

October 20, 2025

Nadine Martelli, Senior REHS
Tuolumne County Division of Environmental Health
2 South Green Street
Sonora, California 95370-4618

Dear Ms. Martelli:

During October 2024, through July 2025, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Tuolumne County Division of Environmental Health Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections.

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

Based upon review and completion of the performance evaluation, CalEPA has rated the CUPA's overall implementation of the Unified Program as 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, 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. If you would like to have specific comments remain anonymous, please indicate so on the survey.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Boetzer", with a stylized flourish at the end.

Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Tuolumne County Division of Environmental Health

2024 Evaluation Assessment: October 2024 through July 2025

Timeframe Evaluated: May 18, 2021, through June 30, 2024

Evaluation Team Members:

- CalEPA Team Lead: Timothy Brandt
- DTSC: Pheleep Sidhom, Mia Goings
- CalEPA: Garrett Chan
- State Water Board: Magnolia Busse
- 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

The submittal date for the 1st Evaluation Progress Report is **December 29, 2025**.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

ACCOMPLISHMENTS, CHALLENGES, AND EXAMPLES OF OUTSTANDING IMPLEMENTATION

Various accomplishments and outstanding efforts, as well as challenges that impact the CUPA's overall ability to implement the Unified Program.

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

Since the 2021 CUPA Performance Evaluation, the CUPA ensured APSA tank facilities annually submitted a tank facility statement or a Hazardous Materials Business Plan (HMBP), in lieu of a tank facility statement, to the California Environmental Reporting System (CERS).

In addition, the CUPA successfully enforced the requirements of the APSA Program and obtained a high rate of compliance from tank facilities that were cited with violations.

2. OUTREACH & CERS SUPPORT TO REGULATED COMMUNITY:

The CUPA regularly provides regulated facility representatives with CERS assistance during or after routine inspections and sends email reminders to ensure compliance with completion of annual CERS submittals. CUPA staff also provide educational outreach to facility representatives at regulated facilities cited with violations to help ensure return to compliance (RTC) and to prevent violations from being recited in the future.

3. EMERGENCY RESPONSE:

The CUPA oversees emergency response cleanup and containment of fuel and oil spills and other releases. Since the last evaluation, the CUPA participated in investigations related to petrochemical releases at two different facilities. In addition, CUPA staff responded to a plane crash on January 23, 2025, that resulted in a minor release of Jet A fuel.

4. CUPA STAFFING CHALLENGES:

The CUPA continues to experience inconsistent staffing levels that impede the ability to fully implement all Unified Program elements. In September of 2021, the previous CUPA Manager left the program, and the position remained vacant until it was filled with the current CUPA Manager in March of 2024.

The CUPA currently has 1.0 Full Time Equivalent hours (FTE) budgeted for CUPA inspector positions, which are allocated among two positions, a CUPA Program Lead (0.25 FTE) and a CUPA Inspector (0.75 FTE). The CUPA Inspector position was vacant dating back to the 2021 CUPA Performance Evaluation. It was filled from November 2022 until December 2023 and was filled again in January 2024. The CUPA also enlisted short-term contract inspectors between May and August of both 2022 and 2023 to assist with completing inspections. At present, the CUPA is fully staffed.

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DEFICIENCIES REQUIRING CORRECTION

Deficiency “is a major deviation in implementation of one or more Unified Program elements from the expected standards set forth in statute or regulation. It is a systemic problem that could impact the safety and protection of human health and the environment.” (Cal. Code Regs., tit. 27, section 15100(k).) In addition, recommendations may be provided.

1. DEFICIENCY:

The CUPA is not consistently inspecting abandoned underground storage tanks (USTs), reporting technical compliance rate (TCR) information in CERS and the Semi-Annual Report (Report 6), nor applying appropriate enforcement to ensure the proper closure of abandoned USTs in accordance with California Code of Regulations (CCR), Title 23, Division 3, Chapter 16 (CCR, Chapter 16) and Health and Safety Code (HSC), Chapter 6.7.

Review of CERS CME information and Report 6 finds TCR criteria violations were not reported to CERS for an abandoned UST inspected at the following facilities:

- CERS ID 10586965
 - October 7, 2021
 - October 18, 2022
 - July 18, 2023
 - December 29, 2023
 - July 23, 2024
- CERS ID 10463485
 - November 18, 2022
 - December 29, 2023
 - May 22, 2024

Note: This Deficiency was identified in the 2021 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. UST compliance inspection reports or closure documentation was not provided for CERS ID 10586965 and CERS ID 10463485. The CUPA incorrectly reported that CERS ID 10463485 received state funding for UST closure, however after multiple requests to provide required documents, the facility was rejected by the State Rural Underground Storage Tank (RUST) Fund.

CITATION:

HSC, Chapter 6.7, Sections 25298 and 25299(a)(5) and (b)(3)
[State Water Board]

CORRECTIVE ACTION:

With respect to the abandoned USTs identified at CERS ID 10586965 and CERS ID 10463485, the CUPA will ensure proper closure is completed in accordance with UST Regulations and HSC. Any UST installed on or after January 1, 1984, which is operational, temporarily closed, or abandoned, and was previously regulated by the CUPA shall be:

- Reported to CERS,
- Inspected annually, applying appropriate enforcement to obtain compliance if needed, and
- Reported in Report 6 with TCR information.

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By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to properly inspect abandoned USTs annually, report TCR information in CERS and Report 6, and apply appropriate enforcement for the proper closure of abandoned USTs.

By the 1st Progress Report, the CUPA will review and revise the Inspection and Enforcement (I&E) Plan to ensure the establishment of a process for proper closure of abandoned USTs, including how the CUPA inspects and enforces the closure of abandoned USTs. The process at a minimum will address:

- Conducting annual UST compliance inspections;
- Reporting TCR information in Report 6 and CERS;
- Applying appropriate enforcement; and
- Ensuring future abandoned USTs are reported to CERS and have the UST element set to "Applicable" in CERS until UST closure is completed.

The CUPA will provide CalEPA with the revised I&E Plan.

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

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, for each remaining abandoned UST the CUPA will provide CalEPA with annual UST compliance inspection records, TCR information in CERS and Report 6, UST closure records (if applicable), and the applied appropriate enforcement.

The CUPA must apply appropriate enforcement in accordance with the I&E plan. If no USTs have been permanently closed by the 5th Progress Report, the State Water Board will consider this Deficiency closed but not corrected upon completion of training and implementation of the revised or amended I&E Plan. The State Water Board will verify proper UST removal or closure in place during the next CUPA Performance Evaluation.

2. 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 initial and subsequent triennial enhanced leak detection (ELD) testing.

Review of CERS facility information and GeoTracker finds the following UST facilities have not completed the initial ELD test and subsequent triennial ELD testing or have not submitted a request for reconsideration application form.

- CERS ID 10463485
- CERS ID 10422547

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State Water Board Local Guidance (LG) Letter 161-5 (distributed March 25, 2008), regarding the requirement for UST facilities to implement triennial or complete one-time ELD testing may be referenced.

Note: This Deficiency was identified in the 2021 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. UST compliance inspection reports or closure documentation was not provided for CERS ID 10463485 and CERS ID 10422547.

CITATION:

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

CORRECTIVE ACTION:

During the evaluation, the CUPA issued written correspondence to the owners or operators of CERS ID 104634850 and CERS ID 10422547, however ELD testing results have not been received. The CUPA indicated CERS ID 10463485 has a closure application with an estimated UST closure by October 31, 2024. The CUPA reported on October 10, 2024, that CERS ID 10422547 had been red tagged, however, this has not been reported to CERS.

By the 1st Progress Report, if triennial ELD testing has not been conducted, the CUPA will apply enforcement including but not limited to revocation of the UST operating permit and issuance of red tags, which prohibit the depot and withdrawal of fuel. If triennial ELD testing has been completed, the CUPA will provide CalEPA with ELD test results for the facility.

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

- ELD testing has been completed, and the CUPA has provided the ELD test results to CalEPA; or
- Issuance of a red tag and removal of fuel from the USTs if ELD testing has not been completed; or
- Permanent closure of USTs.

3. DEFICIENCY:

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

Review of UST compliance inspection reports, associated testing and leak detection documents, and CERS inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, between May 18, 2021, and June 30, 2024, finds the following discrepancies:

- Non-Compliance was observed in facility files and violations were not reported to CERS, routine UST compliance inspections are reported to CERS, and inspection reports were not provided:
 - CERS ID 10422547
 - Secondary Containment Testing was due April 2023 and completed on August 30, 2024.

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- Past due Secondary Containment Testing was not reported to CERS as a cited violation during the routine inspection on December 29, 2023.
 - Overfill Prevention Equipment (OPE) Inspection and repair was due July 2024 and completed on July 30, 2021
 - Past due OPE Inspection was not reported to CERS as a cited violation during the routine inspection on August 19, 2024.
- Inconsistent or incomplete identification of UST construction and inspection information:
 - CERS ID 10442131
 - Monitoring System Certification forms in Section 5, dated October 6, 2021, October 6, 2022, and October 31, 2023, cite "Yes" for "Does the turbine automatically shut down if the piping in the secondary containment monitoring system detects a release? Which sensors initiate positive shut down?"
 - Section 5 does not identify if it is the sump or Under Dispenser Containment (UDC) sensor that initiates positive shut down, while CERS reflects 208 sensors.
 - CERS ID 10422547
 - Monitoring System Certification forms in Section 5, dated May 9, 2022, and August 30, 2024, cite "Yes" and check both Sump and UDC for "Does the turbine automatically shut down if the piping in the secondary containment monitoring system detects a release? Which sensors initiate positive shut down?"
 - Section 6 has "Closed/Unkno" for identification of the UDC sensors, however UDC sensors are noted as passing
 - CERS identifies the UDC sensors as "LS-3".
- Service technician manufacturer trainings and certifications were missing or expired prior to the date of testing:
 - CERS ID 10422547
 - OPE Inspection and repairs completed July 30, 2021, by a technician without manufacturer training or certification provided.
 - OPE Inspection completed August 30, 2024, by a technician without manufacturer training or certification provided.
 - CERS ID 10435378
 - OPE Inspection completed November 14, 2023, by a technician with an International Code Counsel (ICC) certification that expired June 3, 2023.
 - CERS ID 10442131
 - OPE repair completed February 21, 2023, by a technician without manufacturer training or certification provided.
- UST testing records were not provided for the following facilities:
 - CERS ID 10418749
 - Last two Secondary Containment Testing Report Forms
 - CERS ID 10422547
 - 2023 Monitoring System Certification Forms
 - 2023 Spill Containment Testing Report Form
 - Tank Lining Certification

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- 2022 and 2023 tank integrity test
 - ELD Test results
 - CERS ID 10435378
 - 2024 Monitoring System Certification
 - 2024 Spill Containment Testing Report Form
 - Last two OPE Inspection Forms
 - 2024 Secondary Containment Testing Report Form
 - CERS ID 10461541
 - 2021 OPE Inspection Form
 - CERS ID 10560799
 - Last three Pipe Integrity Tests
- Routine UST Compliance Inspection Reports were not provided for 9 of 24 (38%) requested facilities, including:
 - CERS ID 10418749: 2024 inspection
 - CERS ID: 10422547: 2023 and 2024 inspections
 - CERS ID: 10461541: 2024 inspection
 - CERS ID 10463485: 2022 and 2023 inspections
 - CERS ID 10586965: 2022 and 2023 inspections

CITATION:

HSC, Chapter 6.7, Sections 25288(b), 25289, 25289(b) and 25299

CCR, Chapter 16, Sections 2636(g), 2637(b), 2637(c), 2637.1, 2637.2, 2715(f) and 2638(b)
[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:

- The procedures and tools needed to consistently conduct complete annual UST compliance inspections and correctly report CME information to CERS
- The types and frequencies of training needed to consistently conduct complete UST compliance inspections and identify non-compliance,
- Methods to ensure UST testing and leak detection documents are submitted within 30 days of testing,
- Methods to ensure testing is performed by a trained technician with valid certification;
- Methods to ensure CME information is reported to CERS; and
- A plan to address all reasons why complete annual UST compliance inspections are not consistently conducted.

By the 2nd Progress Report, based on the findings identified in the CUPA's analysis and explanation, the CUPA will review and revise the I&E Plan 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 will at minimum include a process for:

- Conducting complete annual UST compliance inspections at all 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;

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- Documenting observed non-compliance identified during annual UST compliance inspections in UST compliance inspection reports;
- Reporting all 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;
- UST facility owners or operators to submit UST testing and leak detection documents to the CUPA within 30 days of testing;
- Applying and documenting enforcement if the UST owner or operator fails to submit UST testing and leak detection documents to the CUPA within the required time frame;
- How the CUPA will maintain records, including UST compliance inspection reports and testing and leak detection records for all UST facilities;
- 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;
- Accurate U.S. Environmental Protection Agency (EPA) TCR reporting, including abandoned USTs; and
- Quality assurance to ensure violation data used as part of Report 6 is accurately reported to CERS.

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

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.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three 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.

4. DEFICIENCY:

The CUPA is not consistently applying enforcement as outlined in the I&E Plan.

Review of CERS CME information between May 18, 2021, and June 30, 2024, finds the following:

- Cited leak detection violations have no documented RTC or RTC was obtained in more than 60 days:
 - May 18, 2021 - December 31, 2021:

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- 4 of 21 (19%) violations with no documented RTC
 - 10 of 21 (48%) with RTC obtained in more than 60 days
- January 1, 2022 – December 31, 2022:
 - 2 of 16 (13%) violations with no documented RTC
 - 10 of 16 (63%) with RTC obtained in more than 60 days
- January 1, 2023 – December 31, 2023
 - 5 of 14 (36%) violations with no documented RTC
 - 11 of 14 (79%) with RTC obtained in more than 60 days
- January 1, 2024 - June 30, 2024
 - 3 of 10 (30%) violations with no documented RTC
 - 7 of 10 (70%) with RTC obtained in more than 60 days
- Cited violations have no documented RTC and progressive enforcement has not been applied:
 - 2021
 - CERS ID 10422547
 - Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention (USEPATCR 9b) cited March 12, 2021
 - Violation not cited in subsequent routine inspection
 - Notice of Violation (NOV) not issued until November 2023
 - 2022
 - CERS ID 10422547
 - Unified Program Violation Library Violation Type Number 2030068 – Well Proximity Enhanced Leak Detection (ELD) Testing (Initial or One Time) cited March 9, 2022
 - NOV enforcement action in CERS states: “Failure to perform required testing for tank lining, enhanced leak detection, 0.2 GPH monthly, or 0.1 GPH annual tank testing, and cathodic testing. See reports in S: Drive shared file...0.1 annual Tank Test, Cathodic Testing. Red Tag Violation Notice Sent 9/23/24, Red Tag applied 10/10/24”
 - 2023
 - CERS ID 10422547
 - Unified Program Violation Library Violation Type Number 2030036 cited December 29, 2023
 - Violation not reissued in subsequent routine inspection
 - Unified Program Violation Library Violation Type Number 2030068 cited December 29, 2023
 - Unified Program Violation Library Violation Type Number 2030002 cited December 29, 2023
 - Violation not reissued in subsequent routine inspection
 - 2024
 - CERS ID 1042253
 - Unified Program Violation Library Violation Type Number 2030047 cited February 7, 2024
 - CERS ID 10424263
 - Unified Program Violation Library Violation Type Number 2060020 cited March 19, 2024

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- Violations are repeatedly cited without having documented RTC and progressive enforcement has not been applied:
 - CERS ID: 10422547
 - Violation Type Number 2030068
 - Violation issued March 9, 2022
 - Violation issued December 29, 2023
 - Violation issued August 6, 2024
 - Violation comment states: "Records were not able to be reviewed during site inspection. This is the second notice for this violation."
- NOV's were reported to CERS for 5 of 37 (14%) leak detection violations with no documented RTC or RTC obtained in more than 60 days:
 - Unified Program Violation Library Violation Type Number 2030036 - Overfill Prevention (USEPATCR 9b)
 - 11 of 14 (79%) violations with no documented RTC or RTC obtained in more than 60 days had no NOV reported to CERS.
 - 8 of 14 (57%) violations with no documented RTC or RTC obtained in more than 360 days had no NOV reported to CERS.
 - Unified Program Violation Library Violation Type Number 2060020 - Spill Container (USEPATCR 9a)
 - 12 of 21 (57%) violations with no documented RTC or with RTC obtained in more than 60 days had no NOV reported to CERS.
 - 10 of 21 (48%) violations with no documented RTC or with RTC obtained in more than 200 days had no NOV reported to CERS.

The CUPA's TCR indicates enforcement is not being applied to ensure facilities cited with violations obtain RTC, and not all UST violations are being cited as the TCR reported by the CUPA for January – June 2021 and July – December 2021, is significantly lower than the State average and the TCR reported by the CUPA for January – June 2023, July – December 2023, and January – June 2024 is significantly higher than the State average.

- The TCR is a measurement of how a UST facility complies with performance measures as determined by the U.S. EPA.
 - When a CUPA's TCR is significantly lower than the average TCR for California, it is indicative that the CUPA is not applying enforcement to ensure facilities cited with violations obtain RTC.
 - When a CUPA's TCR is significantly higher than the California TCR average, and that of an equivalent CUPA, it is indicative that the CUPA is not overserving or citing UST violations at the same frequency as other CUPAs.

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

- January – June 2021
 - CUPA: 41.18%
 - California Average: 59.43%

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- July – December 2021
 - CUPA: 43.75%
 - California Average: 59.62%
- January – June 2022
 - CUPA: 68.75%
 - California Average: 60.36%
- July – December 2022
 - CUPA: 68.75%
 - California Average: 60.45
- January – June 2023
 - CUPA: 81.82%
 - California Average: 60.41%
- July – December 2023
 - CUPA: 77.78%
 - California Average: 60.04%
- January – June 2024
 - CUPA: 71.43%
 - California Average: 61.80%

Note: This Deficiency was identified in the 2021 CUPA Performance Evaluation relative to the CUPA not following up and documenting RTC within 60 days for UST testing or leak detection failures and was corrected during the Evaluation Progress Report process.

CITATION:

CCR, Chapter 16, Sections 2712(g) and (j), and 2713(c)(4) and (d)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an analysis and explanation as to why enforcement is not consistently being applied as outlined in "Part Two: Inspection, Compliance Monitoring, and Informal" and "Part Three: Use of Formal Enforcement" of the I&E Plan. The analysis and explanation will include, at minimum:

- identification of why enforcement is not consistently applied, as outlined in Section VIII;
- discussion of what procedures and tools may be needed to consistently apply enforcement;
- an action plan to address each identified aspect as to why enforcement is not being met as outlined in Section VIII, including:
 - discussion of procedures and tools necessary to ensure enforcement is consistently applied as outlined in Section VIII of the I&E Plan, including documentation of all enforcement correspondence between the CUPA and each UST facility;
 - identification of the types and frequency of training needed to consistently apply enforcement as outlined in Section VIII of the I&E Plan; and
 - a timeline identifying how the CUPA will ensure enforcement is consistently applied as outlined in Section VIII of the I&E Plan, including applied enforcement for repeat violations without RTC.

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By the 2nd Progress Report, if revisions to the action plan are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised action plan. If no revisions are necessary, the CUPA will implement the action plan.

By the 3rd Progress Report, if revisions to the action plan were necessary, the CUPA will implement the revised action plan.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records, including at minimum, annual UST compliance inspection reports, associated testing and leak detection documents, and all enforcement correspondence between the CUPA and the UST facility for the following UST facilities:

- CERS ID 10422547
 - CERS ID 10418746
 - CERS ID 10424263
-

5. DEFICIENCY:

The CUPA is not consistently inspecting each facility subject to UST Program requirements annually.

Review of the UST Routine Inspection Frequency Search generated from CERS on January 31, 2025, finds UST facilities were not inspected for the following years:

- 2022: 1 of 33 (3%)
- 2023: 4 of 33 (12%)

Review of Semi-Annual Report (Report 6) and the CERS UST Routine Inspection Frequency Search information finds the following inconsistencies in the reported number of UST facilities not inspected:

- 2023
 - Report 6: 4 of 33 (12%) not inspected
 - CERS Routine Inspection Frequency Search information: 100% inspected

Note: This Deficiency was identified in the 2021 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.7, Section 25288(a)
CCR, Title 23, Section 2713(c)(3)
[State Water Board]

CORRECTIVE ACTION:

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

- An analysis and explanation as to why the inspection frequency is not being met
- A narrative of future actions to ensure all UST facilities will be inspected at least once annually

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

By the 1st 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:

- Collecting, retraining, managing, and reporting inspection information in CERS, and
- How UST compliance information is accurately reported in Report 6.

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

By the 2nd Progress Report, if amendments to the 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 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 Data Management Procedure or other applicable procedure.

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

6. DEFICIENCY:

The CUPA is not consistently implementing UST closure requirements.

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure complies with CCR, Title 23, Division 3, Chapter 16 and HSC, Division 20, Chapter 6.7.

Review of UST facility files finds the CUPA did not provide the UST Permanent Closure Notification to the owner or operator upon completion of UST closure activities for the following:

- CERS ID 10422274
 - Tank ID 10422274-001 was removed on October 31, 2021
 - No documentation of proper disposal of residual liquid, solids, or sludges removed.
 - No documentation of tanks being filled with an inert solid.
 - No documentation of proper disposal of the removed UST.

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

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CITATION:

HSC, Chapter 6.7, Section 25298(c)
CCR, Chapter 16, Sections 2670 and 2672(d)
[State Water Board]

CORRECTIVE ACTION:

During the 2021 performance evaluation, the CUPA provided a draft UST Closure Procedure and Cover Letter Template. The State Water Board approved the draft UST Closure Procedure and Cover Letter Template, however, the CUPA has not yet implemented the procedure or cover letter.

By the 1st Progress Report, the CUPA will implement the approved closure letter from the 2021 performance evaluation and review and revise the UST Closure Procedures to ensure the establishment of a process, which will include at minimum, how the CUPA will:

- Require documentation from the UST owner or operator that all residual liquid, solids, or sludges removed were handled as hazardous waste or recyclable materials in accordance with HSC, Chapter 6.5.
- Ensure the CERS submittals are reviewed for accuracy before accepting the closure information by ICC Certified personnel.

The CUPA will provide the revised UST Closure Procedures to CalEPA.

By the 2nd Progress Report, if amendments to the revised UST Closure Procedures are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST Closure Procedures. If no amendments or revisions are necessary, the CUPA will train UST inspection staff on the revised UST Closure Procedures. Once training is complete, the CUPA will implement the revised UST Closure Procedures.

By the 3rd Progress Report, and until considered corrected, for the next UST closure, the CUPA will provide CalEPA with the UST closure documentation, including sampling results that demonstrate to the satisfaction of the CUPA that UST permanent closure and soil/groundwater samples comply with CCR, Chapter 16 and HSC. If no UST closures have occurred by the 4th Progress Report, the State Water Board will consider this Deficiency closed but not corrected, upon implementation of the revised/amended UST Closure Procedures. The State Water Board will verify proper sample and analysis of soil and/or groundwater during or immediately after UST closure activities with the next CUPA Performance Evaluation.

7. DEFICIENCY:

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

CITATION:

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

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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.

8. DEFICIENCY:

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

Review of 13 HMBP CERS submittals provided by regulated businesses subject to Business Plan reporting requirements, finds the following 9 were accepted with missing or incomplete required elements:

- CERS ID 10116328
 - Inventory submitted on January 5, 2024, and accepted on September 20, 2024
 - Missing required site map elements such as adjacent streets and evacuation staging areas.
- CERS ID 10662775
 - Inventory submitted on August 27, 2024, and accepted on August 28, 2024
 - Missing required site map element such as access and exit points.
- CERS ID 10468861
 - Inventory submitted and certified on February 20, 2024
 - Missing required site map elements such as evacuation staging areas and emergency response equipment.
 - Emergency Response and Training Plans submitted and certified on February 20, 2024
 - Missing required emergency response plan element such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10476142
 - Inventory submitted on April 23, 2024, and accepted on April 25, 2024
 - Missing required site map elements such as adjacent streets, access and exit points, evacuation staging areas, and emergency response equipment.

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- CERS ID 10461541
 - Inventory submitted and accepted on May 30, 2024
 - Missing required site map elements such as emergency response equipment.
- CERS ID 10420264
 - Inventory submitted and accepted on November 21, 2024
 - Missing required site map elements such as north orientation, adjacent streets, evacuation staging areas, and emergency response equipment.
- CERS ID 10417918
 - Inventory submitted and accepted on September 25, 2024
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10480144
 - Inventory submitted on September 25, 2024, and accepted on October 3, 2024
 - Missing required site map elements such as evacuation staging areas.
 - Emergency Response and Training Plans submitted on September 25, 2024, and accepted on October 3, 2024
 - Missing required emergency response plan element such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10420912
 - Inventory submitted on June 20, 2024, and accepted on September 4, 2024
 - Missing required site map elements such as emergency response equipment.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each future HMBP submittal is thoroughly reviewed and contains all applicable required elements before being accepted in CERS. The action plan will include steps to follow up with regulated businesses having an HMBP submittal that was reviewed and not accepted due to identified missing or incomplete elements.

By the 2nd Progress Report, the CUPA will train personnel on the steps in the action plan. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted and a list of CUPA personnel in attendance.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative of the implementation of the action plan.

By the 4th Progress Report, the CUPA will ensure each regulated business subject to Business Plan reporting requirements has annually submitted a complete HMBP to CERS, or the CUPA will have applied enforcement.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

"Incidental finding is a minor deviation in implementation of one or more Unified Program elements from the expected standards set forth in statute or regulation. It is a limited, non-systemic problem." (Cal. Code Regs., tit. 27, section 15110(f).) In addition, recommendations may be provided.

1. INCIDENTAL FINDING:

The CUPA is not inspecting each facility subject to Hazardous Waste Generator (HWG) Program requirements at least once every three years and is not inspecting each facility not subject to the Hazardous Materials Release Response Plan (HMRRP) Program based on inventory amounts, at least once every five years, per the inspection frequencies established in the I&E Plan.

Review of facility files, information provided by the CUPA, and CERS CME information obtained on February 5, 2025, between July 1, 2021, and June 30, 2024, finds:

- 27 of 161 (17%) facilities subject to HWG Program requirements were not inspected within the last three years, or five years for HWG Program facilities not subject to the HMRRP program based on inventory amounts.
 - 25 of 147 (17%) facilities were not inspected at least once every three years.
 - 2 of 14 (14%) facilities not subject to the HMRRP Program based on inventory amounts, were not inspected within the last five years.

Note: This Incidental Finding was identified as a Deficiency in the 2021 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to HWG Program requirements is inspected at least once every three years, and each facility not subject to the HMRRP Program based on inventory amounts is inspected at least once every five 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 CERS, identifying each facility subject to HWG Program requirements that has not been inspected within the last three years, and each facility not subject to the HMRRP Program based on inventory amounts, that has not been inspected within the last five years. For each facility listed, the sortable spreadsheet will include at minimum:
 - Facility name;
 - CERS ID;
 - Date of the last routine inspection; and

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- The estimated date, or date range, of the next routine inspection to be conducted at each facility subject to HWG Program requirements that has not been inspected within the last three years, or every five years for HWG Program facilities not subject to the HMRRP program based on inventory amounts, prioritizing the most delinquent inspections to be conducted prior to any other facility subject to HWG Program requirements based on risk.
- A narrative as to the logic of prioritization for determining the estimated date, or date range of the next routine inspections, and a plan for conducting the prioritized next routine inspections.
- A narrative of future actions to ensure all facilities subject to HWG Program requirements will be inspected at least once every three years, and all facilities not subject to the HMRRP Program based on inventory amounts will be inspected at least once every five 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 narrative as to how the CUPA is continuing to ensure all facilities subject to HWG Program requirements will be inspected at least once every three years, and all facilities not subject to the HMRRP Program based on inventory amounts will be inspected at least once every five years.

By the 5th Progress Report, the CUPA will have inspected each facility subject to HWG Program requirements identified in the sortable spreadsheet provided with the 1st Progress Report at least once every three years, and each facility not subject to the HMRRP Program based on inventory amounts at least once every five years.

2. INCIDENTAL FINDING:

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

Review of HWG inspection reports, CERS CME information and NOVs finds inadequate or improper documentation of cited violations, including:

- Full detail of each observation made at the facility
- Violation citations
- Factual basis for observed violations
- Corrective actions to be taken by the facility owner/operator for each violation cited to ensure RTC

The following facilities have inspection reports with inadequate or improper documentation as the observations, citations, factual basis or corrective actions are not identified for each cited violation:

- CERS ID 10420912: Inspection report dated February 4, 2022, cites the following violation(s): "Generator disposed of hazardous waste within 180 days of when the accumulation period begins; Generator did not store hazardous waste onsite for greater than 180 days."
- CERS ID 10421428: Inspection report dated May 24, 2023, includes statements such as: "dispose of drums in an appropriate manner; properly label universal battery waste; Propane and gasoline tanks need to be properly labeled."

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- CERS ID 10460668: Inspection report dated January 26, 2022, cites the following violation(s): "Generator properly labeled all containers or tanks containing hazardous waste as required; Generator disposed of hazardous waste within 180 days of when the accumulation period begins; Generator did not store hazardous waste onsite for greater than 180 days; Generator maintains and operates the facility to minimize the possibility of fire/explosion/release; Generator maintains proper aisle space in accordance with Title 22 regulations."
- CERS ID 10461541: Inspection report dated September 9, 2022, does not document the detail on the capacity and amount of improperly labeled containers or satellite containers exceeding the accumulation time.

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

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

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

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

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

3. INCIDENTAL FINDING:

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

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Review of facility files and CERS CME information on February 5, 2025, in CERS between July 1, 2021, and June 30, 2024, finds the following non-minor HWG Program violations were incorrectly classified as minor violations:

- Violation for failure to provide or conduct training for employees, per CCR, Title 22, Section 66262.34(d)(2).
 - Since training was not provided, employees are not familiar with hazardous waste management and handling, nor how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of minor violation as described in HSC, Section 25404 (a)(3).
 - 14 of 16 (88%) violations were classified as minor, including:
 - CERS ID 10418377: Inspection dated December 6, 2023
 - CERS ID 10421428: Inspection dated May 4, 2023
- Violation for failure to minimize the possibility of a fire, explosion, or release of hazardous waste to the environment, per CCR, Title 22, Sections 66262.34(d)(2) and 66265.31.
 - Failure to minimize the possibility of a fire, explosion, or release may pose a significant threat to human health or safety or the environment, or failure to ensure prevention of releases of hazardous waste or constituents to the environment. This does not meet the definition of minor violation as described in HSC, Section 25404(a)(3).
 - 13 of 16 (81%) violations cited were classified as minor, including:
 - CERS ID 10418377: Inspection dated December 6, 2023
 - CERS ID 10421428: Inspection dated May 4, 2023
 - CERS ID 10460668: Inspection dated January 26, 2022
- Violation for exceedance of authorized accumulation time, per CCR, Title 22, Section 66262.34.
 - Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - 14 of 27 (52%) violations cited were classified as minor, including:
 - CERS ID 10420912: Inspection dated February 4, 2022
 - CERS ID 10421428: Inspection dated May 4, 2023
 - CERS ID 10461541: Inspection dated September 9, 2022

Review of CERS CME information on October 14, 2024, between July 1, 2020, and June 30, 2024, reflects the following non-minor APSA Program violation was incorrectly 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 do not meet the definition of a 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. EPA.
 - June 20, 2023, June 22, 2023, and May 13, 2024: 3 violations

Note: This Incidental Finding was identified as a Deficiency in the 2021 CUPA Performance Evaluation relative to the HWG Program and was corrected during the Evaluation Progress Report process.

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

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

HSC, Chapter 6.11, Section 25404(a)(3)

CCR, Title 19, Section 1612(d)

CCR, Title 22, Sections 66260.10, 66262.16(b), 66262.17(a) and 66265.16

[DTSC, 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 and non-minor (Class I, and Class II, as defined in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6). Training will also include, at minimum, review of:

- 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>
 - This document provides examples of what are considered minor versus non-minor violations.
- For the HWG Program:
 - Violation classification classes available in the video library on the CalCUPA Forum Board website at: <http://www.calcupa.org/videos.html>.
- For the APSA Program:
 - "U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998,"
(<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.

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

4. INCIDENTAL FINDING:

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

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

- Provisions for ensuring sampling capability do not demonstrate the CUPA's ability to take samples when necessary to gather evidence of a violation and proceed with any necessary enforcement actions.
- Inspection frequencies for the Permit By Rule (PBR), Conditionally Authorized (CA), and Conditionally Exempt (CE) programs do not reflect "initial inspection within two years of notification and every three years thereafter."

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- A narrative of how the CUPA addresses complaints including receiving, investigating, enforcing, and closing the complaint does not include....?.

Note: This Incidental Finding was identified in the 2021 CUPA Performance Evaluation and was resolved during the Evaluation Process Report process.

CITATION:

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

RESOLUTION:

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

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and/or DTSC, the CUPA will provide the amended I&E Plan to CalEPA. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted.

By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. Once training is complete, the CUPA will implement the amended I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted.

5. INCIDENTAL FINDING:

The "Permit to Operate" includes components that are inconsistent with CCR, Chapter 16 and HSC, Chapter 6.7 requirements.

Review of the "Permit to Operate" finds the following inconsistencies:

- UST Systems are identified by State UST ID.
 - USTs should be identified by CERS Tank ID.
- Condition 1. States "All applicable state UST requirements contained in the California Code of Regulations, Title 23, Division 3, Chapters 16, the California Health & Safety Code, Division 20, Chapters 6.7 and all applicable requirements."
 - The correct citation is CCR, Chapter 16, Sections 2610 through 2717.7 and HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.

Note: This Incidental Finding was identified in the 2021 CUPA Performance Evaluation and was resolved during the Evaluation Progress Report process.

CITATION:

CCR, Chapter 16, Section 2712(c)
HSC, Chapter 6.7, Section 25284(b)
[State Water Board]

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RESOLUTION:

By the 1st Progress Report, the CUPA will revise the "Permit to Operate" 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. The CUPA will contact the State Water Board for assistance with revising the "Permit to Operate" template, if necessary. The CUPA will provide the revised "Permit to Operate" 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 "Permit to Operate" template, based on feedback from the State Water Board. The CUPA will provide the amended "Permit to Operate" template to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised "Permit to Operate." The CUPA will provide CalEPA with the "Permit to Operate" issued to five UST facilities using the revised template.

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

6. INCIDENTAL FINDING:

The annual CalARP performance audit report for 2024 has an incomplete required element.

The following required element is incomplete:

- A summary of the personnel and personnel years (PYs) necessary to directly implement, administer, and operate the CalARP Program.
 - PYs are missing. PYs are determined as a product of the number of positions needed and the full-time percentage allocated for each of those positions. For example, assuming one inspector position, working in the CalARP Program, at a half-time percentage, the PYs would be 0.5 (1 personnel position x 0.5 position years = 0.5 personnel years).

CITATION:

CCR, Title 19, Section 5150.5
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the most recent annual CalARP performance audit report that completely includes all required elements.

7. INCIDENTAL FINDING:

The CalARP Dispute Resolution Process is missing a required element and has outdated elements.

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Review of the CalARP Dispute Resolution Process finds:

- The following element is missing:
 - Set procedures and timetables for providing argument and supporting materials to the UPA.
- The following elements are outdated:
 - Within the dispute resolution procedure, "California Code of Regulations, Title 19, Section 2780.1 and California Health and Safety Code, Division 20, Chapter 6.95, Article 2" and "Title 19 of California Code of Regulations, Section 2780.1" references are outdated.

CITATION:

CCR, Title 19, Section 5150.1
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised CalARP Dispute Resolution Process that adequately incorporates all required elements.

8. INCIDENTAL FINDING:

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 October 14, 2024, review of HMBPs submitted to CERS between August 15, 2023, and October 14, 2024, by businesses subject to Business Plan reporting requirements finds:

- 63 of 373 (17%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification.
- 70 of 371 (19%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification.

Note: This Incidental Finding was identified as a Deficiency in the 2021 CUPA Performance Evaluation and was not resolved during the Evaluation Progress Report process.

CITATION:

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

RESOLUTION:

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:

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- 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.

9. INCIDENTAL FINDING:

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

The CUPA did not complete an annual Self-Audit Report for the following Fiscal Years (FYs):

- FY 2020/2021
- FY 2021/2022
- FY 2022/2023

The Self-Audit Report for FY 2023/2024 has incomplete components.

- The following components are incomplete:
 - Single Fee System
 - Section II. Single Fee System: The amount of Single Fees billed and collected for CUPA programs are both listed as \$000,000.
 - Fee Accountability Program
 - Section IV. Fee Accountability Program: The approximate direct program expenses are listed as \$000,000-\$000,000, the offset left by fees collected is listed as \$00,000-\$00,000, and the indirect program expenses are listed as \$0000.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, or September 30, 2025, (whichever occurs first), and with each subsequent year, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30th.

10. INCIDENTAL FINDING:

The CUPA is not ensuring all USTs and UST systems, including associated piping, used for the storage of hazardous substances are in compliance with design, construction, and monitoring requirements.

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Review of UST facility files, testing documents, and observations during the oversight inspection conducted on April 10, 2025, finds the following:

- CERS ID 10461541
 - The UST installed on January 28, 2002, supplies an emergency generator and a boiler that is not solely used for emergencies; therefore, the UST system does not meet the definition of an “emergency tank system” in HSC, Chapter 6.7 section 25281.5(c)
 - CERS identifies the tank use as “Emergency Generator Fuel”
 - An electronic line leak detector was observed on one turbine in the emergency generator and boiler turbine sumps that is not programmed to shut off flow when a leak is detected. CERS does not identify that a line leak detector is installed. Additionally, the line leak detector as installed is incapable of detecting a 3 gallon per hour leak as required.
 - The above-ground portion of the product piping leading to the boiler is not undergoing daily visual pipeline monitoring.
 - CERS identifies daily visual monitoring frequency.

CITATION:

HSC, Chapter 6.7, Section 25291.
CCR, Title 23, Section 2636(a) and (f)(2)
[State Water Board]

RESOLUTION:

During the evaluation the CUPA provided written correspondence informing the UST facility owner/operator of CERS ID 10461541 of the applicable monitoring and construction requirements.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative describing the follow-up actions and applied enforcement taken to ensure CERS ID 10461541 is in compliance with HSC, Chapter 6.7, Section 25291 and CCR, Title 23, Section 2636(a) and (f)(2) and the specified tank use.

11. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

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

Review of CERS CME information between July 1, 2021, and June 30, 2024, finds:

- 52 of 373 (14%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation, 11 facilities identified as not being inspected once between July 1, 2021, and June 30, 2024, remain uninspected.

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This Incidental Finding is considered resolved.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

OBSERVATIONS AND RECOMMENDATIONS

Observations identify areas of Unified Program implementation that could be improved, and recommendations provide suggestions for improvement. Although the CUPA is not legally required to implement the recommendations, the CUPA's program would likely benefit from doing so.

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 191 regulated HWG facilities, including four Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), and no Tiered Permitted facilities within the jurisdiction of the CUPA.
- The three- and five-year inspection frequencies for HWG Program facilities subject and not subject to HMRRP program based on inventory amounts, respectively, is currently not being met.
- CERS reflects the CUPA inspected 180 unique HWG facilities and conducted 191 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.
 - 101 of 191 (53%) routine inspections had no violations cited
 - 90 of 191 (47%) routine inspections had at least one violation cited.
 - The CUPA conducted four "other" HWG inspections, of which one (25%) had at least one violation cited.
 - In the 91 inspections conducted having at least one violation, 211 total violations were cited, consisting of:
 - no (0%) Class I violations,
 - 36 (17%) Class II violations, and
 - 175 (83%) minor violations.
 - The CUPA has ensured return to compliance (RTC) for 193 of 211 (91%) violations cited.
- CERS reflects no formal enforcement actions were completed for hazardous waste related violations.
- Inspection reports do not contain detailed comments that note the factual basis of cited violations. However, inspection reports indicate whether consent to inspect was requested as well as when consent to inspect was requested prior to the inspection.
- Inspection reports do not contain detailed corrective actions that describe what must be done for the facility to obtain RTC.
- Violation observations and comments are not consistently being entered into CERS.
- Inspection reports do not always contain detailed comments that note the factual bases of cited violations.

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.

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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.

Conducting frequent inspections leads to better compliance rates and helps ensure that hazardous waste is being managed appropriately.

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.

2. OBSERVATION:

Review of CERS finds 5 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 10435378
- CERS ID 10442131
- CERS ID 10463485
- CERS ID 10560799
- CERS ID 10586965

RECOMMENDATION:

Continue to provide verbal and written reminders to all applicable UST owners/operators regarding the December 31, 2025, deadline for permanent closure of single-walled USTs. Manually amend permit validity dates of SW UST systems to expire on December 31, 2025.

3. OBSERVATION:

Review of CERS and CME information obtained on January 25, 2025, finds RTC was entered as "Not Resolvable" for resolvable UST leak detection program violations. Below are examples:

- CERS ID: 10422550
 - Violation Type Number 2030002 Leak Detection Equipment Maintenance (USEPATCR 9d) (USEPA Priority)
- CERS ID: 10442131
 - Violation Type Number 2030029 Lined Tank Requirements (USEPATCR 9c) (USEPA Priority)
- CERS ID: 10420858
 - Violation Type Number 2030048 Secondary Containment Testing (USEPATCR 9d) (USEPA Priority)
 - Violation Type Number 2030002 Leak Detection Equipment Maintenance (USEPATCR 9d) (USEPA Priority)

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RECOMMENDATION:

UST violation qualifier "Not Resolvable" is intended for and should be used only in 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.

4. 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.

As of June 23, 2025, CERS reflects the following APSA tank facilities have not submitted the APSA Facility Information since September 14, 2023:

- 13 of 88 (15%), including two that have never submitted.

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/>.

Ensure each APSA tank facility annually completes and submits the APSA Facility Information to CERS and follow up with facilities that have never submitted or submitted incorrect information.

5. OBSERVATION:

As of the October 14, 2024, notice date, the CERS reporting requirement is currently set as "APSA Applicable" for 86 tank facilities. The CUPA's list identifies 80 APSA tank facilities.

- 75 facilities are both identified as APSA tank facilities in CERS and the CUPA's list.
- 5 facilities are on the CUPA list but not in CERS.
 - 4 facilities need further review by the CUPA to determine if they are regulated under APSA.
- 11 facilities are not on the CUPA list.
 - 3 of these facilities may be APSA regulated as storing 10,000 or more gallons of petroleum.
 - The remaining 8 facilities need further review by the CUPA to determine if they are regulated under APSA.

RECOMMENDATION:

Review the list of 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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6. OBSERVATION:

The I&E Plan contains the following information that may benefit from improvement:

- Page 15, Inspector Obligations: Include APSA Program information such as staff who inspects facilities for compliance with the SPCC Plan requirements of APSA must complete and pass the initial APSA Basic Inspector Training course and complete refresher training of six hours every three years (since completing and passing the initial training course or since December 17, 2024, whichever is more recent).
- Page 16, Frequency of Inspections: The mandated inspections for APSA tank facilities incorrectly state at least once every three years if storage capacity is *greater than 10,000 gallons*. The mandated inspection applies to tank facilities storing *10,000 gallons or more of petroleum* that are required to prepare and implement an SPCC Plan.
- Page 19, Pre-Inspection Procedures: Add APSA Program specific information, such as review of APSA submittals to CERS and SPCC Plans, if available. (Note: Per CCR, Title 19, Section 1614, the APSA Facility Information submittal element is required to be completed and submitted to CERS by each tank facility within 12 months following December 17, 2024, and annually thereafter.)
- Page 27, Referral to Legal Counsel: Add HSC, Chapter 6.67.
- Page 28, Referral to State Agency: Remove the referrals of aboveground storage tank violations to the State Water Board. Remove the following incorrect sentence, "Neither the State Fire Marshal nor OES has jurisdiction to take enforcement actions, so HMMP, Cal/ARP and fire code violations may not be referred to those agencies."
- Pages 33, 43, and 50: HSC, Section 25270.5 is incorrectly referenced as violations of APSA; should be replaced with HSC Ch. 6.67 (commencing with Section 25270).
- Page 63: Add CCR, Title 19, Sections 1609 and 1610 for additional inspection authority. Add HSC, Section 25270.12.3 (misdemeanor).

RECOMMENDATION:

Update the I&E Plan as indicated above. Additionally, due to new regulations (CCR, Title 19, Sections 1609 and 1610), update the APSA Program inspection frequency to address all APSA tank facilities, including conditionally exempt tank facilities (farms, nurseries, logging sites or construction sites). Train CUPA staff on the revised I&E Plan and implement the revised I&E Plan.

7. OBSERVATION:

On August 21, 2025, CalEPA observed an HMBP inspection conducted by a CUPA inspector. The inspection occurred at CERS ID 10412833. 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, employee emergency response training, site map, and emergency response plan information on site, and effectively communicated technical information to the facility operators. The inspector identified and disclosed all violations.

RECOMMENDATION:

Continue to conduct thorough HMBP inspections.

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8. OBSERVATION:

On April 23, 2025, HWG Program oversight inspections were conducted at CERS ID 10421482, a Small Quantity Generator (SQG) facility, and CERS ID 10460668, an SQG facility. Both inspections were conducted by the CUPA inspector and the contracted inspector.

The inspectors had access to regulation and statute. For example, the inspectors accessed regulation and statute online. The inspectors asked for and received consent to inspect. The inspectors had knowledge of the respective facilities and activities. For example, for CERS ID 10421482, the CUPA inspector reviewed files, CERS, the DTSC Hazardous Waste Tracking System (HWTS), and the facility permit for the facility. For CERS ID 10460668, the CUPA inspector reviewed the same information for the facility as for CERS ID 10421482.

The inspectors arranged logistics by ensuring the respective facilities were active. For example, for both inspections, the CUPA inspector reviewed the facility ID Numbers in the HWTS. The inspectors had all applicable information available, such as permits, files, applications, and prior inspection reports. For example, the CUPA inspector had the CERS Hazardous Material Inventory, HWTS Handler Profile, and inspection reports available for both facilities.

Most areas were inspected, and most appropriate documents were reviewed. For example, at CERS ID 10421482, the inspectors inspected the lead-acid battery storage area, propane tanks, new oil, used aerosol cans in a municipal garbage receptacle, compressed gas cylinders, crushed used oil filters, hazardous waste accumulation area, including drum containers, labels, container lids, spilled transmission fluid and oil, tanks, antifreeze bins, metal and paper used oil filters, secondary containments, and spill kits and reviewed training records and the training plan (Note: according to the California Hazardous Waste Generator Summary Chart available at <https://dtsc.ca.gov/hazardous-waste-generator-summary-chart/>, training records and a training plan are not required for SQGs), hazardous waste manifests, bills of lading, and the Contingency Plan. However, the inspectors did not inspect what appeared to be metal dust near the drill press, until I brought it to their attention. At CERS ID 10460668, the inspectors inspected a building called the Tri-Dam, used oil accumulation area, parts washer, metal shavings, green liquid in an open container, hazardous waste absorbents drum, roundhouse, oil in an open container, and sumps and requested the training plan, training records, and hazardous waste manifests, which were not available for review at the time of the inspection.

The inspectors did not misinterpret most rules. However, at CERS ID 10421482 the CUPA inspector stated that empty aerosol cans need to be disposed of as hazardous waste: “[a]erosol cans may be hazardous wastes only when they are non-empty and will no longer be used,” according to the DTSC Aerosol Can Waste Management Fact Sheet & FAQs available at <https://dtsc.ca.gov/aerosol-can-waste-management/>. The appropriate rules were mostly applied by the inspectors according to the type of inspection conducted of statute and regulations. For example, the inspectors appropriately did not request the tank system integrity assessment or tank inspections log for the tanks at CERS ID 10421482, which are not required for SQGs; however, the inspectors inappropriately requested the training plan and training records for both inspections, which are not required for SQGs, according to the California Hazardous Waste Generator Summary Chart available at <https://dtsc.ca.gov/hazardous-waste-generator-summary-chart/>. Regulations were adequately explained to the facility. The inspectors applied new rules and changes in rules appropriately. The inspector asked for help in determining correct regulatory interpretations. For example, the inspectors asked for help in determining the correct regulatory interpretations for management of aerosol cans and metal dust.

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Both inspectors acted in a professional manner, were on time, and developed rapport with the facility personnel. For example, at CERS ID 10421482, the inspectors engaged in a conversation with the facility representative about the business and local history. Both inspectors showed interest in the inspection. For example, throughout both inspections, the inspectors regularly asked facility representatives questions to better understand the respective facilities and their operations. A closing conference was conducted to explain findings and expectations for both inspections.

All violations noted the correct classification. For example, for CERS ID 10421482, the CUPA inspector classified as Minor the violation for failure to label all containers or portable tanks containing hazardous waste, and for CERS ID 10460668, the CUPA inspector classified as Class II the violation for failure to dispose of hazardous waste within 180 days of the accumulation start date, consistent with the Violation Classification Guidance for Unified Program Agencies, available at <https://calepa.ca.gov/wp-content/uploads/2020/06/Violation-Classification-Guidance-Documents-accessible.pdf>. Violation notations included detailed observations, the factual basis, and corrective actions, including "Correct By" dates. For example for CERS ID 10421482, violation notations included the details necessary to establish the elements of a violation for the violation for failure to label all containers or portable tanks containing hazardous waste by documenting that the "[s]pent absorbent container is unlabeled," statutory and regulatory citations, corrective actions to return to compliance, and the time frame for correction, and for CERS ID 10460668, violation notations included the details necessary to establish the elements of a violation for the violation for failure to dispose of hazardous waste within 180 days of the accumulation start date by documenting that "HW has not been disposed of in the last year," statutory and regulatory citations, corrective actions to return to compliance, and the time frame for correction, consistent with the Inspection Report Writing Guidance for Unified Program Agencies, which is currently in the update process and not available online.

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.

9. OBSERVATION:

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

Review of CERS CME information between July 1, 2020, and June 30, 2024, and inspection reports provided by the CUPA reflects CME information is not consistently and correctly reported to CERS as follows:

- CERS ID 10662775
 - A reinspection report dated June 5, 2023, cites 6 violations.
 - CERS reflects 6 violations for a routine inspection dated June 5, 2023.
- CERS ID 10474735
 - An inspection report dated May 7, 2021, cites 2 violations.
 - CERS reflects 1 violation for an inspection dated May 7, 2021.
- CERS ID 10417918
 - An inspection report dated September 7, 2023, cites 4 violations.

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- CERS reflects 4 violations for an inspection dated September 8, 2023.
- CERS ID 10471237
 - An inspection report dated April 6, 2023, cites 3 violations.
 - CERS reflects 3 violations for an inspection dated April 12, 2023.
- CERS ID 10414990
 - An inspection report dated July 6, 2023, cites 3 violations.
 - CERS reflects 3 violations for an inspection dated July 7, 2023.

RECOMMENDATION:

Identify and correct the causes for missing or incorrect APSA program information in CERS, identify missing or incorrect information in CERS between July 1, 2020, and June 30, 2024, and determine future steps to ensure information is reported correctly to CERS.
