown substances.

To support any applicable enforcement efforts, ensure inspection reports contain a detailed description of observations and factual basis for each cited violation, and ensure comments in CERS reflect the detailed observations and factual basis for each violation cited in inspection reports, and properly cited violations. Descriptions of observations and factual basis to support alleged violations, should be detailed enough to clearly demonstrate how a regulatory requirement was not met and support the violation classification. Corrective action language (i.e. language describing what must be done for the facility to obtain RTC) should be prescriptive and clearly describe what must be done for the facility to obtain RTC, including how corrective action documentation should be provided for RTC consideration, and by when.

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

On January 27, 2025, an oversight inspection was conducted during the annual monitoring system certification and the spill container testing at CERS ID 10134673. During the inspection, the service technician provided the inspector with the tank set up and alarm history print out prior to opening any UST components. The inspector demonstrated strong knowledge of the UST program and was well-prepared. The inspector confirmed all operability of the UST monitoring system and sensors, while issuing violations for the ones that failed.

Review of the inspection report, testing documents, and CERS indicates that all instances of non-compliance were issued as violations in the inspection report.

#### **RECOMMENDATION:**

Continue to conduct thorough UST inspections.

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

On April 8, 2025, a CalARP oversight inspection was conducted at CERS ID 10085842. The inspector was well prepared for the inspection and reviewed relevant information, including the most current Risk Management Plan (RMP) and CERS submittal prior to arriving at the facility. The inspector was knowledgeable, established rapport with the facility operators, requested and reviewed the most current RMP information, toured the entire site, and effectively communicated technical information to the facility operators. The inspector extended assistance to the facility operators for familiarity with the CalARP Program requirements.

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

On April 9, 2025, CalEPA observed an HMBP inspection conducted by a CUPA inspector. The inspection occurred at CERS ID 10487035. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory, and emergency response plan information and training on site, and effectively communicated technical information to the facility operators. The inspector educated the operator on new requirements and offered assistance with HMBP reporting. The inspector was overall very professional and spoke very clearly. The inspector identified and disclosed all violations.

On April 9, 2025, CalEPA observed an HMBP inspection conducted by a CUPA inspector. The inspection occurred at CERS ID 10084912. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector was able to determine multiple violations and inconsistencies during the pre-inspection preparation. The inspector established rapport with the facility operators, toured the entire site, verified inventory, and emergency response plan information and training on site, and effectively communicated technical information to the facility operators. The inspector identified and disclosed all violations.

#### **RECOMMENDATION:**

Continue to conduct thorough HMBP & CalARP inspections.

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#### **11.OBSERVATION:**

UST compliance inspection information in the Semi-Annual Report (Report 6) is inconsistent with CERS UST CME Data Download information.

Review of Report 6 and the CERS UST CME Data Download obtained from CERS on November 12, 2024, identifies the following U.S. EPA TCR violations with no documented RTC not being reissued during the subsequent routine UST inspection:

- CERS ID 10088473
  - Unified Program Violation Library Violation Type Number 2030025 - Line Leak Detector (LLD)-Double-Walled Pressurized Pipe (USEPATCR 9d) was issued on November 23, 2021.
    - The violation was not reissued during the subsequent reinspection in 2022.
    - RTC was obtained on November 27, 2023.
- CERS ID 10156275
  - Unified Program Violation Library Violation Type Number 2030025 - Line Leak Detector (LLD)-Double-Walled Pressurized Pipe (USEPATCR 9d) was issued on March 25, 2022.
    - The violation was not reissued during the subsequent reinspection in 2023 and 2024.
    - During the 2024 inspection, the violation was entered in CERS as "Not Resolvable" with a comment stating "Transfer these violations to 2024

## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

Annual Inspection Report to clear history. Refer to latest report for updates. Both 87 and 91 mechanical line leak detectors did not detect a 3.0 gph at 10 psi leak" and an RTC date of March 26, 2024, was entered.

- CERS ID 10134199
  - Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention (USEPATCR 9b) was issued on October 7, 2021.
    - The violation was not reissued during the subsequent reinspections in 2022 and 2023.
    - No RTC date has been reported to CERS.
- CERS ID 10085143
  - Unified Program Violation Library Type Number 2030048 - Secondary Containment Testing (USEPATCR 9d) was issued on February 24, 2021.
    - The violation was not reissued during the subsequent reinspection in 2022.
    - The violation comment states "Secondary containment testing of all three fuel lines and UDCs have not passed since 1-15-2015"
    - RTC was obtained on February 15, 2024.
- CERS ID 10084984
  - Unified Program Violation Library Type Number 2030048 - Secondary Containment Testing (USEPATCR 9d) was issued on July 15, 2021.
    - The violation was not reissued during the subsequent reinspections in 2022 and 2023.
    - RTC was obtained on August 1, 2024.

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

Note: The CUPA has established paperless Report 6 reporting, where the UST inspection information in Report 6 is derived directly from CERS CME information. This omission results in inaccurate TCR submittals in Report 6, which is a requirement of the Federal Energy Policy Act of 2005 and is integral for receiving federal grant funding for California's UST Program.

#### **RECOMMENDATION:**

Ensure that U.S. EPA TCR violations without documented RTC are reissued during the subsequent routine UST inspection. The State Water Board will periodically review the CUPA's TCR and CME data to verify that TCR violations are being reissued and that the data reported in Report 6 is accurate.

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