

April 2, 2021

Ms. Lisa Medina, REHS
Environmental Health Program Manager
Calaveras County Environmental Health Department
891 Mountain Ranch Road
San Andreas, California 95249-9709

Dear Ms. Medina:

During July 2020, through January 2021, CalEPA and the state program agencies conducted a performance evaluation of the Calaveras County Environmental Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, and review of regulated facility file documentation and California Environmental Reporting System data.

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 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 incidental findings identified in the final Summary of Findings, the CUPA must submit an Evaluation Progress Report within 60 days from the date of this letter (June 8, 2021), and every 90 days thereafter. Evaluation Progress Reports are required to be submitted to CalEPA until all deficiencies and incidental findings identified have been acknowledged as corrected or resolved. Each Evaluation Progress Report must be submitted to Tim Brandt at Timothy.Brandt@calepa.ca.gov.

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 within 30 days. If you would like to have specific comments remain anonymous, please indicate so on the survey.

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

Sincerely,



Jason Boetzer
Assistant Secretary
Local Program Coordination and Emergency Response

Enclosures

cc sent via email:

Ms. Janice Singer
Administrative Assistant
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Ms. Annalisa Kihara
Supervising Water Resource Control Engineer
State Water Resources Control Board
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Ms. Laura Fisher
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Ms. Maria Soria
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cc sent via email:

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cc sent via email:

Mr. Garrett Chan
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Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

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

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Calaveras County Environmental Health Department

Evaluation Period: July 2020 – January 2021

Evaluation Team Members:

- **CalEPA Team Lead:** Tim Brandt
- **DTSC:** Kevin Abriol
- **Cal OES:** Jack Harrah, Garrett Chan
- **State Water Board:** Jessica Botsford, Wesley Franks (Shadowing)
- **CAL FIRE-OSFM:** Glenn Warner

This Final Summary of Findings includes:

- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations
- Examples of outstanding program implementation

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered: **satisfactory with improvements needed**.

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

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

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

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

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

1st Progress Report: June 8, 2021

3rd Progress Report: December 8, 2021

2nd Progress Report: September 8, 2021

4th Progress Report: March 8, 2022

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

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

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, in CERS indicates there is no documented RTC for the following violations:

APSA Program:

Fiscal Year (FY) 2017/2018

- 16 of 59 (27%) APSA violations

FY 2019/2020

- 51 of 102 (50%) APSA violations, including two violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan.

HWG Program:

FY 2017/2018, 2018/2019, and 2019/2020

- 34 of 96 (35%) HWG violations

FY 2014/2015, 2015/2016, and 2016/2017

- 58 of 146 (40%) HWG violations

Note: The deficiency for not following-up and documenting RTC information in CERS for HWG facilities cited with violations was identified during the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. As a result, HWG violations with no RTC from FY 2014/2015, which is from the time period of the 2017 CUPA Performance Evaluation, have been included above.

CITATION:

Health and Safety Code (HSC), Chapter 6.5, Section 25187.8(b) and (g)

HSC, Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

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

[OSFM, DTSC]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes, at a minimum, the following information for each APSA facility with open violations (no RTC) cited between July 1, 2017 – June 30, 2020, and for each HWG facility with open violations (no RTC) cited between July 1, 2014 – June 30, 2020:

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

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

By the 3rd Progress Report and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three APSA tank facility records, as requested by OSFM and three HWG facility records as requested by DTSC, that include documentation of RTC or the appropriate enforcement taken by the CUPA.

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the 1st Progress Report with an open violation for no SPCC Plan has achieved compliance, or the CUPA will have taken appropriate enforcement.

2. DEFICIENCY:

The CUPA is not consistently ensuring all APSA tank facilities annually submit a Hazardous Materials Business Plan (HMBP) to CERS when an HMBP is provided in lieu of a tank facility statement.

Review of HMBPs submitted to CERS in lieu of a tank facility statement indicates:

- 16 of 49 (33%) tank facilities have not submitted a chemical inventory and site map within the last 12 months.
- 18 of 49 (37%) tank facilities have not submitted emergency response and employee training plans within the last 12 months.

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)

[OSFM]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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DEFICIENCIES REQUIRING CORRECTION

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with a list of all APSA tank facilities that have not annually submitted an HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement.

With each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated list to demonstrate the status of APSA tank facility compliance.

By the 2nd Progress Report, the CUPA will follow-up with each APSA tank facility identified on the list to ensure an HMBP is annually submitted, when an HMBP is provided in lieu of a tank facility statement to CERS. For those APSA tank facilities that have not complied, the CUPA will initiate appropriate enforcement.

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility has annually submitted an HMBP when an HMBP is provided in lieu of a tank facility statement to CERS, or the CUPA will have taken appropriate enforcement.

3. DEFICIENCY:

The CUPA is not ensuring all regulated businesses subject to the business plan reporting requirements annually submit a HMBP or a no-change certification to CERS.

Review of HMBPs submitted to CERS by regulated businesses subject to business plan reporting requirements finds:

- 60 of 250 (24%) business plan facilities have not submitted a chemical inventory, or a no-change certification within the last 12 months.
- 62 of 250 (25%) business plan facilities have not submitted emergency response and employee training plans, or a no-change certification within the last 12 months.

CITATION:

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

[Cal OES]

CORRECTIVE ACTION:

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

By the 3rd Progress Report, the CUPA will follow-up with each business plan facility identified in the action plan, to ensure the facility submits a complete HMBP or a no-change certification, or the CUPA will apply appropriate enforcement.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

4. DEFICIENCY:

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

Review of CERS CME information finds:

- 58 of 250 (23%) facilities subject to business plan requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an action plan to ensure each facility subject to business plan requirements is inspected at least once every three years. The action plan will include, at a minimum:

- An analysis and explanation as to why the triennial compliance inspection requirement is not being met for business plan facilities. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's local data management system or CERS, identifying each business plan facility that has not been inspected within the last three years. For each business plan facility listed, the spreadsheet will include, at a minimum:
 - Facility name;
 - CERS ID;
 - Date of the last routine inspection
- A schedule to inspect those business plan facilities, prioritizing the most delinquent inspections to be completed prior to any other business plan inspection based on risk.
- Future steps to ensure that all business plan facilities will be inspected at least once every three years.

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to demonstrate the number of business plan facility inspections that have been conducted during the previous three months.

By the 5th Progress Report, the CUPA will have inspected each business plan facility at least once in the last three years.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
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DEFICIENCIES REQUIRING CORRECTION

5. DEFICIENCY:

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

Review of CERS UST Facility/Tank Data Download report generated from CERS on September 28, 2020, finds UST monitoring and construction data are incorrect as follows:

- 16 of 87 (18%) USTs have no installation date.
- 15 of 73 (21%) USTs installed after January 1, 1984, have single-walled UST listed.
- 5 of 8 (63%) USTs installed after July 1, 2004, list secondary containment testing is being conducted, when it is not required.
- 3 of 8 (38%) USTs installed after July 1, 2004, list Enhanced Leak Detection (ELD) testing is being conducted, when it is not required.

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

Note: The following [CERS FAQs](https://www.waterboards.ca.gov/water_issues/programs/ust/cers/faqs.html) may be referenced at https://www.waterboards.ca.gov/water_issues/programs/ust/cers/faqs.html:

- “General Reporting Requirements for USTs,”
- “Common CERS Reporting Errors,”
- “Setting Accepted Submittal Status,”; and
- “Which Forms Require Uploading to CERS.”

Note: State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records” may be referenced.

Note: This deficiency was identified and corrected during the 2017 CUPA Performance Evaluation process.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure establishment of a process for UST inspection staff to review CERS UST submittal information for accuracy and completeness regarding monitoring and construction requirements, which will at a minimum address:

- Review for correct monitoring and construction requirements based on the UST installation date.
- When UST submittal information is identified as incorrect, the CUPA will either:
 - accept UST submittals with minor errors utilizing a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;
 - not accept UST submittals and provide comments with the requirement to resubmit UST information within a specified time.

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**UNIFIED PROGRAM PERFORMANCE EVALUATION
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DEFICIENCIES REQUIRING CORRECTION

- When the UST submittal is not corrected within the time specified by the CUPA, the CUPA will apply appropriate enforcement as described in the Inspection and Enforcement (I&E) Plan.

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

By the 2nd Progress Report, if amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide 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 a minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised Data Management Procedure or other applicable procedure.

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

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

6. DEFICIENCY:

The CUPA's local ordinance, Title 8, Chapter 8.18, is inconsistent with UST Regulations and HSC.

Review of the local ordinance finds the following inconsistencies, including but not limited to:

- Section 8.18.090(A) indicates penalties will not exceed \$1,000, which is less stringent than HSC Chapter 6.7, Section 25299(a). Maximum penalties for UST violations are no more than \$5,000 for each UST, for each day, and for each violation.
- Section 8.18.060 indicates the CUPA is preparing and submitting an annual report to the Board of Supervisors on the implementation of Chapter 8.18, however, no annual report is being prepared or submitted to the Board of Supervisors or to the State Water Board.
- Section 8.18.070 does not define which USTs are subject to testing or what type of test is required.

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

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DEFICIENCIES REQUIRING CORRECTION

CITATION:

HSC Chapter 6.7, Section 25299(a)(1-9)

[State Water Board]

CORRECTIVE ACTION:

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

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

- A timeline for revising, drafting and adopting, or repealing, the ordinance, and
- Provisions for the CUPA to provide the revised local ordinance to CalEPA and the State Water Board for legal analysis to ensure consistency with UST Regulations and HSC.

By the 2nd Progress Report, the CUPA will, if necessary, revise the plan for revision and adoption of the local ordinance, based on feedback from the State Water Board and CalEPA.

Considering the length of time required to draft and adopt, or repeal, local ordinances, the State Water Board will consider this deficiency closed, but not corrected, after the CUPA has provided an acceptable plan for the revision and adoption of the revised local ordinance as outlined above, and when the CUPA has notified all UST owners and operators of the requirement for USTs which do not meet the UST Regulations or HSC requirements to return to compliance. During implementation of the plan, the State Water Board and CalEPA must have an opportunity to review the revised draft of the local ordinance, which will allow the State Water Board and CalEPA to work with the CUPA to ensure the revised draft of the local ordinance is consistent with UST Regulations and HSC, the CUPA certification approval, and meets all other legal requirements.

During the next CUPA performance evaluation, the State Water Board will verify that the revised local ordinances were adopted, and timely compliance was achieved for those UST facilities identified as not meeting UST Regulations or HSC as a result of the initial ordinance.

7. DEFICIENCY:

The CUPA is not following up and documenting actions associated with RTC within 60 days of testing or leak detection failures.

Review of CERS CME finds the following:

- FY 2018/2019
 - 16 of 53 (30%) of testing and leak detection failures have no documented RTC in CERS.
- FY 2019/2020
 - 8 of 19 (42%) of testing and leak detection failures have no documented RTC in CERS.

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DEFICIENCIES REQUIRING CORRECTION

Below are examples of the testing and leak detection violations with no documented RTC in CERS:

- CERS ID 10499782: violation issued on June 16, 2020, for not conducting secondary containment testing and no RTC is documented in CERS.
- CERS ID 10477351: violation issued on June 19, 2019, for failure to comply with overflow prevention equipment requirements and no RTC is documented in CERS.

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

CITATION:

HSC, Chapter 6.7, Section 25288(d)

[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure, to ensure establishment of a process for UST inspection staff to document follow-up actions taken by the CUPA with UST facilities that have testing or leak detection failures and require RTC within 60 days and for applying appropriate enforcement. The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

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

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the revised procedure and provide training documentation to CalEPA, which will include, at minimum, 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 in each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records for five UST facilities, as selected by the State Water Board, that include RTC or documentation of applied appropriate enforcement.

8. DEFICIENCY: CORRECTED DURING EVALUATION

The Unified Program Facility Permit (UPFP) is missing a required component.

The Underground Storage Tank (UST) operating permit, issued under the UPFP is inconsistent with UST Regulations and HSC requirements.

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DEFICIENCIES REQUIRING CORRECTION

Review of UPFPs and UST operating permits (issued under the UPFP) finds the following:

- The UPFP is missing the required CERS identification number.
- The UST operating permit opening statement indicates the UST permit holder shall notify the CUPA of changes in substance stored within 30 days, while the regulatory requirement is to notify the CUPA 30 days prior to any change in substance stored.
- The UST operating permit opening statement indicates the permit shall be kept at the UST location at all times, which is more stringent than UST Regulations and HSC, and where no local ordinance authority exists. UST Regulations require a paper or electronic copy of the UST operating permit be readily accessible at the facility.

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

CITATION:

CCR, Title 23, Section 2712(c) and (i)

CCR, Title 27, Section 15190(h)

[State Water Board]

CORRECTIVE ACTION: COMPLETED

Prior to the completion of the CUPA Performance Evaluation, the CUPA made revisions to the UPFP and UST operating permit template, which were reviewed and approved by the State Water Board. No further action is required.

9. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not inspecting each APSA tank facility storing 10,000 gallons or more of petroleum at least once every three years.

Review of CERS CME information indicates:

- 4 of 15 (27%) tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years, including three tank facilities that have never been inspected.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a)

[OSFM]

CORRECTIVE ACTION: COMPLETED

Prior to the completion of the CUPA Performance Evaluation, the CUPA performed a sufficient number of APSA tank facility inspections. No further action is required.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The CUPA is not consistently or correctly reporting all APSA Program CME information, to CERS.

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

- CERS ID 10482913: An inspection report, dated April 17, 2017, documents one APSA violation. CERS indicates an inspection on May 23, 2017, with no violation.
- CERS ID 10481056: A follow-up inspection report, dated March 6, 2019, documents no violations. CERS has no record of the inspection. The Certificate of compliance from the facility dated March 19, 2019, identifies RTC for violations from the January 29, 2019, inspection, however, no RTC is documented in CERS.
- CERS ID 10482310: An inspection report, dated May 2, 2018, documents 17 APSA violations. RTC documentation for certain violations was observed in the facility file. CERS indicates 16 violations and no RTC for any of the violations.
- CERS ID 10471657: An inspection report, dated August 6, 2019, documents 26 APSA violations. CERS indicates 24 violations.

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

CITATION:

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

RESOLUTION:

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

- Identification and correction of the causes of missing or incorrect APSA Program CME information reported to CERS, including any data transfer from the CUPA's data management system to CERS.
- If necessary, review and revise the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure APSA Program CME information is consistently and correctly reported to;
- Identification of APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly, from April 2017, through June 30, 2020;
- A process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports; and

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

- Future steps to ensure all APSA Program CME information is consistently and correctly reported to CERS.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an inspection report for an inspection conducted during the previous three months or RTC documentation obtained during the previous three months for three APSA tank facilities as requested by OSFM.

By the 3rd Progress Report, the CUPA will consistently and correctly report all APSA Program CME information from April 2017, to June 2020, to CERS.

2. INCIDENTAL FINDING:

One Unified Program administrative procedures has not been established and another has components that are missing or inaccurate.

- A procedure for forwarding Hazardous Materials Release Response Plan (HMRRP) information to emergency response personnel and other appropriate government entities in accordance with HSC Section 25504(c) has not been established.
 - A review of CERS indicates that several non-CUPA emergency response personnel have been given some level of access to facility information in CERS; however, no procedure was provided documenting when, how, and under what conditions access is granted.
- The Records maintenance procedures, which include minimum retention times and proper disposal methods, contain missing and inaccurate information.
 - The provided records maintenance procedures indicate that hazardous waste enforcement actions are maintained for a period of three years after the enforcement action is resolved. The minimum retention time for this type of document is five years as specified in Title 27, Section 15185(b)(2).
 - The procedure is missing a description of proper disposal methods.
 - On the first page, the regulatory requirement is inaccurately cited as CCR Title 27, Section 15188, which pertains to reporting requirements. The correct citation for Records Maintenance Policy document requirements would be CCR Title 27, Sections 15180 and 15185.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised Unified Program administrative procedures that address the identified missing and inaccurate components.

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. Once training is complete, the CUPA will implement the revised Unified Program administrative procedures.

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

3. INCIDENTAL FINDING:

Required components of the I&E Plan are inaccurate.

The following I&E Plan components are inaccurate:

- The schedule of mandated inspection frequencies indicates that Tiered Permitting facilities are inspected once every three years; however, it does not indicate that Tiered Permitting facilities are inspected within two years of notification.
- Page 52 inaccurately lists \$25,000 per day as the maximum initial penalty for a hazardous waste violation and the Initial Penalty Matrix has not been updated for consistency with HSC 25189.2(d) and CCR 66272.62(d). The maximum initial penalty was amended in 2018 to \$70,000.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that addresses the identified inaccurate components.

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 CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

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

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4. INCIDENTAL FINDING:

The Self-Audit Report for FYs 2017/2018, 2018/2019, and 2019/2020 have a missing component.

A report of outstanding deficiencies from the previous triennial evaluation with an included plan of correction was not included in these Self-Audit Reports.

CITATION:

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

RESOLUTION:

By the 3rd Progress Report or September 30, 2021 (whichever occurs first), the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2020/2021 that includes all components.

5. INCIDENTAL FINDING:

The CUPA is not properly classifying HWG Program violations.

Review of CERS CME information indicates the CUPA is classifying Class I or Class II HWG Program violations as minor violations in the following instances:

Violation for exceedance of authorized accumulation time (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).

- CERS data indicates 3 of 4 (75%) violations cited between July 1, 2017, through June 30, 2020, for exceedance of accumulation timeframe were classified as minor.

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

CITATION:

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

RESOLUTION:

Prior to the completion of the CUPA Performance Evaluation, the CUPA provided DTSC with adequate documentation to demonstrate the following violation classification training took place:

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)
<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)
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>

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By the 2nd Progress Report, and with each subsequent progress report until considered resolved, the CUPA will provide CalEPA with an inspection report citing at least one HWG Program violation for three HWG Program facilities that were inspected within the last three months.

6. INCIDENTAL FINDING:

UST compliance inspection information in Semi-Annual Report (Report 6) is inconsistent with CUPA Self-Audit Reports and CERS CME information.

Review of Report 6, CUPA Self-Audit Reports and CERS CME information for the following FYs finds:

- FY 2017/2018
 - Report 6: 30 of 32 (94%) UST facilities inspected
 - CUPA Self-Audit Report: 27 of 30 (97%) UST facilities inspected
 - CERS CME information: 30 of 32 (94%) UST facilities inspected
- FY 2018/2019
 - Report 6: 31 of 31.5* (98%) UST facilities inspected
 - CUPA Self-Audit Report: 32 of 32 (100%) UST facilities inspected
 - CERS CME information: 30 of 32 (94%) UST facilities inspected
- FY 2019/2020
 - Report 6: 30 of 31 (97%) UST facilities inspected
 - CUPA Self-Audit Report: 29.7 of 30 (99%) UST facilities inspected
 - CERS CME information: 30 of 30 (100%) UST facilities inspected

*A facility was closed between January and June of 2019 when the second Report 6 for FY 2018/2019 was generated. The total number of facilities represents the average of the two Report 6 reports for FY 2018/2019.

Note: This incidental finding was identified during the 2017 CUPA Performance Evaluation and was resolved during the Evaluation Progress Report process.

CITATION:

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

RESOLUTION:

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

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By the 1st Progress Report, the CUPA will perform a thorough analysis and provide CalEPA with an explanation as to how Report 6, CUPA Self-Audit Reports, and CERS CME information have inconsistent UST compliance inspection information.

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

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

By the 4th Progress Report, the CUPA will have accurately reported UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

In the County's Emergency Operations Plan (incorporating the area plan), on page 120, the citation for CCR, Title 19 is incorrectly cited as Sections 2720-2728. The correct citation is CCR, Title 19, Sections 2640-2648.

RECOMMENDATION:

With the next revision of the Emergency Operations Plan, correct the obsolete citation.

2. OBSERVATION:

The CUPA website contains resources for the public and regulated community; however, it contains information that may benefit from improvement.

- The two APSA-related links included in the CERS Guidance Tutorial section on the left side of the CUPA's Environmental Health webpage at <https://ema.calaverasgov.us/Environmental-Health#gsc.tab=0> are no longer active.
- The naming of the APSA program on the CUPA's Hazardous Materials webpage at <https://ema.calaverasgov.us/Environmental-Health/CUPA-Hazardous-Materials#gsc.tab=0> should omit the reference to SPCC Plan.
- The CUPA's AST Facility Statement requests additional information that is not required by statute, no longer required by statute, or addressed in the new APSA data fields in CERS. OSFM has developed an APSA tank facility statement form for statewide use, which is available on the OSFM APSA webpage.
- The outdated California *Uniform* Fire Code is referenced. The current fire code adopted by the state is the California Fire Code (2019 edition).

RECOMMENDATION:

Update the website. Consider providing a link to the new OSFM webpage at <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/> for information on the APSA program.

Consider providing a link to the U.S. Environmental Protection Agency website at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations> for information on SPCC requirements.

3. OBSERVATION:

Multiple APSA tank facilities last submitted HMBPs in lieu of the APSA tank facility statement using the 2011 emergency response and training plans template with the outdated template that includes an invalid phone number for OSFM.

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RECOMMENDATION:

Encourage and ensure all APSA tank facilities utilize the current 2017 version of the consolidated emergency response and training plans template as part of the HMBP submittal, when provided in lieu of the tank facility statement. The current template is available in CERS.

4. OBSERVATION:

The CUPA utilizes the CUPA Forum Board APSA inspection checklists which have four versions: Tier I and Tier II qualified facilities, conditionally exempt tank facilities, and professional engineer (PE)-certified SPCC Plan facilities. Each of these four types of APSA tank facilities are subject to differing requirements. In the following instances, the CUPA has used the wrong APSA inspection checklist relative to the type of APSA tank facility being inspected: CERS IDs 10481056, 10418572, 10000975, and 10482310.

RECOMMENDATION:

Utilize the latest version of the CUPA Forum Board APSA inspection checklists in support of APSA tank facility inspections, and ensure the checklist being utilized is applicable to the type of APSA tank facility being inspected.

5. OBSERVATION:

Review of overall implementation of the HWG program, including CERS data, facility file information, and Self-Audit Reports between July 1, 2017, through June 30, 2020, is summarized below:

- CERS indicates that 129 routine HWG inspections were conducted.
 - 38 of 129 (29%) inspections resulted in one or more violations being cited.
 - 91 of 129 (71%) inspections had no violations.
- 1 Class I violation was cited for exceedance of the 180-day accumulation timeframe. The violation returned to compliance within one day.
- 11 of 28 (39%) Class II violations remain out of compliance.
- 23 of 67 (34%) minor violations remain out of compliance.
- No formal enforcement actions were completed for the HWG program.
- DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

RECOMMENDATION:

Ensure complete and thorough inspections are conducted to identify all violations at facilities. Ensure inspection reports are detailed and include all observations, factual basis of violations, and corrective actions. Adhere to the I&E Plan to follow up with facilities that have no RTC by the scheduled RTC date and pursue appropriate enforcement for facilities that do not RTC.

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6. OBSERVATION:

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

- CERS ID 10467133 (Tank IDs 1-3);
- CERS ID 10472044 (Tank IDs 413-415(B)); and
- CERS ID 10485661 (Tank IDs 509, 510-512).

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

RECOMMENDATION:

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

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

7. OBSERVATION:

The I&E Plan contains program information that is inaccurate, outdated or may benefit from improvement.

- Pages 14 and 32, referral to the APSA program as AST was observed.
- Page 20, Department of Fish and Game should be Department of Fish and Wildlife.
- Page 32, the Referral to State Agency discussion on APSA violations is outdated, specifically the referral to the Regional Water Quality Control Board. The CUPA is responsible for APSA implementation and enforcement.
- Page 37 in the APSA section related to AEO authority, the CUPA should reference HSC Chapter 6.67 (commencing with Section 25270) for violations of APSA instead of HSC Section 25270.5 (Unified Program Agency mandated triennial inspections at tank facilities with 10,000 gallons or more petroleum, alternative inspection and compliance plan, and inspector training).
- Page 47 in the Procedures to Access Administrative Law Judge, the CUPA should reference HSC Section 25270.12.1 for administrative penalties instead of HSC Section 25270.5.

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- Page 55 in the APSA section related to penalty amounts, the CUPA should reference HSC Chapter 6.67 (commencing with Section 25270) for violations of APSA instead of HSC Section 25270.5.
- Page 66, HSC 25516.1 does not exist.
- Page 66, HSC 25514 concerns public liability, and has no (a) or (b). The correct citation is likely HSC 25515.
- Pages 66 and 67, HSC 25514.3 does not exist.
- Pages 66 and 68, HSC 25516 concerns informant rewards, not District Attorney jurisdiction
- Page 67, HSC 25514.5 does not exist.
- Page 67, failure to report a release is no longer HSC 25515(a); it is now 25515.3(a).
- Page 67, failure to report an oil spill is no longer HSC 25515(b); it is now 25515.3(b).
- Page 67, false or misleading report on an oil spill is no longer HSC 25515(c); it is now 25515.3(c).
- Page 67, willful interference is no longer HSC 25515.1; it is now 25515.4.

RECOMMENDATION:

Update the I&E Plan to address the minor errors identified.

8. OBSERVATION:

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

Number of regulated facilities for each program element:

- *Original Certification Source: Calaveras County EHD 2001 CUPA Application*
- *Current CUPA Evaluation Sources: CERS "Regulated Facility Report" & CERS "UST Inspection Summary Report (Report 6)", both generated October 26, 2020*

- Total Number of Regulated Businesses and Facilities:
 - In 2001: **272**
 - Current CUPA Evaluation: **262**
 - A decrease of **10** facilities
- Total Number of HMRRP (Business Plan and Area Plan) Regulated Businesses and Facilities:
 - In 2001: **60**
 - Current CUPA Evaluation: **262**
 - An increase of **202** facilities
 - Comments: Unclear from application as to exactly how many HMRRP facilities had been identified as such at the time of certification.
- Total Number of Regulated UST Facilities:
 - In 2001: **44**
 - Current CUPA Evaluation: **31**
 - A decrease of **13** facilities

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- Total Number of Regulated USTs:
 - In 2001: **114**
 - Current CUPA Evaluation: **87**
 - A decrease of **27** facilities
- Total Number of Regulated HWG Facilities:
 - In 2001: **135**
 - Current CUPA Evaluation: **170**
 - An increase of **35** facilities
- Total Number of Regulated HHW Facilities:
 - Household Hazardous Waste Facilities were not regulated under the Unified Program in 2001
 - Current CUPA Evaluation: **2**
 - An increase of **2** facilities
- Total Number of Regulated TP Facilities (PBR, CA, CE):
 - In 2001: **1**
 - Current CUPA Evaluation: **0**
 - A decrease of **1** facility
- Total Number of Regulated RCRA LQG Facilities:
 - In 2001: **N/A**
 - Current CUPA Evaluation: **3**
 - An increase of **3** facilities
- Total Number of Regulated RMPP or CalARP Program Facilities:
 - In 2001: **19**
 - Current CUPA Evaluation: **0**
 - A decrease of **19** facilities
- Total Number of Regulated APSA Tank Facilities
 - In 2001: **N/A**
 - Current CUPA Evaluation: **52**
 - An increase of **52** facilities

CUPA Personnel:

- Inspection and other Staff
 - In 2001:
 - 3 Staff totaling 1.1 Full Time Equivalent (FTE)
- Supervisory and Management Staff
 - In 2001:
 - 1 Staff at 0.10 FTE
- Current Staff Allocation (Inspection, Supervisory, and other Staff)
 - 3 Staff
 - 1 Supervisor
 - Combined 1.2 FTE

The numbers above demonstrate the degree to which both the total number of regulated facilities and total Unified Program elements have changed since the initial certification of the CUPA. While the overall number of facilities has remained relatively constant over the last 19 years,

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there have been substantial changes in the number of regulated facilities within specific Unified Program elements. For example, comparing the UST program data from the date of original certification to the present shows a decrease of 13 (30%) UST facilities and a decrease of 27 (24%) total USTs. During that same timeframe, the total number of HWG facilities increased by 35 (26%), while all 19 CalARP facilities were removed from the program. Substantial increases in the number of regulated facilities can also be noted in areas that were not part of the Unified Program in 2001, such as for APSA and RCRA LQG, as well as an addition of regulated HMRRP facilities. In comparison, staffing levels as of FY 2019/2020 are functionally the same in comparison with upon certification.

RECOMMENDATION:

Though the overall number of regulated facilities and available inspection staffing resources have not changed significantly over the last 19 years, the number of regulated facilities within each Unified Program element have significantly changed, increasing the demands of the CUPA to ensure adequate regulatory oversight and implementation of the Unified Program.

Reevaluating the allocation of staff time and resources necessary to ensure adequate implementation of each program element, particularly with regard to the nature of the regulated community which has changed since certification, may assist in addressing and improving areas found to be deficient during this CUPA Performance Evaluation. Additionally, filling the vacant Registered Environmental Health Specialist position indicated on the provided CUPA organizational chart as quickly as possible will assist with obtaining adequate resources for implementation.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

Examples of outstanding program implementation highlight efforts and activities of the CUPA that are considered above and beyond the standard expectations for implementation of the Unified Program.

1. STANDARDS FOR UNIFIED PROGRAM IMPLEMENTATION:

During the 2020 CUPA Performance Evaluation, the CUPA was self-driven to be forthcoming with state agency inquiries and immediately identified potential issues in satisfactorily meeting implementation requirements and rectified such issues. The devotion to the integrity of the Unified Program and the relationships CUPA personnel have developed with the regulated community, greatly attribute to the implementation of the Unified Program.
