

June 11, 2024

Mr. Robert Krug
Senior Environmental Scientist, Supervisor
Imperial County Department of Toxic Substances Control
627 Wake Avenue
El Centro, California 92243-9543

Dear Mr. Krug:

During July 2023, through May 2024, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Imperial County Department of Toxic Substances Control 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:

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

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

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

Ms. Maria Soria
Environmental Program Manager
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

Mr. Robert Krug
Page 3

cc sent via email:

Ms. Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

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

Mr. Glenn Warner
Senior Environmental Scientist, Specialist
CAL FIRE - Office of the State Fire Marshal

Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

Mr. John Elkins
Environmental Program Manager
California Environmental Protection Agency

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

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

Ms. Julie Unson
Environmental Scientist
California Environmental Protection Agency

Mr. Tim Brandt
Environmental Scientist
California Environmental Protection Agency

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

CUPA: Imperial County Department of Toxic Substances Control

Evaluation Period: July 2023 through May 2024

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Brennan Ko-Madden
- **CalEPA:** Julie Unson
- **State Water Board:** Kaitlin Cottrell
- **CAL FIRE-OSFM:** Glenn Warner

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 **September 20, 2024**.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

ACCOMPLISHMENTS, CHALLENGES, AND EXAMPLES OF OUTSTANDING IMPLEMENTATION

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. HAZARDOUS WASTE GENERATOR (HWG) PROGRAM RETURN TO COMPLIANCE (RTC) CORRECTIVE ACTIONS AND FORMS:

The CUPA has established effective procedures for obtaining and documenting RTC for violations cited. Violations cited in inspection reports are accompanied by corrective actions that contain clear instructions on how to submit corrective actions and to whom. The CUPA also provides a letter to facilities that have completely obtained return to compliance for cited violations, which is a unique procedure. The clear documentation of when RTC is completed is helpful for facilities to understand their compliance status and clearly completes the chain of RTC.

2. PUBLIC ASSISTANCE AND COMMUNITY SUPPORT:

The CUPA provides a great amount of time and assistance to the regulated community regarding support and response to questions and inquiries received via phone, email, or in person regarding the California Environmental Reporting System (CERS), each of the six Unified Program elements, invoices, permits, public records requests, etc.

For CERS assistance, two computers are available by appointment for public use, ensuring availability of a computer and, if necessary, availability of a CUPA representative for assistance. CUPA inspectors spend a significant amount of time assisting regulated facilities, especially new facilities, to ensure RTC is obtained.

The CUPA regularly attends Earth Day, Environmental Summits, Border 2020, Career Day, Community Air Quality and Water Quality meetings, and other local activities and meetings at different locations and elementary schools within Imperial Valley. CUPA personnel assist by providing ideas, insight on regulations, speaking at events attended by activist groups, businesses, and/or other local, State, or Federal agencies, and has provided an information booth at the Environmental Health Summit. At school events, CUPA personnel educate students and teachers on matters concerning CUPA responsibilities, recycling, education required to obtain a position with the CUPA, and personal protective equipment (PPE), as well as provide useful informational materials on a variety of environmental subjects.

3. QUALITY OF ADMINISTRATIVE AND PROCEDURAL DOCUMENTS AND CONSISTENCY IN REPORTING:

The Unified Program administrative and procedural documents established by the CUPA consistently meet or surpass the requirements set forth in California Code of Regulations (CCR), Title 27. The CUPA is consistent in adhering to the requirements for reporting information to CERS and CalEPA. As a result of this attention to detail, CalEPA cited no deficiencies or findings relating to the administrative, procedural, and reporting requirements of Title 27 during this Performance Evaluation.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

4. 2019 CUPA PERFORMANCE EVALUATION INCIDENTAL FINDING RESOLVED:

In conducting the assessment for the 2023 CUPA Performance Evaluation, the following incidental finding previously identified as partially resolved upon closure of the 2019 CUPA Performance Evaluation is now considered resolved and no longer requires any further action:

The CUPA is not consistently collecting, managing, and reporting the number of UST facilities or inspections.

Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information in CERS, Report 6, and CUPA Self-Audit Reports finds the following inconsistencies in the number of reported UST facilities and UST inspections:

- FY 2018/2019
 - CERS reflects 88 UST facilities.
 - Report 6 reflects 80 UST facilities.
- FY 2017/2018
 - CERS reflects 80 UST inspections.
 - Report 6 reflects 80 UST inspections.
 - Self-Audit Report reflects 82 UST inspections.
- FY 2016/2017
 - CERS reflects 80 UST inspections.
 - Report 6 reflects 81 UST inspections.
 - Self-Audit Report reflects 85 UST inspections.

During the 2019 Evaluation Progress Report process, the CUPA provided an assessment of why the number of reported UST facilities and UST inspections differed among CERS, Report 6, and Self-Audit reports for FYs 2016/2017, 2017/2018 and 2018/2019.

No instances of inconsistent collection, management, or reporting of the number of UST facilities or inspections were identified during the 2023 CUPA Performance Evaluation Assessment for FYs 2019/2020, 2020/2021, 2021/2022, and 2022/2023. The number of UST facilities and the number of UST inspections are being consistently reported in CERS, Report 6, and Self-Audit Reports.

5. CUPA ASSISTANCE FOR IMPERIAL COUNTY PARTICIPATING AGENCY (PA):

The CUPA has been assisting the Imperial County Division of Environmental Health PA (Imperial County PA) with implementing both the APSA and the UST Program elements. Under the direction of CalEPA, the CUPA transferred the APSA Program to the Imperial County PA in July 2021. As part of the transfer agreement, the CUPA assisted the Imperial County PA with the transition of implementing the APSA Program and provided guidance and oversight to Imperial County PA inspection staff. Despite staffing limitations, the CUPA specifically prioritized effort and availability in training activities to ensure an effective transition of APSA Program oversight to the Imperial County PA.

In July 2023, the CUPA transferred oversight of the UST Program element to the Imperial County PA. The CUPA is providing guidance, training, and oversight to the Imperial County PA in the transition. The Imperial County PA began conducting UST inspections on January 1, 2024, with assistance provided by the CUPA. Until the Imperial County PA has fully trained staff to independently implement all aspects of the UST Program, the CUPA will continue to provide

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

oversight and guidance to Imperial County PA staff, continue to conduct enforcement, including follow up with facilities to ensure RTC for violations cited by the CUPA and review and approval of plan check permits. With continued guidance and education from the CUPA, it is anticipated that implementation of the UST Program will continue to adequately meet program requirements once oversight has fully transitioned to the Imperial County PA.

6. PA OUTREACH AND TRAINING FOR APSA PROGRAM IMPLEMENTATION:

In addition to providing educational information during each APSA inspection, the Imperial County PA has participated in several outreach events with the Imperial County Coalition of Labor, Agriculture and Business (COLAB) and Imperial County Farm Bureau. The Imperial County PA participated in a joint outreach event sponsored by COLAB and the Farm Bureau. The CUPA and Imperial County Fire also participated in the joint outreach event, which provided an overview of the new role of the Imperial County PA and the collaboration between the Imperial County PA, the CUPA, and the Imperial County Fire Department.

The Imperial County PA contracted with NES Inc., on September 21, 2022, to conduct a Spill Prevention, Control and Countermeasure (SPCC) Plan training for local businesses subject to the APSA Program. The training event was well attended by local representatives of APSA regulated businesses.

7. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM ENFORCEMENT:

The CUPA successfully enforced requirements of the APSA Program and obtained a high rate of compliance for tank facilities that were cited with violations since the 2019 CUPA Performance Evaluation. Upon establishment of the PA agreement with Imperial County in June 2021, the CUPA and the PA continuously ensured APSA tank facilities annually submitted a tank facility statement or a Hazardous Materials Business Plan (HMBP), when an HMBP was provided in lieu of a tank facility statement to CERS.

8. UNDERGROUND STORAGE TANK (UST) PROGRAM IMPLEMENTATION:

During 2020 through 2022, the CUPA conducted 100% of the annual UST compliance inspections. Additionally, review of the Semi-Annual Report (Report 6) Technical Compliance Rate (TCR) finds that CUPA inspectors are noting more United States Environmental Protection Agency TCR criteria violations compared to the California Average. This illustrates a fine attention to detail for citing UST Leak Detection violations when performing the annual UST compliance inspections.

Further, the CUPA's UST inspection and enforcement plan is exemplified by the high RTC rates reported to CERS. In FYs 2020/2021 and 2021/2022, 100% of leak detection violations were resolved and obtained RTC as required by the California Health and Safety Code (HSC), Section 25288(d).

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 inspecting each HWG facility once every three years, per the inspection frequency established in the Inspection and Enforcement (I&E) Plan.

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

- 418 of 707 (66%) HWG facilities were not inspected once every three years.
- 3 of 3 (100%) Household Hazardous Waste (HHW) facilities were not inspected once every three years.
 - Note: There are no Tiered Permit (TP) facilities within the jurisdiction of the CUPA.

CITATION:

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

CORRECTIVE ACTION:

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

- An analysis and explanation as to why the inspection frequency for HWG facilities is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of the Coronavirus (COVID-19).
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG facility that has not been inspected once every three years. For each HWG facility listed, the sortable spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
 - Note: If the CUPA is unable to provide a spreadsheet, the spreadsheet provided by DTSC may be utilized.
- A schedule to inspect each HWG facility identified as having not been inspected once every three years. Inspections will be prioritized, conducting the most delinquent inspections prior to any other HWG facility inspection.
- Future steps to ensure that each HWG facility will be inspected 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

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

narrative of how the CUPA is continuing to ensure each HWG facility will be inspected at least once every three years.

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

2. DEFICIENCY:

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

Review of 20 HMBP CERS submittals finds the following 8 (40%) were recently accepted with missing or incomplete required elements:

- CERS ID 10199458
 - Chemical Inventory submitted and accepted on August 24, 2023
 - Missing required site map elements such as evacuation staging areas and emergency response equipment.
- CERS ID 10122721
 - Chemical Inventory submitted on September 14, 2023, and accepted on September 15, 2023
 - Missing required site map elements such as north orientation, access and exit points, and evacuation staging areas.
- CERS ID 10199449
 - Chemical Inventory submitted on December 4, 2023, and accepted on December 5, 2023
 - Missing required site map elements such as access and exit points and evacuation staging areas.
- CERS ID 10199362
 - Chemical Inventory submitted on September 14, 2023, and accepted on September 15, 2023
 - Missing required site map elements such as access and exit points and evacuation staging areas.
- CERS ID 10199368
 - Chemical Inventory submitted and accepted on May 9, 2023
 - Missing required site map elements such as adjacent streets and access and exit points.
- CERS ID 10124323
 - Chemical Inventory submitted on September 19, 2023, and accepted on September 20, 2023
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10403095
 - Chemical Inventory submitted and accepted on March 6, 2023
 - Missing required site map elements such as access and exit points.
- CERS ID 10199254
 - Chemical Inventory submitted and accepted on July 31, 2023
 - Missing required site map elements such as access and exit points.

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

CITATION:

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

CORRECTIVE ACTION:

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

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative update on 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.

3. DEFICIENCY:

The CUPA is not consistently or correctly reporting CME information to CERS for businesses subject to HMBP requirements.

Review of facility files and CERS CME information between July 1, 2020, and June 30, 2023, finds the correct CERS Unified Program Violation Library Type Number was not used to cite violations on inspection reports:

- Unified Program Violation Library Violation Type Number 1030 - "General – Operations/Maintenance" is used to report Fire Code violations.
 - The following are examples:
 - CERS ID 10743802: inspection report dated October 26, 2020
 - CERS ID 10829341: inspection report dated March 4, 2022
 - CERS ID 10199281: inspection report dated June 8, 2023
- Unified Program Violation Library Violation Type Number 1010 - "General – Administration/Documentation" and Unified Program Violation Library Violation Type Number 1030 - "General – Operations/Maintenance" are used to report HWG violations.
 - The following are examples:
 - CERS ID 10625200: inspection report dated June 7, 2022
 - CERS ID 10122307: inspection report dated January 20, 2023
 - CERS ID 10124680: inspection report dated January 25, 2023
 - CERS ID 10199326: inspection report dated January 31, 2023

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- Unified Program Violation Library Violation Type Number 1030 - “General – Operations/Maintenance” is used to report an HMBP violation when a more specific or appropriate Unified Program Violation Library Violation Type Number was available and should have been used.
 - CERS ID 10123102: inspection dated September 6, 2022
 - The correct Unified Program Violation Library Violation Type Number is 1040001 for failure to report a release or threatened release of a hazardous material to the unified program agency and to OES.

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

CITATION:

HSC, Chapter 6.11, Sections 25404(e)(4) and 25404.1.2(c)
[CalEPA]

CORRECTIVE ACTION:

Effective immediately, the CUPA will cease reporting Fire Code violations and HWG violations to CERS relative to the business plan program.

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

- Identification and correction of the cause(s) of missing or incorrect reporting of HMBP Program CME information from inspection reports to CERS, including any inconsistencies in the electronic data transfer (EDT) from the CUPA's data management system to CERS;
- Identification of all HMBP 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 correctly reporting HMBP Program CME information identified as:
 - Not being previously reported to CERS, and/or
 - Previously reported incorrectly or inconsistently to the CUPA's data management system and/or CERS, including CME information for any revised inspection reports;
- Review and revision of the CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure HMBP Program CME information is consistently and correctly reported to the CUPA's data management system and CERS;
- A process for ensuring CUPA personnel and inspectors are trained in the correct use of the most recent violation classifications and citations in the CUPA's data management system and Unified Program Violation Library Violation Type Numbers.
- Future steps to ensure all HMBP Program CME information is consistently and correctly reported to CERS. This may generate the need for:
 - a comparison of HMBP Program CME information in the CUPA's data management system with the CME information in CERS to identify CME information not reported, or previously reported incorrectly to CERS and/or
 - establishment of a quality assurance and quality control process to confirm all CME information is correctly and consistently reported to CERS.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

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

By the 2nd Progress Report, if amendments to the revised CME reporting component of the Data Management Procedure, or other applicable procedure are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended CME reporting component of the Data Management Procedure or other applicable procedure. If amendments are not necessary, the CUPA will train CUPA personnel on the revised CME reporting component of the Data Management Procedure, or other applicable procedure and will ensure CUPA personnel and inspectors review the most recent violations and citations of the CUPA's data management system and Unified Program Violation Library Violation Type Numbers. The CUPA will provide training documentation to CalEPA which will include, at minimum, the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised CME reporting component of the Data Management Procedure or other applicable procedure.

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

By the 5th Progress Report, the CUPA will consistently and correctly report all current and previous HMBP Program CME information to the CUPA's data management system and CERS. The CUPA will provide a statement confirming all HMBP 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 HMBP 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 the CUPA's data management system and CERS.

4. DEFICIENCY:

The CUPA is not consistently following-up and documenting RTC information in CERS for California Accidental Release Prevention (CalARP) Program facilities cited with violations or for HMBP facilities cited with violations.

Review of CERS CME information between July 1, 2020, and June 30, 2023, finds there is no documented RTC for the following CalARP Program violations:

- 5 of 8 (63%), cited between July 1, 2021, and June 30, 2022

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

Review of CERS CME information between July 1, 2020, and June 30, 2023, finds there is no documented RTC for the following HMBP violations:

- 28 of 76 (37%), cited between July 1, 2021, and June 30, 2022
- 33 of 231 (14%), cited between July 1, 2022, and June 30, 2023

Note: Review of CERS CME information finds no CalARP Program violations were cited between July 1, 2020, and June 30, 2021, nor between July 1, 2022, and June 30, 2023. All HMBP violations cited between July 1, 2020, and June 30, 2021, have documented RTC.

CITATION:

HSC, Chapter 6.95, Sections 25508(a)(4) and 25533(d)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[CalEPA]

CORRECTIVE ACTION:

During the evaluation, the CUPA made significant progress in following up with HMBP facilities cited with violations to ensure RTC was obtained. Review of CERS CME information between July 1, 2020, and June 30, 2023, finds there is no documented RTC for the following HMBP violations:

- 12 of 76 (16%), cited between July 1, 2021, and June 30, 2022
- 5 of 235 (2%), cited between July 1, 2022, and June 30, 2023

By the 1st Progress Report, the CUPA will review the I&E Plan or other applicable procedure, and revise as necessary, to ensure establishment of a delineated process to:

- ensure facilities cited with violations RTC through applied enforcement,
- document follow-up actions applied by the CUPA to ensure RTC, and
- document RTC in CERS.

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS that includes at minimum the following information for each CalARP Program facility with an open violation (no RTC) cited between July 1, 2021 and June 30, 2022, and for each HMBP facility with an open violation (no RTC) cited between July 1, 2021 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.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

By the 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train CUPA personnel 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 CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train CUPA personnel 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 CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

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

5. DEFICIENCY:

The UST Program permit conditions of the “Unified Program Certificate,” issued as the Unified Program Facility Permit (UPFP), are inconsistent with HSC and CCR, Chapter 16.

The “Unified Program Certificate,” including the UST Program permit, has an issuance date that occurs after the valid date.

Review of the UST Program permit conditions finds the following inconsistencies with UST Regulations and HSC:

- General UST Operating permit condition states, “Permits to operate and annual fee payments are not transferable. Permits become void on change of ownership. New owners must apply and pay for a new permit prior to beginning operation or penalties will be assessed.”
 - This is more stringent than CCR, Chapter 16, Section 2712(d) and HSC, Section 25284(b), allowing for the transfer of permits, and no local ordinance authority exists for this requirement.
- Permit condition (b)(1)(D) states, “The logs of all readings of gauges or other monitoring equipment, ground water elevations, or other test results; California Code of Regulations sections 2610-2728 85”
 - This condition cites regulations outside the CUPA’s authority.
- Permit condition (c) states, “Before the DTSC Imperial CUPA issues a new permit or renewal to operate a UST the DTSC Imperial CUPA shall inspect the UST and determine that it complies with the provisions of these regulations.”
 - This statement is inconsistent with HSC, Section 25285(b), effective January 1, 2019.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- Permit condition (e) states, “The DTSC Imperial CUPA shall not renew an underground storage tank permit unless the underground storage tank has been inspected by the DTSC Imperial CUPA ... within the previous 12 months and the inspection verified that the underground storage tank complied with the provisions of Article 3 or 4 ...”
 - This statement is inconsistent with HSC, Section 25285(b), effective January 1, 2019.
- Permit condition (h) cites Chapter 6.75
 - The CUPA does not have the authority to implement HSC, Chapter 6.75
 - The correct citations are as follows:
 - CCR, Chapter 16, Sections 2610 - 2717.7
 - HSC, Chapter 6.7, Sections 25280-25296 and 25298-25299.6
- The Authority Cited section cites “40 CFR sections 280.30, 280.31 ...”
 - The CUPA does not have the authority to enforce federal rule.

Review of the “Unified Program Certificate,” including the UST Program permit, finds the issuance date occurs after the valid date. The following is an example:

- CERS ID 10118179
 - Permit issued April 11, 2023
 - Permit valid March 1, 2023, through March 1, 2024

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

CITATION:

CCR, Chapter 16, Section 2712(d)

HSC, Chapter 6.7, Sections 25284(a)(1), 25284(b), 25285(b), and 25297.01(b)

[State Water Board]

CORRECTIVE ACTION:

The CUPA will no longer implement conditions of the UST Program permit that are more stringent than or inconsistent with HSC and CCR, Chapter 16.

By the 1st Progress Report, the CUPA will revise the UST Program permit conditions of the “Unified Program Certificate” template, to be consistent with HSC and CCR, Chapter 16. The CUPA will contact the State Water Board for assistance with revising the UST Program permit conditions if necessary. Additional UST operating permit template guidance is available at https://www.waterboards.ca.gov/water_issues/programs/ust/performance-evaluations.html. The CUPA will provide the revised UST Program permit conditions of the “Unified Program Certificate” to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST Program permit conditions, based on feedback from the State Water Board. The CUPA will provide the amended UST Program permit conditions of the “Unified Program Certificate” to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST Program permit conditions of the “Unified Program Certificate.” The CUPA will provide CalEPA with the “Unified Program Certificate” issued to five UST facilities using the revised UST Program permit conditions.

By the 3rd Progress Report, if amendments to the revised UST Program permit conditions were necessary, the CUPA will begin to issue the amended UST Program permit conditions of the

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

“Unified Program Certificate.” The CUPA will provide CalEPA with the “Unified Program Certificate” issued to five UST facilities using the amended UST Program permit conditions.

6. DEFICIENCY:

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:

- 612 of 953 (64%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each facility subject to HMBP 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 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 the CUPA’s data management system or CERS, identifying each facility subject to HMBP 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 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 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 all 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.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

7. DEFICIENCY: CORRECTED DURING EVALUATION

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

Review of CERS CME information between July 1, 2020, and June 30, 2023, finds there is no documented RTC for the following HWG Program violations:

- 70 of 505 (14%), consisting of:
 - 20 of 206 (10%) Class II violations
 - 50 of 295 (17%) Minor violations
 - 113 of 295 (38%) Minor violations did not obtain RTC within 35 days.

Note: The CUPA ensured RTC for 4 of 4 (100%) Class I violations.

Note: This Deficiency was identified in the 2019 CUPA Performance Evaluation as an Incidental Finding and was resolved during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

During the evaluation, the CUPA addressed outstanding violations and implemented a review of outstanding violations to determine the cause of violations missing RTC.

Review of CERS CME information between July 1, 2020, and June 30, 2023, finds there is no documented RTC for the following HWG Program violations:

- 46 of 505 (9%).

This Deficiency is considered corrected.

8. DEFICIENCY: CORRECTED DURING EVALUATION

The CUPA is not inspecting each APSA tank facility at least once every three years, per the inspection frequency established in the I&E Plan.

Review of facility files, information provided by the CUPA, and CERS CME information between July 17, 2020, and November 7, 2023, finds:

- 43 of 125 (34%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years.
- 40 of 155 (26%) other APSA tank facilities have not been inspected within the last three years.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a)
CCR, Title 27, Section 15200(a)
[OSFM]

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA performed inspections at APSA tank facilities that had not been inspected in the last three years.

On March 28, 2024, review of CERS CME information finds:

- 5 of 125 (4%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years.
- 29 of 155 (19%) other APSA tank facilities have not been inspected within the last three years.

This Deficiency is considered corrected.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
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 2022 area plan is missing required elements.

Review of the 2022 area plan finds the following required elements are missing:

- Public Safety and Information
 - 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, per CCR, Title 19, Section 5020.6(d).

Note: The area plan was last updated on November 14, 2022. The next triennial revision should be completed by November 14, 2025.

CITATION:

HSC, Chapter 6.95, Section 25503(c)
[CalEPA]

RESOLUTION:

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

2. INCIDENTAL FINDING:

The CUPA is not regulating all facilities subject to the HWG program.

The CUPA has not identified all HWG facilities operating within the jurisdiction of the CUPA.

Review of the DTSC Hazardous Waste Tracking System (HWTS) and information provided by the CUPA finds:

- 14 of 41 (34%) facilities associated with a permanent U.S. Environmental Protection Agency (EPA) Identification number require follow-up correspondence or inspection to determine if the facility is actively generating hazardous waste.

Note: This Incidental Finding was identified in the 2019 CUPA Performance Evaluation as a Deficiency and the CUPA made significant progress towards correction during the Evaluation Progress Report process. Initially, the I&E Plan (updated July 26, 2019) identified 685 HWGs (including TP facilities), and the DTSC HWTS identified 795 active U.S. EPA Identification

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

numbers (including temporary identification numbers). The CUPA identified 41 of 179 facilities associated with a permanent EPA Identification number in the HWTS as needing follow-up to determine if the facility is actively generating hazardous waste. The CUPA has corrected the HWG status for 27 of 41 (66%) facilities. As noted by the CUPA during the Evaluation Progress Report process, spring is a crucial time for conducting inspections as summer and winter months result in inclement weather not conducive for conducting inspections.

CITATION:

HSC, Chapter 6.5, Section 25101(d)
HSC, Chapter 6.11, Section 25404.2(a)(1)(A)
CCR, Title 22, Sections 67450.2(b)(4) and 67450.3(c)
CCR, Title 27, Sections 15100 (b)(3), and 15200(a)(3)(A)
[DTSC]

RESOLUTION:

By the 1st Progress Report, the CUPA will review the HWTS, Transporter Quarterly Reports (TQRs) and the CUPA's list of facilities that generate hazardous waste to identify any facilities that require follow-up correspondence or inspection to determine if the facility is actively generating hazardous waste. The CUPA will provide a sortable tracking spreadsheet with the following information for all facilities identified as requiring follow-up correspondence or inspection:

- Facility name;
- Hazardous Waste ID #;
- Date of proposed inspection
- Inspection completion date (when applicable)
- Any informative notes regarding follow-up correspondence or inspection of the facility

By the 2nd Progress Report, and with each subsequent Progress Report, the CUPA will provide CalEPA with an updated spreadsheet, and a narrative regarding the follow-up correspondence with or inspection of each facility to determine if the facility is actively generating hazardous waste and reporting to CERS (if applicable).

By the 4th Progress Report, the CUPA will have identified and inspected all HWG facilities operating within the jurisdiction of the CUPA.

3. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

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

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

- 12 facilities reporting as Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs) have no "HWLQG" inspections conducted;
 - The following RCRA LQG facilities had inspections incorrectly reported to CERS as HW inspections. The RCRA LQG facility inspections should have been reported to CERS as "HWLQG" inspections:
 - CERS ID 10121752: HW inspection dated June 7, 2023.
 - 2021 Biennial Report submitted to RCRAInfo.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- CERS ID 10121728: HW inspection dated June 7, 2023.
 - 2021 Biennial Report submitted to RCRAInfo.
- CERS ID 10121731: HW inspection dated June 7, 2023.
 - 2021 Biennial Report submitted to RCRAInfo.
- CERS ID 10133644: HW inspection dated July 14, 2023.
 - 2019 Biennial Report submitted to RCRAInfo.
 - 2021 Biennial Report not submitted.
- CERS ID 10199182: HW inspection dated June 15, 2023.
 - 2021 Biennial Report submitted in RCRAInfo.
- CERS ID 10199122: HW inspection dated June 16, 2023.
 - 2021 Biennial Report submitted in RCRAInfo.
- CERS ID 10199305: HW inspection dated June 21, 2023
 - 2021 Biennial Report submitted in RCRAInfo.
- CERS ID 10729822: HW inspection dated June 23, 2023
 - 2021 Biennial Report submitted in RCRAInfo.
- CERS ID 10844086: HW inspection dated July 7, 2023
 - 2021 Biennial Report submitted in RCRAInfo.

Note: Review of CERS CME information prior to July 1, 2020, finds

- 3 facilities reporting as Household Hazardous Waste Collection Facilities (HHWCFs) facilities have no “HHW” inspections conducted;
 - The following HHWCFs had inspections incorrectly reported to CERS as HW inspections. The HHWCF inspections should have been reported to CERS as “HHW” inspections:
 - CERS ID 10440025: HW inspection dated June 22, 2018
 - CERS ID 10440142: HW inspection dated May 12, 2018
 - CERS ID 10440202: HW inspection dated November 2, 2018

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

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

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation, the CUPA addressed the incorrect CME information by updating the inspections at RCRA LQGs from “HW” coded inspections to “HWLQG” inspections.

CERS ID 10844086 submitted a RCRA Biennial Report that did not include any RCRA wastes, meaning a “HW” coded inspection may have been appropriate. The CUPA should review the 2023 RCRA Biennial Report prior to conducting the next triennial inspection to determine if the facility is a RCRA LQG.

Future inspections at HHWCFs should be coded in CERS as “HHW” inspections.

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

This Incidental Finding is considered resolved.

4. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

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

Review of HMBPs submitted to CERS between September 17, 2022, and October 18, 2023, by businesses subject to Business Plan reporting requirements finds:

- 149 of 953 (15%) Business Plan facilities have not annually submitted a chemical inventory (including site map) or a no-change certification.
- 154 of 953 (16%) Business Plan facilities have not annually submitted emergency response and employee training plans or a no-change certification.

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation, as of April 25, 2024, review of HMBPs submitted to CERS between February 24, 2023, and April 25, 2024, by businesses subject to Business Plan reporting requirements finds:

- 92 of 981 (9%) Business Plan facilities have not annually submitted a chemical inventory (including site map) or a no-change certification.
- 94 of 981 (10%) Business Plan facilities have not annually submitted emergency response and employee training plans or a no-change certification.

This Incidental Finding is considered resolved.

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:

- The CUPA's data management system identifies 707 regulated HWG facilities, 0 RCRA LQG facilities, 0 TP facilities, and 0 HHWCFs as of June 30, 2022.
- CERS reflects 694 regulated HWG facilities, including 12 RCRA LQG facilities, 3 HHWCFs, and 0 TP facilities within the jurisdiction of the CUPA.
- The CUPA's data management system reflects the CUPA inspected 314 of 707 (44%) regulated HWG facilities.
- CERS reflects the CUPA inspected 291 of 694 (42%) regulated HWG facilities and conducted 372 HWG routine inspections.
 - Conducting more HWG routine inspections than there are HWG facilities indicates the CUPA inspected some HWG facilities more often than once every three years.
 - 200 of 372 (54%) routine inspections had no violations cited.
 - 172 of 372 (46%) routine inspections had at least one violation cited.
 - In the 172 routine inspections conducted having at least one violation, a total of 505 violations were cited, consisting of:
 - 4 (<1%) Class I violations
 - 206 (40%) Class II violations
 - 295 (59%) Minor violations
 - The CUPA has ensured RTC for 435 of 505 (86%) violations cited (as of the Exit Briefing the CUPA has ensured RTC for 459 of 505 (92%) violations cited.
- 2 of 4 (50%) tank assessment violations were classified as Minor violations (CERS ID 10022026, inspection dated October 11, 2021).
 - Failure to renew or obtain a tank assessment is costly and generally does not meet the definition of a Minor violation.
 - A Deficiency was identified in the 2019 CUPA Performance Evaluation regarding incorrect classification of cited violations. The Deficiency was corrected during the Evaluation Progress Report process. Tank assessment violations were classified as Class II violations after the CUPA completed the required training on violation classification.
- 5 of 32 (16%) accumulation timeframe limit violations were classified as minor violations.
 - Accumulation timeframe limit violations classified as minor violations must have the violation classification supported by adequate observations and factual basis. The definition of a minor violation excludes violations where an economic benefit has been gained through non-compliance, which is often the case for this type of violation.

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

- CERS reflects no formal enforcement actions for hazardous waste related violations were completed.
- Inspection reports document whether 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. Ensure inspection reports contain a detailed description of observations and factual basis for each cited violation and ensure comments in CERS reflect the detailed observations and factual basis for each violation cited in inspection reports to support any applicable enforcement efforts. Descriptions of observations and factual basis 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 and support the violation classification. 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 for the facility to obtain RTC, including how corrective action documentation should be provided for RTC consideration.

Periodically review Business Activities submittals to identify new HWG facilities and facilities that fail to correctly identify as an HWG. The CERS Facility Listing (Details) download can be useful for this purpose. Additionally, it is recommended that the CUPA utilize US EPA's RCRAInfo database to identify RCRA LQGs within the jurisdiction of the CUPA. RCRA LQGs can be identified by confirming if the facility has submitted Biennial Reports through RCRAInfo.

2. OBSERVATION:

The CalARP performance audit report for each of the following FYs has an incomplete required element:

- FYs 2020/2021, 2021/2022, and 2022/2023.

The following element is incomplete:

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

RECOMMENDATION:

In each future CalARP performance audit report, accurately report the PYs necessary to implement the CalARP Program as a product of the number of positions needed and the full-time percentage allocated for each of those positions. For example, assuming one inspector position, working in the CalARP Program, at a half-time percentage, the PYs would be 0.5 (1 personnel position x 0.5 position years = 0.5 personnel years).

3. OBSERVATION:

The CUPA has webpages that contain multiple resources for the public and regulated community.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

Review of the webpage at <https://dtsc.ca.gov/imperial-county-cupa/> contains the following information that may benefit from improvement:

- In the APSA section, regulating facilities that store *hazardous materials* in aboveground storage tanks should be clarified by replacing hazardous materials with petroleum for consistency with statute. Only aboveground storage tanks and containers storing petroleum are regulated under APSA.
- The list of Unified Program elements is missing the fire code Hazardous Materials Management Plan and Hazardous Materials Inventory Statement (HMMP/HMIS), which is consolidated with the HMBP requirements to streamline the regulatory requirements for regulated facilities.

Review of the webpage at <https://dtsc.ca.gov/imperial-county-cupa/imperial-cupa-aboveground-petroleum-storage-act-program/> contains the following information that may benefit from improvement:

- The discussion related to ‘Types of APSA facilities’ should also address a tank facility that is subject to the Federal Spill, Control, and Countermeasure (SPCC) rule is subject to APSA. The statement that APSA regulates facilities with tanks in an underground area (TIUGA) that stores *any amount* of petroleum to prepare and implement an SPCC Plan is incorrect. Tank facilities that have a storage capacity of less than 1,320 gallons of petroleum and one or more TIUGAs with a shell capacity of 55 gallons or larger are subject to APSA. TIUGAs with less than 55-gallon shell capacities (tiny TIUGAs) are excluded from the definition of an aboveground storage tank under APSA and are not required to be included in an SPCC Plan. However, tiny TIUGAs are still required to meet certain conditions under APSA.
- In the statement that the CUPA regulates *businesses* storing petroleum in aboveground containers, tanks, or TIUGA, ‘businesses’ should be replaced with ‘tank facilities’ for consistency with the statute.
- The word ‘petroleum’ should be changed to ‘oil’ as used in the discussion related to APSA facilities storing more than 10,000 gallons.
- The Tier II Qualified Facility SPCC Plan Template link is no longer valid. Replace the link with the current template (May 2021 version), which is available on the OSFM APSA webpage at https://34c031f8-c9fd-4018-8c5a-4159cdf6b0d-cdn-endpoint.azureedge.net/-/media/osfm-website/what-we-do/pipeline-safety-and-hazardous-materials/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/calfire-osfm_tierii_spcc_plantemplate_05-2021-accessible.pdf?rev=0f2757843940483c88247338d4a5b31e.
- The word ‘petroleum’ should be changed to ‘oil’ as used in the discussion related to ‘Farms and APSA’. Also, farms described under these terms are not APSA regulated at all, in addition to not being required to develop and implement an SPCC Plan.
- The link for farms is no longer valid. Update the link to <https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/farms>.
- Under the APSA Forms and Publications section, include a link to the OSFM APSA webpage at <https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act>. The San Diego County link on

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

'How to Prepare Your Own SPCC Plan' is no longer valid and has been removed from the web.

Review of the Imperial County Environmental Health Department (EHD) Participating Agency (PA) Hazardous Materials webpage at <https://www.icphd.org/environmental-health/hazardous-materials> contains the following information that may benefit from improvement:

- The Hazardous Materials discussion states the CUPA inspects facilities that operate aboveground tanks; however, responsibility for the APSA Program is currently being performed by the Imperial County Environmental Health Department PA.

RECOMMENDATION:

Update the webpages as indicated above.

4. OBSERVATION:

The CUPA's Standard Operating Procedures contain information that is inaccurate and may benefit from improvement.

- Pages 3 (TOC section 6.0), 4 (table 1), 5, 24, and 39: Update 'Above Ground Storage Tank (AST)' to 'Aboveground Petroleum Storage Act (APSA)' for consistency with the statute.
- Page 3 (TOC section 8.0): Update 'Uniform Fire Code (UFC)' to 'California Fire Code (CFC).'
- Page 5: The APSA section states the CUPA will ensure *businesses* required to have an SPCC Plan demonstrate one is available onsite. Replace 'businesses' with 'tank facilities' for consistency with the statute. Update the last sentence of the CFC section for clarity as follows, "The CUPA enforces those provisions of the CFC pertaining to *the HMMP and HMIS requirements* (Chapter 50, Sections 5001.5.1 and 5001.5.2)."
- Page 11: Update the APSA RTC timeframe discussion to clarify that the 30-day RTC timeframe applies to minor violations in accordance with HSC, Section 25404.1.2(c)(1).
- Page 17: Update the Section 1.7 Enforcement Response discussion to specifically address the APSA Program.
- Page 24: Update the APSA section to include HSC, Section 25270.12.1 for administrative penalties. Remove the reference to 'or business' in HSC, Section 25270.12.5.
- Page 39: Update the "Section 6.0 APSA Performance Standards" discussion to include tank facilities subject to the Federal SPCC rule and tank facilities storing less than 1,320 gallons of petroleum and have one or more TIUGAs. Replace 'business' with 'tank facility.' The statement that each facility is required to prepare and implement an SPCC Plan is incorrect; certain tank facilities are exempt from preparing an SPCC Plan if they meet certain conditions.
- Page 39: Update the "Section 6.1 Inspection Standards" discussion to include all APSA tank facilities, including conditionally exempt tank facilities, as appropriate.

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

- Page 6: The APSA program statement regarding RTC timeframe not being longer than 30 days is valid for minor violations, but not for non-minor violations (Class 1 or Class 2).

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

- Page 9: The APSA Compliance Verification discussion should add the words ‘CERS submittals’ or ‘Facility Information submittals’ after ‘APSA’ for improved readability in three instances. In Section A.2.c.i., replace ‘business’ with ‘tank facility’ for consistency with the statute.
- Page 9: The review procedure for APSA CERS submittals should clearly distinguish how HMBP submittal review responsibilities are split between the CUPA and the EHD PA for APSA facilities.
- Page 12: In the second sentence under Section B Coordination, readability will be improved by adding the missing words (such as ‘is requested’) after ‘cases arise where action by outside agencies such as the Imperial County District Attorney’s Office’. The third sentence (‘This section may also be referenced for referrals...’) may be removed for clarity since the next paragraph discusses referrals to other agencies.
- Page 16: In Section G.6., reference to ‘business’ should be updated to ‘tank facility’ for consistency with the statute.
- Page 17: In Section G, numbers 6 and 7 are duplicated. Reference to a ‘business’ should be updated to ‘tank facility’ for consistency with the statute. Section H could reference HSC, Section 25270.12.5 for misdemeanor.

RECOMMENDATION:

Update the CUPA’s SOF and EHD PA I&E Plan as indicated above.

5. OBSERVATION:

On October 2, 2023, the CERS reporting requirement was set as “APSA Applicable” for 282 APSA tank facilities. The CUPA’s data management system identifies 280 APSA tank facilities.

- 260 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 22 tank facilities identified as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system. Some of these facilities are likely not APSA regulated.
- 20 tank facilities identified as APSA tank facilities in the CUPA’s data management system and are not identified in CERS as APSA tank facilities.

Additionally, the CUPA regulates farms as conditionally exempt tank facilities. Farms that are not regulated under APSA due to Senate Bill 612 and the Federal Water Resources Reform and Development Act (WRRDA) oil applicability thresholds should be identified in CERS as “APSA Not Applicable”.

RECOMMENDATION:

Determine if each facility identified as “APSA Applicable” in CERS and not identified as an APSA tank facility in the CUPA’s data management system should be regulated under APSA.

Determine if each facility identified as an APSA tank facility in the CUPA’s data management system and not identified as “APSA Applicable” in CERS should be regulated under APSA.

Complete the reconciliation of the APSA Program information in the CUPA’s data management system with CERS to ensure all APSA tank facilities are consistently identified in the CUPA’s data management system and in CERS.

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

- If a facility is not subject to being regulated under APSA, the APSA reporting requirement should be set to “APSA Not Applicable” in CERS and the facility should not be identified as an APSA tank facility in the CUPA’s data management system.
 - If a facility is subject to being regulated under APSA, the APSA reporting requirement should be set to “APSA Applicable” in CERS and the facility should be identified as an APSA tank facility in the CUPA’s data management system.
-

6. 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.

7. OBSERVATION:

SPCC Plans were provided by CERS ID 10199890 as part of the APSA CERS submittals.

SPCC Plans are not required as part of any CERS submittal; therefore, SPCC Plans should not be uploaded to CERS. The APSA documentation upload section in CERS is for facilities to provide an annual tank facility statement, unless an HMBP is provided in lieu of a tank facility statement, or for providing other local reporting requirement documents.

RECOMMENDATION:

Utilize the regulator comments field in CERS to advise APSA tank facility owners and operators that future CERS submittals should not include SPCC Plans.

8. OBSERVATION:

The Self-Audit Reports for FYs 2019/2020, 2020/2021, and 2021/2022 state “APSA requirements including the SPCC Plan” under the list of Unified Program elements.

RECOMMENDATION:

In future Self-Audit Reports, remove ‘requirements including the SPCC Plan’ after APSA in the list of Unified Program elements.

9. OBSERVATION:

Review of CERS finds the following facilities have USTs or UST systems with single-walled components which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10310632
- CERS ID 10125883
- CERS ID 10126288

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

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

RECOMMENDATION:

Continue to provide reminders to all applicable UST owners or operators regarding the December 31, 2025, requirement for permanent closure of single-walled USTs and UST systems. Consider providing written notification of the requirement to all applicable UST facility owners or operators. The written notification should inform facility owners or operators that in order to remain in compliance, owners or operators must replace or remove single-walled USTs by December 31, 2025.

Additional information regarding single-walled UST closure requirements may be found at:
https://www.waterboards.ca.gov/water_issues/programs/ust/single_walled.html.

Notify facility owners or operators that Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program grants and loans are available to assist eligible small businesses with the costs necessary to remove, replace, or upgrade project USTs.

More information on funding sources may be found at:
https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html.

10. OBSERVATION:

Review of requested UST facility files finds all required closure documentation was provided for CERS ID 10133047 and CERS ID 10155849, including notice that the UST had been removed in accordance with HSC, Chapter 6.7, Section 25298(c) and CCR, Chapter 16, Section 2672.

RECOMMENDATION:

Continue to perform thorough UST removal inspections and maintain required closure documentation in facility files. Review the State Water Board closure notification template at:
https://www.waterboards.ca.gov/water_issues/programs/ust/docs/ust-closure-letter-template-final.pdf.

11. OBSERVATION:

On June 27, 2023, the CUPA and the Imperial County PA entered into a PA Agreement wherein the Imperial County PA would begin implementing the UST Program no later than December 31, 2023. The State Water Board, the CUPA, and the Imperial County PA began coordinating a UST oversight inspection in December 2023. The oversight inspection occurred on January 18, 2024 with the Imperial County PA as the lead agency for the UST Program, and the CUPA in attendance for assistance.

The State Water Board met with the Imperial County PA at CERS ID 10827010, for the Annual Monitoring System Certification (AMC) and the Spill Containment testing. The Imperial County PA inspector performed a visual inspection of all sumps, spill buckets, and under dispenser containment (UDC). The inspector asked thoughtful questions and confirmed procedures adhered to UST Regulations and HSC. The inspector performed a thorough review of the required onsite documents and the leak detection equipment programming and identified the following:

- a UDC sensor had been improperly re-programmed since the previous AMC;

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

- a failure of the “91 LLD,” line leak detector;
- the site map did not accurately reflect the tank orientation; and
- required on-site documents were missing.

The CUPA inspector provided valuable institutional knowledge and instruction to assist the Imperial County PA inspector throughout the inspection.

Review of the AMC, Spill containment testing results, and the Imperial County Public Health - UST DW Inspection Report finds violations cited on the inspection report are accurately reflected in CERS.

RECOMMENDATION:

Imperial County PA UST Program staff should continue to work with CUPA staff experienced in implementing the UST Program. Imperial County PA UST Program staff should continue review of Chapter 16 and HSC requirements, and attend trainings pertaining to UST Program implementation, inspection procedures, and CERS data review. The State Water Board staff may be contacted for additional training and guidance.

Ensure all Imperial County PA UST Program staff are signed up to receive the State Water Board UST Monthly update at:

<https://public.govdelivery.com/accounts/CAWRCB/subscriber/new?qsp=ust>.

12. OBSERVATION:

On January 9 and 10, 2024, a CalARP oversight inspection was conducted at CERS ID 10124305. The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility, including the most current Risk Management Plan (RMP), inspection history, and violation history. The inspector arrived at the facility unannounced and obtained consent to inspect, review documentation, take photos, and collect samples if needed. The inspector was knowledgeable, established rapport with facility operators, requested and reviewed the most current RMP information and effectively communicated technical information to facility operators and provided education. The inspector asked facility operators open ended questions, to which they answered and demonstrated their knowledge of the CalARP Program requirements. The oversight inspection did not include observation of the walkthrough of the process containing a regulated substance.

On January 10, 2024, an HMBP oversight inspection was also conducted at CERS ID 10124305 by the same inspector. The inspector prepared for the inspection and reviewed relevant information. The inspector continued to maintain rapport with facility operators, toured the site, verified inventory, site map, and emergency response plan information and training on site, and effectively communicated technical information to facility operators. The inspector continued to ask facility operators open ended questions, to which they answered and demonstrated their knowledge of the emergency response and employee training plans at the facility.

RECOMMENDATION:

Continue to conduct thorough CalARP and HMBP inspections.
