



Gavin Newsom
Governor

Jared Blumenfeld
Secretary for Environmental Protection

August 27, 2021

Ms. Michele Opalenik, Director
Amador County Environmental Health
810 Court Street
Jackson, California 95642-2132

Dear Ms. Opalenik:

On June 3, 2021, CalEPA provided the Amador County Environmental Health Certified Unified Program Agency (CUPA) with an initial report letter for the 2020 CUPA performance evaluation and the final summary of findings report.

CalEPA would like to address an error made in Observation #3 of the final summary of findings report, regarding the current full-time equivalent (FTE) for inspectors and other staff. Observation #3 previously incorrectly reported a FTE of three in reference to the current total inspectors and other staff.

Attached, please find a revised final summary of findings report that now correctly reflects the current FTE for inspectors and other staff as one (1 staff at 100% FTE = 1 full-time staff) in Observation #3. The initial report letter issued on June 3, 2021, is also attached.

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:

Mr. Scott Meyer
Environmental Health Specialist
Amador County Environmental Health
810 Court Street
Jackson, California 95642-2132

Air Resources Board • Department of Pesticide Regulation • Department of Resources Recycling and Recovery • Department of Toxic Substances Control Office of Environmental Health Hazard Assessment • State Water Resources Control Board • Regional Water Quality Control Boards

Ms. Michele Opalenik
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cc sent via email:

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Supervising Water Resource Control Engineer
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Sacramento, California 95812-2231

Ms. Laura Fisher
Senior Environmental Scientist, Supervisor
State Water Resources Control Board
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Ms. Maria Soria
Program Manager
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Ms. Diana Peebler
Senior Environmental Scientist, Supervisor
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Mr. Jack Harrah
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Ms. Michele Opalenik
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cc sent via email:

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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. Sam Porras
Environmental Scientist
California Environmental Protection Agency



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June 3, 2021

Ms. Michele Opalenik, Director
Amador County Environmental Health
810 Court Street
Jackson, California 95642-2132

Dear Ms. Opalenik:

During June through August, 2020, CalEPA and the state program agencies conducted a performance evaluation of the Amador County Environmental Health 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 (August 3, 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 Sam Porras at Samuel.Porras@calepa.ca.gov, or mail.

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.

Ms. Michele Opalenik
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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

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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. Sam Porras
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: Amador County Environmental Health

Evaluation Period: June 2020 through August 2020

Evaluation Team Members:

- **CalEPA Team Lead:** Samuel Porras
- **DTSC:** Matthew McCarron
- **Cal OES:** Fred Mehr
- **State Water Board:** Sean Farrow, Wesley Franks (*training*)
- **CAL FIRE-OSFM:** Glenn Warner, Carmen Zamora

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 CUPA's Unified Program implementation and performance is considered: satisfactory with improvement needed.

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

Samuel Porras

CalEPA Unified Program

Phone: (916) 327-9557

E-mail: Samuel.Porras@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 each deficiency and 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: August 3, 2021

2nd Progress Report: November 4, 2021

3rd Progress Report: February 11, 2022

4th Progress Report: May 12, 2022

Note: The Final Summary of Findings report was initially issued to the CUPA on June 3, 2021. On August 26, 2021, the Final Summary of Findings report was reissued to the CUPA as Observation #3 was revised to reflect the correct number of current full-time equivalent inspection and other staff hours as one, rather than three (1 staff at 100% full-time equivalent = 1 full-time staff).

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 indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute.

1. DEFICIENCY:

The Inspection and Enforcement (I&E) Plan has not been reviewed or revised annually as necessary. The I&E Plan reflects a revision date of 2015, however, it has inaccurate, incomplete, and missing information.

The following information is inaccurate:

- The red tag authority enforcement option is not consistent with Health and Safety Code (HSC), Chapter 6.7, where an underground storage tank (UST) owner/operator may not deposit or withdraw fuel from a UST when a red tag is affixed to fill pipe(s).

The following information is incomplete:

- The CUPA has not identified all available formal and informal enforcement options currently used.
- The CUPA has not provided adequate guidance as to how applied enforcement standards are uniform and coordinated.
- The description of graduated series of enforcement actions does not address specific actions that will be taken to ensure timely compliance based on the severity of the violation.
 - Section VII of Enforcement Plan indicates that, “On a quarterly basis, ACEHD will identify businesses and facilities with documented minor violations that have not been corrected within stipulated deadlines. These businesses and facilities will be issued a “Notice of Violation” (NOV) stating the failure to correct the noted discrepancies or submit documentation of the corrective actions and the possibility of administrative enforcement actions if subsequent re-inspection reveals uncorrected violations. The NOV notice will include the date of their most recent inspection and notification that they are subject to re-inspection and re-inspection fees.”

If the CUPA follows up with facilities on a quarterly basis, minor violations can go uncorrected beyond the 30-day statutory timeframe allotted for returning to compliance. The CUPA should be following up (phone call, email, re-inspection) with the facility at the end of the 30-day time frame to ensure that the facility complies with the violations in a timely manner. Facilities should be able to correct minor violations in an expeditious manner. The CUPA’s Enforcement Plan, Section II General Information, Part D Roles and Responsibilities, indicates that the CUPA will issue a written warning (Opportunity to Correct Letter) and additional warning letters in the event of noncompliance, ending in the use of AEOs for continued noncompliance. There is no indication that the CUPA utilized these options to compel compliance for facilities, such as California Environmental Reporting System (CERS) Identification Number (ID) 10238713, that had multiple minor violations and did not comply for an extensive period of time.

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DEFICIENCIES REQUIRING CORRECTION

- The inspection plan states that Conditionally Exempt Small Quantity Generators (CESQGs), which are hazardous waste generators that generate less than 100 kilograms of hazardous waste per month, will be inspected on complaint basis. Pursuant to 27 CCR, section 15200 (a)(3)(A), where there is no mandated inspection frequency, the CUPA shall establish an inspection frequency considering the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials and hazardous waste, emergency response capability, compliance history, and any other pertinent local issues.
- The CUPA has outdated penalty amounts on Page 17, Section C, Part 1 for hazardous waste violations. The maximum penalty amount was changed in HSC, Section 25189.2 (a-c) to \$70,000 per violation per day effective January 1, 2018. The penalty matrix was updated in California Code of Regulations (CCR), Title 22, Chapter 22, Article 3, Section 66272.62 (d) effective July 5, 2018.

The following information is missing:

- A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.
- An adequate narrative of how the CUPA addresses complaints including receiving, investigating, enforcing, and closing the complaint.
- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory.

Note: The 2017 performance evaluation identified the I&E Plan did not include a complaint policy addressing all required elements nor an inspection frequency for CESQGs. Though the CUPA addressed these identified missing components in the first progress report dated June 27, 2017, the I&E Plan posted on the CUPA's website is dated 2015 and does not include the addressed components.

CITATION:

HSC, Chapter 6.7, Sections 25283(a) and 25292.3(c)(1)(C)
HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Section 15200(a) and (b)
[CalEPA, DTSC, State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the revised I&E Plan that addresses the inaccurate, incomplete, and missing information identified in this deficiency. In addition, the CUPA will include language addressing reviewing and revising the I&E Plan as necessary to ensure the I&E Plan is current.

By the 2nd Progress Report, the CUPA will, if necessary, revise the red tag authority enforcement option in the CUPA's I&E Plan based on feedback from the State Water Board and will submit the revised I&E Plan to CalEPA.

By the 2nd Progress Report, the CUPA will post the updated I&E Plan on the CUPA website.

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

DEFICIENCIES REQUIRING CORRECTION

By the 3rd Progress Report, the CUPA will train UST inspection staff on the revised red tag authority enforcement option in the CUPA's I&E Plan and provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training. Once training is complete, the CUPA will implement the revised I&E Plan.

2. DEFICIENCY:

The CUPA is not certifying to Cal OES every three years that a complete review of the area plan has been conducted and any necessary revisions have been made. The last update was in 2014.

CITATION:

HSC, Chapter 6.95, Section 25503(d)(2)
[Cal OES]

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will certify to Cal OES that a complete review of the area plan has been conducted and any necessary revisions have been made to ensure the area plan has all required elements. The CUPA will provide CalEPA with the revised area plan.

3. DEFICIENCY:

The CUPA is not properly classifying hazardous waste generator (HWG) violations.

In some cases, the CUPA is classifying Class I or Class II HWG violations as minor violations. The following examples include, but are not limited to:

- Violation for exceedance of authorized accumulation time 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 ID 10238872: inspection dated June 18, 2019
 - CERS ID 10238731: inspection dated December 17, 2018
 - CERS ID 10238743: inspection dated December 11, 2018
 - CERS ID 10238764: inspection dated November 14, 2018
 - CERS ID 10455763: inspection dated October 11, 2018
 - CERS ID 10238833: inspection dated August 14, 2018
 - CERS ID 19238836: inspection dated June 15, 2018
 - CERS ID 10238713: inspection dated July 12, 2017
 - CERS ID 10407295: Inspection dated April 14, 2017
- Violation for storing waste in containers that are in poor condition and failure to maintain two feet of freeboard for wastes stored in open tanks incorrectly cited as a minor violation. Storing waste in poor containers and in open tanks without sufficient freeboard to prevent releases increases the threat to human health and the environment.
 - CERS ID 10239025: inspection dated July 18, 2019 (freeboard violation)

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

- CERS ID 10407295: inspection dated June 4, 2019 (containers in poor condition)
- CERS ID 10239205: inspection dated June 6, 2018 (freeboard violation)
- CERS ID 10239205: inspection dated June 6, 2018 (containers in poor condition)
- CERS ID 10238713: inspection dated July 12, 2017 (containers in poor condition)

CITATION:

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

CORRECTIVE ACTION:

Beginning immediately, inspectors will ensure violations are correctly classified and that appropriate enforcement actions are pursued for non-minor violations.

By the 1st Progress Report, the CUPA will train personnel on the classification of minor, Class I, and Class II violations, as defined in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6, HSC Chapter 6.11, Section 25404(a)(3), and CCR, Title 22, Section 66260.10. The CUPA will train personnel on how to properly classify HWG violations during inspections and ensure personnel review the following:

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
- [Violation Classification Guidance Document](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>

The CUPA will provide CalEPA with training documentation, which at minimum will include, an outline of the training conducted and a list of CUPA personnel attending training.

By the 2nd Progress Report, the CUPA will provide CalEPA with a copy of inspection reports citing at least one HWG violation, for three HWG facilities as requested by DTSC, that have been inspected after training has been completed and within the last six months. Each inspection report will correctly identify and classify observed HWG violations.

4. DEFICIENCY:

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

Review of inspection, violation and enforcement information, also known as compliance, monitoring, and enforcement (CME) information indicates the CUPA did not elevate the violation classification or initiate appropriate enforcement for the following HWG facilities with violations that have not returned to compliance:

- 8 of 38 (21%) minor violations issued by the CUPA April 1, 2017 through March 31, 2020, returned to compliance within 35 days as required by statute. There is no indication that the CUPA followed up with the facilities to obtain compliance for the remaining 30

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violations to determine whether re-inspection should occur as stated in the I&E Plan, or to apply appropriate enforcement.

- CERS ID 10238713: inspection dated July 12, 2017
 - 18 violations are cited (two Class I violations, three Class II violations, and 13 minor violations).
 - One of the two Class I violations is for the illegal disposal of hazardous waste. CERS reflects that the inspector observed all of the violations corrected on September 7, 2018, which is 14 months after the violations were cited. There is no inspection date in CERS for September 7, 2018, and CERS does not indicate if formal enforcement was initiated.
 - There is no indication that the CUPA followed up with the facility to obtain compliance for each of the 18 violations or if the CUPA applied appropriate enforcement.

CITATION:

HSC, Chapter 6.5, Section 25187.8(b) and (g)

HSC, Chapter 6.11, Section 25404.1.1(a), 25404.2(a)(3) and (4)

CCR, Title 27, Section 15200(a) (6) and (9)

[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the I&E Plan, or other applicable procedure, which includes a delineated process to:

- ensure facilities cited with violations RTC through appropriate enforcement, and
- address follow up with facilities and documenting RTC in CERS.

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

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of the 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 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and DTSC, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments to the I&E Plan are necessary, the CUPA will train CUPA personnel/UST inspection staff on the revised I&E Plan. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

DEFICIENCIES REQUIRING CORRECTION

personnel/UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with three HWG facility records, as requested by DTSC that include documentation of RTC or the appropriate enforcement. In the event enforcement documentation is confidential, a copy of the enforcement documentation with redacted confidential information can be provided. Any information that can be obtained from CERS is not considered confidential.

5. DEFICIENCY:

The CUPA did not consistently include all observations, factual basis, and corrective action documentation for each violation cited on HWG and Tiered Permit (TP) inspection reports.

The CUPA did not consistently include accurate violation information on HWG and TP inspection reports, inspection checklists, letters to facilities with violations, or in CERS.

Review of inspection reports, inspection checklists, letters to facilities with violations, and CERS information indicates inadequate or improper documentation of cited violations for the following facilities:

- CERS ID 10239025: inspection dated July 18, 2019.
 - Graduated series of appropriate enforcement was not applied for three repeat violations, beginning with a 2016 inspection. The 2016 inspection report and the July 18, 2019, inspection report each include up to five violations, however, the letter provided to the facility only identifies three violations.
 - Note: Used oil should not be stored in a horse trough as two feet of freeboard cannot be maintained and the container cannot be tightly closed.
- CERS ID 10239205: inspection dated June 6, 2018.
 - The inspection report, CERS, and the letter provided to the facility as notification of the violations identified during the June 6, 2018, inspection all identify two different violations cited during the inspection:
 - The inspection report identifies one violation cited for no emergency information posted and one violation cited for storage over the allowed timeframe.
 - CERS indicates one violation cited for a container in poor condition and one violation cited for a tank with less than two feet of freeboard.
 - The letter provided to the facility as notification of the violations identified during the inspection references one violation for the HMBP inventory of batteries and one violation for secondary containment for a diesel tank.

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DEFICIENCIES REQUIRING CORRECTION

- The inspection report dated June 6, 2019, does not include factual basis of the violations cited or return to compliance language.
- CERS ID 10644256: inspections dated April 17, 2015, and June 15, 2018.
 - Inspection dated April 17, 2015:
 - Two violations on the inspection report are not in CERS.
 - Inspection dated June 15, 2018:
 - A violation for failure to have an SB 14 summary report was included in the inspection report, however, was not in CERS.
 - The letter provided to the facility as notification of the violations identified during the inspection references one violation for exceeding accumulation time, however, the violation is not included in the inspection report, nor is it in CERS.
 - Note: Small Quantity Generators (SQGs) are not required to file SB 14 summary reports. If the HWG is a Large Quantity Generator (LQG), used oil is exempt from calculations for SB 14 summary reporting.
- CERS ID 10455763: inspection dated October 11, 2018.
 - Violations related to tanks (cathodic protection and failure to remove a leaking tank from service) and a comment noting lamps stored over a year (violation 52 was not checked) were included in the inspection report, however, were not in CERS.
 - A violation for universal waste labelling was not included in the inspection report, however, was in CERS.
- CERS ID 10455763:
 - CERS indicates a formal enforcement action dated April 2, 2019, which was a Notice of Violation (only) and that date also noted a RTC date for a Hazardous Materials Release and Response Plan violation.
 - CERS indicates an NOV was issued for two universal waste violations (labeling and accumulation), which are not included in the inspection report. If no formal enforcement is taken, formal enforcement information should not be entered in CERS.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide inspection report writing training to each CUPA inspector to ensure all violations cited in HWG and TP inspection reports include observations, factual basis, and corrective actions. The CUPA may include review of the "[CalEPA Inspection Report Writing Guidance](https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-InspectionRpt-accessible.pdf)" (<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-Inspection-InspectionRpt-accessible.pdf>) as part of the inspector training.

The CUPA will provide CalEPA with training documentation, which at minimum will include an outline of the training conducted and a list of personnel in attendance.

By the 2nd Progress Report, the CUPA will provide CalEPA with an inspection report citing at least one HWG violation, for three HWG and the TP facility as requested by DTSC, that have

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FINAL SUMMARY OF FINDINGS REPORT**

DEFICIENCIES REQUIRING CORRECTION

been inspected after training has been completed and within the last three months. Each inspection report will contain observations, factual basis, and corrective actions to correctly identify and classify each observed HWG violation.

6. DEFICIENCY:

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

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

- 15 of 43 (35%) APSA tank facilities have not submitted a chemical inventory and site map within the past 12 months.
- 16 of 43 (37%) APSA tank facilities have not submitted an emergency response and employee training plans within the past 12 months.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent progress report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's local data management system or CERS, that includes at a minimum, the following information for each APSA tank facility that has not annually provided an HMBP in lieu of a tank facility statement to CERS:

- Facility name;
- CERS ID; and
- A narrative of the appropriate enforcement taken by the CUPA.

By the 4th Progress Report, the CUPA will ensure 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 applied appropriate enforcement.

7. DEFICIENCY:

The CUPA's Standard Operating Procedure (SOP) # 2 does not follow the requirements of the CUPA's local ordinance Chapter 7.25, Section 7.25.110 for implementing the issuance and renewal of Unified Program Facility Permits (UPFPs), which includes the UST operating permit.

The UST operating permit, issued under the UPFP template, contains incorrect HSC reference citations that require correction.

Review of UST operating permits issued under the UPFP finds:

- The CUPA is issuing and renewing UST operating permits, under the UPFP, every five years rather than every three years, as outlined in the local ordinance.

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- The UST operating permit does not contain the required CERS ID Number:
 - CERS ID 10747981: issued November 17, 2019
 - CERS ID 10238764: issued November 12, 2019
 - CERS ID 10238728: issued September 14, 2019
 - CERS ID 10238854: issued February 20, 2019
 - CERS ID 10156413: issued September 26, 2018
 - CERS ID 10206799: issued August 28, 2018
- The UST operating permit contains the following incorrect HSC reference citations that require correction:
 - HSC reference to Chapter 6.7 incorrectly states Division 2. The correct HSC reference is Division 20.
 - HSC reference to Chapter 6/7 is incorrect. The correct HSC reference is Chapter 6.7.

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

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:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised SOP # 2 that reflects the requirements of the local ordinance Chapter 7.25, Section 7.25.110 for issuance and renewal of the UST operating permit, which is issued under the UPFP.

By the 1st Progress Report, the CUPA will revise and provide CalEPA with a copy of the UPFP template to include the required CERS ID number and correct statutory references. State Water Board encourages the CUPA to develop standard language for UPFPs excluding the monitoring information for tank and pipe, as this is already addressed through incorporation by reference language requiring monitoring and plot plans to be retained on site.

By the 2nd Progress Report, the CUPA will, if necessary, amend SOP # 2 and the UPFP template based on feedback from State Water Board and will submit the revisions to CalEPA.

By the 3rd Progress Report, the CUPA will train UST inspection staff on the revised SOP # 2 and the revised UPFP template, 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 SOP # 2 and begin to use the revised UPFP template.

With respect to UPFPs currently issued, and based on UST operating permit issuance dates, the CUPA will renew UST operating permits issued under the UPFP in accordance with the three-year term of the local ordinance.

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By the 4th Progress Report, the CUPA will have begun using the revised UPPF template and will provide CalEPA with a copy of up to five UPPFs issued to UST facilities.

8. DEFICIENCY:

The CUPA is not consistently or correctly reporting all inspection, violation, and enforcement information, also known as compliance, monitoring and enforcement (CME) information, to the CERS.

- Review of HWG inspection information in CERS on June 10, 2020, for the time period April 1, 2017 to March 31, 2020, indicated 23 of 135 (17%) of HWG facilities were not inspected. Inspection data dating back to October 2019 was provided by the CUPA in CERS on June 26, 2020. The data provided on June 26, 2020, indicates the CUPA is meeting the mandated inspection frequency; however data includes duplicate inspections for several facilities.
- Review of TP inspection information in CERS on June 10, 2020, indicated the one TP facility within the jurisdiction of the CUPA was last inspected on August 24, 2016. Inspection data dating back to October 2019 was provided by the CUPA in CERS on June 26, 2020. The data provided on June 26, 2020, indicates the CUPA is meeting the mandated inspection frequency as the TP facility was inspected on November 19, 2019.
- Review of APSA Program information indicated inconsistencies between inspection reports and CERS for the following:
 - CERS ID 10239067: CERS has no record of the inspection report dated November 7, 2019.
 - CERS ID 10650178: CERS has no record of the inspection report dated November 7, 2019.
 - CERS ID 10239127: CERS has no record of the inspection report dated November 18, 2019.
 - CERS ID 10238875: Envision identifies an inspection dated 2019, the most recent inspection identified in CERS is dated 2016.

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

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Sections 15187(c), 15200(a)(3)(A) and 15290(b)
[DTSC, OSFM]

CORRECTIVE ACTION:

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

- Revision to the existing CME component of the data management procedures to address the root causes of missing or incorrect CME information reported in CERS, if needed;
- Identification of the cause(s) and correction of the issue(s) related to data management transfer from the CUPA's local data management system to CERS or development of an

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alternative method for data transfer to ensure revised or updated CME information is reported accurately to CERS;

- Identification of CME information that was not previously reported to CERS as required, ensuring CME information for any revised inspection reports;
- A process for reporting CME information that was not previously reported to CERS as required, including CME information for any revised inspection reports; and
- Future steps to ensure all CME information is reported accurately to CERS as required.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a copy of an inspection report for an inspection conducted during the previous three months or RTC documentation received during the previous three months for up to three facilities as requested by each state agency.

By the 2nd Progress Report, the CUPA will consistently report all current and previous CME information to CERS as required.

9. DEFICIENCY:

The CUPA is not ensuring that personnel involved with Unified Program implementation meet the applicable minimum education, training, and experience requirements.

- There are insufficient records to indicate that one staff currently conducting inspections meets the education and training requirements identified in CCR, Title 27, Section 15260 (a-c) and (d)(3)(A and B).

CITATION:

CCR, Title 27, Section 15260
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the classifications and duty statement of each personnel position to ensure each position reflects the minimum education, training, and experience requirements outlined in CCR, Title 27, Section 15260. The CUPA will ensure all CUPA personnel conducting inspections meet the applicable minimum education, training, and experience requirements consistent with Title 27 Section 15260. Any CUPA personnel that does not meet the minimum education, training, and experience requirements outlined in CCR, Title 27, Section 15260, cannot conduct inspections for any Unified Program element.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

The Unified Program Administrative procedures, included in the Standard Operating Procedures (SOPs) have missing or incomplete information.

The following information is missing:

- Forwarding HMRRP Procedures:
 - The CUPA does not provide procedures for sharing HMRRP information to emergency response personnel and other appropriate government entities.
 - Note: The Self-Audit Report for FY 2019/2020 includes the following, which illuminates the procedures to be incorporated into the SOPs: “Accepted submittals are incorporated into the CERS database for Amador County and have been made available through the CERS portal to approved emergency responders. At present eight local and one state firefighting organization, the Amador Sheriffs Office of Emergency Services, local California Highway Patrol, and Amador Air Pollution Control District are approved for access to CERS.”

The following information is incomplete:

- Public Participation Procedures, titled “Public Input to Set Fee Schedule”:
 - The procedures only address public participation when a fee change is proposed. The procedures do not address coordinating, consolidating, and making consistent locally required public hearings related to any Unified Program Element.
- Public Information Request Procedures, titled “Document Request and Review from the Public, Government and Emergency Responders”:
 - The procedures do not provide adequate detail for how the CUPA responds to requests from the public, government agencies, or emergency responders.

CITATION:

CCR, Title 27, Section 15180(e)(1), (e)(3), (e)(4)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise as necessary, and provide CalEPA with a copy of the revised SOPs addressing the incomplete and missing information in the specified Unified Program Administrative procedures identified in this finding.

2. INCIDENTAL FINDING:

The Unified Program Data Management, Data Accepting, and Record Retention policies, included in the SOPs have missing or incomplete information.

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The following information is missing:

- Local Information Management System and Data Management Procedures:
 - A narrative of the data management system currently used to transfer inspection, violation, and enforcement (CME) information to CERS, and the frequency at which CME information for each Unified Program element is transferred to CERS (within 30 days of the end of each state fiscal quarter).
 - Unified Program Data Dictionary elements used, and the data exchange technical specifications (as provided by CalEPA).
- Data Accepting Policy:
 - A narrative of how submittals from regulated businesses are processed, including review and acceptance to ensure relevant data elements are included.

The following information is incomplete:

- Information Collection, Retention, and Management process and Record Retention Policy, titled "Records Maintenance Policy":
 - The list of documents required to be retained for a minimum of five years does not include Self-Audit Reports, and enforcement files.
 - The CUPA does not specify if training records are being archived for the five-year minimum requirement.
 - Archival procedures or the retention policy for electronic documents are not addressed.

CITATION:

CCR, Title 27, Sections 15180(e)(2) and (e)(7), 15185(b) and (d), 15187(c) and (d), and 15290(a)(3)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will review, revise as necessary, and provide CalEPA with a copy of the SOPs addressing the missing and incomplete information regarding Data Management, Data Accepting, and Record Retention policies identified in this finding.

3. INCIDENTAL FINDING:

The annual Self-Audit Report for FY 2019-2020 has incomplete information.

The following information is incomplete:

- The narrative summary of the overall performance of the effectiveness of activities including permitting, inspections, enforcement, the single fee system, and changes to program implementation has not been updated since 2015.
- An updated explanation of any discrepancies on the annual and quarterly reports of program activities for the previous fiscal year.
- Indication of when and how the annual review was conducted for the fee accountability program.
- An updated record of any changes in local ordinances, resolutions, and agreements affecting implementation of the Unified Program.

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Note: The CUPA did not complete the annual Self-Audit Report for FY 2017/2018. There are only minor differences between the annual Self-Audit Reports for FY 2018/2019 and FY 2019/2020. Each Self-Audit Report must address specified activities of the CUPA, if any, during the previous FY (July 1 through June 30). The Self-Audit Report for FY 2019/2020 was provided to CalEPA on June 10, 2020, prior to the end of FY 2019/2020, which may mean certain aspects of Unified Program implementation for FY 2019/2020 will be left unaddressed.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will review, and revise the FY 2019/2020 annual Self-Audit Report to ensure completion of the information identified in this finding. The CUPA will provide CalEPA with a copy of the revised Self-Audit Report for FY 2019/2020. Each subsequent annual Self-Audit Report will be completed by September 30th and will include all required components.

4. INCIDENTAL FINDING:

The CUPA did not submit a Formal Enforcement Summary Report for each case that received a final judgement.

- CERS ID 10238752:
 - A Formal Enforcement Summary Report was not submitted to CalEPA.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will determine the number of formal enforcement cases that have received a final judgement for the last three fiscal years and provide CalEPA with a Formal Enforcement Summary Report for each of those cases as well as for the one identified in this finding. The CUPA will ensure that a Formal Enforcement Summary Report will be submitted to CalEPA within 30 days of final judgment for any future formal enforcement case.

The Formal Enforcement Summary Report template to complete and submit to CalEPA can be found here: <https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/CUPA-Documents-eReporting-Template.pdf>

5. INCIDENTAL FINDING:

Review of the Semi-Annual Report (Report 6) finds the CUPA is not inspecting all UST facilities annually:

- FY 2018/2019
 - 2 of 29 (7%) UST facilities were not inspected.

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- FY 2017/2018
 - 4 of 31 (13%) UST facilities were not inspected.
- FY 2016/2017
 - 3 of 30 (10%) UST facilities were not inspected.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with a list of UST facilities that have not been inspected within the last 12 months. The list will include, at minimum, the CERS ID, UST facility name, and last inspection date.

By the 1st Progress Report, the CUPA will provide CalEPA with a plan to at minimum:

- Inspect identified UST facilities that have not been inspected within the last 12 months, prioritizing the most delinquent annual UST compliance inspections to be to be completed prior to any other annual UST compliance inspection; and
- Ensure that all UST facilities will be inspected annually.

By the 2nd Progress Report, the CUPA will if necessary revise the CUPA's plan for inspecting UST facilities not inspected within the last 12 months and ensuring that all UST facilities are inspected annually, based on feedback from the State Water Board and will resubmit the CUPA's plan to CalEPA.

By the 3rd Progress Report, the CUPA will train UST inspection staff on the revised plan and provide training to CalEPA, which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending the training. Once training is complete, the CUPA will implement the plan.

6. INCIDENTAL FINDING:

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

Review of UST facility submittals in CERS, indicates the CUPA is accepting inaccurate and incomplete UST related information.

Data review is based on the UST Facility/Tank Data Download report obtained from CERS on May 13, 2020, and indicates the following:

- 10 USTs constructed between January 1, 1984 and June 30, 2004, identified as having double-wall product pipe indicate having no continuous double-wall pipe monitoring.
- Two USTs identified as having single-wall steel construction incorrectly show having no interior tank lining installed.
- Five USTs identified as having double-wall product pipe with continuous monitoring where the pipe secondary is blank.

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- Two USTs indicate having no overfill protection installed.
- One UST identified as an emergency generator having double-wall pressurized pipe, without a mechanical or electronic line leak detector.
- Three USTs with post July 1, 2004, construction indicating the requirement to conduct periodic enhanced leak detection testing.

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

Note: Reference the following CERS FAQs: “General Reporting Requirements for USTs”; “When to Issue a UST Operating Permit”; “Common CERS Reporting Errors”; “Setting Accepted Submittal Status”; and “Which Forms Require Uploading to CERS.” Reference State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records.”

CITATION:

HSC, Chapter 6.7, Sections 25286 and 25288(a)
CCR, Title 23, Sections 2632(d)(1), 2634(d)(2), 2641(g) and (h), and 2711(d)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will train UST inspection staff on the CUPA’s procedure ensuring accepted UST information in CERS is accurate and complete. The CUPA will provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training.

With respect to UST submittals already accepted in CERS, the CUPA will review UST related information in CERS and require accurate and complete UST submittals with the next UST submittal, but no later than the next annual UST compliance inspection.

7. INCIDENTAL FINDING:

The SOPs #2 and #5 still reference the requirement for regulated businesses to use the Unified Program Consolidated Form (UPCF) to fulfill business-to-CUPA reporting requirements. Beginning January 1, 2013, the use of the UPCF was replaced by the use of CERS or local CUPA reporting portals for regulated businesses to report required Unified Program information electronically.

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Section 15110(o)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise, and provide CalEPA with a copy of SOPs #2 and #5 to address the discontinuation of use of the UPCF, as regulated businesses must now report required Unified Program information electronically in CERS.

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8. INCIDENTAL FINDING:

The CUPA is not correctly reporting all UST violations, including technical compliance rate (TCR) criteria, in CERS when UST violations are cited during an annual UST compliance inspection.

Review of UST CME information in CERS finds the following:

- CERS ID 10238695: CERS CME information dated September 26, 2019, identifies a CERS violation number 2030035 for unsafe UST operation. Violation comment indicates overfill protection equipment testing has not been completed. The CUPA did not 1) report and cite the correct violation, or 2) provide accurate United States Environmental Protection Agency (U.S.EPA) TCR information.
- CERS ID 10238728: CERS CME information dated September 12, 2019, identifies a CERS violation number 2030035 for unsafe UST operation. Violation comment indicates overfill protection equipment testing has not been completed. The CUPA did not 1) report and cite the correct violation, or 2) provide accurate U.S.EPA TCR information.
- CERS ID 10239058: CERS CME information dated July 16, 2019, identifies a CERS violation number 2010018 for overfill prevention inspection records. Violation comment indicates two of the three fill pipes cannot be removed and the need to reschedule the overfill prevention equipment inspection. The CUPA did not 1) report and cite the correct violation, or 2) provide accurate U.S.EPA TCR information.

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

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will train UST inspection staff on the CUPA's procedure to ensure UST violations are reported correctly, including TCR criteria, in CERS when citing violations during an annual UST compliance inspection. The CUPA will provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training.

9. INCIDENTAL FINDING:

The CUPA is not documenting whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, tank closure, removal, and soil sampling complies with statute and regulation.

Review of the CUPA UST Closure letter for CERS ID 10239052 finds the closure letter does not include sufficient content which specifies whether the UST owner/operator has demonstrated to the satisfaction of the CUPA, tank closure, removal, and soil sampling complies with statute and regulation.

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Please refer to State Water Board UST Program Leak Prevention [Frequently Asked Question 15](https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) (https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml).

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will revise and provide CalEPA with a UST closure letter template containing language indicating the UST owner/operator has demonstrated to the satisfaction of the CUPA that tank closure, removal, and soil sampling complies with statute and regulation. The CUPA may consider including the following language: "Amador County Environmental Health Department has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with Health and Safety Code section 25298, subdivision (c) and UST Regulations, section 2672."

By the 2nd Progress Report, the CUPA will if necessary, revise the UST closure letter template, based on feedback from the State Water Board and will submit the revised UST closure letter template to CalEPA.

By the 3rd Progress Report, the CUPA will train UST inspection staff on using the revised UST closure letter template and provide training documentation to CalEPA, which will include, at minimum, an outline of the training conducted and a list of UST inspection staff attending training. Once training is complete, the CUPA will begin using the revised UST closure letter template.

With respect to UST facilities which have not been provided adequate UST closure documentation, in the event of a public request for closure documentation, the CUPA will utilize the revised UST closure letter template and provide the requested documentation to the UST owner(s)/operator(s).

10. INCIDENTAL FINDING:

The CUPA is not submitting Surcharge Transmittal Reports to CalEPA by the required due date for each fiscal quarter. The following Surcharge Transmittal Reports were not received by the required due date:

- FY 2018/2019
 - 2nd Quarter: submitted on December 12, 2019, due January 30, 2019
 - 3rd Quarter: submitted October 1, 2019 and October 30, 2019, due April 30, 2019

Note: The Surcharge Transmittal Reports received by CalEPA for FY 17/18 and 18/19 contain inaccurate or inconsistent dates for the Fiscal Year and Fiscal Quarter indicated on the reports.

CITATION:

CCR, Title 27, Sections 15250(b)
[CalEPA]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will have prepared and submitted to CalEPA the 1st quarterly Surcharge Transmittal Report for FY 2020/2021 no later than October 30, 2020. Thereafter, the CUPA will submit each Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter.

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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:

The CUPA submitted the Annual Single Fee Summary Report for FY 2019/2020 to CalEPA on June 9, 2020, prior to September 30, 2020, thereby excluding at least three weeks of the reporting period.

RECOMMENDATION:

Review, revise as necessary, and resubmit the Annual Single Fee Summary Report for FY 2019/2020 to CalEPA to ensure it includes information for the entire reporting period.

2. OBSERVATION:

CUPA Single Fees and State Surcharges are being waived for some regulated facilities.

RECOMMENDATION:

Incorporate the logic used for waiving single fees and state surcharges into the Standard Operating Procedures. Ensure the CUPA can easily identify and track which facilities under which programs have single fees and state surcharges waived.

3. OBSERVATION:

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

- 1996 Application for Certification;
- CERS “Summary Regulated Facilities by Unified Program Element” report, generated on June 29, 2020; and
- Report 6

- Total Number of Regulated Businesses and Facilities:
 - In 1996: 180-220
 - Currently: 259
 - An increase of 39-79 facilities
 - Comments: The total number of facilities at 220 includes Hazardous Waste Generator and Tiered Permitting facilities.

- Total Number of **Business Plan** Regulated Businesses and Facilities:
 - In 1996: 105
 - Currently: 245
 - An increase of 140 facilities

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- **Total Number of Regulated Underground Storage Tank (UST) Facilities:**
 - In 1996: 53
 - Currently: 29
 - A decrease of 24 facilities

- **Total Number of Regulated USTs:**
 - In 1996: 138
 - Currently: 81
 - A decrease of 57 USTs

- **Total Number of Regulated Hazardous Waste Generator Facilities:**
 - In 1996: 61
 - Currently: 135
 - An increase of 74 facilities

- **Total Number of Regulated Household Hazardous Waste (HHW) Facilities:**
 - In 1996: None specified
 - Currently: 1
 - Comments: The difference between the current and historic number of facilities cannot be determined at this time.

- **Total Number of Regulated Tiered Permitting (TP) Facilities (Permit By Rule, Conditionally Authorized, Conditionally Exempt):**
 - In 1996: 4
 - Currently: 1
 - A decrease of 4 facilities

- **Total Number of Regulated Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) Facilities:**
 - In 1996: None specified
 - Currently: 3
 - Comments: The difference between the current and historic number of facilities cannot be determined at this time.

- **Total Number of Regulated Risk Management Prevention Plan (RMPP), also known as California Accidental Release Prevention (CalARP) Program Facilities:**
 - In 1996: 3
 - Currently: 0
 - A decrease of 3 facilities

- **Total Number of Regulated Aboveground Petroleum Storage Act (APSA) Tank Facilities:**
 - In 1996: None specified
 - Currently: 43
 - Comments: The difference between the current and historic number of facilities cannot be determined at this time.

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OBSERVATIONS AND RECOMMENDATIONS

Since the initial certification of the CUPA, regulation of APSA tank facilities has been established. While the number of total regulated facilities for UST facilities, total USTs, tiered permitting facilities, and CalARP facilities regulated by the CUPA have decreased since the CUPA applied for certification in 1996, the number of total regulated facilities has significantly increased for HMRRPs, HWGs, RCRA LQGs, and APSA programs. The CUPA currently regulates facilities under the HHW, RCRA LQG, and APSA program elements, which increases the number of regulated facilities and the general workload undertaken by the CUPA since certification.

The CUPA's ability to adequately implement each Unified Program element appears to be restricted by a combination of persistent insufficient staffing and resources. Though considered a rural CUPA, Amador County does not meet the eligibility requirements established by the State Legislature to receive funds from the Unified Program Rural Reimbursement Account (RRA). Amador County was certified as the CUPA prior to January 1, 2000, the date the RRA was established.

The information below is a comparison of the overall full-time equivalent (FTE) of CUPA personnel allocated to the implementation of the Unified Program upon certification of the CUPA with present-day circumstance and the degree to which allocated inspection and supervisory/management staff has increased or decreased. The information is sourced from the 1996 CUPA Application for certification and recent information provided by the CUPA.

- Inspection and other Staff
 - In 1996:
 - 3** Staff, each at a 100% FTE = 3 FTE positions
 - Currently:
 - 1 Staff at a 100% FTE = 1 FTE position
- Supervisory and Management Staff
 - In 1996:
 - 1 Staff at a 100% FTE = 1 FTE position
 - Currently:
 - 1* Staff at a 100% FTE = 1 FTE position
 - *The CUPA Director also fulfills the supervisory role and is responsible for overseeing other environmental departments as well.

**The original CUPA application for certification identifies a staffing shortage of 0.9 full-time equivalent (FTE) and the Board of Supervisors authorized the filling of the position to allow for suitable allocation or staffing, however, the position has remained vacant and is not identified in the current organizational chart as it has since been defunded.

The comparison of the implementation of the program upon certification with present-day circumstance indicates there may be several issues impeding the CUPA's ability to adequately implement the Unified Program within its jurisdiction. Between growth within the county and the expansion of the Unified Program elements since its inception, the number of regulated facilities for this CUPA have increased greatly since the CUPA was first certified. Although additional program elements have been incorporated into the implementation of the Unified Program, and

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OBSERVATIONS AND RECOMMENDATIONS

the number of facilities regulated by the CUPA has significantly increased since the CUPA applied for certification in 1996, as of FY 2019/2020, the staffing resources of the CUPA remain unchanged.

RECOMMENDATION:

Conduct a fee accountability study to determine the current necessary and reasonable costs to implement all aspects of the Unified Program with the existing regulated businesses and facilities within each program element. Reevaluate the current budget and expenditures, single fee assessment for each entity, and funding allocation for program services so that, if applicable, the CUPA is able to justify the need to increase fees, staff levels, and other resources as necessary and reasonable to ensure adequate implementation of each program element. Examine how current CUPA resources are being used to ensure that required program elements are implemented as a first priority before supplemental efforts that may not be specifically required.

Continue to explore any viable and available option to assist in obtaining resources for Unified Program implementation.

The ability to apply each aspect of inspection, compliance, monitoring and enforcement for all Unified Program activities is not only vital to the success of the program, but it further ensures the protection of health and safety of the community and environment at large. Once the CUPA has the necessary resources to obtain and maintain an adequate staff, it is likely the issues causing the identified and recurring deficiencies, such as falling short of meeting the mandated inspection frequency for various program elements, will be addressed.

4. OBSERVATION:

Overall HWG Program implementation, including review of facility file information, Self-Audit Reports, policies and procedures, and CERS data between May 1, 2017 and April 30, 2020, is summarized below:

- The CUPA identified 135 HWGs, two Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), and one tiered permitted (TP) facility.
- CERS indicates that 130 of 135 (96%) HWGs were inspected in the last three years.
 - Of the 143 HWG inspections conducted, 15 HWGs were cited with one or more violations and 128 HWGs had no violations.
 - A total of 48 violations were issued
 - 2 Class I violations (all returned to compliance)
 - 7 Class II violations (all returned to compliance)
 - 39 minor violations (10 have yet to return to compliance, 11 returned to compliance within 35 days)
 - 36 of 48 (78%) violations have returned to compliance.
 - 12 of 15 (80%) HWGs cited with violations returned to compliance.
 - Review of CERS data on May 6, 2020, indicates no HWG inspections have been conducted since October 21, 2019.
- The CUPA completed no formal enforcement actions for the HWG program.

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- While some inspection reports contain detailed comments noting the factual basis of the violation, most inspection reports only contained default violation library text. Some of the comments did not match the cited violation. There was no documentation in the inspection report to document consent to inspect was obtained from the facility.
- DTSC was unable to conduct oversight inspections due to Coronavirus (COVID-19) restrictions.

RECOMMENDATION:

Ensure complete and thorough inspections are conducted so that all violations are identified at facilities. Continue with the three-year inspection frequency effort to ensure that all HWGs, including Conditionally Exempt Small Quantity Generators (CESQGs) are identified and inspected on a specific frequency. CESQGs are held to the same HWG requirements as are Small Quantity Generators (SQGs). Follow the I&E Plan in order to follow up with HWG facilities that have outstanding minor violations and ensure timely compliance is obtained. Ensure comments regarding violations and return to compliance information are specific to violations cited in CERS. Data quality needs additional Quality Assurance/Quality Control (QA/QC) to ensure correct data transferring to CERS.

5. OBSERVATION:

The CUPA's website has the following outdated hazardous waste management, California Fire Code, and APSA information and broken links:

- The link to the Environmental Protection Agency ID Verification is out of date.
- The link on the Hazardous Waste Generator Page titled: "A [Cal-EPA registration number](#) (https://www.acgov.org/forms/aceh/EPA_ID_Application.pdf) is required for all hazardous waste generators." refers to a document that does not exist and is not correct. A CalEPA registration number does not exist. There are Federal and State EPA ID numbers. Here is the correct link: <https://dtsc.ca.gov/apply-for-hazardous-waste-epa-id-number/>
- On the CUPA's website at <https://www.amadorgov.org/departments/environmental-health/hazardous-materials-cupa>, the California Uniform Fire Code is improperly referenced; the proper reference is California Fire Code.
- On the CUPA's APSA web page at <https://www.amadorgov.org/departments/environmental-health/hazardous-materials-cupa/aboveground-petroleum-storage-tank-program>, the SPCC Plan is linked to US EPA's Tier I Qualified Facility website that includes an SPCC Plan template and examples. Not all APSA tank facilities meet the Tier I Qualified Facility criteria. US EPA's SPCC website contains the Tier I Qualified Facility SPCC Plan template and sample professional engineer (PE)-certified SPCC Plans, and the OSFM APSA website contains the Tier II Qualified Facility SPCC Plan template.

RECOMMENDATION:

Verify all existing referenced links on the website work.

The following additional links are also recommended to include on the website:

- Hazardous Waste Generator requirements: <https://dtsc.ca.gov/generators/>
- For updating EPA ID number: <https://evq.dtsc.ca.gov/Home.aspx>

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- Used Oil: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG-UsedOilforGenerators.pdf>
- Used Oil Filters: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/AdvisoryUsedOilFiltersMarch2017Final.pdf>
- Universal Waste: <https://dtsc.ca.gov/universalwaste/>
- Office of the State Fire Marshal APSA: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/>
- U.S. Environmental Protection Agency SPCC: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>

6. OBSERVATION:

Review of the I&E Plan finds that it contains APSA program or fire code information that is inaccurate or could benefit from improvement.

- In Section I-General Information of the Inspection Plan (part 1, page 2), the outdated Uniform Fire Code is referenced. This should be updated to the California Fire Code.
- In Section III-Frequency of Inspections of the Inspection Plan (part 1, page 3), the inspection frequency for APSA tank facilities is “3 years (with HMBP) inspections”, which implies that all APSA tank facilities are inspected at least once every three years. Also, the HSC citation for APSA inspections is missing. For consistency with other programs that have applicable inspection requirements, the CUPA should include the applicable APSA inspection reference: HSC 25270.5(a) for minimum mandated triennial inspections at APSA tank facilities storing 10,000 gallons or more of petroleum, or HSC 25270.5(b) for an alternative inspection frequency for APSA tank facilities.
- In Appendix B of the Enforcement Plan (part 2), the acronym for the Spill Prevention, Control, and Countermeasure Plan is referred to as ‘SPC Plan’. The correct acronym is SPCC Plan, but the reference to ‘(SPC Plan)’ should be removed as it implies all APSA tank facilities are required to prepare and implement an SPCC Plan. Conditionally exempt tank facilities are not required to prepare an SPCC Plan under APSA.

RECOMMENDATION:

Update the APSA Program and fire code information in the I&E Plan.

7. OBSERVATION:

The Area Plan references incorrect OSFM information. On Part III, page 8, the CUPA defines California State Fire Marshal as, “A division of the Department of Forestry and Fire Protection for the safety of all interstate and intrastate hazardous liquid pipelines in California.” OSFM oversees the intrastate hazardous liquid pipelines only. Interstate pipelines are under the authority of U.S. Department of Transportation – Pipeline and Hazardous Materials Safety Administration.

RECOMMENDATION:

Update the Area Plan to correctly define the California State Fire Marshal.

8. OBSERVATION:

The CUPA utilizes comprehensive APSA checklists.

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Recent 2019 APSA inspection reports do not include a reference to the APSA statute, unless a violation has been cited. On inspection reports with observed violations, the HSC Ch. 6.67 citation is referenced first, followed by the applicable reference to the U.S. Code of Federal Regulations, Title 40, Part 112 (Federal SPCC rule). APSA inspection reports prior to 2019, include the Federal SPCC rule citations some section headers of the report, and when a violation is observed, the applicable Federal SPCC rule citation is referenced first, followed by the APSA citation.

The Federal SPCC rule is not delegated to any state. Unified Program Agencies (UPAs) have no authority to enforce the Federal SPCC rule; however, UPAs are required to implement and enforce the APSA Program. The APSA inspection checklists should cite the APSA statute first, and then the Federal SPCC rule should be referenced, where applicable.

In some instances, the APSA inspection report utilized for an APSA tank facility with a PE-certified SPCC Plan also included Tier I or Tier II qualified facility requirements. If a qualified facility has a self-certified SPCC Plan, then the inspection report should contain applicable Tier I or Tier II qualified facility SPCC Plan components. If a tank facility has a PE-certified SPCC Plan (even if the facility is a qualified facility), then the inspection checklist should contain applicable SPCC rule requirements, excluding qualified facility SPCC Plan components.

RECOMMENDATION:

Continue to utilize the comprehensive APSA inspection checklists and ensure that the checklist items are applicable to the APSA tank facilities being inspected, using the appropriate authority to cite APSA violations (HSC Ch. 6.67, commencing with Section 25270), followed by the Federal SPCC rule citation, if applicable. Utilizing the CUPA Forum Board APSA checklists is also encouraged, as there are different versions for the different types of tank facilities: Tier I qualified facility, Tier II qualified facility, PE-certified SPCC Plan facility, and conditionally exempt tank facility.

9. OBSERVATION:

The Self-Audit Reports for FYs 2018/2019 and 2019/2020 have incorrect, missing, or outdated APSA or fire code hazardous materials management plan and hazardous materials inventory statement (HMMP-HMIS) program information:

- Page 1, the Program Elements section is missing the fire code HMMP-HMIS program element. The HMMP-HMIS program is consolidated with the HMBP program to streamline the regulatory requirements for regulated businesses.
- Pages 6 through 7, the APSA section states, “facilities with aggregate aboveground petroleum storage capacities of 1320 gallons or more...in aboveground containers or tanks with petroleum storage capacities of 55 gallons or greater. All regulated facilities must also meet the federal SPCC rule requirements.” APSA also regulates tank facilities that are subject to the Federal SPCC Rule (HSC 25270.3(a)), and tank facilities with one or more stationary petroleum tanks in underground areas with a shell capacity of 55 gallons or greater (HSC 25270.3(c)). Not all tank facilities are required to prepare and implement an SPCC Plan under APSA.
- Pages 6 and 7 reference “SPCC inspections” and “qualified SPCC facilities”. APSA mandates triennial inspections at APSA tank facilities that are required to prepare and

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implement an SPCC Plan and have an aggregate aboveground petroleum storage capacity of 10,000 gallons or greater. Such APSA tank facilities may include those that meet the qualified facility criteria under the Federal SPCC rule.

- Page 7 references the APSA citation incorrectly as “title 6.67.” The correct citation is HSC Ch. 6.67.
- Page 7 states, “Recently passed legislation (AB 1566) clarifies the regulation of free standing exposed tanks located in below grade vaults. Free standing tanks in vaults that provide secondary containment (tanks in an underground area) that contain petroleum are considered aboveground petroleum storage and subject to [HSC Ch.] 6.67 and the spill prevention control and countermeasures plan preparation requirements.” Since Assembly Bill (AB) 1566 (Stats. 2012, Ch. 532), Senate Bill 612 (Stats. 2015, Ch. 452) and AB 2902 (Stats. 2018, Ch. 721) have made additional amendments to requirements for tanks in underground areas.

Note: Self-Audit Reports for FYs 2016/2017 and 2017/2018 were not provided as requested.

RECOMMENDATION:

Ensure future Self-Audit Reports have all current and applicable APSA Program information.

10. OBSERVATION:

Review of CERS indicates there is a significant number of single-walled USTs/UST systems which may require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05. Below are a few examples:

- CERS ID 10238752: Tank IDs 10238752-001, 002, and 003
- CERS ID 10238755: Tank IDs 10238755-001, 002, and 003
- CERS ID 10238998: Tank IDs 10238998-001, 002, and 003

State Water Board will, prior to the exit briefing, provide the CUPA with a complete list of single-walled USTs/UST system as identified in CERS that require permanent closure by the December 31, 2025.

Note: The U.S. EPA and the State Water Board now fund two full-time contractors to specifically assist single-walled UST owners/operators. By encouraging single-walled UST owners/operators to remove and replace single-walled tanks and piping well in advance of California’s December 31, 2025, deadline, we hope to prevent contractor shortages, unmanageable permitting workloads and UST abandonment.

RECOMMENDATION:

Continue to provide verbal reminders to all applicable UST facility owners/operators regarding the December 31, 2025, requirements for permanent closure of single-walled USTs. Consider providing written notification of the requirements to all applicable UST facility owners/operators. The written notification should inform facility owners/operators that in order to remain in compliance, owners/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/.

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Notify facility owners/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 tanks. More information on funding sources may be found at:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml.

11. OBSERVATION:

The Unified Program Information Collection, Retention and Management process and Record Retention Policy, titled “Records Maintenance Policy” references the “Unified Program Information Collection and Reporting Standard,” which is an outdated term.

RECOMMENDATION:

Remove the reference to the “Unified Program Information Collection and Reporting Standard” from the “Records Maintenance Policy.”

12. OBSERVATION:

Prior to FY 19/20, the CUPA had been submitting Surcharge Transmittal Reports whenever fees are collected from the regulated community rather than quarterly as is the requirement. Starting with FY 19/20, the CUPA began submitting Surcharge Transmittal Reports within 30 days of the end of each fiscal quarter as is required by statute and regulation; however, reports were only being submitted for quarters where State Surcharge Fees were collected. The following Surcharge Transmittal Reports were not received by the required due date:

- Fiscal Year (FY) 2017/2018
 - 1st Quarter: not submitted to CalEPA, due October 30, 2017
 - 2nd Quarter: not submitted to CalEPA, due January 30, 2018
 - 4th Quarter: not submitted to CalEPA, due July 30, 2018
- FY 2018/2019
 - 1st Quarter: not submitted to CalEPA, due October 30, 2018
 - 4th Quarter: not submitted to CalEPA, due July 30, 2019

RECOMMENDATION:

Submit a Surcharge Transmittal Reports within 30 days of the end of each fiscal quarter regardless of whether or not any State Surcharge Fees were collected during that quarter. This protocol is in alignment with the [Unified Program Surcharge Transmittal Report Instructions](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/InstructionsADA-Surcharge-Transmittal-Report_20200515.pdf) (https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/InstructionsADA-Surcharge-Transmittal-Report_20200515.pdf).

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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. ASSISTING REGULATED BUSINESSES WITH CERS:

The CUPA continues to engage with regulated businesses within the jurisdiction to assist with CERS compliance. The CUPA provides a computer at the CUPA office for regulated businesses to use to submit information and documentation in CERS. Until recent restrictions resulting from the impacts of the Coronavirus-19, the CUPA continued to provide one-on-one assistance to regulated businesses upon request as an effort to achieve and maintain Unified Program compliance within the jurisdiction. Regulated businesses within Amador County utilize the services available, as well as reach out to the CUPA by phone for assistance in obtaining answers to questions regarding CERS several times a week.
