

October 16, 2024

Nilsa Gonzalez, Director
Tulare County Environmental Health Division
5957 S. Mooney Boulevard
Visalia, California 93277-9394

Dear Ms. Gonzalez:

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

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

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

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

Jesus Gaona
CUPA Supervisor
Tulare County Environmental Health Division
5957 S. Mooney Boulevard
Visalia, California 93277-9394

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:

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

Kaitlin Cottrell
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

Julie Unson
Environmental Scientist
California Environmental Protection Agency

Jessica Snow
Unified Program Evaluation Team Lead
California Environmental Protection Agency

UNIFIED PROGRAM PERFORMANCE EVALUATION
FINAL SUMMARY OF FINDINGS REPORT

CUPA: Tulare County Environmental Health Division

Evaluation Period: November 2023 through August 2024

Evaluation Team Members:

- **CalEPA Team Lead:** Jessica Snow
- **DTSC:** Brennan Ko-Madden
- **CalEPA:** Julie Unson
- **State Water Board:** Kaitlin Cottrell
- **CAL FIRE-OSFM:** Mary Wren-Wilson, 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:

Jessica Snow
CalEPA Unified Program
Phone: (916) 460-2394
E-mail: jessica.snow@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 jessica.snow@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 **December 30, 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 MATERIALS BUSINESS PLAN (HMBP) INFORMATION INTEGRATION:

The Tulare County CUPA utilizes a “HazMap” interface, a browser based Environmental Systems Research Institute (ESRI) map that obtains facility information from the California Environmental Reporting System (CERS). The “HazMap” interface is accessible via an internet browser, contains additional map layers such as schools, fire hydrants and flood zones, and allows emergency first responders within Tulare County to access general facility information, including chemical inventories and site maps.

2. HAZARDOUS MATERIALS SITE ASSESSMENTS FOR THE 2023 FLOODING INCIDENT:

The County of Tulare experienced multiple atmospheric rivers beginning in January 2023, which resulted in significant and widespread flooding and damage throughout the County. As part of various response and recovery efforts, the Tulare County CUPA conducted hazardous materials site assessments of regulated facilities and for homeowners located within flood impacted areas. The CUPA utilized the web-based Environmental Systems Research Institute, Inc. (ESRI) “HazMap” interface, to identify impacted facilities and homes along flood zones. The CUPA provided guidance documents to facility owners and operators as well as homeowners, to assist in preparing for the impacts of worst-case flooding scenarios. Homeowners also received guidance documents to assist with proper disposal of household hazardous waste, septic systems, and water wells.

The CUPA worked with the most impacted California Accidental Release Prevention (CalARP) Program facility to prepare for the impacts of worst-case flooding scenarios, including reducing the chemical inventory and ensuring the Risk Management Plan (RMP), standard operating procedures, and Spill, Prevention, Control, and Countermeasure (SPCC) plan were up to date.

The CalARP Program facility then worked with local emergency service responders and installed k-rail barriers on the outskirts of the facility.

3. WILDFIRE RESPONSE AND RECOVERY:

The Tulare County CUPA was heavily involved with response and recovery efforts of the Castle and Shotgun Fires, beginning on August 19, 2020, which were later managed as the SQF Lightning Complex fire, as well as the Windy Fire, which began on September 9, 2021. The CUPA led the initial Damage Assessments conducted by the Tulare County Department of Environmental Health to assess and document burned structures. The CUPA also led Phase I debris removal operations on behalf of Tulare County under the authority of the County Health Officer’s Declaration of Local Emergency, which enabled the CUPA to enter private property while accompanied by lead staff of the Department of Toxic Substances Control (DTSC) and contracted personnel. Before Phase I Household Hazardous Waste (HHW) debris removal can occur, removal and disposal of fire ash and debris at the county landfill must occur.

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4. CORONAVIRUS (COVID-19) AND STAFFING SHORTAGES:

Since the 2018 CUPA Performance Evaluation was conducted, recruitment and retention of inspection staff has limited the ability of the Tulare County CUPA from implementing the Unified Program. The CUPA has been hampered by the remote work and social distancing measures resulting from the COVID-19 pandemic. The CUPA has eight inspection districts, with Environmental Health Specialists responsible for various program elements within assigned geographical areas. For Fiscal Year (FY) 2020/2021 and FY 2021/2022, one of the eight inspection districts remained unstaffed throughout the entire FY. During FY 2022/2023, five of the eight inspection districts were unstaffed for either portions of the FY, or throughout the whole fiscal year. To date, multiple vacancies remain within the Tulare County CUPA.

5. ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM IMPLEMENTATION:

Since the 2018 CUPA Performance Evaluation was conducted, the CUPA has successfully enforced the requirements of the APSA Program by obtaining a high rate of return to compliance (RTC) for APSA tank facilities cited with violations.

As an example, during an APSA inspection on September 2, 2021, at CERS ID 10606546, the use of unapproved aboveground storage tanks (ASTs) storing petroleum was observed. A referral to the Tulare County Fire Department was made. A subsequent Fire Department inspection confirmed multiple fire code violations related to the use of the unapproved and unpermitted aboveground fuel storage tanks. After multiple follow-up inspections by the CUPA, and discussions with the facility owner, the unapproved and unpermitted aboveground fuel storage tanks were removed from the facility in August 2022.

These efforts are above and beyond the standard implementation expectations of the APSA Program during the statewide restrictions and challenges resulting from COVID-19.

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DEFICIENCIES REQUIRING CORRECTION

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

1. DEFICIENCY:

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

Review of 30 HMBP CERS submittals provided by regulated businesses subject to Business Plan reporting requirements, finds the following 11 were accepted with missing or incomplete required elements:

- CERS ID 10604668
 - Inventory submitted on April 19, 2023, and accepted on April 24, 2023
 - Missing required site map elements such as evacuation staging areas and emergency response equipment.
- CERS ID 10603780
 - Inventory submitted and accepted on August 27, 2021
 - Missing required site map elements such as north orientation and adjacent streets.
- CERS ID 10607374
 - Inventory submitted and accepted on August 16, 2023
 - Missing required site map elements such access and exit points, and emergency response equipment.
- CERS ID 10190539
 - Inventory submitted on January 3, 2024, and accepted on March 4, 2024
 - Missing required site map elements such as access and exit points.
- CERS ID 10422139
 - Inventory submitted on August 9, 2023, and accepted on August 11, 2023
 - Missing required site map elements such as emergency response equipment.
- CERS ID 10423519
 - Inventory submitted on February 9, 2024, and accepted on March 11, 2024
 - Missing required site map elements such as adjacent streets.
- CERS ID 10604569
 - Inventory submitted on August 30, 2023, and accepted on November 2, 2023, and certified on February 13, 2024
 - Missing required site map elements such as evacuation staging areas.
- CERS ID 10002028
 - Inventory submitted on February 9, 2024, and accepted on February 15, 2024
 - Missing required site map elements such as access and exit points.
- CERS ID 10156849
 - Inventory submitted on February 16, 2024, and accepted on February 20, 2024
 - Missing required site map elements such as access and exit points.

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- CERS ID 10500259
 - Inventory submitted on June 21, 2019, and accepted on June 25, 2019
 - Missing required site map elements such as adjacent streets.
- CERS ID 10934017
 - Emergency Response and Training Plans submitted on August 31, 2023, and accepted on September 1, 2023
 - Missing required emergency response plan elements such as immediate notification contacts to the unified program agency.
- CERS ID 10415206
 - Emergency Response and Training Plans submitted on December 7, 2023, and accepted on March 4, 2024
 - Missing required emergency response plan elements such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency, procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment, and evacuation plans and procedures, including immediate notice, for the business site.
 - Missing required training plan elements such as provisions for trainings for all new employees, yearly refresher courses for all employees, and ensuring training is documented electronically or by hard copy and is available for a minimum of three years.

CITATION:

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

CORRECTIVE ACTION:

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

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

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

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

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

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2. DEFICIENCY:

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 13, 2022, and November 13, 2023, by businesses subject to Business Plan reporting requirements finds:

- 853 of 1,927 (44%) Business Plan facilities have not annually submitted a chemical inventory (including site map) or a no-change certification.
- 849 of 1,927 (44%) 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]

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 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each 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 HMBPs or no-change certifications; and
 - Enforcement applied by the CUPA to ensure an HMBP or no-change certification is annually submitted to CERS.
- Note: If a sortable spreadsheet obtained from the CUPA's data management system or CERS is not provided, CalEPA will utilize CERS to evaluate the progress made towards the correction of this deficiency.

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.

3. DEFICIENCY:

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

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Review of inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information in CERS between October 1, 2020, and September 30, 2023, finds:

- 933 of 1,927 (48%) 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:

- 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.
- Note: If a sortable spreadsheet obtained from the CUPA's data management system or CERS is not provided, CalEPA will utilize CERS to evaluate the progress made towards the correction of this deficiency.
- 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 of 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.

4. DEFICIENCY:

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

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

- 39 of 102 (38%) facilities subject to CalARP Program requirements were not inspected within the last three years.

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CITATION:

HSC, Chapter 6.95, Section 25537(a)
CCR, Title 19, Section 5140.4
[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 CalARP Program requirements is inspected at least once every three years. The action plan will include, at minimum:

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each CalARP Program facility 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 CalARP Program requirements that has not been inspected within the last three years, prioritizing the most delinquent inspections to be completed prior to any other CalARP Program facility inspection based on risk. For each facility, the schedule to inspect should reflect an estimated date or date range.
- Note: If a sortable spreadsheet obtained from the CUPA's data management system or CERS is not provided, CalEPA will utilize CERS to evaluate the progress made towards the correction of this deficiency.
- Future steps to ensure all CalARP Program facilities will be inspected at least once every three years; for example, the generation of a list of all facilities subject to CalARP Program requirements and the anniversary date of the next routine CalARP Program 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 as to how the CUPA is continuing to ensure all facilities subject to CalARP Program requirements will be inspected at least once every three years.

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

5. DEFICIENCY:

The CUPA is not consistently applying enforcement as outlined in "Chapter 3. Enforcement, Sections VI through XII" of the Tulare County Department of Environmental Health Services (TCDEHS) Inspection & Enforcement (I&E) Policy.

Review of CERS CME information between July 1, 2020, and June 30, 2023, finds the following cited violations have no documented RTC and follow-up enforcement has not been applied:

- FY 2020/2021:
 - 54 of 284 (19%)

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- FY 2021/2022:
 - 85 of 397 (21%)
- FY 2022/2023:
 - 133 of 451 (39%)

Review of CERS CME information between September 30, 2020, and September 30, 2023, finds:

- 599 of 1,240 (48%) Leak Detection violations were cited for failures with Spill Containment Testing, Overfill Prevention Equipment (OPE), and/or Secondary Containment testing.
- 297 of 1,240 (24%) violations cited for Leak Detection have no documented RTC
 - 184 of 297 (62%) Leak Detection violations having no documented RTC are violations cited for failures with Spill Containment Testing, OPE, and/or Secondary Containment testing.

Review of CERS CME information between September 30, 2020, and September 30, 2023, finds the following violations are repeatedly cited without having documented RTC and follow-up enforcement has not been applied:

- CERS Violation Library Violation Type Number 2030036 – Overfill Prevention (USEPATCR 9b):
 - CERS ID 10603894
 - Violation issued March 1, 2021
 - No violation comment provided
 - No Routine inspection information reported to CERS in 2022
 - Violation issued March 20, 2023, states:
 - “Owner/Operator failed to meet one or more of the requirements applicable to overfill prevention equipment.”
 - CERS ID 10605124
 - Violation issued July 15, 2021, states:
 - “The diesel drop-tube is in disrepair.”
 - Violation issued November 9, 2022, states:
 - “The diesel drop-tube failed overfill prevention testing on 07/15/2022 (bad float). Repair/replace the diesel drop-tube by 12/09/2022. [REPEAT VIOLATION]”
 - Violation issued September 12, 2023, states:
 - “The diesel drop-tube failed overfill prevention testing on 07/15/2021 (bad float). The site is also overdue for the second round overfill prevention test. Repair/replace the diesel drop-tube and schedule the second round overfill prevention test.”
 - CERS ID 10607356
 - Violation issued April 13, 2021, states:
 - “87 spill bucket did not pass due to bad drain valve. Repair and retest.”
 - No Overfill Prevention violation was reported to CERS in 2022
 - Note: The second Overfill Prevention Equipment Inspection was due by October 2021

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- Violation issued April 19, 2023, states:
 - “No records were observed to indicate that the second round overfill prevention test has been conducted. Records indicate that overfill prevention testing was last conducted in 2019. Immediately contact a certified service technician to schedule overfill prevention testing.”
- Violation issued May 10, 2023, states:
 - “Owner/Operator failed to meet one or more of the requirements applicable to overfill prevention equipment. The overfill prevention equipment inspection could not be conducted today... OPW drop tubes are not approved for use with Phil-Tite spill buckets, EBW drop tubes are approved for use with Phil-Tite spill buckets... failed testing today due to incompatible equipment (State of California Air Resources Board Executive Order FR-101-V). 87 spill bucket could not be removed for testing and needs to be replaced.”
- CERS ID 10607728
 - Violation issued May 3, 2021, states:
 - “Overfill prevention test conducted on 4/17/2019 had failures that have not been address. 87 drop tube does not restrict at 90% and 91 fill tube could not be removed for testing. Correct the following failures and retest overfill prevention system.”
 - No Overfill Prevention violation was reported to CERS in 2022
 - Note: The second Overfill Prevention Equipment Inspection was due by October 2021
 - Violation issued July 13, 2023, states:
 - “The service technician was unable to access and test the 87 regular and the 91 premium drop-tube flapper valves during the (09/14/2022) overfill prevention test. Schedule overfill prevention testing for the 87 & 91 drop-tubes”
- CERS ID 10610497
 - Violation issued October 18, 2021, states:
 - “Additional audible/ visual overfill alarms must be installed to meet the performance requirement enclosed in LG 150-3. Install additional audible/visual overfill alarms or install flapper valves.”
 - Violation issued October 18, 2022, states:
 - “Owner/Operator failed to meet one or more of the requirements applicable to overfill prevention equipment. The site currently has one A/V overfill alarm for overfill protection on all three tanks. Waterboard LG letter 150-3 dated 2/5/2021 finds that this configuration does not meet overfill requirements... Maintain overfill prevention system to comply with the deficiencies noted above.”
 - Violation issued October 23, 2023, states:
 - “Owner/Operator failed to meet one or more of the requirements applicable to overfill prevention equipment. The site is currently using one A/V overfill alarm for all three tanks. This violation was cited during the October 2022 monitoring certification. There is no paperwork/results to show that overfill prevention devices have been installed for the two remaining tanks. Each tank must have its own

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overflow prevention device. Maintain overflow prevention system to comply with the deficiencies noted above.”

- CERS Violation Library Violation Type Number 2060020 – Spill Container (USEPATCR 9a):
 - CERS ID 10606606
 - Violation issued October 27, 2021, states:
 - “The 87-E spill bucket failed the Incon Test. Repair the 87-E spill bucket.”
 - Violation issued December 22, 2022, states:
 - “Install or repair spill buckets to meet all of the listed requirements, have tightness tested using approved method, by certified UST service technician”
 - Violation issued December 27, 2022, states:
 - “Install or repair spill buckets to meet all of the listed requirements, have tightness tested using approved method, by certified UST service technician”
 - Note: Violation issued January 22, 2024, states “Repair both 87 spill buckets to meet all of the listed requirements, have tightness tested using approved method, by certified UST service technician, and submit documentation to verify compliance. Maintain all testing records for 36 months.”**CORRECTED ON SITE. “
 - CERS ID 10605124
 - Violation issued July 22, 2020, states:
 - “91 spill bucket failed liquid test.”
 - Violation issued July 15, 2021, states:
 - “The 91 premium spill bucket failed the 1 hour lake/hydrostatic test.”
 - Violation issued November 9, 2022, states:
 - “The 91 premium spill bucket failed the 1 hour lake/hydrostatic test.”
- CERS Violation Library Violation Type Number 2030048 – Secondary Containment Testing (USEPATCR 9d):
 - CERS ID 10610251
 - Violation issued July 29, 2021, states:
 - “Submit the secondary containment test results or conduct the secondary containment test.”
 - Violation issued July 29, 2022, states:
 - “Conduct secondary containment testing in accordance with all applicable requirements and maintain records for 36 months. Submit verification. Records indicate [Secondary Containment] testing is overdue. Conduct the test and/or submit current results.”
 - Violation issued August 28, 2022, states:
 - “Conduct the test or submit the results.”
 - CERS ID 10611232
 - Violation issued November 18, 2021, states:
 - “Secondary containment testing was last performed on 10/16/2018 and was due by 10/16/21. Testing has not been completed and is 1 month past due.”

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- Violation issued November 22, 2022, states:
 - “Secondary containment testing was last performed on 10/16/2018 and was due by 10/2021. Testing has not been completed and is 13 months past due.”
- Violation issued November 21, 2023, states:
 - “Secondary containment testing was last performed on [10/16/2018] and was due by [10/2021]. Testing has not been completed and is [24] months past due.”
- CERS ID 10414960
 - Violation issued May 4, 2021, states:
 - “Secondary containment testing was last performed on 10/28/2019.”
 - Violation issued May 31, 2022, states:
 - “Repeat violation from 05/04/2021 AMC. Fuel filter piping is outside of the UDC footprint. Have a properly licensed, trained, and certified contractor and submit a permit application with the CUPA to upgrade secondary containment as necessary.”
 - Violation issued May 22, 2023, states:
 - “Owner/Operator did not do one or more of the following: Have testing performed by a certified service technician; or maintain records of secondary containment testing for 36 months. The last routine secondary containment testing was conducted on 10/8/201”

Note: Facilities that operate without conducting leak detection testing pose an imminent threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive and/or financial advantage.

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

The CUPA's Technical Compliance Rate (TCR) indicates facilities are failing to obtain RTC for cited violations as the TCR reported by the CUPA is significantly lower in comparison to the average TCR for California.

- The TCR is a measurement of how a UST facility complies with performance measures as determined by the U.S. Environmental Protection Agency (EPA).
 - A low TCR indicates a low rate of compliance.
 - A high TCR indicates a high rate of compliance.
 - When a CUPA's TCR is significantly lower than the average TCR for California, it is indicative that the CUPA is not applying enforcement to ensure facilities cited with violations obtain RTC.

The CUPA's TCR in comparison with the average TCR for California during the specified reporting periods identifies the following trend:

- January – June 2021
 - Tulare County Environmental Health (TCEH): 42%
 - CA Avg: 59%
- July – December 2021
 - TCEH: 29%
 - CA Avg: 60%

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- January – June 2022
 - TCEH: 45%
 - CA Avg: 60%
- July – December 2022
 - TCEH: 33%
 - CA Avg: 60%
- January – June 2023:
 - TCEH: 39%
 - CA Avg: 60%

Note: The following State Water Board documents may be referenced:

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

CITATION:

CCR, Chapter 16, Sections 2712(j), 2713(c)(4) and (d)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with an analysis and explanation as to why the CUPA is not consistently applying enforcement as outlined in “Chapter 3. Enforcement, Sections VI through XII,” of the I&E Policy. The analysis and explanation will include, at minimum:

- discussion of what procedures and tools will be used to ensure the CUPA will consistently apply enforcement, including applied enforcement for repeat violations without RTC and documentation of all correspondence between the CUPA and each UST facility;
- identification of the types and frequency of training needed to consistently apply enforcement; and
- an action plan to address each identified aspect as to why the CUPA is not consistently applying enforcement, including:
 - application of the procedures and tools necessary to ensure enforcement is consistently applied;
 - including applied enforcement for repeat violations without RTC and documentation of all correspondence between the CUPA and each UST facility;
 - completion of training needed to consistently apply enforcement; and
- a timeline for implementing the action plan to ensure enforcement is consistently applied.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet identifying each UST facility having one or more of the following Leak Detection violations with no RTC, cited for two or more

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consecutive annual compliance (Routine) inspections, conducted between September 30, 2020, and September 30, 2023:

- CERS Violation Library Violation Type Number 2060020 – Spill Container (USEPATCR 9a)
- CERS Violation Library Violation Type Number 2030036 – Overfill Prevention (USEPATCR 9b)
- CERS Violation Library Violation Type Numbers 2030048 – Secondary Containment Testing (USEPATCR 9d) and/or 2030047 – Secondary Containment Testing

For each UST facility listed, the sortable spreadsheet will include, at minimum:

- CERS ID
- CERS UST Tank ID
- The status of obtaining compliance. The CUPA will provide CalEPA with documentation of the applied enforcement or RTC.
- Follow-up actions including applied enforcement and the status of the facility obtaining compliance. If enforcement has been applied, the CUPA will provide CalEPA with the documentation. If compliance has been obtained, the CUPA will provide CalEPA with documentation of RTC.

By the 2nd Progress Report, if revisions to the action plan and/or timeline to address each identified aspect as to why the CUPA is not consistently apply enforcement are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised action plan and/or timeline. If no revisions are necessary, the CUPA will implement the action plan and/or timeline.

By the 3rd Progress Report, if revisions to the action plan and/or timeline were necessary, the CUPA will implement the revised action plan and/or timeline.

6. DEFICIENCY:

The CUPA is not consistently ensuring APSA tank facilities annually submit an HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement.

On August 6, 2024, review of HMBPs submitted to CERS between October 12, 2022, and November 13, 2023, by APSA tank facilities in lieu of tank facility statements finds:

- 94 of 308 (31%) APSA tank facilities have not submitted a chemical inventory and site map.
- 95 of 308 (31%) APSA tank facilities have not submitted emergency response and employee training plans.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure APSA tank facilities annually submit an HMBP to CERS, when an HMBP is provided in lieu of a tank facility statement. The action plan, at minimum, will include how the

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CUPA will follow-up with facilities that have not annually submitted an HMBP to CERS, in lieu of a tank facility statement.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative of the enforcement applied by the CUPA to ensure an HMBP is annually submitted to CERS, when an HMBP is provided in lieu of a tank facility statement.

By the 4th Progress Report, the CUPA will ensure each APSA tank facility has annually submitted an HMBP to CERS when an HMBP is provided in lieu of a tank facility statement, or the CUPA will have applied enforcement.

7. DEFICIENCY:

The CUPA is not inspecting each APSA tank facility that stores 10,000 gallons or more of petroleum for compliance with the SPCC Plan requirements of APSA at least once every three years.

On August 6, 2024, review of information provided by the CUPA and CERS CME information between July 1, 2017, and March 14, 2024, indicates:

- 63 of 118 (53%) APSA tank facilities that store 10,000 gallons or more of petroleum 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]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each APSA tank facility that stores 10,000 gallons or more of petroleum is inspected at least once every three years for compliance with the SPCC Plan requirements of APSA. The action plan will include at minimum:

- A schedule to inspect those APSA tank facilities (or tentative date of the next routine inspection), prioritizing the most delinquent inspections to be completed prior to any other APSA tank facility inspection based on a risk analysis of all APSA tank facilities with 10,000 gallons or more of petroleum (i.e., large volumes of petroleum or proximity to navigable water).
- Future steps to ensure each APSA tank facility storing 10,000 gallons or more of petroleum will be inspected at least once every three years for compliance with the SPCC Plan requirements of APSA, and to ensure CME information is reported to CERS.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a narrative of the progress made in conducting delinquent inspections.

By the 5th Progress Report, the CUPA will have inspected each APSA tank facility that stores 10,000 gallons or more of petroleum at least once every three years.

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8. DEFICIENCY:

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

The CUPA is not inspecting each Tiered Permit (TP) facility once every three years after the initial inspection, as established by HSC, Section 25201.4(b)(2).

Review of facility files, CERS CME information and additional information provided by the CUPA finds:

- The following HWG facilities (excluding TP facilities) were not inspected at least once every five years between October 1, 2018, and September 30, 2023:
 - 511 of 980 (52%)
- The following TP facilities were not inspected at least one every three years between October 1, 2020, and September 30, 2023:
 - 6 of 8 (80%) TP facilities were not inspected once every three years.
 - CERS ID 10152573
 - Identified by the CUPA as a Permit-by-Rule (PBR) facility
 - Last PBR inspection conducted June 11, 2009
 - CERS ID 10152601
 - Identified by the CUPA as a PBR facility
 - Last PBR inspection conducted February 15, 2024
 - CERS reflects no PBR inspections prior to February 15, 2024
 - CERS ID 10116286
 - Identified by the CUPA as a PBR facility
 - Last PBR inspection conducted July 27, 2015
 - CERS ID 10138583
 - Last Conditionally Authorized inspection conducted July 15, 2015
 - CERS ID 10406503
 - Last Conditionally Exempt inspection conducted March 13, 2018
 - CERS ID 10607686
 - No HHW inspections conducted
 - HW inspection conducted on September 27, 2023

CITATION:

HSC, Chapter 6.5, Section 25201.4(b)(2)
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 five years, per the inspection frequency established in the I&E Plan and each TP facility (including PBR facilities) is inspected within the first two years of notification and every three years thereafter, as established by HSC, Section 25201.4(b)(2). The action plan will include, at minimum:

- A sortable spreadsheet exported from the CUPA's data management system, identifying each HWG facility (including each HHW facility) and each TP facility that has not been

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inspected at least once every year. For each facility listed, the spreadsheet will include, at minimum:

- Facility name,
- CERS ID, and
- Date of the last routine inspection.
- A schedule to inspect those identified HWG and TP (PBR) facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG or TP inspection based on risk.
- Future steps to ensure that each HWG facility is inspected once every five years, per the inspection frequency established in the I&E Plan and each TP (PBR) facility is inspected within the first two years of notification and every three years thereafter, as established by HSC, Section 25201.4(b)(2) (for example, the generation of a list of all HWG facilities and the anniversary date of the next routine HWG 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.

By the 5th Progress Report, the CUPA will have inspected each HWG facility identified in the sortable spreadsheet provided with the 1st Progress Report once within the last five years and each TP (PBR) facility identified in the sortable spreadsheet provided with the 1st Progress Report once within the first two years of notification and every three years thereafter.

9. DEFICIENCY:

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 and information from the CUPA's data management system finds there is no documented RTC for the following HWG Program violations cited between October 1, 2020, and September 30, 2023:

- 99 of 314 (32%)
 - 3 of 4 (75%) Class I violations have no RTC
 - 28 of 72 (39%) Class II violations have no RTC
 - 68 of 238 (29%) Minor violations have no RTC
 - RTC was obtained for 170 of 238 (71%) Minor violations, however, 134 of 238 (56%) did not obtain RTC within 35 days of being cited.

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:

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 HWG facility with an open violation (no RTC) cited between October 1, 2020, and September 30, 2023:

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

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

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

10. DEFICIENCY:

The CUPA is not fully implementing the TP component of the HWG Program.

The CUPA is not inspecting each TP facility every three years, per the HSC:

- 6 of 8 (80%) TP facilities were not inspected once every three years.

The CUPA is not citing violations when PBR facilities are not submitting an initial or annual Onsite Hazardous Waste Treatment Notification for Permit-By-Rule. Review of CERS CME information finds the following facilities have not submitted PBR Onsite Hazardous Waste Treatment Notifications:

- CERS 10116286
 - Last PBR inspection conducted July 27, 2015
 - Last PBR submittal dated October 2, 2017.
 - No violation cited for failing to submit an annual Onsite Hazardous Waste Treatment Notification.
 - Last PBR submittal in CERS dated October 2, 2017.
- CERS ID 10152573: identified by the CUPA as a PBR facility.
 - Last PBR inspection conducted June 11, 2009.
 - No violations cited for failing to submit an initial Onsite Hazardous Waste Treatment Notification.
 - No PBR submittals in CERS.
- CERS ID 10152601: identified by the CUPA as a PBR facility
 - Last PBR inspection conducted February 15, 2024.
 - Violation for failing to submit an amended Onsite Hazardous Waste Treatment Notification cited with incorrect citation [CCR, Title 22, Section 67450.3(c)(2)]. The correct citation for the violation is CCR, Title 22, Section 67450.2(b)(2) for failure to submit an initial notification.
 - No PBR submittals in CERS.

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The CUPA is not properly reviewing, processing, and authorizing each Onsite Hazardous Waste Treatment Notification. Review of CERS CME information finds the following Onsite Hazardous Waste Treatment Notifications submitted between October 1, 2020, and September 30, 2023, were not properly reviewed, processed, or authorized by the CUPA:

- CERS ID 10406503
 - 4 CE-CL Notifications accepted between March 15, 2021, and March 14, 2024.
 - The notifications incorrectly check “Yes” to having a Facility Permit (a state or federal hazardous waste facility full permit).
 - 1 CE-CL Notification accepted March 15, 2021
 - Submitted with an outdated certification date of December 19, 2013.
- CERS ID 10676374
 - 2 CESW Notifications accepted between July 26, 2022, and January 23, 2024.
 - Submitted with outdated certification dates of May 8, 2019.

CITATION:

CCR Title 22, Sections 67450.2(b)(4) and 67450.3(c)(1) and (d)
HSC, Chapter 6.5, Section 25200.3(e)(3) and 25201.5(d)(7)
[DTSC]

CORRECTIVE ACTION:

Regarding not meeting the inspection frequency for each TP facility, refer to the corrective actions outlined for Deficiency 10.

By the 1st Progress Report, the CUPA will provide inspection staff with training on the TP component of the HWG Program regarding how to accurately review, process, and authorize Onsite Hazardous Waste Treatment Notifications.

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

Note: Training videos regarding the TP component of the HWG Program are available on the California CUPA Forum Board website at: <https://www.youtube.com/user/orangetreeweb/videos>. Additional TP training and assistance may also be requested from DTSC.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a narrative update to CalEPA on the status of the progress made toward accurately reviewing, processing, and authorizing each Onsite Hazardous Waste Treatment Notification, including:

- citing violations for failure to submit an initial or annual Onsite Hazardous Waste Treatment Notification; and
- ensuring annual notification submittals are accurate, correct, and represent the actual waste treatment systems used at the notifying facility.

11. DEFICIENCY: CORRECTED DURING EVALUATION

The general conditions of the “Underground Storage Tank Operating Permit,” issued as the Unified Program Facility Permit (UPFP), are inconsistent with CCR, Chapter 16 (UST Regulations) and HSC, Division 20, Chapter 6.7 requirements.

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Review of the “UST Operating Permit” general conditions finds the following inconsistencies with UST Regulations and HSC:

- General permit conditions state, “Permits become void on change of ownership,” and, “Permits to Operate and Annual Fee Payments Are Not Transferable.”
 - This is more stringent than CCR, Chapter 16, Section 2712(d) and HSC, Section 25284(b), which allow for the transfer of permits.
- General Conditions (a), and General Conditions (d), cite CCR, Chapter 18, and HSC, Chapter 6.75.
 - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite Chapters 18 and 6.75.
 - The correct citations are:
 - CCR, Chapter 16, Sections 2610 through 2717.7.
 - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.
- General Conditions (c) states “The notification shall be in writing and include ... compatibility documentation demonstrating compliance with sections 2630(d), 2631(b), (d), (j), (k), and (l), 2633(b), 2638(a), 2640.1, 2641(j), and 2643(f) of 23 CCR 16, as applicable”

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25284(b), and 25297.01(b)
CCR, Title 23, Section 2712(d)
[State Water Board]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA revised the general conditions of the “UST Operating Permit” template to be consistent with CCR, Chapter 16, and HSC, Chapter 6.7 requirements and provided a “UST Operating Permit” issued to a facility using the revised template. This Deficiency is considered corrected.

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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 CalARP performance audit reports for FYs 2020/2021, 2021/2022, and 2022/2023 have an incomplete required element.

The following element is incomplete:

- A summary of the personnel and personnel years (PYs) necessary to directly implement, administer, and operate the CalARP Program.
 - The summary included reflects a total of 301 personnel hours were necessary to implement the CalARP Program, however personnel hours must be reported as PYs.
 - PYs are determined 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).

CITATION:

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

RESOLUTION:

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

2. INCIDENTAL FINDING:

The CUPA is not consistently citing nor requiring the correction of construction violations identified in State Water Board LG Letter 150, dated February 2021.

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

- CERS Tank ID 10610335-004
- CERS Tank ID 10149239-006

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

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Note: The following may be referenced:

- State Water Board CUPA Evaluation Guidance Documents, Single-Walled Vent or Riser Piping: <https://www.waterboards.ca.gov/ust/single-walled-vent-riser.html>
- State Water Board LG 150-3, Underground Storage Tank Overfill Prevention Equipment”: https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf may be referenced

CITATION:

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

RESOLUTION:

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

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

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

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

By the 3rd Progress Report, if appropriate steps have not been taken by the UST owners/operators to remedy the construction violations, the CUPA will apply enforcement, including but not limited to revocation of the UST operating permit portion of the “Permit to Operate” (issued as the Unified Program Facility Permit) and issuance of red tags, which will prohibit the deposit and withdrawal of hazardous substances. The CUPA will provide CalEPA with documentation of the applied enforcement.

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

3. INCIDENTAL FINDING:

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

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Review of UST CERS CME information finds non-compliance was observed; however, no violations were issued for the following:

- CERS ID 10604539
 - TCR criteria violation information for an abandoned UST inspected in 2022 or 2023.
- CERS ID 10605178
 - TCR criteria violation information for an abandoned UST inspected in 2021, 2022, or 2023.
- CERS ID 10607908
 - TCR criteria violation information for an abandoned UST inspected in 2022 or 2023.
- CERS ID 10611256
 - TCR criteria violation information for an abandoned UST inspected in 2022 or 2023.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and CERS information finds the following tank construction and testing discrepancies:

- CERS ID 10134430
 - Annual Monitoring System Certifications dated June 17, 2021, June 23, 2022, and June 14, 2023, do not show the Automatic Tank Gauging (ATG) testing completed, as required for single-walled tank monitoring.
- CERS ID 10154801
 - Annual Monitoring System Certifications dated May 13, 2021, and May 10, 2023, do not show the ATG testing completed, as required for single-walled tank monitoring.
- CERS ID 10476724
 - Annual Monitoring System Certifications dated January 18, 2021, January 25, 2022, and January 24, 2023, do not show the ATG testing completed, as required for single-walled tank monitoring.

Review of UST compliance inspection reports finds the following incorrect documents were accepted by the CUPA:

- CERS ID 10134430
 - “Appendix VI - Overspill Bucket Testing Form” dated June 17, 2021.
 - The correct form is Appendix VIII – Spill Container Testing Report Form
- CERS ID 10476391
 - “Appendix VI - Overspill Bucket Testing Form” dated May 13, 2021, May 31, 2022, and May 23, 2023.
 - The correct form is Appendix VIII - Spill Container Testing Report Form

Note: The following may be referenced:

- Abandoned Tank Inspection Guidance Letter:
https://www.waterboards.ca.gov/ust/docs/abandoned_storage/abust_inspection_letter_and_checklist.pdf
- Local Guidance Letter 164-4 Semi-Annual UST Program Report:
https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/lg_164_4.pdf

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CITATION:

CCR, Title 23, Sections 2637.1(d) and 2713(c)(4) and (d)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for consistently conducting complete annual UST compliance inspections. The revised I&E Plan, or other applicable procedure will, at minimum include:

- procedures and tools needed to consistently conduct complete annual UST compliance inspections.
- Identification of the types and frequencies of training needed to conduct complete UST compliance inspections.

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 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on the 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. Once training is complete, the CUPA will implement the revised I&E Plan, or other applicable procedure.

By the 3rd Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan, or other applicable procedure. Once training is complete, the CUPA will implement the amended I&E Plan, or other applicable procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with UST facility records, for the five most recent completed UST compliance inspections, including, at minimum, annual UST compliance inspection reports, and associated testing and leak detection documents.

4. INCIDENTAL FINDING:

Required components of the I&E plan are missing or inaccurate.

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

- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory, pursuant to HSC, Chapter 6.5, Section 25198.
 - Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
- Enforcement notification procedures that ensure appropriate confidentiality.

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

- Section “VIII. Revocation, Modification or Suspension of Permit” states “The TCEHS may revoke, modify, or suspend a permit by issuing a written notice ...”
 - The CUPA does not have authority to suspend a UST operating permit, per HSC, Section 25285.1.
- Page 41, Initial Penalties Hazardous Waste, and Table 4- Hazardous Waste Penalties
 - The initial penalty matrix is outdated.
 - The statutory maximum daily penalty amount has changed to \$70,000. The current initial penalty matrix can be found in CCR, Section 66272.62(d).
- Page 42, Table 5 – UST Penalties
 - The minimum penalty is stated as \$0, and the average penalty is stated as \$250.
 - HSC, Section 25299 (a) and (b) call for penalties no less than \$500 or no more than \$5,000 per day, per violation, per UST.

CITATION:

HSC, Chapter 6.7, Sections 25285.1 and 25299
CCR, Title 27, Section 15200(a)
[CalEPA, DTSC, State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will revise the I&E to correctly address all required components. The CUPA will provide the revised I&E Plan to CalEPA.

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

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

5. INCIDENTAL FINDING:

The Self-Audit Reports for FYs 2020/2021, 2021/2022, and 2022/2023 have missing components.

The following components are missing:

- A date of completion to demonstrate compilation by September 30th.
- A report of deficiencies with a plan of correction.
- A narrative summary of the effectiveness of activities including, but not limited to:
 - Permitting

CITATION:

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

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RESOLUTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2023/2024 that includes all required components and incorporates a date of compilation to demonstrate the report was compiled by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30th.

6. INCIDENTAL FINDING:

The CUPA is not submitting Quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter (FQ) when state surcharge revenues are remitted.

- FY 2020/2021
 - 1st FQ:
 - Due October 30, 2020, received November 30, 2020, and March 15, 2021.
 - 2nd FQ:
 - Due January 30, 2021, received March 15, 2021, and August 12, 2021.
 - 3rd FQ:
 - Due April 30, 2021, received August 12, 2021, and August 24, 2021.
 - 4th FQ:
 - Due July 30, 2021, received August 26, 2021, and September 1, 2021.
- FY 2022/2023
 - 1st FQ:
 - Due October 30, 2022, received November 16, 2023

Note: The CUPA is not utilizing the current version of the quarterly Surcharge Transmittal Report template, effective July 1, 2018.

CITATION:

CCR, Title 27, Section 15250(b)(1) and (2)
[CalEPA]

RESOLUTION:

By the 1st Progress Report, the CUPA will have provided the 1st Quarterly Surcharge Transmittal Report for Fiscal Year 2024/2025 by October 30, 2024, using the current Quarterly Surcharge Transmittal Report template, along with any state surcharge remittance, to the California Air Resources Board (CARB) via mail at:

Air Resources Board
Attn: Accounting
P.O. Box 1436
Sacramento, CA 95812

The CUPA will also ensure an electronic copy of the 1st Quarterly Surcharge Transmittal Report for Fiscal Year 2023/2024 is provided to CalEPA via email at cupa@calepa.ca.gov, by October 30, 2024, using the current Quarterly Surcharge Transmittal Report template.

Thereafter, no later than 30 days after the end of each FQ, the CUPA will ensure each Quarterly Surcharge Transmittal Report, and any state surcharge remittance are provided to CARB via mail, and each Quarterly Surcharge Transmittal Report is provided to CalEPA via email.

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Note: A revised quarterly Surcharge Transmittal Report template is available at:
https://calepa.ca.gov/wp-content/uploads/sites/6/2023/10/SURCHARGE-TRANSMITTAL-REPORT_20231019-ADA-1.pdf.

Each line item on the Surcharge Transmittal Report template should be completed, including the check number. Though CalEPA has requested use of the revised quarterly Surcharge Transmittal Report, the July 1, 2018, version of the quarterly Surcharge Transmittal Report may be used, until the revised quarterly Surcharge Transmittal Report is incorporated into Title 27.

7. INCIDENTAL FINDING:

The CUPA is not ensuring each stationary source in the CalARP Program reviews and updates the RMP at least once every five years.

The following 2 of 102 (2%) stationary sources have not updated the RMP at least once in the last five years:

- CERS ID 10166537 – RMP last updated July 28, 2014
- CERS ID 10605997 – RMP last updated July 17, 2018

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each stationary source in the CalARP Program has reviewed and updated the RMP at least once every five years. 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 for each stationary source:

- Facility name;
 - CERS ID;
 - Date the RMP was last reviewed and updated by the stationary source; and
 - Recent follow-up actions with CalARP Program facilities that have not revised and updated the RMP at least once every five years.
-

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OBSERVATIONS AND RECOMMENDATIONS

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

1. OBSERVATION:

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

- Part I, Pages 17, 34, and 37; Part II, Pages 44, 47, and 51; Part III, Pages 93, 94, 96, 97, and 108: Reference to the Department of Fish and Game should be replaced with the Department of Fish and Wildlife.
- Part III, Pages 63, 92, 93, 94 and 96: Reference to Cal EMA should be replaced with Cal OES.

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

RECOMMENDATION:

With the next triennial review, revise the area plan to address outdated information.

2. OBSERVATION:

On August 20, 2024, a CalARP and HMBP oversight inspection was conducted at CERS ID 10423519. The inspector was well prepared for the inspection and reviewed relevant information, including the most current RMP and CERS submittal prior to arriving at the facility. The inspector was knowledgeable, established rapport with the facility operators, requested and reviewed the most current RMP information, toured the entire site, and effectively communicated technical information to the facility operators. The inspector continued to communicate with the facility following the inspection to address information that was unclear, incomplete, or missing during the onsite visit. The inspector extended assistance to the facility operators for familiarity with the CalARP and HMBP Program requirements.

On August 21, 2024, an HMBP oversight inspection conducted at CERS ID 10827985. 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 identified and disclosed all violations.

RECOMMENDATION:

Continue to conduct thorough HMBP and CalARP inspections. Review the American National Standards Institute/International Institute of All-Natural Refrigeration (ANSI/IIAR) 2-2014 Section 15.5.1 for additional information on Atmospheric Termination of Relief Valve Discharge Piping, IIAR 6 for piping inspections and CCR, Title 19, Division 5, Chapter 2, Sections 5100.1(d)(2) and 5100.5(d)(2) for Recognized and Generally Accepted Good Engineering Practices (RAGAGEP) requirements.

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3. OBSERVATION:

Review of UST facility information in the CERS Facility Tank/Data Download report, generated on March 7, 2024, finds the following 5 UST facilities have USTs with single-walled components which require permanent closure by December 31, 2025, in accordance with HSC, Chapter 6.7, Section 25292.05:

- CERS ID 10154801
- CERS ID 10476724
- CERS ID 10606717
- CERS ID 10608496
- CERS ID 10610335

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

RECOMMENDATION:

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

4. OBSERVATION:

Review of requested UST facility files finds all required closure documentation was provided for CERS ID 10607344, 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.

5. OBSERVATION:

Review of the CERS UST Facility Tank/Data Download report generated on March 7, 2024, and UST Facility information finds the following discrepancy:

- CERS Tank ID 10604818-003 has a closure date of August 24, 2022, however the Type of Action is Confirmed/Updated Information

RECOMMENDATION:

Perform a proxy submittal, if necessary, to accept a CERS submittal detailing the closure of CERS Tank ID 10604818-003.

6. OBSERVATION:

As of November 13, 2023, the CERS reporting requirement is set as “APSA Applicable” for 309 APSA tank facilities. The CUPA’s data management system identifies 310 APSA tank facilities, consisting of 118 facilities that have aboveground petroleum storage capacity of 10,00 gallons or more, 151 facilities that have aboveground petroleum storage capacity of 1,320 to 9,999 gallons, and 41 Conditionally Exempt facilities.

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- 290 APSA tank facilities are identified in both CERS and the CUPA's data management system.
- 19 tank facilities identified as "APSA Applicable" in CERS are not identified as APSA tank facilities in the CUPA's data management system.
- 20 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.

7. OBSERVATION:

Several APSA tank facilities submitted an HMBP 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 2023 version, when an HMBP is submitted in lieu of a tank facility statement. The current template is available in CERS, on the CERS Central – Business webpage at <https://cers.calepa.ca.gov/businesses/> and the CalEPA Unified Program Publications and Guidance webpage at <https://calepa.ca.gov/cupa/publications/>.

8. OBSERVATION:

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

- Page 1: The Unified Program elements list is missing the fire code Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) requirements, which are consolidated with HMBP requirements.
- Page 9: In the first sentence under Inspection Priorities, add 'storing less than 10,000 gallons of petroleum' after 'APSA facilities' to clarify those without a mandated inspection frequency.
- Page 10: In the sentence at section F.1, delete the words 'a of' to improve readability.

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- Page 11: The routine inspection frequencies noted at 8.b (tanks in underground areas [TIUGA]) and in the paragraph below 8.c (≥ 1320 and $< 10,000$ gallons) are not reflected in the Table on page 3, creating confusion regarding specified inspection frequencies. If the Page 3 table is correct, then the page 11 discrepancies can be removed.
- Page 16: Add APSA Program specific information to the pre-inspection procedures, such as the review of APSA submittals in CERS, if any, and SPCC Plan, if available in facility records.
- Page 19: HSC, Section 25270.5 is incorrectly referenced as the APSA Program violations. The correct reference should be “commencing with Section 25270.”
- Page 35: HSC, Section 25270.5 is incorrectly referenced as the APSA Program violations. The correct reference is HSC, Chapter 6.67 (commencing with Section 25270).

RECOMMENDATION:

Update the I&E Plan as indicated above.

9. OBSERVATION:

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

- Page 1: The California Fire Code, Sections 2701.5.1 and 2701.5.2 for HMMP/HMIS requirements are outdated and should be replaced with Sections 5001.5.1 and 5001.5.2. Insert HSC in front of Section 13143.9 for clarification.

RECOMMENDATION:

Ensure future Self-Audit Reports address the above observation.

10. 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 October 1, 2020, and September 30, 2023:

- CERS reflects 420 regulated HWG facilities, including 3 Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) facilities, and 2 TP facilities, 0 Household Hazardous Waste Collection Facilities (HHWCF), and 0 Hazardous Waste Recyclers (Recyclers) within the jurisdiction of the CUPA.
- The CUPA's data management system identifies 988 regulated HWG facilities, including 14 RCRA LQG facilities, 1 HHWCF, 7 TP facilities, and 0 Recyclers.
 - The difference in the total number of HWGs reflected in CERS and in the CUPA's data management system suggests there are some facilities that are not correctly self-identified in CERS, either as HWGs, HHWCFs or TP facilities.
 - According to the CUPA's information, CERS ID 10607686 is a HHWCF. However, this facility is not reporting to CERS as an HHWCF and has not received a HHW inspection.
- CERS reflects the CUPA inspected 234 regulated HWG facilities (including TP facilities) and conducted 236 HWG routine inspections and 23 HWG “Other” inspections (Deficiency

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10 reflects the number of HWG and TP inspections conducted over the five-year inspection frequency).

- Conducting more HWG routine inspections than there are HWG facilities indicates the CUPA inspected some HWG facilities more often than once in the three-year period.
- 114 of 236 (48%) routine inspections had no violations cited.
- 122 of 236 (52%) routine inspections had at least one violation cited.
 - In the 236 routine inspections conducted having at least one violation, a total of 314 violations were cited, consisting of:
 - 4 (1%) Class I violations
 - 72 (23%) Class II violations
 - 238 (76%) Minor violations
- The CUPA has ensured RTC for 215 of 314 (68%) violations cited.
- 2 of 5 (40%) CERS Violation Library Violation Type Numbers concerning Professional Engineers (PE) Tank Assessments (including, but not limited to CERS Violation Library Violation Type Numbers 3010025, 3010032, 3110013, 3110023, 3210013, 3210014, 3210042, 3310003) were cited as Minor violations. The definition of a Minor violation does not allow for a violation to carry an economic benefit.
- CERS reflects no formal enforcement actions for hazardous waste related violations were completed, resulting in \$0 penalties.
- 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, 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 appropriately 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 self-identify as an HWG. The CERS Facility Listing (Details) download can be useful for this purpose. Utilize the U.S. EPA RCRAInfo database to identify RCRA LQGs within the jurisdiction of the CUPA by confirming if a facility has submitted Biennial Reports through RCRAInfo.

Follow up with HWGs that have not correctly self-identified in CERS in the Business Activities submittal. This is especially important for any HHWCF due to the unique requirements (refer to the [DTSC HHWCF webpage: https://dtsc.ca.gov/universalwaste/types-of-collection-facilities/#phhwcf](https://dtsc.ca.gov/universalwaste/types-of-collection-facilities/#phhwcf)). When citing violations concerning PE Tank Assessments, ensure that the violation is assigned the correct violation classification. PE Tank Assessment violations typically carry an economic benefit and cannot be cited as a Minor violation.

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11. OBSERVATION:

The CUPA is not consistently reporting the correct inspection CME Program Type to CERS. Inspections for the HWG Program should be coded as one of the following CME Program Types:

- TP Facilities: PBR, CA or CE
- HHWCFs: HHW
- Hazardous Waste Recyclers: HWRecycler
- RCRA LQGs: HWLQG
- All other Generators: HW

The CME Program Type was incorrectly reported to CERS as “HW” for the following inspections conducted between October 1, 2018, and September 30, 2020:

- HHWCF facility
 - CERS ID 10607686: Inspection dated September 27, 2023
- TP facilities
 - CERS ID 10138583: Inspection dated December 3, 2018
 - CERS ID 10152573: Inspection dated October 18, 2018
 - CERS ID 10116286: Inspection dated January 16, 2020

RECOMMENDATION:

Correct the CME Program Type for the inspections identified above. Ensure staff review the CME Program Type coding in CERS and which type of HWG Program inspections apply to each CME Program Type. Ensure future inspections are correctly coded for the HWG Program and correctly reported to CERS. Review the I&E Plan, Data Management Procedure, or other applicable procedure, to ensure the establishment of a process for correctly identifying the correct CME Program Type for all HWG Program inspections reported to CERS.

Continuing to incorrectly report the CME Program Type for HWG Program inspections may result in an identified Deficiency or Incidental Finding in subsequent CUPA Performance Evaluations.

12. OBSERVATION:

On April 29, 2024, a UST oversight inspection was conducted in conjunction with the compliance inspection during the annual monitoring system certification (AMC) and the spill container (SC) testing at CERS ID 10605340. The CUPA inspector confirmed the certifications of the technician on site. The technician provided the alarm history and in-tank setup of the UST system. The inspector observed operability of all sensors on site, and communications with the alarm panel.

The inspector identified the following items on site:

- The last three years of AMC, SC, Overfill Prevention Equipment Inspection, and Secondary Containment test results were not readily available on site.
- The Financial Responsibility has not been submitted annually
- The Designated Operator did not identify:
 - The November 14, 2023, alarm for the north diesel annular
 - Liquid in UDC 5/6

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The following items were identified and discussed on site, but were not correctly addressed on the testing documents:

- Spill Containment test results dated April 29, 2024, cite “No” for the T3: 91 and T4: 87 spill buckets question “Is the spill container minimum capacity five gallons?”, however the test results say pass.
 - Note: CUPA Inspection report accurately cites Violation Type #2060020 - Spill Container (USEPATCR 9a) for the spill container failure.

The last accepted UST Submittal in CERS is dated June 3, 2022. No new submittal has been made to correct the following items identified on site:

- Duplicate Line Leak Detector configurations for each tank
 - The correct configuration is mechanical LLD for the Regular and Premium tanks, and electronic LLD for the diesel tanks.
- Diesel tanks are manifolded through a siphoned line, which is not identified on the UST monitoring plan
- The 87 and 91 tanks are each listed as 1 stand alone
 - The correct configuration is 2 in a compartmented unit.
- ELD testing is marked yes in CERS, but is not a requirement at this facility

RECOMMENDATION:

Ensure all test results accurately reflect the failures identified on site. The facility must update the monitoring and tank information regularly. CUPA staff must review tank and monitoring plan information before accepting submittals.

13.OBSERVATION:

An HWG oversight inspection was conducted with two different CUPA inspectors on March 26, 2024, at CERS ID 10609411, a Small Quantity Generator (SQG), and on June 25, 2024, at CERS ID 10138583, a Conditionally Authorized (CA) treatment facility. Both inspections were scheduled with the facilities ahead of time.

Prior to the inspections, both inspectors demonstrated detailed and appropriate pre-inspection preparation, including use of CERS and the DTSC Hazardous Waste Tracking System (HWTS) to gather information on the EPA ID number and hazardous waste shipments of each facility inspected. Previous inspection reports and other regulatory guidance documents were also reviewed. Both inspectors brought inspection resources with them on the inspection such as CCR, Title 22 regulations, DTSC TP guidance, and CERS submittals for each facility.

Both inspectors explained the purpose of the inspection. A full walkthrough of both facilities was conducted, and the inspectors observed all areas where hazardous waste was generated, managed, and treated. Both inspectors asked pertinent questions while maintaining control of the inspection. The appropriate documents required of SQG and CA facilities were requested and reviewed or noted as violations when not available for review. No photos were taken during the inspections.

During the inspection at CERS ID 10609411, the inspector clearly asked for and obtained consent, and DTSC called attention to a few potential violations that were not initially identified by

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the CUPA inspector. The CUPA inspector took appropriate action and addressed the potential violations with the facility.

During the tank assessment review at CERS ID 10138583, DTSC called attention to the need for the facility to update the TP submittal to remove two tanks from the CA unit that are not conducting HW treatment, as well as the need for the facility to update the daily tank inspection logs to include information required in CCR, Title 22, Section 66265.195(a). The CUPA inspector took appropriate action and addressed the potential violations with each facility.

The violations observed during each inspection were cited and reviewed with the facility representative(s) upon conclusion of each inspection. The violations cited in each of the inspection reports contain the inspector's observations, correct citations, and corrective actions. Overall, the inspections were handled professionally and were conducted in a timely manner.

In terms of understanding HWG Program requirements, the CUPA inspectors demonstrated familiarity with a range of hazardous waste topics, including the following that were encountered and applied during the oversight inspections: TP paperwork, tank requirements, general CA requirements, and general HWG requirements.

RECOMMENDATION:

Inspectors are highly encouraged to take photos to document evidence of violations. Photos are often the best evidence for enforcement cases. It is not uncommon for prosecutors not to prosecute a case due to insufficient evidence.

Improve written details within inspection reports as follows:*

- Ensure corrective actions are detailed and descriptive enough, providing a clear pathway for the facility to return to compliance.
- Overall, inspectors are encouraged to take additional notes during inspections and incorporate those notes into inspection reports. Expand on including observations in inspection reports. Notes and observations are an important part of documenting the inspection conducted, in addition to notes and observations related to violations. Having detailed notes and observations in inspection reports assists in passing on knowledge to subsequent inspectors and will aid any potential enforcement action.

Incorporate the following topics into continuing training or improvement of CUPA inspector knowledge:

- Satellite Accumulation
 - Restrictions on size (volume), number of containers allowed per waste stream, and accumulation time limit (CCR, Title 22, Section 66262.15)*
- SQG Requirements
 - 180-day accumulation time limit & Very Small Quantity Generator (VSQG) that generate less than 100 kg [CCR, Title 22, Section 66262.16(b) & HSC, Section 25123.3]*.
- Tank Requirements
 - Daily Tank Inspection Logs- Required contents [CCR, Title 22, Section 66265.195(a)]

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*Note: CCR, Title 22 citations have changed as a result of the incorporation of the Generator Improvement Rule (GIR), effective July 1, 2024. Refer to the GIR crosswalk to reference the new citations: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2024/06/DTSC-Crosswalk-Generator-Improvements-Rule-6.4.2024-2.pdf>.

14. OBSERVATION:

Existing references to citations in CCR, Title 19, Division 2, Chapters 4 and 4.5 in administrative procedures, standard operating procedures and other documents associated with the HMBP and CalARP Programs may be outdated.

Effective July 22, 2021, Assembly Bill 148 (Chapter 115, Statutes of 2021), transferred the oversight responsibility of the HMBP Program and the CalARP Program from the California Governor's Office of Emergency Services (Cal OES) to CalEPA.

As a result, on March 6, 2024, the Office of Administrative Law (OAL) approved a rulemaking package submitted by CalEPA to amend and relocate portions of CCR, Title 19, Division 2, Chapters 4 and 4.5 into a new Division (Division 5). The rulemaking does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element. The final regulatory text for the rulemaking package revising the citations is available as follows:

- For HMBP Program requirements:
https://calepa.ca.gov/wp-content/uploads/sites/6/2024/03/19-CCR-Div-5-Ch-1-Final_Underline_Strikeout.pdf
- For CalARP Program requirements:
https://calepa.ca.gov/wp-content/uploads/sites/6/2024/03/19-CCR-Div-5-Ch-2-Final_Underline_Strikeout.pdf

RECOMMENDATION:

Update any applicable policies, procedures, or other documents to reflect the new citation references to CCR, Title 19 for HMBP requirements and the CalARP Program using the "regulatory crosswalk," developed by CalEPA, as Guidance Document 24-01, available at:

- <https://calepa.ca.gov/wp-content/uploads/sites/6/2024/03/Guidance-Document-24-01-Regulatory-Crosswalk-for-HMBP-and-CalARP-Title-19-Changes.pdf>.