

May 21, 2024

Ms. Heidi Kunstal, Director
County of Del Norte
Environmental Health Division
981 H Street, Suite 110
Crescent City, California 95531-3415

Dear Ms. Kunstal:

During May 2023, through March 2024, CalEPA and the Unified Program state agencies conducted a performance evaluation of the County of Del Norte, Environmental Health Division Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, review of regulated facility file documentation, California Environmental Reporting System information, and oversight inspections.

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

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

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

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

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

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

Sincerely,

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

Jason Boetzer
Deputy Secretary
Local Program Coordination and Emergency Response

Enclosure

cc sent via email:

Houawa Moua
Sr. Environmental Scientist
County of Del Norte
Environmental Health Division
981 H Street, Suite 110
Crescent City, California 95531-3415

Branden Hendrix
Environmental Health Specialist II
County of Del Norte
Environmental Health Division
981 H Street, Suite 110
Crescent City, California 95531-3415

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. Heidi Kunstal
Page 3

cc sent via email:

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

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

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

Mr. Pheleep Sidhom
Environmental Scientist
Department of Toxic Substances Control

Ms. Mary Wren-Wilson
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. Heidi Kunstal
Page 4

cc sent via email:

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: County of Del Norte Environmental Health Division

Evaluation Period: May 2023 to March 2024

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden,
Pheleep Sidhom
- **CalEPA:** Julie Unson, Esmé Hassell-Thean
- **State Water Board:** Kaitlin Cottrell
- **CAL FIRE-OSFM:** Mary Wren-Wilson

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**.

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

Tim Brandt

CalEPA Unified Program

Phone: (916) 323-2204

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

The CUPA is required to submit 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 **August 16, 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. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM IMPLEMENTATION:

Since the 2020 CUPA performance evaluation, the CUPA met the mandated triennial inspection frequency for APSA tank facilities storing 10,000 gallons or more of petroleum. The CUPA also met the triennial inspection frequency, established in the Inspection and Enforcement (I&E) Plan, for APSA tank facilities storing less than 10,000 gallons of petroleum. The CUPA ensured APSA tank facilities annually submitted a tank facility statement or a Hazardous Materials Business Plan (HMBP), in lieu of a tank facility statement, to the California Environmental Reporting System (CERS).

2. DIRECT ASSISTANCE TO REGULATED COMMUNITY:

The CUPA frequently assists regulated facilities, providing support for CERS submittals and general usage of CERS. In particular, the CUPA has provided a significant amount of direct assistance to locally owned, small business facilities that have experienced issues with submitting or certifying annual HMBP CERS submittals.

In addition, the CUPA works collaboratively with business owners and/or operators to ensure violations cited during inspections obtain return to compliance (RTC). Operators of regulated facilities have expressed appreciation and gratitude to the CUPA for the assistance provided to gain a better understanding of Unified Program regulations.

3. STAFFING AND CORONAVIRUS (COVID-19) IMPACTS:

The CUPA experienced staffing limitations upon retirement of the previous CUPA manager in October 2019, leaving only one inspector to administer the entire Unified Program. The staffing vacancy persisted until a second inspector was onboarded in January 2021.

During March through July of 2020, the County Environmental Health Division prioritized COVID-19 pandemic response activities. As a result, the CUPA was not able to fully implement the Unified Program efficiently, specifically, in the areas of conducting inspections and applying enforcement.

4. HAZARDOUS WASTE GENERATOR (HWG) PROGRAM IMPLEMENTATION:

Since the 2020 CUPA performance evaluation, the CUPA has successfully ensured over 90% of the facilities regulated under the HWG Program within the jurisdiction of the CUPA have been inspected once every three years, amidst the hindrance, restrictions, and disruptions caused by COVID-19.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

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

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, in CERS finds there is no documented RTC for the following HWG Program violations cited between July 1, 2020, and June 30, 2023:

- 23 of 114 (20%) Minor violations
 - There were no Class I or Class II violations cited.
 - Note: 87 of 91 (96%) Minor violations that obtained RTC, did not obtain RTC within 35 days.

CITATION:

Health and Safety Code (HSC), Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g) California Code of Regulations (CCR), Title 27, Sections 15185(a) and (c) and 15200(a) and (e) [DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from CERS that includes at minimum the following information for each HWG facility with an open violation (no RTC) cited between July 1, 2020, and June 30, 2023:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of any applied enforcement or follow-up activity to ensure the facility obtains RTC.

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

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

2. DEFICIENCY:

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

Review of UST compliance inspection reports, associated testing and leak detection documents, and CERS CME information finds:

- The following UST construction and inspection discrepancies:
 - CERS ID 10458907
 - Monitoring System Certification Form dated May 30, 2023, has both mechanical and electronic line leak detectors listed as tested. CERS reflects only electronic line leak detectors are present.
 - A CUPA UST Inspection Report is dated May 24, 2023. CERS reflects the Routine inspection was completed June 30, 2023.
- Non-compliance was not observed, and CERS reflects no violation was issued for the following:
 - CERS ID 10019728
 - Monitoring System Certification Form dated May 25, 2023, notes “Replaced 208 sensor in Super STP, retested and passed.” CERS does not reflect a violation issued for 2030043 – Monitoring Equipment (USEPATCR 9d).
 - Overfill Prevention Equipment Inspection Forms were not provided. CERS does not reflect a violation for 2030036 – Overfill Prevention (USEPATCR 9b) for 2020, 2021, 2022 or 2023.
 - CERS ID 10197109
 - Monitoring System Certification Form dated May 19, 2022, notes “Regular annular sensor failed and was replaced and tested while inspector was onsite.” CERS does not reflect a violation issued for 2030043 – Monitoring Equipment (USEPATCR 9d).
 - Monitoring System Certification Form dated May 23, 2023, notes “Regular annular sensor failed and was replaced and tested while inspector was onsite.” CERS does not reflect a violation for 2030043 – Monitoring Equipment (USEPATCR 9d).
 - CERS ID 10197526
 - Spill Container Testing Report Form dated August 10, 2023, notes “Pass” for each spill container, but checks box for “Spill Containers for not have a minimum capacity of five gallons and require replacement.” CERS does not reflect a violation for 2060020 – Spill Prevention (USEPATCR 9a).
 - CERS ID 10458907
 - CUPA UST Inspection Report dated May 16, 2022, notes “Annular sensor for the 87 north UST failed. The technician was able to replace the sensor and retest the sensor. Corrected on site.” CERS does not reflect a violation for 2030043 – Monitoring Equipment (USEPATCR 9d).
 - CERS does not reflect a Routine inspection dated May 16, 2022.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

Review of UST testing and leak detection documents finds the incorrect form was utilized for the following:

- CERS ID 10019728
 - Monitoring System Certification Form and Spill Containment Testing Report Form completed May 27, 2022
 - Monitoring System Certification Form and Spill Containment Testing Report Form completed May 25, 2023
- CERS ID 10197109
 - Overfill Prevention Equipment Inspection Form completed May 18, 2021
- CERS ID 10474741
 - Monitoring System Certification Form completed August 18, 2021

CITATION:

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

CCR, Chapter 16, Sections 2637.1 (d), 2637.2(d), 2638(c), 2713(c)(4) and (d)

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

[State Water Board]

CORRECTIVE ACTION:

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

- identification of each aspect of the UST Program element not being met, including conducting complete annual UST compliance inspections, and correctly reporting UST compliance inspections and violations observed in UST compliance inspection reports to CERS;
- why each identified aspect of the UST Program element is not being met;
- a plan to address each identified aspect of the UST Program element not being met, including:
 - discussion of procedures and tools necessary to ensure complete UST compliance inspections are consistently conducted; and
 - identification of the types and frequency of training needed to consistently conduct complete UST compliance inspections.

By the 2nd Progress Report, based on the findings identified in the CUPA's analysis and explanation, the CUPA will review and revise the I&E Plan, to ensure, at minimum, the establishment of a process for consistently conducting complete annual UST compliance inspections and correctly reporting UST compliance inspections and violations observed in UST compliance inspection reports (including TCR criteria), to CERS. The revised I&E Plan, or other applicable procedure will, at minimum include a process for:

- conducting complete annual UST compliance inspections;
- review of and follow up with UST testing and leak detection documents submitted by UST owners or operators as part of the annual UST compliance inspection;
- documenting observed noncompliance in UST compliance inspection reports
- reporting observed noncompliance identified in UST compliance inspection reports to CERS;

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components;
- conducting annual UST compliance inspections when UST inspection staff are not on-site to witness the monitoring system certification and visually inspect all UST required components;
- review of the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the Unified Program violation library in CERS; and
- Accurate United States Environmental Protection Agency (USEPA) Technical Compliance Rate (TCR) reporting.

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

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

By the 4th Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train UST inspection staff 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 UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan.

By the 5th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records for three UST facilities, as requested by the State Water Board, including, at minimum, annual UST compliance inspection reports and associated testing and leak detection documents.

3. DEFICIENCY:

The CUPA is not consistently applying enforcement as outlined in Section “IV. Enforcement Component” of the I&E Plan.

Review of facility file information and CERS CME information between January 1, 2019, and September 11, 2023, finds there is no documented RTC for repeat violations cited, or repeat violations were not cited at the following UST facilities:

- CERS ID 10019728
 - CERS reflects a violation was cited on May 29, 2019, for failure to submit testing documentation to the CUPA (Unified Program Violation Library Violation Type Number 2010018 – Overfill Prevention Inspection Records).
 - No overfill prevention equipment certification was submitted to the CUPA, and no RTC is reflected in CERS.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- Enforcement should have been applied, and a repeat violation should have been cited in 2020, 2021, 2022 and 2023 for failure to submit testing documentation to the CUPA (Unified Program Violation Library Violation Type Number 2010018 – Overfill Prevention Inspection Records) and/or a violation should have been cited for failure to perform the Overfill Prevention Equipment inspection (Unified Program Violation Library Violation Type Number 2030026 – Overfill Prevention).
 - On and after October 1, 2018, all overfill prevention equipment used to comply with CCR, Chapter 16, Section 2635(c)(1) must be inspected triennially and after repairs, and results must be submitted to the CUPA.
- CERS ID 10197526
 - CERS reflects a violation was cited on August 24, 2022, for the Overfill Prevention Equipment Inspection failure of all four USTs on September 2, 2021 (Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention, USEPATCR 9b). No RTC is reflected in CERS.
 - CERS reflects the violation for the Overfill Prevention Equipment Inspection failure (Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention, USEPATCR 9b) was cited again on August 10, 2023. No RTC is reflected in CERS.
- CERS ID 10197328
 - CERS reflects a violation was cited on May 25, 2021, for unsafe UST operation (Unified Program Violation Library Violation Type Number 2030035 – Unsafe UST Operation). Notes relative to the violation state, “Copper piping union was not adequate to keep the product tight. Leaking diesel into the sump.” No RTC is reflected in CERS.
 - CERS reflects a repeat violation cited on May 26, 2022, for unsafe UST operation (Unified Program Violation Library Violation Type Number 2030035 – Unsafe UST Operation). Notes relative to the violation state, “This violation was noted in the 2021 UST annual monitoring certification. The operator had leaking union, in the sump, repaired. However, the part to replace the union was not compatible with petroleum products and the contractor did not have the certification or qualification to do repairs on UST systems. Currently the repair is not leaking, but the CUPA has required the operator to conduct weekly inspection to ensure the repair is not leaking. The violation will be active until the repair has meet the CUPA's requirement for UST.” No RTC is reflected in CERS.
 - CERS reflects a repeat violation cited on May 31, 2023, for unsafe UST operation (Unified Program Violation Library Violation Type Number 2030035 – Unsafe UST Operation). Notes relative to the violation state, “Repeating violation for union that was leaking and repaired by a non-ICC UST individual. Operator indicated that they are working with new consultant to correct violation.” No RTC is reflected in CERS.
- CERS ID 10190477
 - CERS reflects a violation was cited on December 22, 2021, for Overfill Prevention (Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention, USEPATCR 9b). Notes relative to the violation state, “DSL Tank ball float cannot be removed and tested.” No RTC is reflected in CERS.
 - CERS reflects a violation was cited on April 5, 2022, for Overfill Prevention (Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention,

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

USEPATCR 9b). Notes relative to the violation state “CUPA observed that there is only one overfill audio/visual and no flapper valves for any of the UST. All UST have ball floats. In accordance to LG 150-3, the UST facility does not meet the overfill requirements. In order to meet the overfill requirements, the operator must meet the required UST equipment in LG150-3.” No RTC is reflected in CERS.

- CERS reflects a violation was cited on April 21, 2023 for Overfill Prevention (Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention, USEPATCR 9b). Notes relative to the violation state, “All tanks have ball float. Operator to replace with shutoff on the week of May 25, 2023.” No RTC is reflected in CERS.

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

Note: The following may be referenced:

- LG 150-3 “Underground Storage Tank Overfill Prevention Equipment”
https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf
- LG letter 164-4 “Reporting Technical Compliance Rate,” dated June 30, 2020
- State Water Board correspondence, “When to Review Underground Storage Tank Records,” dated November 29, 2016.
https://www.waterboards.ca.gov/ust/adm_notices/rvw_ust_records.pdf

CITATION:

HSC, Chapter 6.7, Section 25288(d)
CCR, Chapter 16, Section 2712(g)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an analysis and explanation as to why enforcement is not consistently being applied as outlined in Section “IV. Enforcement Component” of the I&E Plan. The analysis and explanation will include, at minimum:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

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

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

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

- CERS ID 10019728
 - CERS ID 10197526
 - CERS ID 10197328
-

4. DEFICIENCY:

The CUPA is not consistently ensuring technicians performing UST testing and/or equipment inspections of UST systems are trained and certified by the manufacturer of the equipment.

Review of UST facility files finds the manufacturer certification of the service technician was expired prior to the date of testing for the following facilities:

- CERS ID 10019728
 - Monitoring System Certification and Spill Containment Testing conducted May 27, 2022, by a technician with certification expired on May 3, 2021.
- CERS ID 10197526
 - Monitoring System Certification and Spill Containment Testing conducted August 10, 2023, by a technician with no expiration date listed for certification.
- CERS ID 10474741
 - Monitoring System Certification and Spill Containment Testing conducted September 9, 2020, by a technician with no expiration date listed for certification.
 - Spill Containment Testing conducted August 18, 2021, by a technician with certification expired on May 29, 2021.
 - Spill Containment Testing conducted September 21, 2022, by a technician with no expiration date listed for certification.
 - Overfill Prevention Equipment Inspection conducted March 30, 2021, by a technician with no expiration date listed for certification.
- CERS ID 10504714
 - Monitoring System Certification and Spill Containment Testing conducted August 13, 2021, by a technician with no expiration date listed for certification.
 - Monitoring System Certification and Spill Containment Testing conducted August 3, 2022, by a technician with no expiration date listed for certification.
 - Overfill Prevention Equipment Inspection conducted August 13, 2021, by a technician with no expiration date listed for certification.

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

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

CITATION:

CCR, Chapter 16, Sections 2715(f)(3) and 2638(b)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a revised I&E Plan, or other applicable procedure, that ensures the establishment of a process for UST inspection staff to confirm technicians conducting UST testing and/or inspections of UST systems have valid certification by the manufacturer of the equipment. The process will include, at minimum, the methods the CUPA will use to confirm the certification of the technician meets the requirements of the manufacturer of the equipment being inspected and/or tested.

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

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

5. DEFICIENCY:

The established Unified Program administrative procedures have components that are incomplete or inaccurate. The following administrative procedures are incomplete:

- Public participation
 - Ensuring receipt and consideration of comments from regulated businesses and the public.
 - The existing public participation procedure states that questions relating to hearings or public notices will be forwarded to County Counsel. A procedure describing the receipt and management of public comments is not included.
 - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.
 - The existing public participation procedure states that hearings shall be conducted consistent with established Del Norte County practice. A citation to any local government code/ordinance describing Del Norte County public hearing procedures is not included.
- Records maintenance
 - Identification of the records maintained.
 - The existing records maintenance procedure and the I&E Plan discuss retention of inspection reports, enforcement files, and facility information; however, retention of Self-Audit Reports, Detailed records used to produce

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

summary reports submitted to the state, and surcharge billing and collection records are not discussed.

- Minimum retention times are missing;
- Archive procedures are missing;
- Proper disposal methods are missing.

The following administrative procedures are inaccurate:

- Financial management
 - A single fee system in compliance with CCR, Title 27, Section 15210
 - Consolidates all fees currently mandated in statute and regulation used for local implementation of the Unified Program.
 - Though the CUPA is accurately assessing the current state surcharge amount for general CUPA oversight, the current fee schedule lists an outdated state surcharge amount.

Note: This Deficiency was identified during the 2020 CUPA Performance Evaluation regarding incomplete Public participation and Records maintenance procedures, and was corrected during the Evaluation Progress Report process.

CITATION:

CCR, Title 27, Sections 15180(e), 15185, and 15210
[CalEPA]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with revised Unified Program administrative procedures, as identified above, that adequately incorporate all required components.

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures, are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. 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 Unified Program administrative procedures.

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

6. DEFICIENCY: CORRECTED DURING EVALUATION

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

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

Review of information provided by the CUPA finds:

- 1 of 1 (100%) stationary sources in the CalARP Program has not updated the RMP at least once in the last five years
 - CERS ID 10447231: RMP last updated on March 22, 2018

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, CalEPA attended an oversight inspection with the CUPA at CERS ID 10447231. The CUPA cited a number of violations, including the overdue RMP submittal, and is continuing to follow up with the stationary source to ensure the RMP is reviewed and updated.

This Deficiency is considered corrected.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

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

Review of CERS CME information between July 1, 2020, and June 30, 2023, inspection reports and other information provided by the CUPA finds the following:

- Inspections are not being reported to CERS.
 - Follow-up inspections conducted to observe RTC are not entered into CERS. Follow-up inspections are required to be entered into CERS as “Other” inspections.
 - Note: The CERS Frequently Asked Questions “Reporting Re-inspections” on the CERS Help page may be referenced.
- Duplicate HWG Program inspections are being reported to CERS.
 - CERS ID 10197328: CERS reflects a duplicate routine inspection dated September 15, 2021. The routine inspection was conducted on September 14, 2021.
- Duplicate HWG Program violations are being reported to CERS.
 - Violations for labeling of Hazardous Waste (HW) containers, citing CCR, Title 22, 66262.34(f), are being entered more than once.
 - CERS ID 10197232: Routine inspection dated December 2, 2022, has duplicate violations for failure to conduct Small Quantity Generator (SQG) weekly container inspections.
 - CERS ID 10752151: Routine inspection dated September 6, 2022, has duplicate violations for Used Oil Filter and Fuel Filter Handling Requirements.
- The correct HWG Program CERS violation type number was not used to cite violations.
 - Each violation for management of spent lead-acid batteries was incorrectly reported to CERS using a Universal Waste citation. Spent automotive lead-acid batteries are not Universal Waste. The correct CERS violation type numbers for lead-acid battery related violations are 3030001, 3030002, 3030003, 3030004, 3010014.
 - CERS ID 10190469: Routine inspection report dated December 2, 2022, cites a minor violation for management of lead-acid batteries using CCR, Title 22, Section 66266.81. CERS reflects the violation as a Universal Waste violation using CCR, Title 22, Section 66273.34 (violation type number 3030008).
 - CERS ID 10197331: Routine inspection report dated May 9, 2022, cites a minor violation for management of lead-acid batteries using CCR, Title 22, Section 66266.81. CERS reflects the violation as a Universal Waste

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

violation using CCR, Title 22, Section 66273.34 (violation type number 3030008).

- APSA Program CME information was inconsistently or incorrectly reported to CERS:
 - CERS ID 10197298
 - A letter dated, February 10, 2021, states a reinspection was conducted on February 8, 2021. CERS has no record of the reinspection on February 8, 2021.
 - CERS ID 10496008
 - For an inspection on November 4, 2020, the inspection report cites 35 violations (three of which are not reflected in CERS), and CERS reflects 30 violations (seven of which are not reflected on the inspection report).
 - CERS ID 10445164
 - For an inspection on June 2, 2021, the inspection report cites five violations (one of which is not reflected in CERS), and CERS reflects four violations.
 - CERS ID 10871470
 - For an inspection on September 13, 2021, the inspection report cites eight violations (two of which are not reflected in CERS), and CERS reflects 10 violations (four of which are duplicate entries).
 - CERS ID 10197340
 - An inspection report, dated August 5, 2021, cites six violations. CERS reflects six violations for an inspection dated July 29, 2021.

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

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

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)

CCR, Title 27, Sections 15187(c) and 15290(a)(3) and (b)

[DTSC, OSFM]

RESOLUTION:

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 HWG and APSA Program CME information is consistently and correctly reported to CERS. The action plan will include, at minimum:

- Identification and correction of the cause(s) of missing or incorrect reporting of HWG and APSA Program CME information from inspection reports to CERS;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure HWG and APSA Program CME information is consistently and correctly reported to CERS.
- Identification of all HWG and APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly between July 1, 2020, and June 30, 2023;
- A process and timeframe, including the anticipated date of resolution, for the correction of Program CME information identified as previously reported incorrectly or inconsistently to CERS, including HWG and APSA CME information for any revised inspection reports;

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- A process and timeframe, including the anticipated date of resolution, for reporting HWG and APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly or inconsistently to CERS, including HWG and APSA Program CME information for any revised inspection reports;
- A process for ensuring CUPA personnel and inspectors are trained in the correct use of the most current HWG Program violation classifications and citations for CERS violation type numbers in the Unified Program violation library; and
- Future steps to ensure all HWG and APSA Program CME information is consistently and correctly reported to CERS. This may generate the need for:
 - a comparison of HWG Program CME information in inspection reports with the CME information in CERS to identify HWG Program CME information not reported, or previously reported incorrectly to CERS; and
 - Establishment of a quality assurance and quality control process to confirm all HWG and APSA Program CME information is correctly and consistently reported to CERS.

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, 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 procedure. Once training is complete, the CUPA will implement the revised CME reporting component of the Data Management Procedure or other applicable procedure.

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

By the 3rd 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, the CUPA will provide CalEPA with the amended CME reporting component of the Data Management Procedure or other applicable procedure. The CUPA will train CUPA personnel on the amended CME reporting component of the Data Management Procedure, or other applicable procedure. 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 for three APSA tank facility records, as requested by OSFM, that include RTC documentation or an inspection report.

By the 5th Progress Report, the CUPA will consistently and correctly report all current and previous HWG and APSA Program CME information to CERS. The CUPA will provide a statement confirming all HWG and APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, between July 1, 2020, and June 30, 2023, has been correctly reported to CERS. If a statement confirming all HWG and APSA 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.

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

2. INCIDENTAL FINDING:

The CUPA is not consistently citing correct HWG Program violations in accordance with hazardous waste control law and regulations.

Review of HWG facility inspection reports and CERS CME information finds the CUPA did not correctly cite the following HWG Program violations:

- Violations relating to maintenance of a facility are not cited or are improperly cited as container management violations using CCR, Title 22, section 66265.171.
 - CERS ID 10197232: Routine inspection on December 2, 2022. A violation citing CCR, Section 66265.171, was properly identified. However, the observations noted in the inspection report support citing a violation for CCR, Title 22, Section 66262.34(d)(2); Code of Federal Regulations (CFR), Title 40, Chapter 1, Sections 262.34(d)(4) and 265.31, for “Failure to maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.”
 - The observations noted in the inspection report state,
 - “The CUPA observed the used motor oil/used oil filter drums, containers, and tote do not have the proper hazardous waste label. The areas around the drums and containers are not well maintained soiled with waste oil.” And
 - “The CUPA observed drums, totes, and containers to be soiled with used oil. In addition, there are oil and oil stains on the floor.”
- Violations relating to HW manifests are incorrectly cited using CCR, Title 22, Sections 66262.20, 66262.23(a) & 66262.40(a).
 - Violations are cited for failure to keep records of HW manifests, failure to mail HW manifests to DTSC, and failure to complete HW manifests, when the violation comments do not support the violations.
 - When citing a violation relating to HW manifests the observations noted in the inspection reports frequently describe the facility not shipping HW offsite as evidence for not completing and/or maintaining copies of HW manifests. When no shipment of HW has occurred there will be no associated HW manifest. These violations should only be cited when HW manifests have been used and an issue exists with the manifest. Examples include:
 - CERS ID 10190469: Routine inspection on August 4, 2021
 - CERS ID 10197349: Routine inspection on December 2, 2022
 - CERS ID 10197523: Routine inspection on June 30, 2021
- Violations for exceeding accumulation time limits are not cited. Between July 1, 2020, and June 30, 2023, one violation was cited for exceedance of accumulation time limit, and 19 violations were incorrectly cited for manifest violations using CCR, Title 22, section 66262.20, 66262.23(a) & 66262.40(a).
 - CERS ID 10324735: Routine inspection on January 30, 2023. A violation is cited for failure to maintain HW manifests for three years and includes the following violation comments:

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- “The CUPA only observed a hazardous waste manifest from 9/20/2021. The operator indicated 2021 was the last time hazardous waste was picked up. The facility is a small hazardous waste generator and meets the requirements to have the hazardous waste picked up every 270 days. Since it has been over a year since the hazardous waste was picked up, the operator shall have all hazardous waste currently stored at the site to be picked up by March 2, 2023.”
- CERS ID 10197349: Routine inspection on June 30, 2021. A violation is cited for failure to maintain HW manifest for three years and includes the following violation comments:
 - “The operator indicated that the last time any hazardous waste was picked up was three years ago, therefore it would have been in 2020. Base[d] on the last CUPA inspection report, operator is required to have the hazardous waste picked up every 270 days from the start of the accumulation start date. Used oil filters are to be picked up annually, if the facility generates less than a ton annually. Based on these observations and the quantity of hazardous waste stored at this facility. The hazardous waste stored at this facility is past due for a pick up.”
- Violations for SQG training requirements at Large Quantity Generator (LQG) facilities are incorrectly cited.
 - CERS ID 10752151: Routine inspection on September 6, 2022. The inspector incorrectly cites a training violation using a citation for SQG’s when the facility is an LQG.

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

CITATION:

HSC, Chapter 6.11, Section 25185

CCR, Title 22, Sections 66262.20, 66262.23(a), 66262.40(a), 66262.34(a) & (d)
[DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will ensure all inspectors review the DTSC HWG fact sheets and information listed below:

- [Hazardous Waste Generator Requirements Fact Sheet](https://dtsc.ca.gov/hazardous-waste-generator-requirements-fact-sheet/)
<https://dtsc.ca.gov/hazardous-waste-generator-requirements-fact-sheet/>
- [Universal Waste Fact Sheet:](https://dtsc.ca.gov/universal-waste-fact-sheet/)
<https://dtsc.ca.gov/universal-waste-fact-sheet/>
- [Managing Used Oil Filters for Generators Fact Sheet:](https://dtsc.ca.gov/managing-used-oil-filters-for-generators/)
<https://dtsc.ca.gov/managing-used-oil-filters-for-generators/>
- [Management of Spent Lead-Acid Batteries Fact Sheet](https://dtsc.ca.gov/management-of-spent-lead-acid-batteries/)
<https://dtsc.ca.gov/management-of-spent-lead-acid-batteries/>
- [Generator Summary Chart:](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf)
<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf> and
https://www.acgov.org/forms/aceh/Generator_Requirements_Summary_Chart.pdf
- [Accumulating Hazardous Wastes at Generator Sites](https://dtsc.ca.gov/accumulating-hazardous-wastes-at-generator-sites/)
<https://dtsc.ca.gov/accumulating-hazardous-wastes-at-generator-sites/>

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

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

3. INCIDENTAL FINDING:

The CUPA is not correctly citing HWG Program violations in inspection reports.

Review of the HWG inspection checklist template finds the following violation citations and descriptions are incorrect or missing:

- Line items that list CCR, Title 22, Sections 66262.31-.34 are incorrect. The correct citation to use when citing a violation for failing to label HW tanks and containers is CCR, Title 22, Section 66262.34(f). CCR, Title 22, Sections 66262.31-.33 are relative to CCR, Title 49, Department of Transportation (DOT) requirements.
 - Code GR02, Hazardous Waste Determination:
 - There is no regulatory citation for this line item in the template. The correct citation is CCR, Title 22, Section 66262.11.
 - Code GR04, SQG Training:
 - The template references CCR, Title 22, Section 66262.34(d). The actual requirements for SQG training are referenced through CFR, Title 40. The correct citation is CCR, Title 22, Section 66262.34(d)(2) and CFR, Title 40, Section 262.34(d)(5)(iii).
 - Code GC03, Empty containers are empty:
 - There is no regulatory citation for this line item in the template. Containers that still contain HW should be cited with the applicable HW citations (ex: HW container labeling, open HW container, etc.) This line item is redundant and should be removed.
 - Codes GC06 – GC08, Satellite container requirements:
 - All three line items use the same citation, CCR, Title 22, Section 66262.34(e). The citation is correct, however having three different line items can lead inspectors to citing three violations, when less than three violations may have occurred. The three line items should be combined into one line item.
 - Code GA02, Satellite accumulation:
 - There is no regulatory citation for this line item in the template. The correct citation is CCR, Title 22, Section 66262.34(e)(1)(B).
 - Code GA03, Empty container management:
 - There is no regulatory citation for this line item in the template. The correct citation is CCR, Title 22, Section 66261.7.
 - Code GL05, Used oil filters:
 - This line item is nearly identical to Code GA05 and uses the same citation. This line item is redundant and should be removed.
 - Code GL07, Used Oil container/tank labeling:
 - The CCR, Title 22, Section 66262.31-.34 citation does not correspond to the violation description. CCR, Title 22, Section 66279.21 requires “Used Oil” to be marked on all used oil tanks/containers. This line item should be combined with the general labeling requirements of CCR, Title 22, Section 66262.34(f). This line item is redundant with Code GL01.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- Code GL02, Satellite containers accumulation:
 - There is no regulatory citation for this line item in the template. The correct citation is CCR, Title 22, Section 66262.34(e).

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

CITATION:

HSC, Chapter 6.11, Section 25185(c)(2)(A)

CCR, Title 22, Sections 66261.7, 66262.34, 66262.11, 66262.32, 66262.33, 66262.35, and 66279.21

[DTSC]

RESOLUTION:

By the 1st Progress Report and until considered resolved, the CUPA will provide CalEPA with a revised HWG inspection checklist template with correct and complete violation citations and descriptions that accurately reflect the language of the referenced regulatory requirements. The CUPA may want to reference the CERS Violation Library. The HWG inspection checklist provided by the CUPA Forum Board identifies the most pertinent HWG violations and can be used in place of the existing HWG inspection checklist template, or as the basis for updating the existing HWG inspection checklist template. The CUPA may also reference the Unified Program Violation Library and CERS violation types, as well as contact Brennan Ko-Madden, at Brennan.Ko-Madden@dtsc.ca.gov, for assistance with identifying areas of the HWG inspection checklist template that require revision.

4. INCIDENTAL FINDING:

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

Review of the I&E Plan finds the following component is incomplete:

- Provisions for ensuring the CUPA has sampling capability
 - The I&E Plan makes reference to sampling guidance on the CalEPA website, however, the materials referenced on the CalEPA website are not included in the I&E Plan.

Review of the I&E Plan finds the following components are inconsistent with CCR, Chapter 16 and HSC, Chapter 6.7.

- Section II. Data Tracking and Reporting, (C) UST Reporting cites, “EPA. The California Code of Regulations, title 23 section 2713 contains the local agency reporting requirements, which include: number of facilities inspected during the reporting period and their compliance status in regard to Significant Operational Compliance (SOC) release detection and release prevention criteria, and data on red tags issued.”
 - In July 2015, the U.S. Environmental Protection Agency (U.S. EPA) revised the 1988 federal UST regulations to increase emphasis on properly operating and maintaining UST equipment by replacing Significant Operational Compliance performance measures for release detection (RD) and release prevention (RP) with Technical Compliance Rate (TCR) performance measures. On October 1, 2018, California adopted the revised U.S. EPA regulations. TCR performance measures are submitted by Unified Program Agencies (UPAs) to the State Water Board on a

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

semiannual basis through the California Environmental Reporting System (CERS) as Report 6. Report 6 reporting periods are January 1st through June 30th (submitted by September 1st) and July 1st through December 31st (submitted by March 1st).

- Penalty Matrix 2, USTs reflects \$0 minimum and \$250 average penalties.
 - HSC, Section 25299(a) and (b) establish penalties no less than \$500 or no more than \$5,000 per day, per violation, per UST.

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

CITATION:

HSC, Chapter 6.7, sections 25299(a) and (b)
CCR, Chapter 16, section 2713(c)(4)
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC, State Water Board]

RESOLUTION:

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

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA, DTSC, and/or the State Water Board, the CUPA will provide the amended I&E Plan to CalEPA. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

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

5. INCIDENTAL FINDING:

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

Review of 15 HMBP submittals provided to CERS by regulated businesses subject to Business Plan reporting requirements finds the following seven were accepted with missing or incomplete applicable components:

- CERS ID 10197232
 - Chemical Inventory submitted on January 24, 2023, and accepted on February 8, 2023
 - Missing required site map elements such as access and exit points and emergency response equipment.
- CERS ID 10447231
 - Chemical Inventory submitted on April 11, 2023, and accepted on June 8, 2023
 - Missing required site map elements such as adjacent streets.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- CERS ID 10197328
 - Chemical Inventory submitted on April 12, 2022, and accepted on May 26, 2022
 - Missing required site map elements such as evacuation staging areas and emergency response equipment.
- CERS ID 10197334
 - Chemical Inventory submitted on April 11, 2023, and accepted on April 20, 2023
 - Missing required site map elements such as north orientation and adjacent streets.
- CERS ID 10450144
 - Chemical Inventory submitted on February 23, 2023, and accepted on July 10, 2023
 - Missing required site map elements such as evacuation staging areas and emergency response equipment.
- CERS ID 10496008
 - Chemical Inventory submitted on August 2, 2023, and accepted on August 11, 2023
 - Missing required site map elements such as access and exit points and emergency response equipment.
- CERS ID 10592449
 - Chemical Inventory submitted on March 10, 2021, and accepted on January 10, 2022
 - Missing required site map elements such as access and exit points and emergency response equipment.

Review of seven HMBP submittals provided to CERS by APSA tank facilities in lieu of a tank facility statement finds the following three were accepted with missing or incomplete applicable components:

- CERS ID 10197340
 - Chemical Inventory submitted on April 11, 2023, and accepted on July 26, 2023
 - Missing emergency shutoff
- CERS ID 10464625
 - Chemical Inventory submitted on February 27, 2023, and accepted on March 6, 2023
 - Missing emergency shutoff
- CERS ID 10496008
 - Chemical Inventory submitted on August 2, 2023, and accepted on August 11, 2023
 - Missing emergency shutoff and emergency response equipment

CITATION:

HSC, Chapter 6.67, Section 25270.6(a)(2)

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

California Fire Code (CFC), Chapter 50, Sections 5001.5.1 and 5001.5.2 and Appendix H [CalEPA, OSFM]

RESOLUTION:

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 components before being accepted in CERS. The action plan will include:

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

- steps to follow up with regulated businesses having an HMBP submittal that was reviewed and not accepted due to identified missing or incomplete components; and
- steps to follow up with APSA tank facilities having an HMBP submittal provided in lieu of a tank facility statement, that was reviewed and not accepted due to identified missing or incomplete components.

By the 2nd Progress Report, the CUPA will train CUPA personnel on the steps in the action plan. 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 a narrative of the implementation of the action plan.

By the 4th Progress Report, the CUPA will ensure:

- each regulated business subject to Business Plan reporting requirements has annually submitted a complete HMBP to CERS, or the CUPA will have applied enforcement, and
- each APSA tank facility has annually submitted a complete HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement, or the CUPA will have applied enforcement.

6. INCIDENTAL FINDING:

The CUPA is not consistently following up and documenting RTC information in CERS for APSA tank facilities cited with violations.

Review of CERS CME information on October 6, 2023, finds there is no documented RTC for the following APSA Program violations cited between July 1, 2019, and March 31, 2023:

- 4 of 17 (24%) cited between July 1, 2021, and June 30, 2022

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

CITATION:

HSC Chapter 6.11, Section 25404.1.2(c)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[OSFM]

RESOLUTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from CERS, that includes at minimum the following information for each APSA tank facility with an open violation (no RTC) cited between July 1, 2021, and March 31, 2023.

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

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

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

7. INCIDENTAL FINDING:

The annual CalARP performance audit report for Fiscal Years (FYs) 2019/20, 2020/21, and 2021/22 is missing a required element and has an incomplete required element.

The following element is missing:

- A listing of stationary sources which have received public comments on the RMP.

The following element is incomplete:

- A summary of the personnel and personnel years (PY) necessary to directly implement, administer, and operate the CalARP Program.

CITATION:

CCR, Title 19, Section 5150.5(b)
[CalEPA]

RESOLUTION:

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

8. INCIDENTAL FINDING:

The 2021 area plan is missing required elements and contains outdated information.

Review of the 2021 area plan finds:

- The following required elements are missing:
 - Procedures to identify all languages known to be spoken in the administering agency's county or city, as the case may be, and ensure that any individual is able to access services in their native language as required by Section 11135 of the Government Code. The area plan will outline what these services are and how they will be provided in the languages identified.
 - CCR, Title 19, Section 2646(d)
 - Provisions for evacuation plans that provide for:
 - properties of hazardous materials, such as quantity, concentration, vapor pressure, density, and potential health effects.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- CCR, Title 19, Section 2646(g)(4)
- possible release scenarios.
 - CCR, Title 19, Section 2646(g)(5)
- facility characteristics, topography, meteorology, and demography of potentially affected areas.
 - CCR, Title 19, Section 2646(g)(6)
- ingress and egress routes and alternatives.
 - CCR, Title 19, Section 2646(g)(7)
- The following information is outdated:
 - Page 12 cites CCR, Title 19, Section 2725 training requirements. Following the 2016 renumbering of CCR, Title 19, Chapter 4, this is now CCR, Title 19, Section 2645.
 - Page 31 requires notification to CalEMA. The California Emergency Management Agency (CalEMA) is now the California Office of Emergency Services (CalOES).

CITATION:

HSC, Chapter 6.95, Section 25503(c)
CCR, Title 19, Division 5, Article 2, Sections 5020.1-5020.8
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised area plan that includes all required elements and updated information.

9. INCIDENTAL FINDING:

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

Review of CERS CME information between July 1, 2020, and June 30, 2023, finds:

- 30 of 158 (19%) facilities subject to HMBP requirements were not inspected within the last three years.

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

CITATION:

HSC, Chapter 6.95, Sections 25503(e) and 25511(b)
[CalEPA]

RESOLUTION:

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

- An analysis and explanation as to why the inspection frequency is not being met. Factors to consider include existing inspection staff resources and the number of facilities

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of COVID-19.

- A sortable spreadsheet exported from CERS, identifying each facility subject to HMBP reporting requirements that has not been inspected within the last three years. For each facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID;
 - Date of the last routine inspection, and
 - A schedule to inspect each facility subject to HMBP reporting requirements that has not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other HMBP facility inspection based on risk. For each facility, the schedule to inspect should reflect an estimated date or date range.
- Future steps to ensure all facilities subject to HMBP reporting requirements will be inspected at least once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet and a brief narrative as to how the CUPA is continuing to ensure facilities subject to HMBP requirements will be inspected at least once every three years.

By the 5th Progress Report, the CUPA will have inspected each facility subject to HMBP requirements at least once in the last three years.

10. INCIDENTAL FINDING:

The CalARP Dispute Resolution Process is missing a required element and contains inaccurate information.

Review of the CalARP Dispute Resolution Process finds:

- The following required element is missing:
 - Set procedures and timetables for providing argument and supporting materials to the Unified Program Agency (UPA).
- The following information is inaccurate:
 - "Section 270.1" should be "Section 2780.1;"
 - The dispute resolution is required to provide that the owner or operator of a stationary source may initiate the process by serving the UPA with **prompt**, written notice of a dispute however the CUPA dispute resolution allows the owner or operator of a stationary source to "initiate the dispute resolution process **at any time** by **service** the AA with a written notice of a dispute;" and
 - The phrase, "within 120 days, of *the* receiving the written notice of dispute..." is inaccurate due to the first comma following, "within 120 days..." and the additional "the."

CITATION:

CCR, Title 19, Section 5150.1
[CalEPA]

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

RESOLUTION:

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

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

OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

The information below is a summary of the overall implementation of the HWG Program, and the CUPA's hazardous waste related activities based upon review of policies and procedures, CERS CME information, facility file information, information provided by the CUPA and Self-Audit Reports between July 1, 2020, and June 30, 2023:

- CERS reflects 60 regulated HWG facilities, including one Resource Conservation and Recovery Act (RCRA) LQG facility, one Household Hazardous Waste Collection Facility (HHWCF), and no Tiered Permitting (TP) facilities within the jurisdiction of the CUPA.
 - The CUPA inspected 55 of 60 (92%) HWG facilities and conducted 60 HWG routine inspections.
 - Conducting more HWG routine inspections than there are HWG facilities indicates the CUPA inspected some HWG facilities more often than once in the three-year period.
 - 30 of 60 (50%) routine inspections had no violations cited.
 - 30 of 60 (50%) routine inspections had at least one violation cited.
 - 114 total violations were cited, consisting of:
 - 0 (0%) Class I violations
 - 0 (0%) Class II violations
 - 114 (100%) Minor violations
 - The CUPA has ensured RTC for 91 of 114 (80%) violations cited.
 - The CUPA is citing minor violations, as a percentage of total violations, at the highest level among CUPAs statewide.
- CERS reflects no formal enforcement actions for hazardous waste related violations were completed.
- Inspection reports document consent to inspect was requested prior to beginning the inspection.
- Violation observations and comments are consistently being entered into CERS.

RECOMMENDATION:

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

Continue to ensure a detailed factual basis for each violation is included in inspection reports and in the CME information electronically transferred to CERS to support any applicable enforcement efforts. Descriptions of observations and evidence to support alleged violations, captured in inspection reports as "Inspector Comments," should be detailed enough to clearly demonstrate how a regulatory requirement was not met. Corrective action language (i.e. language describing what must be done for the facility to obtain RTC) should be prescriptive and clearly describe what must be done to obtain RTC and to whom corrective action documentation should be provided for RTC consideration. HWG inspectors should review CalEPA's Inspection

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

Report Writing Guidance for Unified Program Agencies, which provides an explanation of HSC, Section 25185 requirements to fully detail observations, violations, factual basis for violations, and corrective actions in inspection reports.

Having 100% of violations being cited as minor violations is extremely high in comparison with the number of Class I and Class II violations cited by other similar CUPAs. Inspectors should review violation classification training on an annual basis, at minimum.

Evaluate current HWG facility inspection checklists to update regulatory citations. Ensure that every violation cited in inspection reports is accompanied by the appropriate regulatory citation. 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.

2. OBSERVATION:

The I&E Plan contains the following information that is inaccurate, outdated or may benefit from improvement:

- Page 4, 5th bullet point: Replace AST with APSA
- Page 10, Inspection Frequency Table:
 - Replace AST with APSA.
 - Under the mandated frequency for APSA, add “for facilities storing 10,000 gallons or more of petroleum” for consistency with statute.
 - Update the citation to HSC, Section 25270.5(a) and (b).
 - The row “Universal Waste” has outdated information. The CUPA is not required to establish an inspection frequency for Household Generators of Universal Waste or Conditionally Exempt Small Quantity Universal Waste Generators (CESQUWGs).
- Pages 11 - 12, Universal Waste and Silver Only Facilities: The existing weblinks for the DTSC Fact Sheet, July 2008 for Managing Universal Waste in California and the DTSC Fact Sheet, January 2000 for Onsite Tiered Permitting: Changes in Regulation of Silver Waste are outdated. The following links are current:
 - DTSC Fact Sheet, July 2008 for Managing Universal Waste in California
<https://dtsc.ca.gov/universal-waste-fact-sheet/>
 - DTSC Fact Sheet, January 2000 for Onsite Tiered Permitting: Changes in Regulation of Silver Waste
<https://dtsc.ca.gov/onsite-tiered-permitting-changes-in-regulation-of-silver-wastes-as-established-by-senate-bill-sb-2111/>
- Pg. 12, Certified Appliance Recyclers: The link to New Laws for Appliance Recycling AB 2277 fact sheet is outdated. The current link for information on Certified Appliance Recyclers is: <https://dtsc.ca.gov/certified-appliance-recycler-car-program/>.
- Page 19, Item 6, CERS: The statement that APSA tank facilities annually *certify* their business plan submittal to CERS should be updated for consistency with the statute. APSA tank facilities subject to HMBP are required to annually submit a complete HMBP to CERS.
- Page 20, Pre-Inspection: Replace item g with “APSA tank facility statement (APSA tank facility only)”. There is no requirement for a Spill Prevention, Control, and Countermeasure (SPCC) Plan to be submitted to CERS. However, the CUPA may add a

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

note elsewhere to review an SPCC Plan prior to an inspection if the CUPA has a copy of an APSA tank facility's SPCC Plan.

- Pages 23-24, Item 5:
 - The statement that an SPCC Plan be maintained at an APSA tank facility applies if the facility is normally attended at least four hours per day, or at the nearest field office if the facility is not so attended.
 - The statement that a facility prepare a current SPCC Plan if a facility has an 'outdated' SPCC Plan appears as if a new plan is required to be prepared. The statement should be clarified for consistency with the SPCC rule. An SPCC Plan is required to be *amended* if the facility had a change in its facility design, construction, operation, or maintenance that materially affects its potential for a discharge. Also, an SPCC Plan is required to be reviewed at least once every five years by the owner or operator of the APSA tank facility, and the review must be documented, including a statement on whether the owner or operator will amend the plan.
 - Replace the last paragraph as follows, "An APSA tank facility is required to conduct periodic inspections and, if necessary, testing, of each aboveground storage tank or container in accordance with the frequency specified in their SPCC Plan. If the facility is not implementing their SPCC Plan, the CUPA inspector shall cite the applicable violation(s) and provide a timeframe for the facility to comply."
- Page 35, last paragraph: The statement that the CUPA may seek the UST Enforcement Unit at the *OSFM* for additional enforcement advice regarding UST and AST violations is incorrect. Enforcement advice regarding UST violations should be directed to the State Water Board.
- Page 36:
 - In the second paragraph, the statement that the State Fire Marshal has no jurisdiction to take enforcement action is incorrect.
 - In Section f (Referral to US EPA), replace AST with APSA.
- Page 37, Tables of Possible Enforcement Tools:
 - In Tables 1 and 2, replace AST with APSA.
 - In Table 1, notice to comply applies to all programs, including APSA, per HSC, Section 25404.1.2(b).
- Page 38, Item 4:
 - Replace AST with APSA.
 - Remove references to SPCC and the Code of Federal Regulations (CFR), Title 40, Part 112, since Unified Program Agencies do not have the authority to enforce the Federal SPCC rule under 40 CFR Part 112.
 - Add the following enforcement authorities: HSC, Sections 25270.2(c)(3)(A) and (B) and 25270.12.1.
 - The following statement is not relevant to APSA enforcement authority and should be removed, "Facilities with a storage capacity of at least 1,320 gallons or more are subject to both the SPCC and AST tank inspection requirements."
- Page 52, Item 6:
 - Replace Above Ground Storage Tank Program with APSA.
 - HSC, Section 25270.5 is incorrectly referenced as violations of APSA; the correct reference is HSC, Chapter 6.67, commencing with Section 25270.

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

RECOMMENDATION:

Update the I&E Plan as indicated above.

3. OBSERVATION:

The webpage at <https://www.co.del-norte.ca.us/CUPA> contains the following information under the “CERS Forms” section that is inaccurate and outdated:

- The consolidated contingency map is missing the emergency shutoff, if applicable, and
- The contingency plan form (emergency response and training plans) is outdated.

RECOMMENDATION:

Update the consolidated contingency map to address all required elements. Replace the outdated consolidated emergency response and training plans template with the current 2023 template, available on the CERS Central Businesses webpage at <https://cers.calepa.ca.gov/businesses/> and on the CalEPA Unified Program Publications and Guidance webpage at <https://calepa.ca.gov/cupa/publications/>.

4. OBSERVATION:

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

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.

5. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 34 APSA tank facilities in CERS.

- 31 APSA tank facilities are identified in CERS and by the CUPA.
- 3 of the facilities identified as “APSA Applicable” in CERS should not be regulated under APSA, according to the hazardous materials inventory submittal.

RECOMMENDATION:

Review the information for the 3 APSA tank facilities identified as “APSA Applicable” in CERS and determine if each facility should be regulated under APSA. If a facility is not APSA regulated, the CUPA should change the CERS APSA reporting requirement to “APSA Not Applicable.”

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

6. OBSERVATION:

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

- Appendix R, Page 11: The glossary incorrectly states the OSFM is associated with the safety of all interstate and intrastate hazardous liquid pipelines in California. OSFM oversees *intrastate* hazardous liquid pipelines. *Interstate* hazardous liquid pipelines are under the authority of the US Department of Transportation – Pipeline and Hazardous Materials Safety Administration.

RECOMMENDATION:

Update the area plan as indicated above.

7. OBSERVATION:

The CUPA uses comprehensive inspection checklists for conducting APSA compliance inspections. However, the following checklists may benefit from improvement:

- Tier I qualified facility SPCC Plan checklist
 - Four “4010” general administration/documentation violations are listed; however, three of the four “4010” violations have their own violation type identification number (4010054, 4030041, and 4010055).
- Tier I and Tier II qualified facility SPCC Plan checklists
 - Missing the violation for failure to prepare an SPCC Plan (4010001).
 - Reference to Cal EMA for spill reporting is outdated and should be revised to the State Warning Center or Governor’s Office of Emergency Services (CalOES).
- Conditionally exempt tank facility checklist
 - Incorrectly includes the violation for failure to properly close a permanently closed tank per CFR, Title 40, Part 112. This violation applies to facilities that are required to prepare and implement an SPCC Plan. This violation is not applicable to conditionally exempt tank facilities since an SPCC Plan is not required to be prepared under APSA.
 - Reference to Cal EMA for spill reporting is outdated and should be revised to the State Warning Center or Governor’s Office of Emergency Services (CalOES).

RECOMMENDATION:

Update the APSA inspection checklists to reflect changes made to the current Unified Program violation library and ensure each violation is applicable to the type of APSA facility being inspected. Alternatively, the latest version of the CUPA Forum Board APSA inspection checklists may be used.

8. OBSERVATION:

On August 17, 2023, a UST oversight inspection was conducted with the annual monitoring system certification (AMC), and the spill container (SC) testing at CERS ID 10021591, a cardlock fueling facility with a regular, premium, diesel, and red dyed diesel tanks. A facility representative and the service technicians were also on site.

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

A service technician provided the inspector with the tank set up and alarm history printout prior to opening any UST components. The inspector confirmed audio/visual and corresponding Veeder Root print out for all applicable sensor alarms, observed the line leak detector testing, and reviewed on site documents.

Review of the testing documents submitted by the CUPA after the inspection, finds:

- Section 5 of the AMC states “If monitoring system alarms are relayed to a remote monitoring center, is all communication equipment operational” – With N/A checked.
- The UST Construction type is listed as Modern Welding, which is a steel tank with “No” listed for all forms of corrosion control.
- “No” is reflected for containment sump regarding fill components installed.
- The service technician’s International Code Council (ICC) certification expired August 16, 2023, prior to the inspection being conducted.
- Veeder Root or OPW certification expiration dates are not present on the AMC and SC testing forms.
- Spill containers were tested using a version of the “Lake Test”, that is not an approved testing method, per manufacturer guidelines and Petroleum Equipment Institute (PEI).

RECOMMENDATION:

Testing must be completed by ICC and manufacturer certified technicians. Ensure testing methods reflect what is outlined in the manufacturer guidelines. Should manufacturer guidelines not be available, reference PEI. Testing documentation should be reviewed for accuracy upon receipt. Any forms that do not accurately reflect the testing that occurred should be rejected by the CUPA.

9. OBSERVATION:

The following is a summary of inspection and violation information for the HMBP and CalARP Programs based on review of facility files and CERS CME information between July 1, 2020, and June 30, 2023:

HMBP Requirements:

- July 1, 2020, through June 30, 2021
 - The CUPA conducted 16 routine inspections, of which 5 (31%) had no violations cited and 11 (69%) had at least one violation cited.
 - A total of 52 violations were cited, consisting of:
 - 0 (0%) Class I violations.
 - 0 (0%) Class II violations.
 - 52 (100%) Minor violations.
 - The CUPA has ensured RTC for 26 of 52 (50%) violations cited.
- July 1, 2021, through June 30, 2022
 - The CUPA conducted 55 routine inspections, of which 35 (64%) had no violations cited and 20 (36%) had at least one violation cited.
 - A total of 35 violations were cited, consisting of:
 - 2 (6%) Class I violations.
 - 0 (0%) Class II violations.
 - 33 (94%) Minor violations.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- The CUPA has ensured RTC for 32 of 35 (91%) violations cited.
- July 1, 2022, through June 30, 2023
 - The CUPA conducted 62 routine inspections, of which 33 (53%) had no violations cited and 29 (47%) had at least one violation cited.
 - A total of 64 violations were cited, consisting of:
 - 0 (0%) Class I violations.
 - 0 (0%) Class II violations.
 - 64 (100%) Minor violations.
 - The CUPA has ensured RTC for 39 of 64 (61%) violations cited.

CalARP Program:

- July 1, 2020, through June 30, 2021
 - The CUPA conducted 1 routine inspection with a total of 12 violations cited, consisting of:
 - 0 (0%) Class I violations.
 - 12 (100%) Class II violations.
 - 0 (0%) Minor violations.
 - The CUPA has ensured RTC for 3 of 12 (25%) violations cited.
- No CalARP inspections were conducted between July 1, 2021, and June 30, 2023.

RECOMMENDATION:

Maintain the three-year inspection frequency for all HMBP facilities and all CalARP facilities, as required by statute. Ensure complete and thorough inspections are conducted to identify all violations at facilities. Generate detailed inspection reports that include all factual basis and proper citations for each identified violation. Follow up with facilities that have not obtained RTC by the scheduled RTC date and apply enforcement per the I&E Plan when facilities do not obtain RTC.

10. OBSERVATION:

On November 14, 2023, a CalARP oversight inspection was conducted at CERS ID 10447231. Prior to arriving at the facility, the inspector prepared for the inspection by reviewing relevant information, including CERS submittals, past inspection reports, and the most current RMP (2018). During the inspection, the inspector toured the entire site, verified training records, and emergency response procedures, and investigated whether the ammonia system met minimum safety specifications.

Upon investigating, the inspector discovered the ammonia system did not meet minimum safety specifications, as follows:

- piping was incompletely labeled,
- valves were missing appropriate tags,
- ammonia detectors were not adequately placed,
- an eyewash/ safety shower unit was not located inside the machinery room,
- refrigerant piping with a high external surface temperature was not provided with caution signs, insulation, or guards to prevent contact, and
- the system lacked regular maintenance inspections.

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

The inspector continued to communicate with the facility owner following the inspection to verify whether information that was not accessible during the inspection was complete and up to date. The inspector cited all applicable CalARP Program Level 2 violations, including but not limited to:

- failure to submit an updated RMP for the 5-year review,
- incomplete hazard assessments,
- failure to maintain records supporting CalARP implementation for 5-years,
- an incomplete emergency response plan, and
- inadequate maintenance procedures and documentation.

RECOMMENDATION:

Continue to conduct thorough CalARP inspections.

To better understand industry codes and standards that apply to CalARP sites, particularly ammonia refrigeration systems, inspectors will benefit from increased familiarity with engineering, operation, and maintenance codes, technical reports, and overall recommended best practices, all of which assist with understanding the industry and are made available as published resources by standard-setting organizations such as:

- The American National Standards Institute (ANSI)
- American Petroleum Institute (API)
- American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE)
- American Society of Mechanical Engineers (ASME)
- American Society of Testing and Materials (ASTM)
- National Fire Protection Association (NFPA)
- Instrument Society of America (ISA)
- International Institute of Ammonia Refrigeration (IIAR)
 - IIAR 9, published in 2021, discusses minimum safety requirements for existing ammonia refrigeration systems, including standards for machinery room eyewash/safety showers (Section 7.3.8) and machinery room entrances and exits (Section 7.3.9), among other guidelines for ammonia refrigeration.

11.OBSERVATION:

On November 15, 2023, HMBP oversight inspections were conducted with the same inspector at CERS ID 10197343 and CERS ID 10197355. Prior to arriving at each facility, the inspector reviewed relevant information, including current CERS submittals and past inspection reports. When conducting both inspections, the inspector established rapport with the facility operators, toured the entire site, and verified inventory, site map, emergency response plan, and training information on site.

During the inspection at CERS ID 10197343, the inspector cited all applicable HMBP violations for an incomplete chemical inventory and site map. The inspector also communicated to the facility that in addition to HMBP requirements, the facility is required to comply with CalARP Program requirements due to the threshold quantity of nitric acid stored and used onsite. The inspector is continuing to communicate with the facility to ensure all RMP, hazard assessment, prevention program, and emergency response program requirements are met. The inspector will

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

return to the site for an initial CalARP inspection once a complete RMP is submitted for the facility.

During the inspection at CERS ID 10197355, the inspector reviewed all applicable HMBP information and cited no violations.

RECOMMENDATION:

Continue to conduct thorough HMBP inspections.
