

April 30, 2024

Mr. Paul Lowenthal
Fire Marshal
City of Santa Rosa Fire Department
2373 Circadian Way
Santa Rosa, California 95407-5439

Dear Mr. Lowenthal:

During April 2023, through February 2024, CalEPA and the Unified Program state agencies conducted a performance evaluation of the City of Santa Rosa Fire Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections.

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

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

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

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

Mr. Paul Lowenthal
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To ensure the CUPA Performance Evaluation process is as effective and efficient as intended, I kindly request the included evaluation survey to be completed and returned to Melinda Blum, at Melinda.blum@calepa.ca.gov. If you would like to have specific comments remain anonymous, please indicate so on the survey.

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

Sincerely,



Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Mr. Kemplen Robbins
CUPA Program Manager
City of Santa Rosa Fire Department
2373 Circadian Way
Santa Rosa, California 95407-5439

Ms. Cheryl Prowell
Supervising Water Resource Control Engineer
State Water Resources Control Board

Mr. Tom Henderson
UST Leak Prevention Unit and
Office of Tank Tester Licensing Manager
State Water Resources Control Board

Ms. Julie Pettijohn
Environmental Program Manager
CUPA Enforcement Branch
Department of Toxic Substances Control

Ryan Miya, Ph.D.
Senior Environmental Scientist, Supervisor
Department of Toxic Substances Control

Ms. Jennifer Lorenzo
Senior Environmental Scientist, Supervisor
CAL FIRE - Office of the State Fire Marshal

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cc sent via email:

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

Mr. Brennan Ko-Madden
Senior Environmental Scientist
Department of Toxic Substances Control

Ms. Mia Goings
Senior Environmental Scientist
Department of Toxic Substances Control

Ms. Denise Villanueva
Environmental Scientist
CAL FIRE - Office of the State Fire Marshal

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

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

Ms. Elizabeth Brega
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Ms. Julie Unson
Environmental Scientist
California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

CUPA: City of Santa Rosa Fire Department

Evaluation Period: April 2023 through February 2024

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden, Mia Goings
- **CalEPA:** Julie Unson
- **State Water Board:** Kaitlin Cottrell
- **CAL FIRE-OSFM:** Denise Villanueva

This Final Summary of Findings includes:

- Accomplishments, Examples of Outstanding Implementation, and Challenges
- Deficiencies requiring correction
- Incidental findings requiring resolution
- Observations and recommendations

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA is considered **Satisfactory with Improvement Needed**.

Tim Brandt

CalEPA Unified Program

Phone: (916) 323-2204

E-mail: Timothy.Brandt@calepa.ca.gov

The CUPA is required to submit the first Evaluation Progress Report 60 days from receipt of the Final Summary of Findings Report. Thereafter, the CUPA will submit each subsequent Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Evaluation Progress Report response. For each identified deficiency and incidental finding, the CUPA must complete the corrective action and resolution as indicated to demonstrate sufficient implementation of the Unified Program as required by regulation or statute. The Evaluation Progress Report process will continue until all deficiencies and incidental findings have been acknowledged as corrected or resolved by each issuing Unified Program state agency.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at timothy.brandt@calepa.ca.gov, or uploaded to the established SharePoint website. A narrative stating the status of correcting each deficiency and resolving each incidental finding identified in this Final Summary of Findings Report, and any applicable supporting documentation must be included in each Evaluation Progress Report.

The submittal date for the 1st Evaluation Progress Report is **July 12, 2024**.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

ACCOMPLISHMENTS, EXAMPLES OF OUTSTANDING IMPLEMENTATION, AND CHALLENGES

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

1. RETURN TO COMPLIANCE AND FOLLOW-UP INSPECTIONS

Since the 2019 CUPA Performance Evaluation, for the Hazardous Waste Generator (HWG) Program, the CUPA achieved a high rate of return to compliance (RTC) for violations cited, in part by consistently conducting follow-up inspections. The CUPA conducts a follow-up inspection approximately 30 days after an initial inspection, which aligns with the Health and Safety Code (HSC) requirement for minor HWG violations to obtain RTC within 30 days. In consistently conducting follow-up inspections, the CUPA is able to observe the correction of violations and return facilities to compliance efficiently and effectively, resulting in a high rate of RTC.

2. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM:

Since the 2019 CUPA Performance Evaluation, the CUPA has met the mandated inspection frequency for APSA tank facilities with 10,000 gallons or more of petroleum and has met the triennial inspection frequency for other APSA tank facilities in accordance with the Inspection and Enforcement (I&E) Plan. The CUPA has ensured APSA tank facilities annually submit a tank facility statement or provide a Hazardous Materials Business Plan (HMBP) in lieu of a tank facility statement to the California Environmental Reporting System (CERS). The CUPA has also successfully enforced requirements of the APSA Program and has achieved a high rate of RTC for violations.

3. CUPA PARTICIPATION IN ADVISORY GROUPS, CASE STUDIES, AND OTHER PROGRAMS:

CUPA staff are key leaders in several regulatory groups relative to both the Unified Program and Emergency Response and crucial participants in training exercises covering the surrounding region. Examples include:

- California Hazardous Materials Investigator Association (CHMIA) Board Member (2020 – Present)
 - Local Emergency Planning Committee (LEPC) Region 2 Board Member (2019 – Present)
 - Bay Area Underground Storage Tank (UST) Technical Advisory Group (TAG) Co-Coordinator (2022 – Present)
 - Participation in two Federal Emergency Management Agency (FEMA) and California Governor's Office of Emergency Services (Cal OES) case studies in the city of Santa Rosa that focused on debris removal and lessons learned.
 - Hosted the CHMIA sponsored hazardous materials sampling class for North Coast regulators (October 2022)
-

4. CORONAVIRUS IMPACTS:

The CUPA was successfully able to maintain the inspection program during the Coronavirus (COVID-19) pandemic with minimal impediment despite staffing challenges and COVID protocols, which limited access to certain facilities. In addition, the CUPA established standards and

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provided guidance to neighboring CUPAs during the COVID-19 pandemic pertaining to commonly encountered issues within and outside the scope of Unified Program implementation.

5. WILDFIRE AND EMERGENCY RESPONSE IMPACTS:

The CUPA was impacted by several major fires and other natural disaster emergencies since the conclusion of the 2019 CUPA Performance Evaluation. In particular, the Tubbs Fire (2017), Nuns Fire (2017), Kincade Fire (2019), and Glass Fire (2020) all involved substantial response efforts of the CUPA. Recovery efforts from 2017 wildfire responses were highlighted by the Vanguard Crisis Leader Program and Federal Emergency Management Agency (FEMA) in 2023. During the Glass Fire (2020), CUPA representatives led the Recovery Team and coordinated the Debris Task Force for the city of Santa Rosa, which included the management of hazardous materials and debris removal. The Division Chief Fire Marshal continues to offer vital support and guidance in sharing lessons learned in the management of the city of Santa Rosa with other impacted communities, including Boulder, Colorado; the City and County of Honolulu; Medford, Oregon; and Miami, Florida.

In addition to wildfires, the city of Santa Rosa also experienced impacts of a number of other natural occurring emergencies, including regional flooding, winter storms, and earthquakes, all of which necessitated the activation of the City Emergency Operations Center (EOC). Since 2017, the City EOC has been activated 15 times, each of which involved CUPA staff fulfilling key roles in emergency response and recovery efforts. CUPA staff continue to respond to and support emergency response efforts regarding HazMat spills and related incidents with the City of Santa Rosa Fire Department Hazardous Materials Response Team.

The effective disaster response efforts of the CUPA were further recognized nationally when Robert Fenton, the FEMA Region IX administrator covering the states of Washington, Oregon, California, and Hawaii, was appointed as the chief federal response coordinator for the management of recovery and response to the wildfire in Maui, Hawaii. Having a first-hand witness account of the exceptional operations of the CUPA, Fenton personally requested the individuals that comprised a team to provide mutual aid to local Maui County officials. Each of the five team members served as information and assistance resources, providing expertise in preparations for carrying out response and recovery efforts.

6. TRANSITION TO ELECTRONIC REPORTING:

In 2021, the CUPA received a CUPA Forum Grant to implement an electronic inspection program. As of July 2023, the CUPA fully implemented Tyler Technologies/DHD software as the primary Data Management and Reporting System and successfully transitioned to an entirely electronic inspection and reporting process. The CUPA is no longer utilizing paper inspection checklists or reports.

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA is not inspecting each HWG facility nor each Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facility once every three years, per the inspection frequency established in the I&E Plan.

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information in CERS, between April 1, 2020, and March 31, 2023, finds:

- 98 of 435 (22%) HWG facilities were not inspected once every three years.
 - 8 of 96 (8%) HWG facilities have not been inspected since 2017.
 - 19 of 96 (20%) HWG facilities have not been inspected since 2018.
- 95 of 417 (23%) HWG facilities, excluding RCRA LQG facilities and Tiered Permit (TP) facilities, were not inspected once every three years.
- 1 of 13 (8%) RCRA LQG facilities was not inspected once every three years.

Note: CERS ID 10113118 is considered both, a RCRA LQG facility and a TP facility. For purposes of determining inspection frequency, CERS ID 10113118 is being considered a TP facility, and not a RCRA LQG facility.

CERS reflects there are no Household Hazardous Waste (HHW) facilities within the jurisdiction of the CUPA.

CERS reflects 3 of 3 (100%) TP facilities were inspected once every three years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility (including RCRA LQG facilities) is inspected once every three years and each TP facility is inspected within the first two years of notification and every three years thereafter. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency for HWG and RCRA LQG facilities is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.

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- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility (including RCRA LQG facilities) that was not inspected once every three years. For each HWG facility and each RCRA LQG facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect each HWG and RCRA LQG facility identified as not having been inspected once every three years. Inspections will be prioritized conducting the most delinquent inspections prior to any other HWG facility inspection based on risk.
- Future steps to ensure that each HWG facility (including RCRA LQG facilities) will be inspected once every three years and each TP facility will be inspected within the first two years of notification and every three years thereafter (for example, the generation of a list of all HWG facilities and the anniversary date of the next routine inspection for each listed facility).

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet and a brief narrative of how the CUPA is continuing to ensure each HWG facility (including RCRA LQG facilities) is inspected once every three years and each TP facility is inspected within the first two years of notification and every three years thereafter.

By the 5th Progress Report, the CUPA will have inspected each HWG facility and each RCRA LQG facility identified in the sortable spreadsheet provided with the 1st Progress Report.

2. DEFICIENCY:

The CUPA is not consistently including all observations, citations, and factual basis for each violation cited in HWG and/or TP inspection reports.

Review of HWG and TP facility inspection reports and CERS CME information finds inadequate or improper documentation of cited violations for the following facilities:

- CERS ID 10114402: Routine inspection dated January 21, 2021.
 - Minor violation for labeling of hazardous waste includes the following observation, "Hazwaste labels faded. Place new labels on waste streams."
 - The observation does not describe which containers had faded labels, the number of containers, or what information was missing from the labels.
 - Minor violation for failing to maintain three years of manifests on-site includes the following observation, "Provide manifests for past 3 years."
 - The observation does not include any factual basis for the violation and does not describe how the facility failed to meet the requirements of the regulations.
 - Class II violation for exceeding accumulation time limit includes the following observation, "Hazwaste needs to be picked up. Safety Kleen has been scheduled for pick up within 2 weeks."
 - The observation does not include any factual basis for the violation or describe how the facility failed to meet the requirements of the regulations. There is no description of the initial accumulation date, how long the

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container(s) were on-site, the number of containers in violation, nor a description of the containers (ex: size, location, contents).

- Class II violation for failing to close hazardous waste containers includes no observations.
- CERS ID 10115296: Routine inspection dated February 23, 2023.
 - 9 minor violations include no observations nor factual basis.
- CERS ID 10115428:
 - Routine inspection dated March 29, 2023.
 - The inspection report does not have any violations noted in the checklist (i.e. checked boxes) nor cited violations. However, CERS reflects two minor violations and one Class II violation. One of the two minor violations is a duplicate violation.
 - Routine inspection dated July 8, 2020.
 - The inspection report does not have any violations noted in the checklist (i.e. checked boxes) nor cited violations. However, CERS reflects five violations, two of which are duplicate violations.
 - One Class II violation and one minor violation are identified in CERS as Unified Program violation library type “3040-General” under the category “Release/Leaks/Spill.” A more appropriate Unified Program violation library type for the Class II violation would be “3030030 (SQG)” and a more appropriate Unified Program violation library type for the minor violation would be “3030031 (LQG).”
- CERS ID 10649626: Routine inspection dated August 27, 2022.
 - CERS reflects three minor violations. The three minor violations reflected in CERS are not identified in the inspection report.
 - The inspection report cites one minor violation. The minor violation cited on the inspection report is not reflected in CERS.
 - The minor violation on the inspection report includes the following observation, “All 5-gallon buckets of used oil must be empty in to the larger container daily,” and cites CCR, Title 22, Section 66261.7(f), for failure to manage empty containers within one year.
 - The observation for the violation doesn’t support the citation used.
 - The inspection report does not have any violations noted in the checklist (i.e. checked boxes) nor cited violations. However, CERS reflects three minor violations, two of which have related observations in the inspection report as follows:
 - “Provide copies of waste manifests and send it to the inspector.”
 - This observation does not contain factual basis nor citations.
 - This observation is reflected in CERS as a minor violation for failure to properly complete HW manifests, per CCR, Title 22, Section 66262.20.
 - Note: Inspectors are incorrectly citing violations for failure to maintain HW manifests for three years using CCR, Title 22, Section 66262.20. The correct citation is CCR, Title 22, Section 66262.40. In the inspection reports reviewed, every instance of this violation was incorrectly cited. The CUPA’s inspection report checklist does not include a line item for citing CCR, Title 22, Section 66262.40.

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- “Disposal of 12 x 55-gallon drums (metal) properly, or label & ID the content on the drums”
 - This observation does not contain factual basis nor citations.
 - This observation is reflected in CERS as a minor violation for failure to keep Hazardous Waste containers closed, per CCR, Title 22, Section 66262.34(d)(2) and Code of Federal Regulations (CFR), Title 40, Sections 262.34(d)(2) and 265.173.

Note: It is not necessary to revise the HWG and/or TP inspection reports for the facilities identified as examples above. The examples provided above may not represent all instances of this deficiency.

Note: The 2019 CUPA Performance Evaluation identified an incidental finding for not properly citing HWG Program violations and an incidental finding for not properly identifying HWG program violations, both of which were resolved during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

During the evaluation, the CUPA provided a revised HWG inspection report checklist template that includes correct citations and violation descriptions to accurately reflect regulatory requirements.

By the 1st Progress Report, the CUPA will ensure HWG Program inspectors receive inspection report writing training to include observations, factual basis, citations, and corrective actions for each violation cited in HWG and TP inspection reports by reviewing:

- Elements of a Violation Training (presentation provided by DTSC);
- DTSC Hazardous Waste Generator Requirements Fact Sheet
 - <https://dtsc.ca.gov/hazardous-waste-generator-requirements-fact-sheet/>
- Accumulating Hazardous Wastes at Generator Sites
 - https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf
- HSC, Section 25185(c)(2)(A)

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

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

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3. DEFICIENCY:

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

Review of 20 HMBP CERS submittals provided by regulated businesses subject to Business Plan reporting requirements finds the following eight were accepted with missing or incomplete required elements:

- CERS ID 10153977
 - Inventory submitted on February 28, 2023, and accepted on March 16, 2023
 - Site map is missing required north orientation, evacuation staging areas, hazardous material handling and storage areas, emergency response equipment.
- CERS ID 10809793
 - Inventory submitted on January 25, 2023, and accepted on January 30, 2023
 - Site map is missing required north orientation, evacuation staging areas, emergency response equipment.
- CERS ID 10457392
 - Inventory submitted on August 4, 2023, and accepted on August 15, 2023
 - Site map is missing required north orientation, evacuation staging areas.
- CERS ID 10130221
 - Inventory submitted on March 14, 2023, and accepted on March 16, 2023
 - Site map is missing required evacuation staging areas.
 - Emergency Response and Training Plans submitted on March 14, 2023, and accepted on March 16, 2023
 - Emergency response plan is missing required immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency, procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment, evacuation plans and procedures, including immediate notice, for the business site.
 - Training plan is missing required provisions for training for all new employees, annual training (including refresher courses) for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the emergency response plans and procedures, and provisions for training to be documented electronically or by hard copy and made available for a minimum of three years.
- CERS ID 10649542
 - Inventory submitted and accepted on May 17, 2021
 - Site map is missing required emergency response equipment
- CERS ID 10115752
 - Inventory submitted on February 9, 2023, and accepted on February 14, 2023
 - Site map is missing required evacuation staging areas
 - Emergency Response and Training Plans submitted on March 28, 2017, and set as Not Applicable on July 13, 2017
 - Emergency response plan is missing required immediate notification contacts to the appropriate local emergency response personnel and to the

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unified program agency, procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment, evacuation plans and procedures, including immediate notice, for the business site.

- Training plan is missing provisions for training for all new employees, annual training (including refresher courses) for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the emergency response plans and procedures, and provisions for training to be documented electronically or by hard copy and made available for a minimum of three years.
- CERS ID 10124443
 - Inventory submitted on May 9, 2023, and accepted on July 10, 2023
 - Site map is missing required emergency response equipment
 - Emergency Response and Training Plans submitted on August 2, 2023, and accepted on August 2, 2023
 - Training plan is missing electronically, or hard copy documentation of training made available for a minimum of three years.
- CERS ID 10649938
 - Inventory submitted on February 9, 2023, and accepted on February 15, 2023
 - Site map is missing required emergency response equipment

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each future HMBP submittal is thoroughly reviewed and contains all applicable required elements before being accepted in CERS. The action plan will include:

- steps to follow-up with regulated businesses having an HMBP submittal that was reviewed and not accepted due to identified missing or incomplete elements.

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

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

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

4. DEFICIENCY:

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

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

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
- Provisions for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.

Review of the I&E Plan finds the following information is inaccurate or incomplete:

- Section I. Inspection Component
 - B. Frequency of Inspections
 - Hazardous Materials Business Plans: HSC, Section 25508(b) is incorrectly referenced as the inspection frequency.
 - The correct reference is HSC, Section 25511(b).
 - D. Inspection Procedures and Voluntary Compliance
 - On-Site Procedures 5.k., and 11.: Reference “Significant Operational Compliance (SOC)” violation information.
 - Inspection Follow-up 6: References “SOC” violation information
 - On October 1, 2018, California adopted the revised U.S. EPA regulations which replaced SOC performance measures with Technical Compliance Rate (TCR) performance measures. TCR performance measures are submitted by Unified Program Agencies to the State Water Board on a semiannual basis through CERS as Report 6.
- Section II. Enforcement Component
 - A. Statutory Authority
 - UST Program references HSC, Chapter 6.7 (commencing with Section 25280), not including violations of corrective action requirements established by or issued pursuant to HSC, Section 25296.10.
 - Correct citations are:
 - CCR Chapter 16, Sections 2610 through 2717.7
 - HSC Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6
 - E. Definitions
 - 3. UST Program: a.i.3. states, “Failure to complete the secondary containment testing requirements annually.”
 - Secondary Containment testing is completed triennially.
 - I. Revocation, Modification or Suspension of Permit
 - 1. states, “Any permit issued pursuant to Santa Rosa Municipal Code, Chapter 17.34.050 may be revoked, modified or suspended during its term, according to Section 17.34.190.”
 - The CUPA does not have the authority to suspend a UST operating permit.
 - K. Red Tag Authority (USTs only)
 - Amendments of HSC, Chapter 6.7, Section 25292.3, effective January 1, 2019, are not incorporated, including language such as a person shall not

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input or withdraw from a UST that has been red tagged and a CUPA having the authority to require an owner/operator to remove contents from USTs which have a red tag affixed.

- M. Administrative Penalties, 3. Initial Penalties
 - a. Hazardous Waste: The statutory maximum is identified as \$25,000 per day, per violation.
 - The statutory maximum was increased to \$70,000 per day, per violation, effective January 1, 2018.
 - Hazardous Waste Initial Penalties must also be included or referenced to reflect the violation amounts per range. Refer to CCR, Title 22, Section 66272.62 for initial penalty amounts.
 - b. USTs: Table 5 – UST Penalties
 - For a minimal initial penalty with minimal actual or potential harm, the minimum liability is identified as \$0 minimum and the average liability is identified as \$250. HSC, Section 25299 (a) and (b) require penalties no less than \$500 or no more than \$5,000 per day, per violation, per UST.
 - c. Hazardous Materials Business Plan Program (Business Plan): Reference to HSC, Section 25514.5 is incorrect.
 - HSC, Section 25515(a) states a business that violates Section 25504 to 25508.2, inclusive, or Section 25511, shall be civilly liable in an amount of not more than two thousand dollars (\$2000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.
 - HSC, Section 25515(b) states a business that knowingly violates HSC, Sections 25504 to 25508.2, inclusive, or Section 25510.1, after reasonable notice of the violation shall be civilly liable in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs.
 - d. Failure to Report Unauthorized Spill or Release of Hazardous Material or Waste: ii. Reference to HSC, Section 25514.5 is incorrect.
 - The correct reference is HSC, Section 25515.3.
 - e. CalARP Program. iii. HSC, Section 25540(b) is incorrectly referenced as the penalty for stationary sources that knowingly violate HSC, Chapter 6.95, Article 2.
 - The correct reference is [HSC, Section 25540\(a\)](#).

CITATION:

CCR, Title 27, Section 15200(a)

HSC, Chapter 6.7, Sections 25285.1(b), 25292.3(a)(2)(A) and (c)(1)(C), and 25299(a) and (b)
[CalEPA, DTSC, State Water Board]

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CORRECTIVE ACTION:

During the evaluation, the CUPA provided an updated I&E Plan that addresses the following:

- Provisions for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint, have been incorporated in Section 1. Inspection Component. D. Inspection Procedures and Voluntary Compliance, Complaints.
- Section 1. Inspection Component
 - D. Inspection Procedures and Voluntary Compliance
 - On-Site Procedures 5.k.: Reference to “SOC” violation information has been replaced with reference to “Technical Compliance Rate (TCR)” information.
 - Inspection Follow-up 6: Reference to “SOC” violation information has been replaced with reference to “Technical Compliance Rate (TCR)” information.
- Section II. Enforcement Component
 - A. Statutory Authority
 - UST Program references have been corrected.
 - E. Definitions
 - 3. UST Program: a.i.3. states, “Failure to complete the secondary containment testing requirements triennially.”
 - M. Administrative Penalties, 3. Initial Penalties
 - a. Hazardous Waste: The statutory maximum is identified as \$70,000 per day, per violation.
 - b. USTs: Table 5 – UST Penalties: The table has been removed from the I&E Plan.
 - c. Hazardous Materials Business Plan Program (Business Plan): References have been corrected to HSC, Section 25515.2.
 - e. CalARP Program: Reference has been corrected to HSC, Section 25540(a).

By the 1st Progress Report, the CUPA will revise the updated I&E Plan provided during the evaluation, to ensure all required components are adequately incorporated and correctly addressed, including the following, and a date of revision:

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
 - Section II. Enforcement Component. B. General Information. 5. Sampling, of the updated I&E Plan provided during the evaluation identifies a state certified laboratory that will complete sample analysis and identifies limited sampling equipment. Additional information is needed regarding the sampling capability of inspectors, training, methods to preserve physical evidence obtained through sampling and testing.
- Section I. Inspection Component
 - B. Frequency of Inspections
 - Hazardous Materials Business Plans: HSC, Section 25508(b) is incorrectly referenced as the inspection frequency.
 - The correct reference is HSC, Section 25511(b).

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- D. Inspection Procedures and Voluntary Compliance
 - On-Site Procedures 11.: Reference “Significant Operational Compliance (SOC)” violation information.
 - On October 1, 2018, California adopted the revised U.S. EPA regulations which replaced SOC performance measures with TCR performance measures. TCR performance measures are submitted by Unified Program Agencies to the State Water Board on a semiannual basis through CERS as Report 6.
- Section II. Enforcement Component
 - I. Revocation, Modification or Suspension of Permit
 - 1. states, “Any permit issued pursuant to Santa Rosa Municipal Code, Chapter 17.34.050 may be revoked, modified or suspended during its term, according to Section 17.34.190.”
 - The CUPA does not have the authority to suspend a UST operating permit.
 - K. Red Tag Authority (USTs only)
 - Amendments of HSC, Chapter 6.7, Section 25292.3, effective January 1, 2019, are not incorporated, including language such as a person shall not input or withdraw from a UST that has been red tagged and a CUPA having the authority to require an owner/operator to remove contents from USTs which have a red tag affixed.
 - M. Administrative Penalties, 3. Initial Penalties
 - Hazardous Waste Initial Penalties must also be included or referenced to reflect the violation amounts per range. Refer to CCR, Title 22, Section 66272.62 for initial penalty amounts.
 - d. Failure to Report Unauthorized Spill or Release of Hazardous Material or Waste: ii. Reference to HSC, Section 25514.5 is incorrect.
 - The correct reference is HSC, Section 25515.3.
 - N. CUPAs Authority to impose AEO Fines
 - 1.c.: Reference to HSC, Section 25514.5 is incorrect.
 - The correct reference is HSC, Section 25515.2.

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

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

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5. DEFICIENCY:

The CUPA is not consistently or correctly reporting CME information to CERS for the HWG Program, APSA Program, the UST Program, and businesses subject to HMBP reporting requirements.

Review of CERS CME information, inspection reports, UST testing and leak detection documents, including U.S. Environmental Protection Agency (USEPA) Technical Compliance Rate (TCR) criteria, and other information provided by the CUPA finds the CUPA is not consistently and correctly reporting CME information in inspection reports to the CUPA's data management system, resulting in inconsistent and incorrect CME information in CERS as follows:

- Violations cited in inspection reports are not reported to CERS or are inaccurately reflected in CERS.
 - HWG Program:
 - CERS ID 10114402
 - Routine inspection report dated January 21, 2021, cites three Class II violations and one minor violation. CERS reflects no violations.
 - CERS ID 10115296
 - Routine inspection report dated February 23, 2023, cites 12 minor violations. CERS reflects five minor violations, and one Class II violation.
 - CERS ID 10115428
 - Routine inspection report dated March 29, 2023, does not cite any violations, nor are violations noted in the checklist (i.e., checked boxes). CERS reflects two minor violations, one of which is a duplicate violation, and one Class II violation.
 - Routine inspection dated July 8, 2020, does not cite any violations, nor are violations noted in the checklist (i.e., checked boxes). CERS reflects five violations.
 - One Class II violation and one minor violation are reflected in CERS as a "General" violation under the category "Release/Leaks/Spills." A more appropriate citation and CERS violation type in the Unified Program violation library for the Class II violation is 3030030 (SQG), and for the minor violation is 3030031 (LQG).
 - CERS ID 10115296
 - Routine inspection report dated February 23, 2023, cites seven minor violations. CERS reflects no minor violations.
 - CERS ID 10115653
 - Routine inspection report dated April 22, 2021, cites one minor violation for labeling of hazardous waste containers [Section 66262.34(f)]. CERS does not reflect the minor violation.
 - CERS ID 10154743
 - Routine CE inspection report dated January 20, 2021, cites one minor violation for failure to maintain records of, or complete hazardous waste training. CERS does not reflect the minor violation.

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- APSA Program
 - CERS ID 10145949
 - Inspection report dated March 23, 2022, cites one violation. CERS reflects no violations.
 - CERS ID 10115632
 - Inspection report dated May 18, 2022, cites eight minor violations. CERS reflects two Class II violations.
- UST Program
 - CERS ID 10113871
 - Routine inspection report dated July 27, 2021, cites eight violations. CERS reflects two violations.
 - The following violations cited on the inspection report were not entered into CERS:
 - UST Facility and/or Tank Information
 - Unified Program violation library type 2010010
 - Plot Plan
 - Unified Program violation library type 2030041
 - Monitoring Plan
 - Unified Program violation library type 2030033
 - Response Plan
 - Unified Program violation library type 2030046
 - Financial Responsibility
 - Unified Program violation library type 2010007
 - USEPATCR 11
 - Spill Prevention
 - Unified Program violation library type 2060020
 - USEPATCR 9a
 - Improper Monitoring
 - Unified Program violation library type 2060015
 - USEPATCR 9d
 - Routine inspection report dated July 20, 2022, cites a violation stating, “L3 Sensor failed. Replaced and retested on site, passed.”
 - CERS does not reflect a violation for Monitoring Equipment.
 - Unified Program violation library type 2030043
 - USEPATCR 9d
 - CERS ID 10124026
 - Routine inspection report dated February 1, 2023, cites a violation stating, “At time of test, the spill bucket for tank 87 was leaking. Technician repaired the bucket, and retested. Test failed.”
 - CERS reflects an incorrect violation for Overfill Prevention.
 - Unified Program violation library type 2030036
 - USEPATCR 9b
 - CERS reflects an incorrect violation for Spill Prevention.
 - Unified Program violation library type 2060020
 - USEPATCR 9a

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- Businesses subject to HMBP reporting requirements.
 - CERS ID 10114402
 - Inspection report dated January 21, 2022, cites two violations. CERS reflects one violation for an inspection dated January 27, 2022.
- Inspections are not reflected in CERS.
 - HWG Program
 - CERS ID 10115653
 - Re-inspection report dated August 25, 2021, is not reflected in CERS.
 - APSA Program
 - CERS ID 10114537
 - Routine inspection report dated January 28, 2020, is not reflected in CERS.
 - CERS ID 10145949
 - Routine inspection report dated April 25, 2022, stating, “All violations from March 24, 2022, inspection have been cleared,” is not reflected in CERS.
 - CERS ID 10115632
 - Re-inspection/Follow-up inspection report dated January 24, 2023, stating, “Violations noted May 18, 2022, corrected,” is not reflected in CERS.
 - CERS ID 10115899
 - Re-inspection/Follow-up inspection report dated May 31, 2023, stating, “No violation noted- all previous violation corrected,” is not reflected in CERS.
 - Businesses subject to HMBP reporting requirements
 - CERS ID 10115449
 - Inspection report dated January 5, 2023, citing no violations is not reflected in CERS.
 - CERS ID 10115632
 - Inspection report dated January 24, 2023, citing no violations is not reflected in CERS.
 - CERS ID 10115632
 - Inspection report dated July 18, 2022, citing no violations is not reflected in CERS.
 - Inspection report dated May 10, 2022, citing one violation is not reflected in CERS.
 - Inspection report dated December 20, 2021, citing one violation is not reflected in CERS.
 - CERS ID 10612156
 - Inspection report dated July 28, 2022, citing no violations is not reflected in CERS.
 - Inspection report dated January 7, 2019, citing no violations is not reflected in CERS.

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- Inspection reports were not provided for inspections reflected in CERS.
 - Businesses subject to HMBP reporting requirements
 - CERS ID 10115632
 - CERS reflects an inspection dated August 24, 2021, no inspection report was provided for an inspection dated August 24, 2021
 - CERS reflects an inspection dated March 26, 2019, no inspection report was provided for an inspection dated March 26, 2019
- Duplicative CME information exists in CERS.
 - HWG Program
 - CERS ID 10114273
 - Routine inspection report dated March 31, 2021, is reflected twice in CERS, once as an HW inspection and once as an HW LQG inspection.
 - CERS reflects no violations cited in either inspection.
 - An HW LQG inspection is only applicable to RCRA LQG facilities. CERS ID 10114273 is not a RCRA LQG facility.
- Inspection type on inspection report is not consistent with inspection type reported in CERS.
 - APSA Program
 - CERS ID 10114537
 - Routine inspection report dated March 21, 2022, is entered in CERS as an “Other” inspection.
 - Routine inspection report dated July 27, 2020, is entered in CERS as an “Other” inspection.
 - HWG Program
 - 11 of 13 (85%) RCRA LQG facility inspections conducted between April 1, 2020, and March 31, 2023, are coded incorrectly in CERS as “HW.” RCRA LQG facilities should have inspections coded in CERS as “HWLQG.”
 - 2 of 3 (67%) TP facility inspections conducted between April 1, 2020, and March 31, 2023, are coded incorrectly in CERS. TP facilities should have inspections coded in CERS as “PBR,” “CA,” or “CE.”

Note: The examples provided above may not represent all instances of this incidental finding. It is not necessary to revise the inspection reports for the facilities identified as examples above.

Note: The following may be referenced:

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

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Chapter 16, Section 2713(c)(4) and (d)
CCR, Title 27, Section 15187(a)(2) and (c)
[CalEPA, DTSC, OSFM, State Water Board]

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure information in inspection reports and related CME information is consistently and correctly entered into the CUPA's data management system and is reported to CERS. The action plan will include, at minimum:

- Identification and correction of the cause(s) of missing or incorrect reporting of HWG Program, HMBP, APSA Program, and UST Program CME information from inspection reports to CERS, including any inconsistencies in the electronic data transfer (EDT) from the CUPA's data management system to CERS;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure CME information is consistently and correctly reported to the CUPA's data management system and CERS;
- Identification of all HWG Program, HMBP, APSA Program, and UST Program CME information not previously reported to CERS, or reported to CERS incorrectly for each Unified Program element as listed below:
 - HWG Program between April 1, 2020, and March 31, 2023
 - HMBP between July 1, 2019, and June 30, 2022
 - APSA Program between January 1, 2020, and June 30, 2023
 - UST Program between January 1, 2020, and June 30, 2023
- A process and timeframe, including the anticipated date of resolution, for reporting HWG Program, HMBP, APSA Program, and UST Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports;
- A process for ensuring CUPA personnel and inspectors are consistently trained in the correct use of the most current violation classifications and citations in the CUPA's data management system and the Unified Program violation library;
- A process for reporting all violation and observed noncompliance information documented in inspection reports, is reported to CERS, including TCR criteria;
- Future steps to ensure all HWG Program, HMBP, APSA Program, and UST Program CME information is consistently and correctly reported to CERS. This may generate the need for:
 - A comparison of HWG Program, HMBP, APSA Program and UST Program CME information in the CUPA's data management system with the CME information in CERS to identify CME information not being reported, or previously reported incorrectly to CERS; and
 - Establishment of a quality assurance and quality control process to confirm all CME information is correctly and consistently reported to CERS.

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

By the 2nd Progress Report, if amendments to the revised CME reporting component of the Data Management Procedure, or other applicable procedure were necessary based on feedback from DTSC, CalEPA, OSFM or the State Water Board, the CUPA will provide CalEPA with the amended CME reporting component of the Data Management Procedure, or other applicable procedure. If amendments were not necessary, the CUPA will train CUPA personnel on the revised CME reporting component of the Data Management Procedure, or other applicable

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procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised CME reporting component of the Data Management Procedure or other applicable procedure.

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

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an inspection report or RTC documentation for three HWG Program facilities as requested by DTSC, three HMBP facilities as requested by CalEPA, three APSA Program facilities as requested by OSFM, and three UST Program facilities as requested by the State Water Board.

By the 5th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide complete and accurate CME information to CERS and a statement confirming all CME information not previously reported to CERS, or previously reported incorrectly to CERS, has been correctly reported to CERS. If a statement confirming all HWG Program CME information has been correctly reported to CERS cannot be provided, the CUPA will provide a narrative update on the progress made towards consistently and correctly reporting CME information to CERS for each Unified Program element as listed below:

- HWG Program between April 1, 2020, and March 31, 2023
- HMBP between July 1, 2019, and June 30, 2022
- APSA Program between January 1, 2020, and June 30, 2023
- UST Program between January 1, 2020, and June 30, 2023

6. DEFICIENCY: CORRECTED DURING EVALUATION

The UST Operating Permit and Permit Conditions, issued under the Unified Program Facility Permit (UPFP) as the “Consolidated Permit to Operate,” are inconsistent with CCR, Title 23, Division 3, Chapter 16 (CCR, Chapter 16) and HSC, Chapter 6.7.

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

- “Permit to Operate- Conditions,” Section cites “Underground Storage Tank Program: CA H&SC Division 20, Chapter 6.7 and 6.75 and CCR Title 23, Chapters 16 and 18 and SRCC 17-34 and 18-44”
 - The CUPA does not have the regulatory authority to implement cleanup of USTs as a Local Oversight Program, and therefore cannot cite HSC, Chapter 6.75 nor CCR, Chapter 18.

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- The correct citations are as follows:
 - CCR, Chapter 16, Sections 2610 through 2717.7
 - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6
- “Permit to Operate- Conditions,” Section “i. 3” states “Update the California Environmental Reporting System (CERS) within thirty (30) days after any changes in the usage of any UST, including: (a) storage of new hazardous substances; ...”
 - CCR, Chapter 16, Section 2711(c) requires the CUPA to be notified 30 days prior to any change in substance stored.

CITATION:

CCR, Chapter 16, Section 2711(c)
HSC, Chapter 6.7, Section 25297.01(b)
[State Water Board]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA provided a revised UST Operating Permit template, which was generated in coordination with Tyler Technologies/Digital Health Department (DHD) and was approved by the State Water Board. The template reflects the tank ID number as part of the CERS ID. The CUPA has utilized the revised template since the beginning of Fiscal Year 2023/2024.

The CUPA also provided the UST Operating Permit issued to CERS ID 10122427, demonstrating issuance of the revised template.

This deficiency is considered corrected.

7. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not ensuring each inspector completes the APSA training program and passes the exam prior to conducting inspections at tank facilities for compliance with the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements of APSA.

The following inspections were conducted prior to the inspector completing the APSA training program and passing the exam:

- CERS ID 10102354: inspection dated February 16, 2022
- CERS ID 10114537: inspections dated March 21, 2022, July 27, 2020, and January 28, 2020
- CERS ID 10114870: inspections dated December 9, 2022, July 22, 2020, and June 30, 2020
- CERS ID 10115428: inspections dated April 27, 2023, March 29, 2023, August 10, 2021, April 6, 2021, and July 8, 2020

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

CITATION:

HSC, Chapter 6.67, Section 25270.5(c)
[OSFM]

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CORRECTIVE ACTION: COMPLETED

During the evaluation, each CUPA inspector that conducts inspections at APSA tank facilities completed the APSA training program and passed the exam. All APSA tank facilities have been reinspected by an APSA Certified Inspector. This deficiency is considered corrected.

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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 CUPA is not properly classifying HWG Program violations.

Review of facility files and CERS CME information between April 1, 2020, and March 31, 2023, finds non-minor violations were classified 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).
 - 15 of 18 (83%) accumulation time limit violations were cited as minor violations.
 - Examples include:
 - CERS ID 10108240: Routine inspection dated August 26, 2021. Violation comment states, "Container for the used oil were full. The occupant claimed that, due to covid, the hauler is slow to pickup the waste..."
 - CERS ID 10114489: Routine inspection dated February 14, 2023. Violation comment states, "Last hazardous waste pick up was in 2019."
 - CERS ID 10123432: Routine inspection dated December 16, 2021. Violation comment states, "Waste oil drum and brake fluid drum need to be removed as hazwaste. Exceeded accumulation time limit and the drums are not theirs."
- 263 of 285 (92%) violations cited between April 1, 2020, and March 31, 2023, were classified as minor violations.

Note: The examples provided above may not represent all instances of this incidental finding. It is not necessary to correct the classification on inspection reports or in CERS.

Note: This incidental finding was previously identified as a Deficiency in the 2019 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
CCR, Title 22, Sections, 66260.10, 66262.34(a)(4), 66262.34(d)(2), and 66265.16
[DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and Class I and Class II violations as defined in HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6, and CCR, Title 22, Section 66260.10.

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The CUPA will train inspection staff on how to properly classify HWG Program violations as minor, Class I, and Class II. Training should include, at minimum, review of the following:

- Violation classification classes in the video library on the CalCUPA Forum Board website at: <http://www.calcupa.org/videos.html>.
- 2020 Violation Classification Guidance for Unified Program Agencies <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
 - This document provides examples of what are considered minor versus non-minor violations.

By the 2nd Progress Report, the CUPA will provide CalEPA with a statement that training has been conducted.

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

2. INCIDENTAL FINDING:

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

Review of HMBPs submitted to CERS between March 13, 2022, and April 13, 2023, by businesses subject to Business Plan reporting requirements finds:

- 104 of 583 (17%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 103 of 583 (17%) 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(a), 25508(a), and 25508.2
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all businesses subject to Business Plan reporting requirements annually submit an HMBP or a no-change certification to CERS. The action plan, at minimum, will include how the CUPA will follow up with facilities that have not submitted an HMBP or a no change certification to CERS within the last 12 months.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each

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business subject to Business Plan reporting requirements that has not submitted an HMBP or a no-change certification to CERS within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance, and rejection of HMBPs or no-change certifications; and
 - Enforcement applied by the CUPA to ensure an HMBP or no-change certification is annually submitted to CERS.
- If a sortable spreadsheet obtained from the CUPA's data management system or CERS is not provided by the CUPA, CalEPA will utilize CERS to evaluate the progress made towards the resolution of this incidental finding.

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

3. INCIDENTAL FINDING:

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

Review of the CERS Facility/Tank Data Download information finds the following USTs have single-walled vent or tank risers, and do not meet the secondary containment exemption requirements of CCR, Chapter 16, Section 2636(a) for vent and riser pipe to have overfill prevention equipment meeting the requirements specified in CCR, Chapter 16, Section 2635(c)(1)(B) or (C):

- CERS UST Tank ID 10113100-005
- CERS UST Tank ID 10124026-002

Note: The following may be referenced:

- [State Water Board CUPA Evaluation Guidance Documents, Single-Walled Vent or Riser Piping](https://www.waterboards.ca.gov/ust/single-walled-vent-riser.html) (https://www.waterboards.ca.gov/ust/single-walled-vent-riser.html)
- [State Water Board LG 150-3](https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf) (https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf)

CITATION:

CCR, Chapter 16, Section 2631(a), 2636(a) and 2635(c)(1)
[State Water Board]

RESOLUTION:

The CUPA must ensure UST systems are properly constructed and meet the secondary containment requirements of CCR, Chapter 16, Section 2636(a).

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By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of UST facilities (including the CERS ID and CERS UST Tank ID) which are incorrectly utilizing the overfill prevention equipment exemption.

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

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

By the 3rd Progress Report, if appropriate steps have not been taken by the UST owners/operators to remedy the construction violations, the CUPA will apply enforcement. The CUPA will provide CalEPA with documentation of the applied enforcement.

The State Water Board will consider this incidental finding resolved when the UST owners/operators install the correct overfill prevention equipment, or secondarily contain the vent and fill piping.

4. INCIDENTAL FINDING:

The City of Santa Rosa local ordinance for Environmental Protection (Chapter 17-34), is inconsistent with HMBP regulatory requirements and Health and Safety Code (HSC).

Review of the local ordinance finds the following inconsistencies:

- Chapter 17-34.020, Definitions: “Business” references HSC, Sections 25501(d) and 25504.1(a). The correct reference is HSC, Section 25501(c).
- Chapter 17-34.060, Hazardous materials release response plans and inventory (business plan): (D)(1), provides an exemption from permit and disclosure for hazardous materials contained solely in a consumer product for direct sales. Assembly Bill 2059 revised the exemption for consumer products in HSC, Section 25507(b)(5)
 - A consumer product handled at a facility that manufactures that product, or a separate warehouse or distribution center where there are no direct sales to customers, or where a product is dispensed on the retail premises.
 - A consumer product sold at a retail establishment that has a National Fire Protection Association (NFPA) or Hazardous Materials Identification System (HMIS) rating of 3 or 4 and is stored, at any time, in quantities equal to, or greater than, 165 gallons for a liquid, 600 cubic feet for a gas, and 1,500 pounds for a solid.
- Chapter 17-34.060, Hazardous materials release response plans and inventory (business plan): (D)(3) and (4), provides an exemption for inert compressed gases and propane that are less stringent than HSC, Section 25507(a).

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CITATION:

HSC, Sections 25404.2(a)(2), 25507(a) and (b)(5)
[CalEPA]

RESOLUTION:

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

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

- A timeline for revising and adopting the revised local ordinance, including:
 - Provisions for the CUPA to provide a draft of the revised local ordinance to CalEPA for review (before being adopted), which will allow CalEPA to work with the CUPA to ensure the revised draft is consistent with HMBP regulatory requirements and HSC, the CUPA certification approval, and meets all other requirements.

OR

- A timeline for repealing the existing local ordinance.

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

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

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

5. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The CUPA is not consistently classifying APSA Program violations properly.

Review of facility files and CERS CME information between July 1, 2018, and June 30, 2023, finds the following non-minor violation was classified as a minor violation:

- Not having, or failure to prepare, an SPCC Plan was cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. EPA.
 - Fiscal Year (FY) 2018/2019:
 - CERS ID 10102354: inspection dated March 14, 2019

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Note: The Federal SPCC rule is not delegated to any state. APSA requires consistency and compliance with the SPCC rule for SPCC Plan preparation and implementation, as well as consistency with Federal enforcement guidance.

Note: This incidental finding was identified for 4 of 4 (100%) instances in the 2019 CUPA Performance Evaluation and was considered corrected during the Evaluation Progress Report process with the training of inspection staff on the definition of minor violation, per HSC, Chapter 6.11, Section 25404(a)(3), and how to properly classify violations during compliance inspections as minor, Class I, and Class II.

CITATION:

HSC, Chapter 6.11, Sections 25404(a)(3) and 25404.2(a)(3)-(4)
HSC, Chapter 6.67, Sections 25270.4.1(c), 25270.4.5(a), and 25270.6(a)(2)
CCR, Title 27, Section 15200(a) and (e)
[OSFM]

RESOLUTION: COMPLETED

The non-minor violation for CERS ID 10102354 was incorrectly classified after the timeframe assessed for the 2019 CUPA Performance Evaluation (July 1, 2015, through June 30, 2018) and prior to the training of inspection staff on August 28, 2019. The misclassification of violations has not occurred for any other inspections since. This Incidental Finding is considered resolved.

6. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The 2023 area plan is missing required elements and contains outdated information.

Review of the 2023 area plan finds:

- the following required elements are missing:
 - Provisions for evacuation plans that provide for procedures for post-emergency period population recovery, per [CCR, Title 19, Section 2646\(g\)\(10\)](#)
- the following information is outdated:
 - Page 1-7: CEPRC is now called SERC (State Emergency Response Commission).
 - Page 1-31: CCR, Section 2703 is now CCR, Section 2631.
 - Each Title 19 citation following the 2016 renumbering scheme should be reviewed for accuracy.
 - Appendix 9: Reference to Cal EMA should be replaced with Cal OES.

Note: The area plan was last updated in February 2023. The next triennial revision should be completed by February 2026.

CITATION:

HSC, Chapter 6.95, Section 25503(c)
CCR, Title 19, Article 3, Sections 2640 through 2648
[CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided a revised area plan that includes all required elements and updated information. This Incidental Finding is considered resolved.

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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 information below is a summary of the overall implementation of the HWG Program, and the CUPA's hazardous waste related activities based upon review of policies and procedures, CERS CME information, Notices to Comply, inspection reports, facility file information, information provided by the CUPA, and Self-Audit Reports between April 1, 2020, and March 31, 2023:

- CERS reflects 435 regulated HWG facilities, including 13 RCRA LQG facilities and three TP facilities within the jurisdiction of the CUPA.
- The CUPA inspected 337 of 435 (77%) HWG facilities and conducted 393 HWG routine inspections. Conducting more HWG routine inspections than there are HWG facilities indicates the CUPA inspected some HWG facilities more often than once every three years.
 - 308 of 393 (78%) routine inspections had no violations cited.
 - 85 of 393 (22%) routine inspections had at least one violation cited.
 - In the 85 inspections conducted having at least one violation, 285 total violations were cited, consisting of:
 - 4 (2%) Class I violations
 - 18 (6%) Class II violations
 - 263 (92%) Minor violations
 - The CUPA has ensured RTC for 251 of 285 (88%) violations cited.
 - In comparison with other UPAs:
 - the CUPA is issuing violations at one of the lowest rates Statewide;
 - the CUPA is citing minor violations at one of the highest rates Statewide.
- CERS reflects no formal enforcement actions were completed for hazardous waste related violations.
- Inspection reports document consent to inspect was requested prior to beginning the inspection.
- Violation observations and comments are not consistently being entered into CERS. For example:
 - CERS ID 10115428: Routine inspection dated March 29, 2023
 - Three violations entered in CERS do not have violation comments.
- The inspection report template does not offer enough space for inspectors to document observations, summary of violations, or Notice to Comply.
 - Inspectors often use up all available space on the inspection report template, including the margins, and do not routinely utilize additional notes pages when completing inspection reports.
 - The new DHD inspection report template has the potential to resolve these issues.
- Documentation of observations, factual basis, and corrective actions for violations cited could be improved.

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- Annual Onsite Hazardous Treatment Notifications for facilities with a Fixed Treatment unit (FTU) are not reviewed, processed, or authorized within 45 calendar days of receipt.
 - 1 of 3 (33%) PBR submittals was not reviewed within 45 days receipt.
 - CERS ID 10113118 made a PBR submittal on February 23, 2022, and the CUPA accepted the submittal on April 25, 2022 (61 days).

RECOMMENDATION:

Continue with efforts to meet the HWG inspection frequency and apply enforcement as established in the I&E Plan.

To support any applicable enforcement efforts, ensure inspection reports contain a citation, detailed description of observations and factual basis for each cited violation, and ensure comments in CERS reflect the detailed observations and factual basis for each violation cited in inspection reports. Descriptions of observations and factual basis should be detailed enough to clearly demonstrate how a regulatory requirement was not met. Corrective action language should be prescriptive and should clearly describe what must be done for the facility to obtain RTC, including how corrective action documentation should be provided for RTC consideration. Revise the inspection report checklists, if necessary, to include current regulatory citations.

Ensure all observed violations are cited and reported to CERS. Follow up with HWG facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan for those facilities that do not obtain RTC. Entering violation comments into CERS is also recommended.

Inspection staff should review the following training regarding violation classification at least annually:

- [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).

Refer to the Inspection Report Writing Guidance for Unified Program Agencies for additional guidance on drafting violations and corrective actions.

2. OBSERVATION:

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

RECOMMENDATION:

Encourage each APSA tank facility to use the current 2023 version of the consolidated emergency response and training plans template as part of the HMBP submittal, when providing an HMBP in lieu of a tank facility statement.

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3. OBSERVATION:

The I&E Plan contains information that is inaccurate and may benefit from improvement.

- Page 2: The Unified Program elements list is missing the fire code Hazardous Materials Management Plans (HMMP) and Hazardous Materials Inventory Statements (HMIS) Program, which is consolidated with the HMBP requirements to streamline the regulatory requirements for regulated facilities.
- Page 10: The link to the violation classification guidance is no longer valid.
- Page 11: A 30-day RTC timeframe from the date of the notice to comply (NTC) is indicated for APSA violations. However, this 30-day RTC timeframe from the NTC date is applicable to minor violations only.
- Pages 15, 32, and 44: HSC, Section 25270.5 is incorrectly referenced as APSA violations. The correct reference is HSC, Chapter 6.67 (commencing with Section 25270).

RECOMMENDATION:

Update the I&E Plan as indicated above.

4. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 28 APSA tank facilities. The CUPA’s data management system identifies 27 APSA tank facilities.

- 27 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 1 tank facility is reported as “APSA Applicable” in CERS but is not identified as an APSA tank facility in the CUPA’s data management system. The CUPA should determine whether the facility is an APSA tank facility and update the CUPA’s data management system and APSA reporting requirement accordingly.

RECOMMENDATION:

As necessary, continue to reconcile the APSA Program information in the CUPA’s data management system with CERS to ensure all APSA tank facilities are included in both systems.

5. OBSERVATION:

The Self-Audit Reports contain information that may benefit from improvement.

The Self-Audit Report for FY 2021/2022 states nine APSA facility inspections were conducted. CERS reflects 14 APSA facility inspections were conducted.

Review of the Self-Audit Reports for FYs 2019/2020, 2020/2021, and 2021/2022 finds:

- Page 2: The Unified Program elements list is missing the HMMP/HMIS Program.
- Page 3:
 - Below the “Number and Type of businesses and inspections in each program” section, “Aboveground Storage Tank/SPCC Program” should be revised to “Aboveground Petroleum Storage Act” in order to be consistent with the statute.

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- The SPCC reference should be removed, since Unified Program Agencies enforce the APSA Program and not all tank facilities are required to prepare an SPCC Plan under APSA.

RECOMMENDATION:

In future Self-Audit Reports, ensure the information reported is consistent with CERS CME information and correct.

6. OBSERVATION:

The area plan contains the following information that may benefit from improvement:

- Page 4, Part I: The Unified Program elements list is missing the HMMP/HMIS Program.
- Page 15, Part I: Remove the reference to the State Fire Marshal Pipeline Safety Division under PG&E Pipelines. The OSFM oversees intrastate hazardous liquid pipelines in California. The California Public Utilities Commission regulates PG&E natural gas pipelines. In the event of a (natural gas or hazardous liquid) pipeline leak or rupture, the State Warning Center (or California Office of Emergency Services) should be contacted.
- Page 112, Part III: Add the OSFM Pipeline Safety Division phone number (916-263-6300) to the State Fire Marshal contact.

RECOMMENDATION:

With the next revision, update the area plan as indicated above.

7. OBSERVATION:

The APSA facility inspection checklist identifies 36 APSA violations.

The current Unified Program violation library identifies 101 APSA violations, consisting of 10 general violation codes, five violations specific to conditionally exempt tank facilities, 51 violations for Tier I qualified facilities, 79 violations for Tier II qualified facilities, and 78 violations for tank facilities with professional engineer certified SPCC Plans.

RECOMMENDATION:

Review and revise, as necessary, the APSA facility inspection checklist(s) to ensure a majority of the common violations and applicable citations from the current Unified Program violation library are incorporated. Ensure each inspector is consistent in conducting compliance inspections for each violation cited in the CUPA's data management system to be correctly reflected in CERS. Or consider utilizing the latest version of the CUPA Forum Board (CFB) APSA facility inspection checklists, when conducting APSA tank facility inspections and ensure the checklist utilized for the inspection is applicable to the type of APSA facility being inspected.

8. OBSERVATION:

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

- CERS ID 10113871

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

RECOMMENDATION:

Continue to provide reminders to all applicable UST owners/operators regarding the December 31, 2025, deadline for permanent closure of single-walled USTs.

9. OBSERVATION:

On September 19, 2023, an oversight inspection was conducted as part of the Annual Monitoring Certification, Spill Containment Testing, and Overfill Prevention Equipment inspection at CERS ID 10114195, a Motor Vehicle facility (MVF). The International Certification Code (ICC) Certified inspector met with facility staff and the testing company to discuss procedures. The inspector was thorough in reviewing the pre inspection checklist and utilized an iPad in the field to take photographs and notes. The inspector observed liquid and debris in the sumps, active alarms, missing Designated Operator (DO) inspections, inaccurate site map, and inaccurate calibration information between the tank charts and the alarm panel. The inspector provided the violation summary to the facility staff and provided detailed notes with the inspection report. Violation data was recorded in CERS and reflects what was observed on site.

RECOMMENDATION:

Review CERS submittals and on-site paperwork for accuracy. Continue to perform thorough UST compliance inspections.

10. OBSERVATION:

On October 17, 2023, an oversight inspection was conducted at CERS ID 10114633, a RCRA LQG facility. The inspector was well prepared and reviewed relevant information prior to the inspection. The inspector prepared for the inspection by looking at past inspection reports and used CERS to gather information on the facility's activities, hazardous materials inventory, site map, and previous violation history. In addition, the inspector checked the facility's EPA ID profile in the DTSC Hazardous Waste Tracking System (HWTS) to confirm the EPA ID number was current. Overall, the pre-inspection preparation was appropriate for the nature of the facility being inspected.

The inspection of the facility covered all hazardous waste storage areas and points of generation. The inspector took notes during the inspection and asked questions to better understand the facility operations and to better determine compliance. The appropriate documents a RCRA LQG is required to maintain were reviewed or requested. Review of documents was thorough and detailed. At the end of the inspection, the inspector identified the same violations as DTSC and the same potential violations, pending submission of requested documents.

Overall, the inspection was handled professionally, was conducted in a timely manner, and demonstrated the inspector was well versed in HW regulations. The CUPA's procedures are to return to the office to draft the inspection report and then send it to the facility via email. The inspection report contained violation observations and detailed corrective actions. Violation observations were generally detailed.

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RECOMMENDATION:

When conducting inspections, ensure inspectors ask for and obtain consent prior to beginning the inspection, even if the inspection has been scheduled with the facility. Consent can be documented in the inspection report with the name and title of the individual granting consent and the time consent was granted. Review the HWTS prior to the inspection to generate a list of manifests to review during the inspection and to confirm recent hazardous waste generation activities.

Details relative to violation observations could be improved. When drafting violation observations, it is best practice to describe the following, if relevant:

- Number and type of containers/tanks
- Type of waste(s) involved
- Location in the facility
- Dates (ex: training dates, initial accumulation dates, etc.)
- Any details necessary to demonstrate how non-compliance of a regulatory/statutory requirement exists.

11. OBSERVATION:

On October 24, 2023, HMBP oversight inspections were conducted at CERS ID 10114333 and CERS ID 10114336 with different inspectors. Each inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. Each inspector established rapport with the facility operators, toured the entire site, verified inventory, site map, and emergency response plan information and training on site, and effectively communicated technical information to the facility operators. Each inspector identified all violations.

RECOMMENDATION:

Continue to conduct thorough HMBP inspections.

12. OBSERVATION:

Based on inspection reports reviewed during the evaluation, the CUPA is determining a number of facilities are categorized as Conditionally Exempt Small Quantity Generators (CESQGs) and using an inspection checklist specifically for CESQGs. A CESQG, or a Very Small Quantity Generator (VSQG) is federally defined as a generator that generates less than 100 kilograms (kg) (~220 pounds or 27 gallons) of hazardous waste per calendar month.

As an authorized state, CA did not adopt the federal definition of CESQGs (also known as VSQGs) nor the requirements found in CFR, Title 40, Sections 262.13 and 262.14. As a result, a generator that generates less than 100 kg (~220 pounds or 27 gallons) of hazardous waste per calendar month or less than 1 kg of acutely hazardous waste per calendar month is regulated as a Small Quantity Generator (SQG) and not a VSQG. However, a facility that meets the federal definition of a VSQG is granted three exceptions in the Hazardous Waste Control Law that differ from SQG requirements including:

- (1) The time period for calculating the 180-day or 270-day accumulation period begins when the facility has accumulated 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste [Health and Safety Code (HSC) 25123.3(c)].

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(2) CESQGs (VSQGs) may bring up to 100 kg of hazardous waste or 1 kg of acutely hazardous waste or 1kg of extremely hazardous waste, per month, to a household hazardous waste collection facility authorized by the department without DTSC transportation registration or a Uniform Hazardous Waste Manifest [HSC Ch. 6.5, Article 10.8].

(3) CESQGs (VSQGs) may bring up to 5 gallons or 50 pounds of hazardous waste to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal without DTSC transportation registration or a Uniform Hazardous Waste Manifest [HSC 25163(c)].

SQGs that generate less than 100 kg of hazardous waste or less than 1 kilogram of acutely hazardous waste per calendar month are regulated as SQGs.

Item CQ21 on the CUPA's CESQG checklist*, "Waste is accumulated for no more than 90 days from 100 kg (1/2 drum) is reached. (66262.34(b))," is incorrect. CESQGs will be considered SQGs once more than 100 kg of hazardous waste is generated in a calendar month. The correct citations are HSC, Section 25123.3(c) and CCR, Title 22, Section 66262.34(d), providing 180 or 270 days for the facility to accumulate hazardous waste.

RECOMMENDATION:

Refer to DTSC's guidance letter, dated July 27, 2021, addressed to all CUPAs and PAs regarding CESQGs and VSQGs.

Ensure inspectors understand how to determine a HWG category and apply HWG Program regulations generators based on the hazardous waste generator category. Review the HWG inspection report checklists to ensure consistency with HSC, Section 25123.3(c) and CCR, Title 22, Section 66262.34(d).

Guidance on HWG requirements is available on DTSC's website: <https://dtsc.ca.gov/hazardous-waste-generator-requirements-fact-sheet/>, as well as specific guidance on accumulating hazardous waste: <https://dtsc.ca.gov/accumulating-hazardous-wastes-at-generator-sites/>. In addition, it may be beneficial to have inspectors complete hazardous waste refresher training to review CESQG and VSQG requirements.

Confirm the new DHD generated inspection report template to ensure accuracy of citations.

13. OBSERVATION:

The HWG inspection checklist identifies 48 items, some of which cite the same statute and/or regulation.

The HWG facility inspection checklist does not include a line item for citing CCR, Title 22, Section 66262.40, for failure to maintain HW manifests for three years.

There are many instances when the citation needed to support an observation or factual basis of a violation is not included in an inspection report.

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RECOMMENDATION:

Review and revise, as necessary, the HWG facility inspection checklist to ensure a majority of the common violations and applicable citations from the current Unified Program violation library are incorporated. Confirm the new DHD generated inspection checklists include the relevant violations and applicable citations.

Ensure each inspector is consistent in conducting compliance inspections and entering each cited violation in the CUPA's data management system to be electronically transferred to CERS.

For suggestions and assistance in identifying areas of the HWG inspection report checklist template that require revision, please contact Brennan.Ko-Madden@dtsc.ca.gov.
