

October 16, 2024

Lisa Medina, REHS
Environmental Management Agency Administrator,
Environmental Health Director
Calaveras County Environmental Health Department
891 Mountain Ranch Road
San Andreas, California 95249-9709

Dear Ms. Medina:

During October 2023, through July 2024, CalEPA and the Unified Program state agencies conducted a performance evaluation of the Calaveras County Environmental Health Department Certified Unified Program Agency (CUPA). The CUPA evaluation included a remote assessment of administrative documentation, 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:

Hany Benjamin
CUPA Manager
Calaveras County Environmental Health Department
891 Mountain Ranch Road
San Andreas, California 95249-9709

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

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

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

Mary Wren-Wilson
Environmental Scientist
CAL FIRE - Office of the State Fire Marshal

cc sent via email:

Pheleep Sidhom
Environmental Scientist
Department of Toxic Substances Control

Kaitlin Cottrell
Environmental Scientist
State Water Resources Control Board

Michelle Suh
Environmental Scientist
State Water Resources Control Board

John Paine
Unified Program Manager
California Environmental Protection Agency

John Elkins
Environmental Program Manager
California Environmental Protection Agency

Elizabeth Brega
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Melinda Blum
Senior Environmental Scientist, Supervisor
California Environmental Protection Agency

Garett Chan
Environmental Scientist
California Environmental Protection Agency

Tim Brandt
Unified Program Evaluation Team Lead
California Environmental Protection Agency

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

CUPA: Calaveras County Environmental Health Department

2023 Evaluation Assessment: October 2023 through July 2024

Timeframe Evaluated: October 1, 2020, through September 30, 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Timothy Brandt
- **DTSC:** Pheleep Sidhom
- **CalEPA:** Garrett Chan, Esmé Hassell-Thean
- **State Water Board:** Michelle Suh, 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. 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 shall submit each Evaluation Progress Report to CalEPA in accordance with the specified date provided in the Final Summary of Findings Report or Evaluation Progress Report response. For each identified deficiency and incidental finding, the CUPA shall 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 **January 6, 2025**.

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. 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 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).

These efforts are considered above and beyond the standard expectations of the implementation of the APSA Program despite the many challenges presented over the years from the Coronavirus (COVID-19), wildfire impacts, and reduced staffing.

2. CONSISTENCY IN UNIFIED PROGRAM IMPLEMENTATION THROUGH SHARING OF RESOURCES WITH RURAL REGULATORY PARTNERS:

Upon request, the CUPA provided many exemplary documents to another rural CUPA, working to improve implementation of the Unified Program, including an inspection report, an inspection report template, several UST Program forms, a Certificate of Compliance template, and a Declaration Inspection Notice template. Through active sharing of resources, the CUPA is proactively advocating consistency in the inspection and enforcement aspects of Unified Program regulatory requirements among rural CUPAs.

3. 2020 CUPA PERFORMANCE EVALUATION INCIDENTAL FINDING RESOLVED:

In conducting the assessment for the 2023 CUPA Performance Evaluation, the following Incidental Finding previously identified as closed but not corrected upon closure of the 2020 CUPA Performance Evaluation, is now considered partially resolved:

Underground Storage Tank (UST) compliance inspection information in Semi-Annual Report (Report 6) is inconsistent with CUPA Self-Audit Reports and the California Environmental Reporting System (CERS) compliance, monitoring, and enforcement (CME) information.

With the advent of paperless Report 6 reporting, the State Water Board now reviews submitted Report 6 data in CERS in lieu of reviewing information reported in Self-Audit Reports. Review of the Report 6 Technical Compliance Rate (TCR) information finds the CUPA is issuing TCR criteria violations at a rate consistent with the California average. Therefore, the Self-Audit and Report 6 components of the 2020 Incidental Finding require no further action. However, annual compliance inspections and reporting accurate CME information to CERS are components of the 2020 Incidental Finding that remain unresolved and have been incorporated into the 2024 CUPA Performance Evaluation as Deficiencies 3 and 4, respectively.

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

The CUPA is not inspecting each Hazardous Waste Generator (HWG) facility once every three years, per the inspection frequency established in the Inspection and Enforcement (I&E) Plan.

Review of facility files, inspection, violation, and enforcement information, also known as CME information from CERS between October 1, 2020, and September 30, 2023, and additional information provided by the CUPA finds:

- 70 of 190 (37%) HWG facilities were not inspected once every three years.

CITATION:

Health and Safety Code (HSC), Chapter 6.5, Section 25201.4(b)(2)
California Code of Regulations (CCR), Title 27, Section 15200(a)(3)(A)
[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 COVID-19.
- A sortable spreadsheet exported from 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,
 - Date of the last routine inspection, and
 - 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 based on risk.
- Future steps to ensure that each HWG facility will be inspected once every three years (for example, the generation of a list of all HWG facilities and the anniversary date of the next routine inspection for each listed facility).

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated sortable spreadsheet and a brief narrative of how the CUPA is continuing to ensure each HWG facility 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 sortable spreadsheet provided with the 1st Progress Report.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
UNIFIED PROGRAM PERFORMANCE EVALUATION
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2. DEFICIENCY:

The CUPA is not consistently inspecting each UST facility at least once annually.

Review of the “UST Routine Inspection Frequency Search Report” in CERS finds the following UST facilities did not have a compliance inspection:

- 2021: 2 of 30 (7%)
- 2022: 2 of 30 (7%)
- 2023: 3 of 30 (10%)

Note: This Deficiency was identified as a component of an Incidental Finding during the 2020 CUPA Performance Evaluation. The Incidental Finding was considered closed, not resolved during the Evaluation Progress.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each UST is inspected at least once annually. The action plan will include, at a minimum:

- The “UST Routine Inspection Frequency Search” report, exported from CERS, identifying each UST facility that has not been inspected at least once annually, including those facilities that were not inspected in 2021, 2022, and 2023.
 - In the “Comments” section of the “UST Routine Inspection Frequency Search” report, include a schedule to inspect each identified UST facility, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

By the 2nd Progress Report, and with each subsequent Progress report until considered corrected, the CUPA will provide CalEPA with an updated “UST Routine Inspection Frequency Search” report.

3. 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 discrepancies:

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

- UST construction and inspection:
 - CERS ID 10472044
 - Tank Information and monitoring plan cites no containment sump or continuous monitoring of piping secondary associated with any USTs while Monitoring System Certification forms dated January 19, 2021, January 26, 2022, and January 17, 2023, note the 91 main tank has a containment sump with a 208 sensor.
 - Monitoring Plan cites “Yes” for “UDC Leak Alarm Triggers Automatic Pump Shutdown” and “Failure/Disconnection of UDC Monitoring System Triggers Automatic Pump shutdown” while Monitoring System Certification forms dated January 19, 2021, January 26, 2022, and January 17, 2023, note stand-alone sensors.
 - CERS ID 10476829
 - Secondary Containment Testing Report Form dated May 21, 2021, notes tank manufacturer as Modern Welding while CERS states tank manufacturer as Total Containment.
 - CERS ID 10169785
 - Tank Information (Tank IDs 10169785-001 and 10169785-003) cites double-walled under dispenser containment (UDC) while the Monitoring Plan cites single-walled UDC construction.
 - Tank Information cites “None” for Riser Pipe Secondary Containment and “Yes” for Containment Sump.
 - CERS ID 10485661
 - Overfill Prevention Equipment Inspection Report dated May 20, 2021, cites the method as “Audible and Visual Alarm” while CERS states, “Ball Float” and “Audible/Visual Alarms.”
- Non-compliance was not observed, and no violation was reported to CERS:
 - CERS ID 10467133
 - Monitoring System Certification completed 4 months late, on June 29, 2023. No Violation was reported to CERS for Unified Program Violation Library Violation Type Number 2030002 – Leak Detection Equipment Maintenance (USEPATCR 9d) for late Annual Compliance Testing.
 - Spill Container Testing completed 4 months late, on June 29, 2023. No Violation was reported to CERS for Unified Program Violation Library Violation Type Number 2060020 – Spill Container (USEPATCR 9a) for late testing.
 - CERS ID 10485661
 - Monitoring System Certification dated May 17, 2023, notes “87 STP sump sensor failed – replaced sensor.” No Violation was reported to CERS for Unified Program Violation Library Violation Type Number 2030043 – Monitoring Equipment (USEPATCR 9d).
- Non-compliance was observed; however, no violation was reported to CERS:
 - CERS ID 10499782
 - Inspection report dated September 23, 2022, cites Unified Program Violation Library Violation Type Number 2030043 – Monitoring Equipment (USEPATCR 9d), “At initial start of test, sensor 4 or 87 unleaded sump observed to be disconnected. Service Technician reconnected sensor, sensor passed this date. Corrected on site.”

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- The correct citation is Unified Program Violation Library Violation Type Number 2030062 – Tampering with Leak Detection Equipment (USEPATCR 9d).
- CERS ID 10169785
 - Inspection reports dated December 8, 2021, and December 6, 2022, cite Unified Program Violation Library Violation Type Number 2060020 – Spill Container (USEPATCR 9a), however no violation was reported to CERS.
- CERS ID 10476829
 - Inspection report dated March 31, 2022, cites Unified Program Violation Library Violation Type Number 2060020 – Spill Container (USEPATCR 9a), however no violation was reported to CERS.
- CERS ID 10477351
 - Inspection reports dated June 16, 2021, June 8, 2022, and June 28, 2023, cite Unified Program Violation Library Violation Type Number 2060020 – Spill Container (USEPATCR 9a), however no violation was reported to CERS.
 - Inspection report dated June 6, 2021, cites Unified Program Violation Library Violation Type Number 2030035 – Unsafe UST Operation for “Owner/operator did not operate UST system to prevent spills and/or overfills. The diesel drop tube measured and failed the testing within a reading of 98.69%. The 87drop tube measured and failed the texting with a reading of 98.41%.”
 - The correct citation is Unified Program Violation Library Violation Type Number 2030036 – Overfill Prevention (USEPATCR 9b)
- CERS ID 10485814
 - Inspection report dated March 22, 2022, cites Unified Program Violation Library Violation Type Number 2030008 when USTs were installed prior to 2003, however no violation was reported to CERS.
- Incomplete or inaccurate information on test results was observed:
 - CERS ID 10472044
 - Monitoring System Certifications dated January 19, 2021, January 26, 2022, and January 17, 2023, reflect discrepancies in Section 7. “Yes” was marked for the emergency generator question and “NA” was marked for both the mechanical and electronic LLD question.
- Review of UST Facilities files finds the certification of the technician was missing or expired for the for the following facilities:
 - CERS ID 10476829
 - Monitoring System Certification form completed April 1, 2021, and April 4, 2022, by a technician with no certification or training provided for the line leak detector test.
 - CERS ID 10472044
 - Monitoring System Certification form completed January 19, 2021, January 26, 2022, and January 17, 2023, by a technician with no certification or training provided for the line leak detector test.

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- CERS ID 10768693
 - Monitoring System Certification form completed September 19, 2023, by a technician with no certification or training provided for the line leak detector test.
 - Spill Container Testing form completed September 19, 2023, by a technician with certification expired on November 28, 2022

Note: This Deficiency was identified as a component of an Incidental Finding during the 2020 CUPA Performance Evaluation. The Incidental Finding was considered closed, not resolved during the Evaluation Progress.

CITATION:

HSC. Chapter 6.7, Section 25288(b) and 25299

CCR, Chapter 16, Sections 2637, 2638, 2711(d), 2713(c), 2737.2, 2715(f)(2)

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 complete annual UST compliance inspections are not consistently conducted. The analysis and explanation will include, at minimum;

- Discussion of what procedures and tools may be needed to consistently conduct complete annual UST compliance inspections, and correctly report UST CME information to CERS
 - e.g. identifying areas of the annual UST compliance inspection checklist that can be improved (refer to the California CUPA Forum Board “UST Inspection Checklist,” at <https://calcupa.org/inspection-checklist/index.html>);
- Identification of the types and frequency of training needed to consistently conduct complete UST compliance inspections, identify non-compliance, and ensure CME information is reported to CERS; and
- a plan to address each identified aspect as to why complete annual UST compliance inspections are not consistently conducted.

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, or other applicable procedure, to ensure, at minimum, the establishment of a process for consistently conducting complete annual UST compliance inspections and correctly reporting UST CME information (including Technical Compliance Rate 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 at all UST facilities, including single-walled UST facilities;
- 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 identified during annual UST compliance inspections in UST compliance inspection reports;
- Reporting all inspections, observed noncompliance identified in UST compliance inspection reports and CME information to CERS;

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- 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 and cannot witness the monitoring system certification and visually confirm all UST requirements are met;
- Reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with CCR, Title 23, Division 3, Chapter 16 (UST Regulations), HSC Division 20, Chapter 6.7, and the Unified Program Violation Library in CERS;
- Accurate United States Environmental Protection Agency (USEPA) Technical Compliance Rate (TCR) reporting; and
- Quality assurance to ensure violation data used as part of the semi-annual report (Report 6) is accurately reported to CERS.

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure. 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, 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 4th 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.

By the 5th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST 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.

4. DEFICIENCY:

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

Review of the local ordinance finds the following inconsistencies:

- Section 8.18.090(A) indicates penalties will not exceed \$1,000, which is less stringent than HSC, Chapter 6.7, Section 25299(a).
 - Maximum penalties for UST violations are no more than \$5,000 for each UST, for each day, and for each violation.

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- Section 8.18.060 indicates the CUPA is preparing and submitting an annual report to the Board of Supervisors on the implementation of Chapter 8.18.
 - No annual report is prepared or submitted to the Board of Supervisors or to the State Water Board.
- Section 8.18.070 does not define which USTs are subject to testing or what type of test is required.

Note: This Deficiency was identified during the 2020 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. Though the CUPA began addressing revisions to the local ordinance with County Counsel and Administrative staff in late 2021 and prepared to bring the revised local ordinance to the Board of Supervisors for review and approval in FY 2022/2023, the revised local ordinance has not yet been adopted.

CITATION:

HSC Chapter 6.7, Section 25299(a)(1-9)
[State Water Board]

CORRECTIVE ACTION:

The CUPA will not implement provisions of the local ordinance that are less stringent than or inconsistent with UST Regulations and HSC.

By the 1st Progress Report, the CUPA will provide CalEPA with a timeline to revise and adopt or rescind the local ordinances to be consistent with UST Regulations and HSC. The timeline will at a minimum include:

- The date the ordinance draft or rescission will commence
- The date the ordinance draft or rescission will be provided to the State Water Board
- If any of the proposed ordinances modify the construction, monitoring or testing provisions to Chapter 16, the date CUPA provide the proposed ordinances and the required \$5,500 application fee (Chapter 16, Article 9, section 2691(a)(4)) for the Board review

By the 2nd Progress Report, the CUPA will, if necessary, revise the timeline for revision, adoption, or rescission of the local ordinance, based on feedback from the State Water Board, or provide the revised local ordinance draft to the State Water Board for review (before being adopted). If the timeline is amended, the CUPA will provide an explanation to the State Water Board as to why amendments were necessary.

With each subsequent Progress Report, the CUPA will continue to provide an update to the State Water Board. This deficiency will be considered corrected once the local ordinance becomes implemented and effective, or rescinded by the CUPA.

5. DEFICIENCY:

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

Review of HMBPs submitted to CERS between September 27, 2022, and November 27, 2023, by businesses subject to Business Plan reporting requirements finds:

- 68 of 309 (22%) Business Plan facilities have not submitted a chemical inventory (including site map) or a no-change certification.
- 70 of 306 (23%) Business Plan facilities have not submitted emergency response and employee training plans or a no-change certification.

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

CITATION:

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

CORRECTIVE ACTION:

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

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 business subject to Business Plan reporting requirements that has not annually submitted an HMBP or a no-change certification to CERS:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance, and rejection of an HMBP or no-change certification; and
 - Enforcement applied by the CUPA to ensure an HMBP or no-change certification is annually submitted to CERS.

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

6. DEFICIENCY:

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

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Review of CERS CME information on November 27, 2023, between October 1, 2020, and September 30, 2023, finds:

- 101 of 310 (33%) facilities subject to HMBP requirements were not inspected within the last three years.

Note: This Deficiency was identified during the 2020 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. However, the CUPA made progress toward the correction of the Deficiency, as upon closing the evaluation, 43 of 300 (14%) facilities subject to business plan requirements were not inspected within the last three years, between October 1, 2019, and September 30, 2022.

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 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 triennial 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 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;
 - 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 can 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 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 identified in the sortable spreadsheet provided with the 1st Progress Report at least once every three years.

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UNIFIED PROGRAM PERFORMANCE EVALUATION FINAL SUMMARY OF FINDINGS REPORT

7. 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 14 HMBP CERS submittals provided by regulated businesses subject to Business Plan reporting requirements, finds the following 10 were accepted with missing or incomplete required elements:

- CERS ID 10457263
 - Inventory submitted on March 10, 2015, and accepted on March 20, 2015
 - Missing required site map elements such as emergency response equipment.
- CERS ID 10467133
 - Inventory submitted and accepted on February 8, 2023
 - Missing required site map elements such as access and exit points.
- CERS ID 10477810
 - Inventory submitted and accepted on March 1, 2018
 - Missing required site map elements such as adjacent streets, access and exit points, and emergency response equipment.
- CERS ID 10477870
 - Inventory submitted on August 21, 2018, and accepted on September 5, 2018
 - Missing required site map elements such as access and exit points, and emergency response equipment.
- CERS ID 10481590
 - Inventory submitted and accepted on April 21, 2022
 - Missing required site map elements such as emergency response equipment.
- CERS ID 10482310
 - Inventory submitted and accepted on November 20, 2023
 - Missing required site map elements such as access and exit points.
- CERS ID 10487608
 - Inventory submitted on January 19, 2024, and accepted on February 1, 2024
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10489477
 - Inventory submitted on February 26, 2021, and accepted on April 9, 2021
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10489672
 - Inventory submitted on January 19, 2022, and accepted on March 28, 2022
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10490032
 - Inventory submitted on February 1, 2022, and accepted on June 23, 2022
 - Missing required site map elements such as evacuation staging areas.

CITATION:

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

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CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure 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 missing or incomplete elements.

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

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide 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.

8. DEFICIENCY:

The CUPA is not certifying to CalEPA every three years that a complete review of the area plan has been conducted and any necessary revisions have been made.

- The last certification of the area plan was 2014.

CITATION:

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

CORRECTIVE ACTION:

By the 1st 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 to ensure all required elements are present and emergency contact information is current. The CUPA will provide CalEPA with the area plan.

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INCIDENTAL FINDINGS REQUIRING RESOLUTION

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

1. INCIDENTAL FINDING:

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

Review of CERS CME information on February 14, 2024, finds there is no documented RTC for the following HWG Program violations cited between October 1, 2020, and September 30, 2023:

- 7 of 27 (26%)

Review of CERS CME information on February 9, 2024, finds there is no documented RTC for the following APSA Program violations cited between July 1, 2020, and June 30, 2023:

- 1 of 3 (33%) cited between July 1, 2021, and June 30, 2022

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

CITATION:

HSC Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)
HSC, Chapter 6.7, Section 25288(d)
HSC, Chapter 6.11, Section 25404.1.2(c)
HSC, Chapter 6.67, Section 25270.4.5(a)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[DTSC, 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 all open violations (no RTC) cited for each program element during the timeframe indicated below:

- Between October 1, 2020, and September 30, 2023
 - HWG
- Between July 1, 2021, and June 30, 2022
 - APSA

At a minimum, the sortable spreadsheet will include the following information for each facility with open violations (no RTC):

- Facility name;
- CERS ID;
- Inspection and violation dates;

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

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

By the 2nd 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.

2. INCIDENTAL FINDING:

The CUPA is not consistently ensuring RTC is obtained within 60 days and is not consistently following up and documenting RTC information accurately in CERS for UST Program facilities cited with testing and leak detection violations.

Review of CERS CME information finds the following testing and leak detection failures have no documentation of follow-up actions, applied enforcement, or RTC in CERS:

- FY 2021/2022
 - 3 of 15 (20%)
 - The following is an example:
 - CERS ID 10485814: Routine inspections conducted March 22, 2022, and March 23, 2023, cite “No records of Secondary Containment testing were observed on site”.
- FY 2022/2023
 - 5 of 18 (28%)
 - The following is an example:
 - CERS ID 10477351: Routine inspection conducted June 28, 2023, cites “Last tank lining certification completed in 2016. Due date for 5-year tank lining inspection was due 2021. CORRECTIVE ACTION: Complete tank lining inspection within 30 days.”
- CERS ID 10768693
 - Routine inspection conducted September 19, 2023, cites the following violations, with an RTC Qualifier as “Not Resolvable”
 - Unified Program Violation Type Number 2010003 – Designated Operator (DO) - Identification Notification (USEPATCR10)
 - Unified Program Violation Type Number 2010014 – Response Plan
 - Unified Program Violation Type Number 2010016 – Owner/Operator Statement of Understanding and Compliance (USEPATCR 10)
 - Unified Program Violation Type Number 2010007 – Financial Responsibility (USEPATCR 11)

Note: This Incidental Finding was identified during the 2020 CUPA Performance Evaluation as a Deficiency and was not corrected during the Evaluation Progress Report process, though the I&E

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Plan was revised to incorporate a “Summary of Underground Storage Tank Inspection Procedures,” which provided guidance for pre-inspection, CERS data review, physical inspections and follow-through procedures for steps to be taken and completed for obtaining RTC.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will:

- review the I&E Plan or other applicable procedure, to ensure a process has been established for UST inspection staff to document:
 - Follow-up actions applied by the CUPA to ensure RTC is achieved by UST facilities within 60 days;
 - RTC in CERS for facilities that obtain RTC; and
 - Any applied enforcement.
- Train UST inspection staff on the revised I&E Plan, or other applicable procedure, including the “Summary of Underground Storage Tank Inspection Procedures,” within the I&E Plan;
- provide CalEPA with the revised I&E Plan, or other applicable procedure;
- provide CalEPA with a statement that training has been conducted.

By the 2nd Progress Report, if amendments to the revised I&E Plan or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended I&E Plan or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the revised I&E Plan or other applicable procedure. The CUPA will provide CalEPA with a statement that training has been conducted. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 3rd Progress Report, if amendments to the I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide CalEPA with a statement that training has been conducted. 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 UST facility records for three UST facilities, as requested by the State Water Board, that include RTC or documentation of applied enforcement in the absence of RTC.

3. INCIDENTAL FINDING:

The CUPA is not consistently requiring UST facilities with single-walled UST component(s) within a 1,000-foot radius of a public drinking water well to implement triennial enhanced leak detection (ELD) testing.

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Review of UST facility information in CERS and GeoTracker finds the following UST facility has not completed triennial ELD testing since 2017:

- CERS ID 10477351

Note: If a UST owner/operator believes the UST is not within 1,000 feet of a public drinking water well, a Request for Reconsideration (RFR) application must be submitted to the State Water Board. The RFR application form can be found at:

https://www.waterboards.ca.gov/ust/forms/docs/request_rfr_form.pdf. Once the RFR application is received from the UST owner/operator, the State Water Board will make a final determination whether ELD testing is required.

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

Note: The following State Water Board Local Guidance Letter (LG) regarding the requirement for UST facilities to implement triennial or complete one-time ELD testing may be referenced:

- LG-161-5: distributed March 25, 2008

CITATION:

HSC, Chapter 6.7, Section 25292.4

CCR, Title 23, Sections 2640(e) and 2644.1

[State Water Board]

RESOLUTION:

The CUPA will no longer allow USTs to continue to operate without having completed ELD testing.

The CUPA will apply progressive enforcement in instances where there is an open violation (no RTC) for not implementing triennial ELD testing at UST facilities having a UST with single-walled components within a 1,000-foot radius of a public drinking water well.

By the 1st Progress Report, the CUPA will identify and provide CalEPA with a list of all UST facilities having a UST with single-walled components within a 1,000-foot radius of a public drinking water well that have not implemented initial and/or subsequent triennial ELD testing.

Additionally, for each listed UST facility, the CUPA will issue written correspondence addressed to UST facility owners/operators having a UST within a 1,000 foot radius of a public drinking water well, to inform the UST owners/operators of the requirement to either complete initial ELD testing within 60 days of receiving the written correspondence, and implement triennial ELD testing every 36 months thereafter, or submit an RFR application to the State Water Board within 30 days of receiving the written correspondence. The written correspondence will include language stating that failure to complete initial ELD testing within 60 days of receiving the written correspondence and implement triennial ELD testing every 36 months thereafter, or failure to submit an RFR application to the State Water Board within 30 days of receiving the written correspondence, will lead to applied enforcement, including but not limited to revocation of the "UST Operating Permit" and issuance of red tags, which will prohibit the deposit and withdrawal of fuel. The CUPA will include the State Water Board as a carbon copy on the correspondence.

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By the 2nd Progress Report, for those UST facility owners/operators that have not completed triennial ELD testing within 60 days of notification from the CUPA to do so, the CUPA will apply enforcement, including but not limited to revocation of the “UST Operating Permit” and issuance of red tags, which will prohibit the deposit and withdrawal of fuel. For those UST facility owners/operators that have completed triennial ELD testing within 60 days of notification from the CUPA to do so, the CUPA will provide CalEPA with the ELD test results for each facility.

The State Water Board will consider this Incidental Finding resolved when one of the following conditions applies to each UST with single-walled components within a 1,000-foot radius of a public drinking water well:

- Initial and/or triennial ELD testing has been completed and the CUPA has provided the ELD test results to CalEPA, or
- Issuance of a red tag if ELD testing has not been completed, or
- An RFR application has been approved by the State Water Board.

4. INCIDENTAL FINDING:

The CUPA is not consistently implementing UST closure requirements.

The CUPA is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672 (UST Regulations) and HSC.

Review of UST facility files finds the CUPA did not provide the UST Permanent Closure Notification to the owner or operator upon completion of UST closure activities for the following:

- CERS ID 10462852
 - No documentation of proper disposal for residual liquid, solids, or sludges removed
 - No documentation on tanks being filled with an inert solid
 - No documentation of proper disposal of the removed USTs
 - No UST Closure Notification Letter
- CERS ID 10485226
 - No documentation on tanks being filled with an inert solid
 - No documentation of proper disposal of the removed USTs
 - No UST Closure Notification Letter

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

Note: The following Notice of UST Closure guidance document is found here:

https://www.waterboards.ca.gov/water_issues/programs/ust/performance-evaluations.html.

CITATION:

HSC Chapter 6.7, Section 25298(c)
CCR, Title 23, Section 2679 and 2672(d)
[State Water Board]

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RESOLUTION:

By the 1st Progress Report, the CUPA will review and revise the UST closure procedure or other applicable procedure, to ensure the establishment of a process which will include at minimum:

- Requiring UST closure activities which will address:
 - Providing documentation of proper disposal of the removed USTs
 - Providing documentation that all residual liquid, solids, or sludges removed was handled as hazardous waste or recyclable materials in accordance with HSC, Chapter 6.5
 - Providing documentation that the USTS were filled with an inert solid
- How the CUPA will
 - Document in sufficient detail, the owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC;
 - Provide a UST Permanent Closure Notification to the UST owner or operator, which demonstrates, to the satisfaction of the CUPA, that the UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC;
 - Document identification of each UST removed from the site. UST identification can include the size of the UST, the contents of the UST, the UST CERS ID, and/or the construction of the UST (i.e., single-walled, double-walled, what the UST is made of).
 - Maintain UST closure documents to demonstrate UST owners or operators closed in place or removed USTs correctly.

Additionally, the CUPA will develop a UST Closure Notification template for sites with and without contamination, if separate notifications are issued for those scenarios, to include the following:

- Site Address,
- CERS tank ID(s),
- Date(s) of removal or permanent closure, and
- Confirmation that UST(s) have been permanently closed in accordance with UST Regulations and HSC. The following language is an example: “Calaveras County Environmental Health CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Division 3, Chapter 16 and HSC, Chapter 6.7, Section 25298(c).”

The CUPA will provide the revised UST closure procedure, or other applicable procedure and the developed UST Closure Notification template(s) to CalEPA.

By the 2nd Progress report, if amendments to the revised UST closure procedure or other applicable procedure and/or revisions to the developed UST Closure Notification template(s) are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the amended UST closure procedure or other applicable procedure and revised UST Closure Notification template(s). If no amendments to the revised UST closure procedure or other applicable procedure are necessary, and/or no revisions to the developed UST Closure Notification template(s) are necessary, the CUPA will train UST inspection staff on the revised UST closure procedure or other applicable procedure and the developed UST Closure Notification template(s). The CUPA will provide CalEPA with a statement that training has been conducted. Once training is complete, the CUPA will implement the revised UST closure

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procedure or other applicable procedure and utilize the developed UST Closure Notification template(s).

By the 3rd Progress Report, if amendments to the revised UST closure procedure or other applicable procedure and/or revisions to the developed UST Closure Notification template(s) were necessary, the CUPA will train UST inspection staff on the amended UST closure procedure or other applicable procedure and/or the revised UST Closure Notification template(s). The CUPA will provide CalEPA with a statement that training has been conducted. Once training is complete, the CUPA will implement the amended UST closure procedure or other applicable procedure and/or utilize the revised UST Closure Notification template(s).

By the 3rd Progress Report, or until considered corrected, for the next UST closure, the CUPA will provide CalEPA with the UST closure documentation, including sampling results, that demonstrate to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the UST Closure Notification template(s) determined acceptable by the State Water Board and will provide the updated closure documentation upon request.

5. INCIDENTAL FINDING:

The I&E Plan has not been reviewed or revised annually.

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

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

- An indication that the I&E Plan is reviewed annually, at minimum.
 - The I&E Plan reflects a revision date of January 2020.

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

- Inspection frequencies for PBR, CA, and CE facilities regulated under the Tiered Permit (TP) component of the HWG Program does not include “initial inspection within two years of notification and every three years thereafter.”
- HSC, Chapter 6.75 is cited on Page 31 (“Permit Revocation” and “Referral to Legal Counsel”) and Page 65 (“Orders Directing Compliance”)
 - The CUPA does not have authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Chapter 6.75.
- CCR, Title 22, Section 2715.3 is cited on Page 45 under “Red Tag Procedure”
 - CCR, Title 22, Section 2715.3 is unrelated to USTs.

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

- Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, Chapter 6.5, Section 25198.
 - Sampling procedures are discussed on Page 23; however, analysis of collected samples by a state certified laboratory is not included.

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Note: This Incidental Finding was identified during the 2020 CUPA Performance Evaluation, regarding the inaccurate inspection frequency for PBR, CA and CE facilities regulated under the TP component of the HWG Program, as well as inaccurate hazardous waste penalty amounts. The Incidental Finding was resolved during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.7 Sections 25280 through 25296 and 25298 through 25299.6
CCR, Chapter 16, Sections 2610 through 2717.7
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 CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted. Once training is complete, the CUPA will implement the revised I&E Plan. With each subsequent annual review, or upon revision, the CUPA will ensure the I&E Plan reflects a date of review and/or revision.

By the 3rd Progress Report, if amendments to the revised I&E Plan were necessary, the CUPA will train CUPA personnel on the amended I&E Plan. The CUPA will provide CalEPA with a statement that training has been conducted. Once training is complete, the CUPA will implement the amended I&E Plan. With each subsequent annual review, or upon revision, the CUPA will ensure the I&E Plan reflects a date of review and/or revision.

6. INCIDENTAL FINDING:

The Self-Audit Report for FYs 2020/2021, 2021/2022, and 2022/2023 has a missing component.

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

Note: This Incidental Finding was identified during the 2020 CUPA Performance Evaluation for FYs 2017/2018, 2018/2019, and 2019/2020, and was not resolved during the Evaluation Progress Report process.

CITATION:

CCR, Title 27, Section 15280(a)
[CalEPA]7

RESOLUTION:

By the 1st Progress Report or September 30, 2024 (whichever occurs first), the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2023/2024 that includes all components.

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7. INCIDENTAL FINDING:

The established Unified Program administrative procedures have components that are inaccurate.

The following administrative procedure components are inaccurate:

- Records maintenance
 - The provided records maintenance procedures indicate that hazardous waste enforcement actions are maintained for a period of three years after the enforcement action is resolved. The minimum retention time for this type of document is five years as specified in Title 27, Section 15185(b)(2).
 - On the first page, the regulatory requirement is inaccurately cited as CCR Title 27, Section 15188, which pertains to reporting requirements. The correct citation for Records Maintenance Policy document requirements is CCR, Title 27, Sections 15180 and 15185.

Note: This Deficiency was identified as an Incidental Finding during the 2020 CUPA Performance Evaluation, regarding establishment of a procedure for forwarding HMRRP information to emergency response personnel and other appropriate government entities, as well as established records maintenance procedures relative to incorrect minimum retention time for maintaining hazardous waste enforcement actions, proper disposal methods, and incorrect citations for Records Maintenance Policy requirements. The Incidental Finding was not resolved during the Evaluation Progress Report process, however, in conducting the assessment for the 2023 CUPA Performance Evaluation, review finds the existing record retention disposal methods within the "Record Maintenance and Retention" document, and the procedures for forwarding HMRRP information acceptable.

CITATION:

CCR, Title 27, Sections 15180(e), 15185, and 15190
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the developed and revised Unified Program administrative procedures that adequately incorporated all required components.

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

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

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8. INCIDENTAL FINDING:

The CUPA is not managing information needed to implement the Unified Program.

The CUPA was unable to provide the following requested electronic document files within the evaluation timeline:

- CERS ID 10169785
 - 2023 Underground Storage Tank Program – Full Inspection Report
 - 2021 and 2023 Annual Monitoring System Certification
 - 2021 and 2023 Spill Container Testing results
 - Last two Overfill Prevention Equipment Inspections
 - Secondary Containment Testing results
- CERS 10467133
 - 2023 Annual Monitoring System Certification
 - 2023 Spill Container Testing result
 - Last two Overfill Prevention Equipment Inspections
 - 2019 Secondary Containment Testing result
- CERS 10472044
 - Last two Secondary Containment Testing results
 - 2021 Overfill Prevention Equipment Inspection
 - Cathodic Protection Test results
- CERS 10476829
 - 2021 Underground Storage Tank program – Full Inspection Report
 - 2022 Underground Storage Tank program – Full Inspection Report
 - 2018 Overfill Prevention Equipment Inspection
- CERS 10477351
 - 2023 Overfill Prevention Equipment Inspection
- CERS 10485661
 - Cathodic Protection Test results
- CERS 10485814
 - 2021 and 2023 Underground Storage Tank Program – Full Inspection Report
 - 2023 Annual Monitoring System Certification
 - 2023 Spill Container Testing result
- CERS 10489660
 - 2021 Underground Storage Tank Program – Full Inspection Report
 - 2021 and 2022 Annual Monitoring System Certifications
 - 2021 and 2022 Spill Container Testing results
- CERS ID 10499782
 - 2023 Underground Storage Tank Program – Full Inspection Report
 - 2021, 2022, 2023 Annual Monitoring System Certifications
 - 2021, 2022, 2023 Spill Container Testing results
 - 2022 Overfill Prevention Equipment Inspection
 - 2023 Secondary Containment Testing results

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- CERS ID 10768693
 - 2022 Underground Storage Tank Program – Full Inspection Report
 - 2021 and 2022 Annual Monitoring System Certifications
 - 2021 and 2022 Spill Containment Testing results
 - 2018 Overfill Prevention Equipment Testing Inspection
 - 2021 Secondary Containment Testing result

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

CITATION:

CCR, Title 27, Sections 15185 and 15290(d)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, and provide an action plan to ensure the CUPA can clearly identify and readily provide, upon request, information needed to implement the Unified Program. The action plan will include, at minimum:

- An analysis and explanation as to why the CUPA could not readily provide, upon request, information needed to implement the Unified Program.
- How the CUPA will be able to readily provide information needed to implement the Unified Program upon future request.

By the 2nd Progress Report, if amendments to the revised action plan are necessary based on feedback from State Water Board, the CUPA will provide the State Water Board with the amended action plan. If no amendments are necessary, the CUPA will train UST personnel on the revised action plan. The CUPA will provide the State Water Board with a statement that training has been conducted. Once training is complete, the CUPA will implement the revised action plan.

9. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The “Underground Storage Tank Operating Permit” is missing a required element and is inconsistent with UST Regulations and HSC, Division 20, Chapter 6.7 requirements.

Review of UST Operating permits finds the following required element is missing:

- UST CERS Tank Identification number

Review of UST Operating permits finds the following inconsistencies with UST Regulations and HSC:

- Permit condition 1 cites CCR, Chapter 18 and HSC, Chapter 6.75.
 - The CUPA does not have regulatory authority to implement clean-up of USTs as a Local Oversight Program agency, and therefore cannot cite CCR, Chapter 18 and HSC, Chapter 6.75. The correct citations are as follows:
 - CCR, Title 23, Sections 2610 through 2717.7
 - HSC, Chapter 6.7 Sections 25280 through 25296 and 25298 through 25299.6

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- CCR, Title 23, Section 2712 (I) is referenced.
 - The correct citation is CCR, Title 23, Section 2712 (i).
- The permit conditions state “The owner or operator must report any unauthorized release occurrences to the Calaveras County Environmental Health Department within 24 hours after the release has been detected or should have been detected.”
 - The correct statement is, “The owner or operator must report any reportable unauthorized release...”
- The permit was valid beyond 60 months, which is inconsistent with HSC, Section 25285, as a permit to operate shall be effective for five years:
 - CERS ID 10476829
 - Date Issued: July 1, 2021
 - Expiration Date: December 31, 2026.
 - CERSID 10499782
 - Date Issued: January 1, 2019
 - Expiration Date: December 31, 2024.

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

CITATION:

HSC, Chapter 6.7, Sections 25283(b), 25285(a), and 25297.01(b)

CCR, Title 23, Sections 2711 and 2712

[State Water Board]

RESOLUTION: COMPLETED

During the Evaluation, the CUPA revised the UST Operating Permit template to be consistent with UST Regulations and HSC. The CUPA has also begun issuing the amended UST Operating Permit.

This Incidental Finding is considered resolved.

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OBSERVATIONS AND RECOMMENDATIONS

Observations and recommendations identify areas of Unified Program implementation that could be improved and provide suggestions for improvement. Though the HWG is not required by regulation or statute to apply the recommendations provided, the HWG 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 HWG hazardous waste related activities based upon review of policies and procedures, HWG information, facility file information, information provided by the HWG and Self-Audit Reports between October 1, 2020, and September 30, 2023:

- HWG reflects 190 facilities self-identified as HWG facilities, including two Resource Conservation and Recovery Act (RCRA) Large Quantity Generators (LQGs), and no TP facilities within the jurisdiction of the HWG.
- The inspection frequencies established in the I&E Plan are currently not being met.
- HWG reflects the HWG conducted 141 total HWG inspections.
 - The HWG conducted 137 routine HWG inspections, of which 123 (90%) had no violations cited and 14 (10%) had at least one violation cited.
 - In the 14 routine inspections conducted having at least one violation, 27 total violations were cited, consisting of:
 - 0 (0%) Class I violations,
 - 23 (85%) Class II violations, and
 - 4 (15%) minor violations.
 - The HWG conducted four other HWG inspections.
 - In the four other inspections performed, no violations were cited.
- The HWG has ensured HWG for 20 of 27 (74%) violations cited.
- The HWG completed no separate formal enforcement actions for facilities with hazardous waste related violations.
- Inspection reports contain detailed comments that note the factual basis of cited violations; however inspection reports do not consistently indicate whether consent to inspect was requested prior to the inspection.

RECOMMENDATION:

Follow the I&E Plan that delineates the applicable HWG inspection frequencies and apply all appropriate enforcement in order to gain compliance with violations cited. Continue writing detailed inspection reports that include all factual bases of the violation and properly cite noted violations. Conducting frequent inspections leads to better compliance rates and helps ensure that hazardous waste is being managed appropriately.

Ensure consent to inspect is obtained and documented prior to conducting an HWG inspection.

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2. OBSERVATION:

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

- Page 14, Section A-4, and Page 32, Section V, Referral to U.S. EPA
 - Replace Aboveground Storage Tank (AST) with APSA
- Page 17, Inspection Frequency Table
 - Replace the footnote 3 citation in the “Generators Inspection Frequency” box with the footnote 3 citation in the Inspection Frequency boxes for PBR, CA, and CE facilities.
 - While there currently are no PBR, CA, or CE facilities within the jurisdiction of the CUPA, if a new facility is subject to being regulated under the TP component of the HWG Program and receives a TP for hazardous waste treatment (PBR, CA, or CE), the facility is subject to an inspection within the first two years of notification and every three years thereafter.
- Page 19, Inspection Frequency Table
 - Replace AST with APSA, and the footnote for APSA should be clarified to “If greater than **or equal to** 10,000 gallons aggregate **petroleum** storage capacity.”
- Pages 20-21, Section B, Pre-Inspection Procedures
 - Include APSA Program specific information such as, “When appropriate, review the APSA submittal in CERS, and, if available on file, review the Spill Prevention, Control, and Countermeasure Plan.”
- Page 31, Section III, Referral to Legal Counsel
 - Include HSC, Chapter 6.67 in the first sentence.
- Page 32, Section B, Referral to State Agency
 - The statement that AST violations may be referred to the State Water Board is incorrect. Remove the reference to AST within the first sentence.
 - Remove the last sentence, which is inaccurate or not applicable: “Neither the State Fire Marshal nor OES has jurisdiction to take enforcement actions, so...violations may not be referred to those agencies.”
- Pages 37, 47, and 55
 - Section 25270.5 is incorrectly referenced for APSA Program violations. On page 37, replace Section 25270.5 with “commencing with Section 25270.” On pages 47 and 55, replace Section 25270.5 with “Chapter 6.67 (commencing with Section 25270).”
- Page 50
 - The correct reference for determining the initial penalty for each Hazardous Waste violation is CCR, Title 22, Section 66272.62.

RECOMMENDATION:

Update the I&E Plan as indicated above.

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3. OBSERVATION:

The webpage at <https://ema.calaverasgov.us/Environmental-Health/CUPA-Hazardous-Materials> contains the following information that is inaccurate, outdated or may benefit from improvement:

- List of Unified Program elements
 - Update the “Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure (SPCC) Plans” to “Aboveground Petroleum Storage Act (APSA) Program”. Not all APSA tank facilities are required to prepare an SPCC Plan if certain conditions are met.
 - Remove the word “Uniform” from the “California Uniform Fire Code: Hazardous Materials Management Plans and Hazardous Materials Inventory Statements.” The outdated Uniform Fire Code has been replaced with the California Fire Code.
- CUPA-Consolidated Permit Application Package
 - Page 3: Update “Aboveground Storage Tank Spill Prevention Control and Countermeasure Plan (SPCC)” with APSA Program. Update “California Fire Code Plans and Inventory Requirements” with Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) requirements.
 - Page 5: The APSA Program information does not include all applicable tank facilities subject to APSA per HSC, Section 25270.3. The conditions for tank facilities to be exempt from preparing an SPCC Plan should also be included, since not all tank facilities are required to prepare an SPCC Plan under APSA.
 - Page 6: The flowchart should include tank facilities that are required to prepare an SPCC Plan and tank facilities that are conditionally exempt from preparing an SPCC Plan under APSA.
 - Page 17: Update site map requirements to reflect the current statute. Emergency shutoff should be general per the statute and not be limited to utilities.
- CERS Documents
 - CERS help material titled “CERS Is My Facility APSA” is outdated and has been replaced with information posted on the OSFM website at <https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/is-my-facility-regulated-under-the-aboveground-petroleum-storage-act>.
 - CERS help material titled “CERS Preparing an APSA Submittal” is outdated and has been replaced with information on the OSFM website at <https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/preparing-an-aboveground-petroleum-storage-act>.

RECOMMENDATION:

Update the website as indicated above.

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4. OBSERVATION:

The CERS reporting requirement is currently set as “APSA Applicable” for 54 tank facilities. The CUPA’s data management system identifies 40 APSA tank facilities.

- 38 APSA tank facilities are identified in both CERS and the CUPA’s data management system.
- 16 tank facilities are reported as “APSA Applicable” in CERS but are not identified as APSA tank facilities in the CUPA’s data management system.
 - Some of these facilities may not be APSA regulated
- 2 tank facilities identified as APSA tank facilities in the CUPA’s data management system are not identified in CERS as APSA tank facilities.

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.

- 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.
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5. 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 that utilizes the consolidated emergency response and training plans template to use the current version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available in CERS, CERS Central on the 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/>.

6. OBSERVATION:

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

- Tier I and II Qualified Facility SPCC Plan Checklists

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- 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).
- Tier II Qualified Facility SPCC Plan Checklist
 - Missing the violation for failure to prepare an SPCC Plan (Unified Program Violation Library Violation Type Number 4010001).

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.

7. OBSERVATION:

The Self-Audit Reports for FYs 2020/2021, 2021/2022, and 2022/2023 contain the following information that may benefit from improvement.

- Page 1: The Unified Program elements list is missing the HMMP/HMIS requirements.
- Pages 1 and 5: Update the Aboveground Storage Tank program element to APSA Program.
- The title reflected in each annual Self-Audit report is, "2003 Self-Audit Report for 2002/2003 Fiscal Year." The title for each annual Self-Audit report should reflect the applicable FY.

RECOMMENDATION:

Ensure future Self-Audit Reports include current information and the content within corresponds to the applicable FY.

8. OBSERVATION:

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

- CERS ID 10169785
- CERS ID 10467133
- CERS ID 10472044
- CERS ID 10477351
- CERS ID 10485661
- CERS ID 10485814
- CERS ID 10499782

RECOMMENDATION:

Continue to provide verbal and written reminders to all applicable UST facility owners or operators regarding the December 31, 2025, requirement for permanent closure of single-walled USTs.

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9. OBSERVATION:

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

Review of the UST Facility/Tank Data Download report obtained from CERS on February 5, 2024, finds UST monitoring and construction information is incorrect as follows:

- 7 of 20 (35%) systems with single-walled piping listed as “Yes” for continuous secondary monitoring
- 6 of 14 (43%) vacuum, pressure, or hydrostatic (VPH) systems with Secondary Containment Testing listed as “Yes”
- 3 of 14 (21%) VPH systems with Period Enhanced Leak Detection Tested listed as “Yes”

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

RECOMMENDATION:

Review CERS submittals to ensure monitoring and construction information is accurate and complete.

10. OBSERVATION:

On March 26, 2024, an HMBP oversight inspection was conducted at CERS ID 10806700 and at CERS ID 10759246. Each inspection was conducted by a different CUPA inspector.

The inspector was well prepared for the inspection and reviewed relevant information prior to arriving at the facility. The inspector established rapport with the facility operators, toured the entire site, verified inventory, and emergency response plan information and training on site, and effectively communicated technical information to the facility operators. The inspector educated the facility operators on emergency response plan information and the importance of the information. The inspector identified and disclosed all observed violations.

On March 26, 2024, an HMBP oversight inspection was conducted at CERS ID 10759246. The inspector verified inventory, site map, and emergency response plan information and effectively communicated technical information to facility operators. The inspector requested training documents, and the operator acknowledged training documents were on site, however the inspector did not review the training documents. The inspector identified and disclosed all observed violations.

RECOMMENDATION:

Review all training documents at the time of the inspection and continue to conduct thorough HMBP inspections.

11. OBSERVATION:

On March 26, 2024, an oversight inspection was conducted at two Small Quantity Generator (SQG) facilities (CERS ID 10806700 and CERS ID 10759246). Each inspection was conducted by a different CUPA inspector.

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Prior to the inspections, each inspector demonstrated thorough pre-inspection preparation, including using CERS to gather information on the activities and hazardous waste shipments of each facility inspected and to generate follow-up questions to address with the facility operator. Each inspector reviewed facility files maintained by the CUPA to verify facility information and previous violations and to update facility files as necessary. One inspector printed relevant information from CERS for CERS ID 1086700; the inspector reviewed and explained each data element with the facility operator and suggested improvements. Overall, the pre-inspection preparation was detailed and appropriate for the nature of the facilities being inspected.

During each inspection, both inspectors asked for and obtained consent before beginning the inspection by obtaining the facility operator's signature on a dedicated consent document. At each facility, each inspector skillfully established rapport with facility operators and asked several open-ended questions to better understand facility operations. The inspectors explained HWG requirements, as appropriate, to help educate the facility operators. A full walkthrough of both facilities was conducted, and the inspectors investigated all areas where hazardous waste was generated and managed. The appropriate documents required of SQG facilities were reviewed, and documents that were not available for review were noted as violations. The violations observed during the inspection at CERS ID 10806700 were reviewed verbally with the facility operator prior to leaving the facility. No violations were cited during the inspection at CERS ID 10759246.

The inspectors did not provide a written summary of violations or observations to the facility operator at the conclusion of each inspection; however, the procedure is for inspectors to return to the office to prepare an inspection report, which is then provided to the facility by email. Overall, the inspections were handled professionally and were conducted in a timely manner.

The CUPA inspectors demonstrated knowledge of hazardous waste topics including incompatible wastes, lead-acid batteries, used oil and oil filters, training and disposal documentation requirements, emergency requirements, and general HWG Program requirements.

The violations cited in the inspection report for CERS ID 10806700 contain the inspector's observations, the correct citations, corrective actions, and the violation classification. No violations were cited in the inspection report for CERS ID 10759246.

RECOMMENDATION:

Deliver a written summary of violations to the facility operator as soon as possible after an inspection is conducted; HSC, Chapter 6.5, Section 25185(c)(1) requires the delivery of a written summary of violations to the facility operator at the conclusion of each inspection, prior to leaving the site. Replace yes-no questions with open-ended questions to obtain more details about facility operations. Continue to review CERS and facility files maintained by the CUPA to prepare for inspections, obtain consent before beginning inspections, and maintain rapport with facility operators. Continue to conduct full walkthroughs of facilities, review appropriate documents, and review violations observed with the facility operator.

Conduct inspections using a "process-based investigation," which "includes tracking raw materials through the industrial operations, identifying by-product, co-product and products, identifying wastes generated, and determining how these wastes are ultimately managed" (<https://www.epa.gov/sites/default/files/documents/process-basedguide.pdf>). Corrective action

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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.

12. OBSERVATION:

On June 26, 2021, an oversight inspection was conducted during the annual monitoring system certification and the spill container testing at two fueling stations, CERS ID 10477351, and CERS ID 10467133, each with single-walled USTs.

The service technician provided the inspector with the tank set up and alarm history print out prior to opening any UST components. The inspector completed a thorough inspection, performing a complete review of required onsite documentation and confirmed operability of all sensors. The inspector also performed visual inspection of sumps, spill containers, under dispenser containment, and observed line leak detector testing. The inspector questioned the on-site employee about UST spill response procedures and reminded them of the single-walled tank removal deadline.

Review of the inspection report and testing documents finds Unified Program Violation Library Violation Type Number 2030043 – Monitoring Equipment was not issued as it should have been. At the time of inspection, the UDC (Under Dispenser Containment) sensor did not function properly, preventing the fuel from shutting off at the dispenser.

RECOMMENDATION:

Continue to conduct thorough UST inspections. Ensure violations are issued for all non-compliance observed during the inspection.
