

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #1

CUPA: Solano County Environmental Health

Evaluation Period: May 2022 through February 2023

Evaluation Team Members:

- **CalEPA Team Lead:** Jessica Snow, Timothy Brandt, Samuel Porras
- **DTSC:** Brennan Ko-Madden, Matthew McCarron
- **CalEPA:** Garrett Chan
- **State Water Board:** Kaitlin Cottrell, Sean Farrow
- **CAL FIRE-OSFM:** Denise Villanueva, Glenn Warner

Evaluation Progress Report #1 Received from CUPA: September 7, 2023

Deficiencies Pending Correction: #'s 1-14

Incidental Findings Pending Resolution: #'s 1-8

Evaluation Progress Report #2 Due to by CalEPA: April 1, 2024

Deficiencies Pending Correction: #'s 1-14

Incidental Findings Pending Resolution: #'s 2, 4, 6, 7

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

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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 progress towards the correction of each deficiency and resolution of each incidental finding identified in the Final Summary of Findings Report, and any applicable supporting documentation must be included in each Evaluation Progress Report.

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1. DEFICIENCY:

The CUPA has not established nor implemented all Unified Program administrative procedures. Established Unified Program administrative procedures have components that are incomplete.

The following administrative procedures have not been established nor implemented:

- Public participation procedures that:
 - Ensure receipt and consideration of comments from regulated businesses and the public;
 - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element; and
 - Coordinate, consolidate, and make consistent public notices for activities related to any Unified Program element.
- Financial Management Procedures that include a:
 - Single Fee System and
 - Fee Accountability Program.

The following administrative procedures have components that are incomplete:

- The procedure for forwarding Hazardous Materials Release Response Plan (HMRRP) information identified within the “Submission of HMBP Plans to Local Fire Agencies”
 - A process for sharing information with “other appropriate government entities in accordance with Health and Safety Code (HSC) Section 25504(c),” is not addressed.
- The Records Maintenance Procedure addressed in “CUPA Documents”
 - The description regarding proper disposal methods does not adequately address methods used to destroy records and the criteria for making that determination.
 - The retention of the following records for a minimum of five years is not included:
 - Copies of self-audits, inspection reports, and enforcement files;
 - All records related to hazardous waste enforcement actions from the date the enforcement action is resolved;
 - Detailed records used to produce the summary reports submitted to the state;
 - Surcharge billing and collection records; and
 - Training records
- The Permitting Procedure addressed within the “CUPA Documents” policy
 - The following components are not included:
 - Timelines and time limits of appeal processes;
 - Provisions for preliminary check for application completeness;
 - Provisions for technical review of permit applications by the responsible agency; and
 - A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.
 - Note: Many of the details contained in the “CUPA Documents” policy, Fee and State Surcharge Dispute Resolution, Solano County Code, and Self-Audit Reports could be adapted into a separate Permitting Procedure document.

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- The “Fee and State Surcharge Dispute Resolution”
 - The procedure does not ensure fee disputes referred to the Secretary include a recommendation for resolution.

CITATION:

California Code of Regulations (CCR), Title 27, Sections 15180(e)(1), (e)(2), (e)(3), (e)(5), 15185(b), and 15210(k)(1)(A)
[CalEPA]

CORRECTIVE ACTION:

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

By the 2nd Progress Report, if revisions to the established Unified Program administrative procedures and/or amendments to the revised Unified Program administrative procedures are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised and/or amended Unified Program administrative procedures. If no amendments and/or revisions are necessary, the CUPA will train CUPA personnel on the established and revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the established and revised administrative procedures.

By the 3rd Progress Report, if amendments and/or revisions to the Unified Program administrative procedures were necessary, the CUPA will train CUPA personnel on the amended and/or revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended and/or revised administrative procedures.

CUPA Update 1:

Solano County has established/revised the following Policies and Procedures (P&Ps): Public Participation, CUPA Documents, and Fee and State Surcharge Dispute Resolution. The Submission of HMBP Plans to Local Fire Agencies P&P, amended 2022, is submitted with minimal to no change. It could not be determined how this does not meet the code section referenced. Please review and supply input; and, we will implement such changes, immediately. The above P&Ps are uploaded to the SharePoint.

Our office could not locate the Financial Management Procedures, so these have not been uploaded. We are working with our Fiscal team to determine if procedures exist and if not, they will be drafted. We request an extension on this item, 30 days or upload with the 2nd Progress Report; whichever the audit team prefers. Please instruct.

Evaluation Team Response 1 [CalEPA]:

Review of the provided Policies and Procedures finds the following:

- The “Fee and State Surcharge Dispute Resolution” procedure has been revised to include the required element:
 - The procedure ensures fee disputes that are referred to the Secretary include a recommendation for resolution.
- The Public Participation document has not been revised to incorporate all the required components. The document does include steps for ensuring receipt and consideration of

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comments from regulated businesses and the public. However, the document is missing the following elements:

- Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.
- The Records Maintenance Procedure addressed in “CUPA Documents” has components that are incomplete or missing. The document does include discussion of proper disposal methods, but is missing the following elements:
 - The retention of the following records for a minimum of five years is not included:
 - Copies of self-audits, inspection reports, and enforcement files;
 - All records related to hazardous waste enforcement actions from the date the enforcement action is resolved;
 - Detailed records used to produce the summary reports submitted to the state;
 - Surcharge billing and collection records; and
 - Training records
- The Permitting Procedure addressed within the “CUPA Documents” policy has components that are incomplete or missing.
 - The following components are not included:
 - Timelines and time limits of appeal processes;
 - Provisions for preliminary check for application completeness;
 - Provisions for technical review of permit applications by the responsible agency; and
 - A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.
- The procedure for forwarding Hazardous Materials Release Response Plan (HMRRP) information identified within the “Submission of HMBP Plans to Local Fire Agencies” has components that are incomplete.
 - A process for sharing information with “other appropriate government entities in accordance with Health and Safety Code (HSC) Section 25504(c),” is not addressed.

With the next Progress Report, provide the following established and /or revised Unified Program administrative procedures:

- Financial Management Procedures that include a:
 - Single Fee System and
 - Fee Accountability Program.
- Public participation procedures that:
 - Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element; and
- The Records Maintenance Procedure addressed in “CUPA Documents” that includes:
 - The retention of the following records for a minimum of five years:
 - Copies of self-audits, inspection reports, and enforcement files;
 - All records related to hazardous waste enforcement actions from the date the enforcement action is resolved;
 - Detailed records used to produce the summary reports submitted to the state;
 - Surcharge billing and collection records; and
 - Training records

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- The Permitting Procedure addressed within the “CUPA Documents” policy that includes:
 - Timelines and time limits of appeal processes;
 - Provisions for preliminary check for application completeness;
 - Provisions for technical review of permit applications by the responsible agency; and
 - A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.
 - The Submission of HMBP Plans to Local Fire Agencies Procedure needs to address how HMBP access to CERS and the outlined CERS usage training will be provided to “other appropriate government agencies upon request”.
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2. DEFICIENCY:

Required components of the Inspection and Enforcement (I&E) Plan are missing.

The following I&E Plan components are missing:

- Enforcement notification procedures that ensure appropriate confidentiality and coordination and timely notification of appropriate prosecuting agencies.
- Identification of all available enforcement options.
 - Though a flow chart outlining the inspection process with reference to informal and formal enforcement types is provided, it is not clear if this is representative of all enforcement actions applied by the CUPA.
- Provisions ensuring a uniform and coordinated application of enforcement standards.
- Identification of penalties and enforcement actions that are consistent, predictable for similar violations, and no less stringent than state statute and regulations.
- A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.
- Provisions for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
- Provisions for ensuring sampling capability and analysis performed by a state certified laboratory. Information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.
- Provisions for multi-media enforcement, including participation in a multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement, and deterrence of violations affecting more than one environment medium or regulatory scheme.

CITATION:

CCR, Title 27, Section 15200(a)
[CalEPA, DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with the revised I&E Plan that adequately incorporates and correctly addresses the identified missing components.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and DTSC, the CUPA will provide CalEPA with the amended I&E Plan. If no amendments are necessary, the CUPA will train CUPA personnel on the revised I&E Plan.

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The CUPA will provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

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

CUPA Update 1:

Solano County continues to revise the I&E Plan, and requests time for legal review for sufficiency. We request an extension on this item, 14 days or upload with the 2nd Progress Report; whichever the audit team prefers. Please instruct.

Evaluation Team Response 1 [CalEPA, DTSC]:

With the next Progress Report, provide the revised I&E Plan.

3. DEFICIENCY:

The CUPA is not inspecting each Hazardous Waste Generator (HWG), Recovery Act (RCRA) Large Quantity Generator (LQG), and Household Hazardous Waste (HHW) facility once every five years, per the inspection frequency established in the I&E Plan.

Review of facility files and inspection, violation, and enforcement information, also known as compliance, monitoring, and enforcement (CME) information, in the California Environmental Reporting System (CERS) between July 1, 2017, and June 30, 2022, and additional information provided by the CUPA finds:

- 362 of 1,338 (27%) HWG facilities (including RCRA LQG facilities and HHW facilities) were not inspected once every five years.

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation for the Aboveground Petroleum Storage Act (APSA) and HWG Programs and was corrected during the Evaluation Progress Report process regarding the APSA Program.

CITATION:

CCR, Title 27, Section 15200(a)(3)(A)
Health and Safety Code (HSC), Chapter 6.5, Section 25201.4(b)(2)
[DTSC]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility, RCRA LQG facility, and HHW facility are inspected per the inspection frequency established in the I&E Plan. The action plan will include, at minimum:

- An analysis and explanation as to why the inspection frequency for the HWG, RCRA LQG, and HHW facilities is not being met.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG, RCRA LQG, and HHW facility that has not been inspected once every five years. For each HWG, RCRA LQG, and HHW facility listed, the spreadsheet will include, at minimum:

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- Facility name,
- CERS ID, and
- Date of the last routine inspection.
- A schedule to inspect each HWG, RCRA LQG, and HHW facility identified as having not been inspected per the inspection frequency established in the I&E Plan. HWG, RCRA LQG, and HHW inspections will be prioritized with the most delinquent inspections to be completed prior to any other HWG Program inspection.
- Future steps to ensure that all HWG, RCRA LQG, and HHW facilities are inspected per the inspection frequency established in the I&E Plan (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 according to the inspection frequency established in the I&E Plan).

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from DTSC. The CUPA will provide the revised action plan to CalEPA.

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

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

CUPA Update 1:

Several factors have affected maintaining the inspection frequency established in the I&E plan. Since 2019, our section has been short-staffed due to two retirements, two additional vacancies, and four instances of extended FMLA leave. Additionally, staff was instructed to halt inspections from April 2020, to August 2020, due to the COVID-19 Pandemic. In late August 2020, the county was impacted by the LNU Lightning Complex Fire, pivoting most of our resources for approximately one year, to address the declared Public Health Emergency. Adding to these issues, the department began implementation of a new inspection and billing software in 2021; further, hindering inspection entry.

Obstacles aside, our section has reimplemented monthly meetings in which we discuss inspection frequencies and other training information that have not been implemented in recent years. In order to ensure that all inspectors are inspecting facilities in their districts in a timely manner and following up on RTCs in the timeframe outlined in the I&E plan, the supervisor will meet with each inspector, monthly, to discuss progress in their district and achieving established written goals.

A spreadsheet adhering to the requirements listed above has been uploaded to the SharePoint. This spreadsheet is created/based upon the CERS-generated Detailed Facility Information spreadsheet and staff input to filter for overdue inspections.

Based on the number of HW facilities currently reporting in CERS, our target goal for the CUPA team will be 23 routine inspections conducted per month beginning with the most delinquent inspections. These goals will be discussed monthly at our staff and individual meetings, to ensure they are being met by each district inspector.

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Evaluation Team Response 1 [DTSC]:

The action plan and narrative provided are complete and acceptable. The provided spreadsheet is acceptable and indicates 318 HWG facilities have not been inspected once every five years, improving from 362. Review of CERS CME information on September 21, 2023, finds approximately 340 facilities have not been inspected once every five years. Questions regarding the CERS information provided to the CUPA on September 21, 2023, can be directed to Brennan Ko-Madden at Brennan.Ko-Madden@dtsc.ca.gov.

With the next Progress Report, provide an updated spreadsheet.

4. DEFICIENCY:

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

Review of CERS CME information and the CUPA's data management system between July 1, 2019, and June 30, 2022, finds:

- There is no documented RTC for the following violations:
 - 328 of 454 (72%)
 - 3 of 3 (100%) Class I violations have no RTC
 - 26 of 29 (90%) Class II violations have no RTC
 - 299 of 422 (71%) Minor violations have no RTC
- 123 of 422 (29%) Minor violations obtained RTC
 - 104 of 123 (83%) Minor violations did not obtain RTC within 35 days
- The following facilities were cited with Minor violations that did not obtain RTC and have had no applied enforcement (i.e. no escalation to Class II)
 - CERS ID 10198105: Minor violation cited October 16, 2019
 - CERS ID 10399501: Minor violation cited August 12, 2019

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)
CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)
[CalEPA, 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 open violations (no RTC) cited in fiscal years 2015/2016, 2016/2017, and between July 1, 2019, and June 30, 2022 (current evaluation period):

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

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- In the absence of obtained RTC, a narrative of the applied enforcement taken by the CUPA to ensure RTC.

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

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

CUPA Update 1:

A spreadsheet adhering to the requirements listed above has been uploaded to the SharePoint. This spreadsheet is created/based upon the CERS-generated Violation spreadsheet.

Regarding scheduling and addressing follow-up actions for facilities with outstanding violations, Solano County proposes to first address outstanding violations at facilities that have had subsequent routine inspections performed. This will help to determine which violations persist and can be, potentially, escalated towards enforcement. Second, Solano County proposes to follow up on sites with outstanding violations that have been inspected since implementation of our new inspection software (2021) to prevent falling further behind on follow-up deadlines. Concurrently to this stated follow-up, Solano County proposes to explore all other earlier outstanding violations during routine inspections scheduled to address Deficiency 3, as these sites are due for their next routine inspection. The date indicated in the Schedule RTC column is the goal for the next expected routine inspection, based on chronological order. The intent and basis for these projected dates is to address all outstanding violations on a quarterly basis over the course of two years.

Sites that fail to return to compliance within the compliance timeframe provided in the routine or follow-up inspection will be subject to graduated enforcement as described in the I&E plan. A list of inspections with outstanding violations is provided to each district inspector at each monthly staff meeting.

In order to ensure all inspectors are inspecting facilities in their districts in a timely manner and following up on RTCs in the timeframe outlined in the I&E plan, the supervisor will meet regularly with each inspector, monthly, to discuss progress in their district and achieving established goals.

Evaluation Team Response 1 [DTSC]:

The provided spreadsheet and narrative regarding prioritization of follow-up actions to achieve RTC for all outstanding violations is complete and acceptable.

Review of the provided spreadsheet finds there is no documented RTC for the following violations:

- 296 cited between July 1, 2019, and June 30, 2022, which is an improvement from 328 open violations (no RTC).
- 78 cited between July 1, 2016, and June 30, 2017.
- 107 cited between July 1, 2015, and June 30, 2016.

With the next Progress Report, provide an updated spreadsheet.

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5. DEFICIENCY:

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

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements between August 27, 2021, and September 26, 2022, finds:

- 846 of 2,202 (38%) regulated business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 901 of 2,202 (41%) regulated business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that all regulated businesses subject to HMBP reporting requirements have annually submitted an HMBP or a no-change certification.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each regulated business subject to HMBP reporting requirements that has not submitted an HMBP or no-change certification within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance, and rejection of HMBP or no-change certifications; and
 - For those businesses that have not complied, the enforcement applied by the CUPA to ensure a complete HMBP is annually submitted to CERS.

By the 4th Progress Report, the CUPA will follow up with each regulated business subject to HMBP reporting requirements identified in the spreadsheet provided with the 1st Progress Report, to ensure an HMBP or a no-change certification has been submitted to CERS, or the CUPA will have applied enforcement.

CUPA Update 1:

A spreadsheet adhering to the requirements listed above has been uploaded to the SharePoint. This spreadsheet is created/based upon the CERS-generated Detailed Facility Information spreadsheet.

Quarterly, Solano County will generate a spreadsheet from CERS of sites that have not submitted their HMBP information within the last 12 months. The spreadsheet will include both mailing and email addresses, so that notices may be sent out stating the site is in violation of HSC, Chapter 6.95, Sections 25505(a), 25508(a), and 25508.2. Email will be attempted for the first and second quarter of violation notices. If no submittal has been made by the third quarter notice, a letter with proof of service, will be mailed to the mailing address for the site. If no submittal has been made

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by the fourth quarter, an inspection will be conducted where Solano County will issue a violation and, subsequently, follow graduated enforcement as outlined in the I&E Plan, if necessary.

Evaluation Team Response 1 [CalEPA]:

The action plan and spreadsheet are acceptable.

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements between August 22, 2022, and September 21, 2023, finds:

- 832 of 2,168 (38%) regulated business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 862 of 2,153 (40%) regulated business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

With the next Progress Report, provide an updated spreadsheet.

6. DEFICIENCY:

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

Review of CERS CME information between July 1, 2019, and June 30, 2022, finds:

- 1,270 of 2,202 (58%) facilities subject to HMBP requirements were not inspected within the last three years.

CITATION:

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

CORRECTIVE ACTION:

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

- An analysis and explanation as to why the triennial inspection frequency for each HMBP facility is not being met. Factors to consider include existing inspection staff resources and the number of facilities scheduled to be inspected each year, response to declared emergencies such as wildfire response and recovery efforts and impacts of the Coronavirus (COVID-19).
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected within the last three years. For each HMBP facility listed, the spreadsheet will include, at minimum:
 - Facility name;
 - CERS ID; and
 - Date of the last routine inspection.
- A schedule to inspect those HMBP facilities, prioritizing the most delinquent inspections to be completed prior to any other Business Plan inspection based on risk.

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- Future steps to ensure that all HMBP facilities will be inspected at least once every three years.

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

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

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

CUPA Update 1: Several factors have affected maintaining the inspection frequency established in the I&E plan. Since 2019, our section has been short-staffed due to two retirements, two additional vacancies, and four instances of extended FMLA leave. Additionally, staff was instructed to halt inspections from April 2020, to August 2020, due to the COVID-19 Pandemic. In late August 2020, the county was impacted by the LNU Lightning Complex Fire, pivoting most of our resources for approximately one year to address the declared Public Health Emergency. Adding to these issues, the department began implementation of a new inspection and billing software in 2021; further, hindering inspection entry.

Obstacles aside, our section has reimplemented monthly meetings in which we discuss inspection frequencies and other training information that have not been implemented in recent years. In order to ensure that all inspectors are inspecting facilities in their districts in a timely manner and following up on RTCs in the timeframe outlined in the I&E plan, the supervisor will meet with each inspector, monthly, to discuss progress in their district and achieving established written goals.

A spreadsheet adhering to the requirements listed above has been uploaded to the SharePoint. This spreadsheet is created/based upon the CERS-generated Detailed Facility Information spreadsheet and staff input to filter for overdue inspections.

Based on the number of HMBP facilities currently reporting in CERS, our target goal for the CUPA team will be 67 routine inspections conducted per month beginning with the most delinquent inspections. These goals will be discussed monthly at our staff meetings to ensure they are being met by each district inspector.

Evaluation Team Response 1 [CalEPA]:

The action plan and spreadsheet are acceptable. Review of CERS CME information between July 1, 2020, and June 30, 2023, finds:

- 656 of 2,168 (30%) facilities subject to HMBP requirements were not inspected within the last three years.

With the next Progress Report, provide an updated spreadsheet.

7. DEFICIENCY:

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

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Review of CERS CME information indicates there is no documented RTC for the following violations:

- Fiscal Year (FY) 2021/2022
 - 25 of 43 (58%) violations
 - Including 4 violations for not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan
- FY 2020/2021
 - 29 of 42 (69%) violations
- FY 2019/2020
 - 3 of 3 (100%) violations
- FY 2018/2019
 - 22 of 41 (54%) violations
- FY 2017/2018
 - 2 violations for not having, or failure to prepare, an SPCC Plan
- FY 2015/2016
 - 3 violations for not having, or failure to prepare, an SPCC Plan
- FY 2014/2015
 - 1 violation for not having, or failure to prepare, an SPCC Plan
- FY 2013/2014
 - 3 violations for not having, or failure to prepare, an SPCC Plan

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

HSC Chapter 6.11, Section 25404.1.2(c)

HSC, Chapter 6.67, Section 25270.4.5(a)

CCR, Title 27, Sections 15185(a) and (c) and 15200(a) and (e)

[OSFM]

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 APSA tank facility with open violations (no RTC) between July 1, 2013, and June 30, 2022.

- 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 the applied enforcement taken by the CUPA.

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

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

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the spreadsheet provided with the 1st Progress Report as having an open violation for not having, or failure to prepare, an SPCC Plan has achieved compliance, or the CUPA will have applied enforcement.

CUPA Update 1:

A spreadsheet adhering to the requirements listed above has been uploaded to the SharePoint. This spreadsheet is created/based upon the CERS-generated Violation spreadsheet.

Regarding scheduling and addressing follow-up actions for facilities with outstanding violations, Solano County proposes to first address outstanding violations at facilities that have had subsequent routine inspections performed. This will help to determine which violations persist and can be, potentially, escalated towards enforcement. Second, Solano County proposes to follow up on sites with outstanding violations that have been inspected since implementation of our new inspection software (2021) to prevent falling further behind on follow-up deadlines. Concurrently to this stated follow-up, Solano County proposes to explore all other earlier outstanding violations during routine inspections scheduled to address Deficiency 3, as these sites are due for their next routine inspection. The date indicated in the Schedule RTC column is the goal for the next expected routine inspection, based on chronological order. The intent and basis for these projected dates is to address all outstanding violations on a quarterly basis over the course of two years.

Sites that fail to return to compliance within the compliance timeframe provided in the routine or follow-up inspection will be subject to graduated enforcement as described in the I&E plan. A list of inspections with outstanding violations is provided to each district inspector at each monthly staff meeting.

In order to ensure all inspectors are inspecting facilities in their districts in a timely manner and following up on RTCs in the timeframe outlined in the I&E plan, the supervisor will meet regularly with each inspector, monthly, to discuss progress in their district and achieving established goals.

Evaluation Team Response 1 [OSFM]:

The provided spreadsheet and prioritization of follow-up actions with each facility are acceptable.

Review of CERS CME information on September 18, 2023, finds there is no documented RTC for the following APSA Program violations:

- FY 2021/2022
 - 23 of 43 (53%) violations
 - Including 4 violations for not having, or failure to prepare, an SPCC Plan
- FY 2020/2021
 - 24 of 42 (57%) violations
- FY 2019/2020
 - 3 of 3 (100%) violations

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- FY 2018/2019
 - 9 of 41 (22%) violations
- FY 2017/2018
 - 2 violations for not having, or failure to prepare, an SPCC Plan
- FY 2015/2016
 - 3 violations for not having, or failure to prepare, an SPCC Plan
- FY 2014/2015
 - 1 violation for not having, or failure to prepare, an SPCC Plan
- FY 2013/2014
 - 3 violations for not having, or failure to prepare, an SPCC Plan

With the next Progress Report, provide an updated spreadsheet, including a narrative of any applied enforcement and follow-up activity.

8. 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.

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

- 16 of 42 (38%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years
 - Including 4 APSA tank facilities that have never been inspected.

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation for the APSA and HWG Programs and was corrected during the Evaluation Progress Report process regarding the APSA Program.

CITATION:

HSC, Chapter 6.67, Section 25270.5(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 sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each APSA tank facility storing 10,000 gallons or more of petroleum that has not been inspected within the last three years. For each APSA tank facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - Date of the last routine inspection.
- A schedule to inspect those APSA tank facilities, 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 of more of petroleum (i.e., large volumes of petroleum or proximity to navigable water).

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- 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 ensure CME information is entered in CERS.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from OSFM. The CUPA will provide the revised action plan to CalEPA.

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

By the 5th Progress Report, the CUPA will have inspected each APSA tank facility identified on the spreadsheet provided with the 1st Progress Report at least once every three years.

CUPA Update 1:

Several factors have affected maintaining the inspection frequency established in the I&E plan. Since 2019, our section has been short-staffed due to two retirements, two additional vacancies, and four instances of extended FMLA leave. Additionally, staff was instructed to halt inspections from April 2020, to August 2020, due to the COVID-19 Pandemic. In late August 2020, the county was impacted by the LNU Lightning Complex Fire, pivoting most of our resources for approximately one year to address the declared Public Health Emergency. Adding to these issues, the department began implementation of a new inspection and billing software in 2021; further, hindering inspection entry.

Obstacles aside, our section has reimplemented monthly meetings in which we discuss inspection frequencies and other training information that have not been implemented in recent years. In order to ensure that all inspectors are inspecting facilities in their districts in a timely manner and following up on RTCs in the timeframe outlined in the I&E plan, the supervisor will meet with each inspector, monthly, to discuss progress in their district and achieving established written goals.

A spreadsheet adhering to the requirements listed above has been uploaded to the SharePoint. This spreadsheet is created/based upon the CERS-generated Detailed Facility Information spreadsheet and staff input to filter for overdue inspections.

Based on the number of APSA facilities currently reporting in CERS, our target goal for the CUPA team will be 3 routine inspections conducted per month beginning with the most delinquent inspections. These goals will be discussed monthly at our staff meetings to ensure they are being met by each district inspector.

Evaluation Team Response 1 [OSFM]:

The action plan provided is acceptable.

Review of CERS CME information on September 18, 2023, finds:

- 17 of 42 (40%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected in the last three years
 - Including 4 APSA tank facilities that have never been inspected.

With the next Progress Report, provide an updated spreadsheet.

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9. DEFICIENCY:

The CUPA is not inspecting each Underground Storage Tank (UST) facility subject to UST Program requirements and is not submitting inspection information to CERS at least once every 12 months.

Not ensuring UST facilities are inspected at least once every three years jeopardizes the ability of California to meet the U.S. Environmental Protection Agency (U.S. EPA) certification requirements of the Energy Policy Act of 2005. In addition, not inspecting USTs once every three years may result in a significant threat to human health, safety, or the environment.

Review of the UST Routine Inspection Frequency Report in CERS and provided facility files finds the following UST facilities did not have a routine inspection in 2019:

- CERS ID 10169797
- CERS ID 10405228
- CERS ID 10470568

Review of the UST Routine Inspection Frequency Report in CERS and provided facility files finds the following UST facilities did not have a routine inspection in 2020:

- CERS ID 10339546
- CERS ID 10448179
- CERS ID 10456342
- CERS ID 10461466
- CERS ID 10470568
- CERS ID 10490749

Review of the UST Routine Inspection Frequency Report in CERS and provided facility files finds the following UST facilities did not have a routine inspection in 2021:

- CERS ID 10169797
- CERS ID 10339546
- CERS ID 10455131
- CERS ID 10448179
- CERS ID 10456342

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

CITATION:

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

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each UST is inspected at least once every 12 months. The action plan will include, at minimum:

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

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The analysis and explanation will also address how staff will ensure UST facility inspection information is consistently and accurately uploaded into CERS.

- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each UST facility that has not been inspected within the last 12 months, including those facilities that have not been inspected since 2019, 2020, and 2021. For each UST facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last UST compliance inspection.
- A schedule to inspect each identified UST facility, prioritizing the most delinquent UST compliance inspections with those facilities having single-walled UST components and proximity to drinking water wells.

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan based on feedback from the State Water Board. The CUPA will provide the revised action plan to CalEPA.

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

By the 3rd Progress Report and with each subsequent Progress Report, until considered corrected, the CUPA will provide CalEPA with annual UST compliance inspection reports until all UST facilities have been inspected within the last 12 months.

CUPA Update 1:

Several factors have affected maintaining the inspection frequency established in the I&E plan. Since 2019, our section has been short-staffed due to two retirements, two additional vacancies, and four instances of extended FMLA leave. Additionally, staff was instructed to halt inspections from April 2020, to August 2020, due to the COVID-19 Pandemic. In late August 2020, the county was impacted by the LNU Lightning Complex Fire, pivoting most of our resources for approximately one year to address the declared Public Health Emergency. Adding to these issues, the department began implementation of a new inspection and billing software in 2021; further, hindering inspection entry.

Obstacles aside, our section has reimplemented monthly meetings in which we discuss inspection frequencies and other training information that have not been implemented in recent years. In order to ensure that all inspectors are inspecting facilities in their districts in a timely manner and following up on RTCs in the timeframe outlined in the I&E plan, the supervisor will meet with each inspector, monthly, to discuss progress in their district and achieving established written goals.

A spreadsheet adhering to the requirements listed above has been uploaded to the SharePoint. This spreadsheet is created/based upon the CERS-generated Detailed Facility Information spreadsheet and staff input to filter for overdue inspections.

Due to the nature of the UST program, our office schedules annual inspections when we receive notice of the Annual Monitoring Certification. We maintain a shared calendar so that in the case a district inspector is unavailable, another inspector can cover those inspections. All inspectors check at the end of the fiscal year to ensure all sites in their district have been inspected. If a site was missed, an inspection will be conducted at that time.

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Evaluation Team Response 1 [State Water Board]:

The analysis and action plan provided are sufficient. With the next Progress Report, provide an updated spreadsheet.

10. DEFICIENCY:

UST compliance inspection information and facility inventory in the Semi-Annual Report (Report 6) is inconsistent with CUPA Self-Audit Reports and CERS CME information.

Review of Report 6, CUPA Self-Audit Reports and CERS CME information finds the following inconsistencies in the reported number of UST facilities inspected:

- FY 2018/2019
 - Report 6: 178 of 182 (98%)
 - CUPA Self-Audit Report: 176 of 182 (97%)
 - CERS CME information: 187 of 192 (97%)
- FY 2019/2020
 - Report 6: 91 of 180 (50%)
 - CUPA Self-Audit Report: 191 of 183 (104%)
 - CERS CME information: 191 of 192 (99%)
- FY 2020/2021
 - Report 6: 168 of 188 (89%)
 - CUPA Self-Audit Report: 201 of 194 (104%)
 - CERS CME information: 201 of 192 (104%)

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 23, Section 2713(c)(3)
CCR, Title 27, Sections 15187(c) and 15290(b)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan that, at minimum, includes:

- A thorough analysis and explanation as to how Report 6, CUPA Self-Audit Reports and CERS CME information have inconsistent UST compliance inspection information; and
- A strategy to ensure UST compliance inspection information in Report 6, CUPA Self-Audit Reports and CERS will be accurately reported.

By the 1st Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process, which at minimum will address how UST compliance inspection information is accurately reported in Report 6, CUPA Self-Audit Reports, and CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

By the 2nd Progress Report, if revisions or amendments to the revised Data Management Procedure, or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised or amended Data Management Procedure, or other applicable procedure. If no amendments are necessary, the CUPA will train UST inspection staff on the developed or revised Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at

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minimum, will include the date training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised Data Management Procedure, or other applicable procedure.

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will accurately report UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

CUPA Update 1:

Previously, Solano County utilized software with a custom report to provide the information for Report 6 and Self Audit reports. Indicators reveal that the information stored in this software database is inaccurate. Furthermore, information in CERS was not adequately reviewed, leading to an incorrect number of facilities and tanks. The incongruity of information between the two systems (internal database and CERS) lasted through the end of the software usage, late 2021.

In January 2022, Solano County moved to new software and began using improved CERS information to accurately report data. CERS information was reviewed, site by site, for accuracy. Unlike the previous software, the current software is fed its data by CERS. The revised UST Routine Inspection Procedure requires inspectors to review CERS for accuracy before and after inspections. While there are occasional discrepancies in the data due to improperly accepting inaccurate submittals, Solano County continues to review the data biannually, when Report 6 is due, to ensure the report information is consistent with any statistical change occurring over the 6-month reporting period, and fix any newly discovered discrepancies.

The current process of obtaining information for Report 6 and Self Audit Reports is to export the Report 6 information for the reporting period from CERS and compare from the previous Report 6. Notes are maintained on the spreadsheet to describe what discrepancy in tank and facility information is found.

Evaluation Team Response 1 [State Water Board]:

The provided action plan and amended “UST Routine Inspection Procedures” are acceptable. With the next Progress Report, provide training documentation, which at minimum, will include the date training was conducted, an outline of the training conducted and a list of UST inspection staff in attendance.

11. DEFICIENCY:

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

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Review of CERS CME information for the following FYs finds testing and leak detection violations have no documented RTC:

- FY 2018/2019
 - 270 of 357 (76%)
 - CERS ID 10169797
 - Violation cited November 28, 2018, for “Failure to operate the UST system to prevent unauthorized releases including leaks, spills, and/or overfills.”
- FY 2019/2020
 - 173 of 255 (68%)
 - CERS ID 10397515
 - Violation cited January 13, 2020, for “Failure of the functional line leak detector (LLD) for emergency generator tank systems to monitor with the capability of detecting a release of 3.0 gallons per hour leak at 10 pounds per square inch within an hour and restrict or shut off the flow of product through the piping or triggers a visual and audible alarm.”
- FY 2020/2021
 - 46 of 58 (79%)
 - CERS ID 10396342
 - Violation cited July 27, 2020, for “Failure to maintain the interstitial space such that a breach in the primary or secondary containment is detected before the liquid or vapor phase of the hazardous substance stored in the UST tank is released into the environment, i.e., vapor, pressure, hydrostatic (VPH) monitoring.”
- July 1, 2021, through May 2, 2022
 - 11 of 19 (58%)
 - CERS ID 10169817
 - Violation cited July 8, 2021, for “Failure of the functional line leak detector (LLD) monitoring pressurized piping to meet one or more of the following requirements: Monitored with the capability of detecting a release of 3.0 gallons per hour leak at 10 pounds per square inch within an hour and restrict or shut off the flow of product through the piping when a leak is detected.”

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

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

CORRECTIVE ACTION:

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

- Ensure facilities cited with violations obtain RTC through applied enforcement,
- Document follow-up actions taken by the CUPA to ensure RTC, and
- Document RTC in CERS for facilities that obtain RTC.

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

By the 1st Progress Report, and with each subsequent progress report until considered corrected the CUPA will provide RTC documentation, or a description of the applied enforcement taken by the CUPA in the absence of RTC for CERS ID 10397515 and CERS ID 10169817.

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

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

CUPA Update 1:

Sites that fail to RTC within the compliance timeframe provided in the routine or follow-up inspection will be subject to graduated enforcement as described in the I&E plan. A list of inspections with outstanding violations is provided to each district inspector at the monthly staff meeting.

The two CERS IDs with requested follow up have already had their outstanding Violations corrected as of the date of their last inspection.

In order to ensure all inspectors are inspecting facilities in their districts in a timely manner and following up on RTCs in the timeframe outlined in the I&E plan, the supervisor will meet regularly with each inspector, monthly, to discuss progress in their district and achieving established goals.

Evaluation Team Response 1 [State Water Board]:

While RTC has been documented in CERS for CERS ID 10397515 and CERS ID 10169817, review of the provided spreadsheet finds RTC was obtained ranging from 30 days to 14 months. There are 312 open Class I and Class II leak detection violations cited between January 1, 2018 and December 31, 2022. Facilities must obtain RTC for leak detection and construction violations and will be subject to graduated enforcement as described in the I&E plan when RTC is not obtained within the compliance timeframe provided.

A revised I&E Plan was not provided.

With the next Progress Report, provide a revised I&E Plan that ensures the establishment of a delineated process to:

- Ensure facilities cited with violations obtain RTC through applied graduated enforcement,
- Document follow-up actions taken by the CUPA to ensure RTC, and
- Document RTC in CERS for facilities that obtain RTC.

12. DEFICIENCY:

The UST operating permit and permit conditions, issued under the “Permit to Operate,” as the Unified Program Facility Permit (UPFP), are inconsistent with the CUPA’s Local Ordinance, CCR, Title 23, Division 3, Chapter 16, Sections 2670 and 2672(d) (UST Regulations) and HSC requirements.

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

- The UST Operating permit template does not contain the State Tank (CERS) ID number.
- The Underground Storage Tank Operating Permit Addendum, page 2
 - The header states “This permit is issued to the underground storage tank owner, shall be kept at the UST location at all times, and shall be renewed on an annual basis.”
 - This is inconsistent with the expiration dates on the operating permit, as well as the CUPA’s Local Ordinance.
 - The header indicates UST owners or operators shall notify the CUPA within 30 days of any significant changes to the facility or operation.
 - The regulatory requirement is to notify the CUPA 30 days prior to any change in substance stored.
- Underground Storage Tank Operating Permit Addendum, page 3
 - References include HSC, Chapter 6.75 and CCR, Chapter 18.
 - The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Chapter 6.75 and CCR, Chapter 18.
 - The correct citations are as follows:
 - CCR, Chapter 16, Sections 2610 through 2717.7.
 - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.
 - Permit condition 3, under “Monthly Checks,” states to conduct Designated Operator (DO) inspections.
 - The regulatory requirement for conducting DO inspections is every 30 days.
 - Permit condition 3, under “Monthly Checks,” states the completed DO inspection checklist shall be kept on site and available for CUPA review.
 - This condition should include the requirement of being kept on site for 36 months.
 - Permit condition 3, under “Every Three Years,” states “Perform an operability check of cathodic protection system ...” every three years.
 - The regulatory requirement is every 60 months.

CITATION:

CCR, Title 23, Sections 2711(c), 2712(b)(2) and (c), 2716(a) and (f)
HSC, Chapter 6.7, Sections 25283 (b)(1)(B), 25285 (a), 25297.01(b)
[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the UST operating permit and permit conditions template issued under the “Permit to Operate” as the UPFP, to be consistent with the CUPA’s

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Local Ordinance, UST Regulations, and HSC. The CUPA will provide the revised UST operating permit and permit conditions template to CalEPA.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST operating permit and permit conditions template, based on feedback from the State Water Board, and will provide the amended UST operating permit and permit conditions template to CalEPA. If no amendments are necessary, the CUPA will begin to issue the revised UST operating permit and permit conditions under the "Permit to Operate." The CUPA will provide CalEPA with the "Permit to Operate" issued to five UST facilities using the revised UST operating permit and permit conditions template.

By the 3rd Progress Report, if amendments to the revised UST operating permit and permit conditions template were necessary, the CUPA will begin to issue the amended UST operating permit and permit conditions under the "Permit to Operate." The CUPA will provide CalEPA with the "Permit to Operate" issued to five UST facilities using the amended UST operating permit and permit conditions template.

CUPA Update 1:

The revised permit template has been uploaded to the SharePoint. Solano County will issue the revised template as permits are reissued.

Evaluation Team Response 1 [State Water Board]:

The provided UST Operating Permit and permit conditions template is inconsistent with UST Regulations and HSC. Review of UST operating permits and permit conditions template finds the following inconsistencies with UST Regulations and HSC:

- The header states "This permit is issued to the underground storage tank owner, shall be kept at the UST location at all times, and shall be renewed on an annual basis."
 - This is inconsistent with the expiration dates on the operating permit, as well as the CUPA's Local Ordinance.
- The CUPA does not have regulatory authority to implement cleanup of USTs as a Local Oversight Program agency, and therefore cannot cite HSC, Chapter 6.75 and CCR, Chapter 18.
 - The correct citations are as follows:
 - CCR, Chapter 16, Sections 2610 through 2717.7.
 - HSC, Chapter 6.7, Sections 25280 through 25296 and 25298 through 25299.6.

With the next Progress Report, provide the amended UST operating permit and permit conditions template.

13. DEFICIENCY:

The CUPA is not consistently documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC, Division 20, Chapter 6.7, Section 25298(c).

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

- CERS ID 10637893
 - A UST Permanent Closure Notification has not been issued
- CERS ID 10405210
 - A UST Permanent Closure Notification has not been issued
- CERS ID 10638910
 - A UST Permanent Closure Notification has not been issued
- CERS ID 10450279
 - The notification provided to the owner or operator does not include the following:
 - CERS Tank ID
 - Identification of UST's (if any) remaining at the facility
 - Notice that tank closure documents are required to be maintained for 36 months in accordance with CCR, Title 23, Division 3, Chapter 16, Section 2672(f)

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

Note: State Water Board UST Program Leak Prevention Frequently Asked Question 15 (https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml) may be referenced.

Note: A UST closure letter template is available on the State Water Board website at https://www.waterboards.ca.gov/water_issues/programs/ust/docs/ust-closure-letter-template-final.pdf.

CITATION:

HSC, Chapter 6.7, Section 25298(c)
CCR, Title 23, Section 2670 and 2672(d)
[State Water Board]

CORRECTIVE ACTION:

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

- Provide a UST Permanent Closure Notification to the UST owner or operator, which demonstrates to the satisfaction of the CUPA that permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC.

Additionally, the CUPA will begin to utilize the UST closure letter template provided by the State Water Board, or develop a UST Permanent Closure Notification template for sites with and without contamination, if separate notifications are issued for those scenarios, to include the following:

- Site Address
- CERS tank IDs
- Date(s) of removal or permanent closure; and
- Confirmation that UST(s) have been permanently closed in accordance with UST Regulations and HSC. The following language is an example: "The Solano County

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Environmental Health CUPA has reviewed the UST closure documentation and finds the UST closure as properly completed in accordance with CCR, Title 23, Section 2670 and 2672 and HSC, Chapter 6.7, Section 25298(c)."

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

By the 2nd Progress report, if revisions to the developed UST closure procedure, or amendments to the revised UST closure procedure or other applicable procedure and revisions to the developed UST Closure Notification template(s) are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with the revised UST closure procedure or amended UST closure procedure or other applicable procedure and/or revised UST Closure Notification template(s). If no revisions to the UST closure procedure, or amendments to the revised UST closure procedure or other applicable procedure and/or no revisions to the UST Permanent Closure Notification template(s) are necessary, the CUPA will train UST inspection staff on the revised or amended UST closure procedure or other applicable procedure and/or the revised UST Closure Notification template(s). The CUPA will provide training documentation to CalEPA, which, at minimum, will include the date training was conducted, an outline of training conducted, and a list of UST inspection staff in attendance. Once training is complete the CUPA will implement the revised or amended UST closure procedure or other applicable procedure and/or utilize the revised UST Closure Notification template(s).

By the 3rd Progress Report, if revisions or amendments to the UST closure procedure or other applicable procedure and/or revisions to the UST Closure Notification template(s) were necessary, the CUPA will train UST inspection staff on the revised or amended UST closure procedure or other applicable procedure and/or the revised UST Closure Notification template(s). The CUPA will provide training documentation to CalEPA, which at minimum, will include the date training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised or amended UST Closure procedure or other applicable procedure and/or utilize the revised UST Closure Notification template(s).

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

For the next two UST closures, and until considered corrected, the CUPA will provide CalEPA with the UST closure documentation, including sampling results, that demonstrate to the satisfaction of the CUPA that UST permanent closure and soil and/or groundwater sampling complies with UST Regulations and HSC. If no UST closures have occurred by the 4th Progress Report, the State Water Board will consider this deficiency closed but not corrected upon completion of training, and implementation of the developed/revised or amended/revised UST closure procedure or other applicable procedure and the developed/revised or amended/revised UST Closure Notification template(s) determined acceptable by the State Water Board. The State Water Board will verify proper sampling and analysis of soil and/or groundwater occurred during or immediately after UST closure activities with the next CUPA performance evaluation.

CUPA Update 1:

Solano County has located UST Closure letters for two of the three sites listed as lacking closure letters; however, they do not adhere to the requirements listed above. Solano County has updated

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the UST Closure Procedures as needed and has uploaded it, along with the updated closure letter template, to the SharePoint.

Evaluation Team Response 1 [State Water Board]:

The provided UST closure letter template and UST closure procedures are acceptable. With the next Progress Report, provide training documentation, which, at minimum, will include the date training was conducted, an outline of training conducted, and a list of UST inspection staff in attendance.

14. DEFICIENCY:

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

Review of the UST Facility/Tank Data Download report obtained from CERS on May 2, 2022, finds UST construction and leak detection information is incorrect as follows:

- 6 of 21 (21%) UST systems with single-walled piping list “yes” for continuous secondary monitoring
 - CERS ID 10470568, Tank IDs -002, -003
 - CERS ID 10405219, Tank IDs -001, -002, -003, and -005
 - 13 of 16 (81%) UST systems with single-walled product piping are listed as having been built after July 1, 1987
 - CERS ID 10152451, Tank IDs -001, -002
 - CERS ID 10397275, Tank IDs -001, -002
 - CERS ID 10504057, Tank ID -0013 of 15 (20%) UST systems with single-walled tanks identify a secondary containment construction
 - CERS ID 10397515, Tank IDs -001, -002
 - CERS ID 10466758, Tank ID -004
- 6 of 29 (21%) UST systems with single-walled piping list secondary containment monitoring
- CERS ID 10405219, Tank IDs -001, -002, -003, and -005
 - CERS ID 10470568, Tank ID -002

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

Note: This deficiency was identified in the 2018 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.7, Sections 25290.1

CCR, Title 23, Sections 2632(d)(1), 2634(d), 2711(d)

[State Water Board]

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review the Data Management Procedure, or other applicable procedure, and revise as necessary, to ensure the establishment of a process for UST inspection staff to review CERS UST submittal information regarding construction, monitoring and leak detection requirements for accuracy and completeness based on the UST installation date, which will, at minimum, include the following:

- When UST CERS submittal information is identified as incorrect, the CUPA will either:

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- accept UST CERS submittals with minor errors utilizing a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;
- not accept UST CERS submittals and provide comments with the requirement to resubmit UST information within a specified time.
- When the UST CERS submittal is not corrected and resubmitted within the time specified by the CUPA, the CUPA will apply enforcement per the I&E Plan.

The CUPA will provide the revised Data Management Procedure, or other applicable procedure to CalEPA.

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

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

With respect to UST submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete UST Program submittals when the next submittal is made, but no later than the next annual UST compliance inspection.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review five UST submittals accepted by the CUPA in CERS, subsequent to UST inspection staff receiving training on the revised or amended Data Management Procedure, or other applicable procedure.

CUPA Update 1:

Solano County has uploaded the amended UST, Routine Inspection Procedures Policy to the SharePoint. Staff will be trained on the updated procedure at the September staff meeting.

Evaluation Team Response 1 [State Water Board]:

The amended UST Routine Inspection Procedures Policy is acceptable. With the next Progress Report, provide training documentation, which, at minimum, will include the date training was conducted, an outline of the training conducted, and a list of UST inspection staff in attendance.

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1. INCIDENTAL FINDING: RESOLVED

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

The following quarterly Surcharge Transmittal Reports were not received by the required due date:

- FY 2021/2022
 - 1st Fiscal Quarter: Due October 30, 2021. Submitted March 1, 2022.
 - 2nd Fiscal Quarter: Due January 30, 2022. Submitted March 1, 2022.
 - 3rd Fiscal Quarter: Due April 30, 2021. Submitted August 18, 2022.

Note: CalEPA has revised the Quarterly Surcharge Transmittal Report template to reflect the increased CUPA Oversight state surcharge, which became effective July 1, 2021, and includes an assessment for the CERS NextGen Project. The revised quarterly Surcharge Transmittal Report is available at: https://calepa.ca.gov/wp-content/uploads/sites/6/2022/01/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf and should be submitted to cupa@calepa.ca.gov. 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.

CITATION:

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

RESOLUTION: COMPLETE

By the 1st Progress Report, the CUPA will have submitted to CalEPA the 4th quarterly Surcharge Transmittal Report for FY 2022/2023 by the required due date using the current quarterly Surcharge Transmittal Report template.

Thereafter, the CUPA will ensure that state surcharge remittance and each quarterly Surcharge Transmittal Report are provided to CalEPA no later than 30 days after the end of each fiscal quarter during which the state surcharge was collected.

CUPA Update 1:

The 4th quarter Surcharge Transmittal Report was sent on July 18, 2023. Furthermore, the task is a normal occurrence, providing with plenty lead time, on the billing department calendar.

Evaluation Team Response 1 [CalEPA]:

The 4th Quarter Surcharge Transmittal Report for FY 2022/2023 was received on July 18, 2023. The report was submitted using the current quarterly Surcharge Transmittal Report template. This Incidental Finding is considered resolved.

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2. INCIDENTAL FINDING:

The CUPA is not properly reviewing, processing, and authorizing each annual Onsite Hazardous Waste Treatment Notification for Permit By Rule (PBR) facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.

During the 45-day review process the CUPA must:

- Authorize operation of the FTU; or
- Deny authorization of the FTU in accordance with PBR laws and regulations; or
- Notify the owner/operator that the notification submittal is inaccurate or incomplete.

Review of CERS information finds the following PBR Onsite Hazardous Waste Treatment Notifications submitted between July 1, 2019, and June 30, 2022, were not reviewed, processed, or authorized by the CUPA with 45 days:

- 2 of 4 (50%)
 - CERS ID 10117198
 - Submittal dated January 22, 2020
 - Not Accepted February 18, 2021 (393 days)
 - CERS ID 10117198
 - Submittal dated February 16, 2021
 - Accepted September 28, 2021 (224 days)

CITATION:

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

RESOLUTION:

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will review all pending PBR notifications for each Onsite Hazardous Waste Treatment Notification with an FTU within 45 calendar days of receipt. The CUPA will review each Onsite Hazardous Waste Treatment Notification to ensure submittals are correct and accurately represent the actual waste streams and treatment systems identified at the facility. The CUPA will provide a narrative update to CalEPA on the status of the progress made toward reviewing PBR submittals, including the submittal for CERS ID 10117198.

By the 1st Progress Report, the CUPA will develop and/or review, and revise as necessary, procedures on how to accurately review, process and authorize Onsite Hazardous Waste Treatment Notifications within the 45-day review process by either:

- Authorizing operation of the FTU; or
- Denying authorization of the FTU in accordance with PBR laws and regulations; or
- Notifying the owner/operator that the notification submittal is inaccurate or incomplete.

By the 2nd Progress Report, the CUPA will train HWG inspection staff on the procedures for reviewing, processing and authorizing Onsite Hazardous Waste Treatment Notifications within 45 days.

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Note: A TP Program training video is available on the California Certified Unified Program Agency Forum Board website at: <https://www.youtube.com/user/orangetreeweb/videos>. Additional TP Program training assistance can be requested from DTSC.

CUPA Update 1:

Reminders to process all pending CERS submittals are discussed at each monthly staff meeting. It is policy to process CERS submittals within 14 days of receipt.

Staff will be trained at the September staff meeting on review of FTU specific submittals and the process of reviewing an initial notification.

Evaluation Team Response 1 [DTSC]:

As of September 20, 2023, all PBR submittals have been reviewed and processed. The description of the policy for processing CERS submittals is appreciated. With the next Progress Report, provide a statement confirming training has been conducted.

3. INCIDENTAL FINDING: RESOLVED

The CUPA is not properly classifying HWG Program violations.

Review of CERS CME information indicates the CUPA is classifying Class I or Class II HWG Program violations as minor violations cited between July 1, 2019, and June 30, 2022, in the following instances:

- Violation illegal disposal of hazardous waste incorrectly cited as a minor violation. Hazardous waste improperly treated or disposed of presents a significant risk to human health and the environment. An economic benefit may be gained by the facility in not properly managing hazardous waste nor sending it for legal disposal. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - 7 of 7 (100%) illegal disposal violations using CERS violation library number type 3050002 [HSC, Chapter 6.5, Section 25189.5(a)] were cited as minor violations.
 - CERS ID 10149541: inspection dated December 10, 2019
 - CERS ID 10635874: inspection dated February 21, 2020
 - CERS ID 10397266: inspection dated February 24, 2020
 - CERS ID 10447864: inspection dated February 27, 2020
 - CERS ID 10411654: inspection dated July 29, 2020
 - CERS ID 10408582: inspection dated August 7, 2020
 - CERS ID 10422805: inspection dated August 10, 2020
- Violation for exceedance of authorized accumulation time (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of a minor violation as defined in HSC, Section 25404(a)(3).
 - 5 of 7 (71%) accumulation timeframe violations using CERS violation library number types 3030009 and 3030010 were cited as minor violations.
 - CERS ID 10120084: inspection dated March 9, 2022; violation comment states, "Remove all Hazardous Waste older than 1 year and include 15 gallons waste drum."

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- CERS ID 10133812: inspection dated June 29, 2022; violation comment states, "Accumulation date on Hazardous Waste container is dated from 2015. Ensure Hazardous Waste container is picked up once EPA ID number is reactivated. Ensure that Hazardous Waste containers are properly disposed of within 90 days of the accumulation date..." The comment also notes the inspector notified a representative at the facility that Hazardous wastes such as fuel filters, oily debris, and fuel hoses must be stored and disposed of as Hazardous Waste.
- CERS ID 10166403: inspection dated May 11, 2022; violation comment states, "Remove Waste Antifreeze (old) and "Oily Debris."
- CERSID 10397515: inspection dated January 13, 2020; no violation comments.
- CERS ID 10405195: inspection dated January 27, 2020; no violation comments.
- Violation for failure to make a hazardous waste determination incorrectly cited as a minor violation. Failure to make a hazardous waste determination (CCR, Title 22, Section 66262.11) may result in illegal disposal of waste. If waste is misclassified, it may not be treated according to the correct treatment standards to meet land disposal restriction requirements. There may be an economic benefit and avoided costs associated with improper management of hazardous waste, including disposal and treatment. Additionally, failure to perform a waste classification determination may hinder the ability to determine compliance with other applicable local, state, or federal rules, regulations, information requests, orders, variances, permits, or other requirements.
 - 22 of 30 (73%) waste determination violations using CERS violation library number types 3030005, 3130001, 3230087, and 3310010 were cited as minor violations.
 - CERS ID 10166889: inspection dated June 3, 2021; no violation comments
 - CERS ID 10198105: inspection dated October 16, 2019; no violation comments.

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

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

HSC, Chapter 6.11, Section 25404(a)(3)

CCR, Title 27, Section 15200(a) and (e)

[DTSC]

RESOLUTION: COMPLETED

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

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

- [Violation Classification Training Video 2014](https://www.youtube.com/watch?v=RB-5V6RfPH8)
<https://www.youtube.com/watch?v=RB-5V6RfPH8>

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- [2020 Violation Classification Guidance for Unified Program Agencies](https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf)
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>.

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

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

CUPA Update 1: Training video and guidance is provided to staff and discussed at our August staff meeting. A copy of the meeting agenda was uploaded to the SharePoint.

Evaluation Team Response 1 [DTSC]:

The provided agenda and attendance record for the monthly staff meeting on August 24, 2023, confirms training has been conducted. Review of CERS CME information on January 2, 2024, reflects the CUPA has been citing violations for exceedance of accumulation time limit and for failure to conduct hazardous waste determinations with suitable violation classifications. Violation comments in CERS generally contain accurate factual basis, but could be improved. For example, the initial accumulation start date on a HW container showing it has been accumulated over 90 or 180 days provides strong factual basis for the violation, while a simple statement that the container was accumulated longer than 90 or 180 days does not. Training material on drafting violation observations and element of a violation can be requested from Brennan Ko-Madden at Brennan.Ko-Madden@dtsc.ca.gov. This Incidental Finding is considered resolved.

4. INCIDENTAL FINDING:

The CUPA is not ensuring submitted HMBPs are thoroughly reviewed and contain all required elements before being accepted in CERS.

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds the following HMBP submittals were accepted with missing components:

- CERS ID 10454254: Missing required site map components such as access and exit points.
- CERS ID 10490296: Missing required site map components such as north orientation and adjacent streets.
- CERS ID 10439728: Missing required site map components such as north orientation and adjacent streets.

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

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CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS. The action plan will include steps to follow up with rejected HMBP submittals that are not complete.

By the 4th Progress Report, the CUPA will provide a statement to CalEPA confirming that each facility identified above has submitted a complete HMBP that has been thoroughly reviewed and accepted.

CUPA Update 1:

At the September staff meeting, Solano County will discuss the minimum requirements for each element of an HMBP: what constitutes an acceptable/unacceptable submittal?

Evaluation Team Response 1 [CalEPA]:

The provided action plan does not include the following:

- detailed steps on how the CUPA will ensure that each HMBP is thoroughly reviewed and contains all required elements before being accepted in CERS and;
- steps to follow up with rejected HMBP submittals that are not complete.

With the next Progress Report, provide an updated action plan.

5. INCIDENTAL FINDING: RESOLVED

The annual CalARP Dispute Resolution is missing a required element.

Review of the CalARP Dispute Resolution finds the following element is missing:

- Set procedures and timetables for providing argument and supporting materials to the Unified Program Agency (UPA).

CITATION:

CCR, Title 19, Section 2780.1(a)(3)
[CalEPA]

RESOLUTION: COMPLETED

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

CUPA Update 1:

A revised CalARP Dispute Resolution has been uploaded to the SharePoint.

Evaluation Team Response 1 [CalEPA]:

The revised CalARP Dispute Resolution contains the required elements. This Incidental Finding is considered resolved.

6. INCIDENTAL FINDING:

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

The CUPA is not observing nor documenting noncompliance and is not citing violations observed during UST compliance inspections, in annual UST compliance inspection reports, or in CERS.

Review of UST compliance inspection reports, associated testing and leak detection documents, and CERS information finds the CUPA did not document identified violations for the following facilities:

- CERS ID 10405228
 - Monitoring System Certification dated January 24, 2020, identifies that not all monitoring equipment is operational, and that “Stand Alone VR 001 in Dispenser #1-2 will need to be replaced.”
 - Non-compliance was not observed in the annual UST compliance inspection report.
 - A violation was not reported in CERS for “2030043 - Failure of the leak detection equipment to be installed, calibrated, operated, and/or maintained in accordance with manufacturer’s instructions.”
- CERS ID 10445131
 - Spill Container Testing Report Form dated May 28, 2020, identifies that “the 91 and DSL buckets failed due to not holding 5 gallons.”
 - Non-compliance was not observed in the annual UST compliance inspection report.
 - A violation was not reported in CERS for “2060020 - Failure to meet one or more of the following requirements: Have a minimum capacity of five gallons.”

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

CITATION:

HSC, Chapter 6.7, Section 25288(b) and 25299
CCR, Title 23, Section 2713(c)(4)
CCR, Title 27, Section 15290(a)(3)
[State Water Board]

RESOLUTION:

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to conduct complete UST compliance inspections and document violations observed in UST compliance inspection reports and in CERS.

The I&E Plan or other applicable procedure will, at minimum, address:

- Review and follow-up of submitted UST testing and leak detection documents by the owner or operator as part of the UST compliance inspection;

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- Conducting UST compliance inspections when UST Inspection staff are on-site to witness the monitoring system certification and visually confirm all UST required components are in compliance;
- Conducting UST compliance inspections when UST inspection staff are not on-site and cannot witness the monitoring system certification and visually confirm all UST components are in compliance;
- Ensuring violations observed during UST inspections are correctly and consistently cited on the inspection report; and
- Documenting and reporting observed noncompliance in UST compliance inspection reports to CERS.
- Review of the UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HCS, and the CERS violation library.

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

By the 2nd Progress Report, if amendments to the revised I&E Plan, or other applicable procedure, are necessary based on feedback from 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 in each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records, for five UST facilities, as requested by the State Water Board, including, but not limited to: UST compliance inspection reports, monitoring certifications, testing and leak detection documents, and other associated compliance documentation.

CUPA Update 1:

Solano County conducts routine annual inspections during the site's annual monitoring system certification. An inspector may need to leave before a certification is complete; therefore, there are evidently routine annual inspections that lack conditions that the tester observed after the inspector left.

It is not Solano County's policy to wait to issue an inspection report after we have received the final testing report as often testing companies will hold results from operators (and CUPA) in the event of nonpayment.

While Solano County agrees that follow-up after receiving test results is lacking, a discussion as to what constitutes a complete inspection under different scenarios is requested.

A revised UST, Routine Inspection Procedure has been uploaded to the SharePoint.

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Evaluation Team Response 1 [State Water Board]:

On September 22, 2023, the State Water Board reached out to the CUPA and is awaiting response to schedule a meeting to discuss what constitutes a complete inspection under different scenarios, as requested by the CUPA. The provided UST Routine Inspection Procedure is acceptable. With the next Progress Report, 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.

7. INCIDENTAL FINDING:

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.

Review of HMBP submittals to CERS by APSA tank facilities in lieu of a tank facility statement indicates:

- 84 of 339 (25%) APSA tank facilities have not submitted emergency response and employee training plans within the last 12 months
 - Including 34 APSA tank facilities that have never submitted to CERS.

CITATION:

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

RESOLUTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that HMBPs provided in lieu of a tank facility statement by APSA tank facilities are annually submitted to CERS.

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS, that includes at minimum the following information for each APSA tank facility that has not annually submitted an HMBP when an HMBP is provided in lieu of a tank facility statement to CERS:

- Facility name;
- CERS ID; and
- A narrative of the applied enforcement taken by the CUPA.

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.

CUPA Update 1: A spreadsheet adhering to the requirements above has been uploaded to the SharePoint. Solano County will be sending reminder emails on a quarterly basis to facilities that have not submitted their HMBP information within the last 12 months.

Evaluation Team Response 1 [OSFM]:

The provided action plan and spreadsheet are acceptable.

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Review of HMBP submittals to CERS by APSA tank facilities in lieu of tank facility statements on September 18, 2023, indicates:

- 71 of 334 (21%) APSA tank facilities have not submitted emergency response and training plans within the last 12 months.

With the next Progress Report, provide an updated spreadsheet.

8. INCIDENTAL FINDING: RESOLVED

The CUPA is not consistently classifying APSA Program violations properly.

Review of facility files and CERS CME information indicates the CUPA is classifying non-minor APSA Program violations as minor violations in the following instances:

- Not having, or failure to prepare, an SPCC Plan was cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of a minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent than, the U.S. EPA.
 - FY 2017/2018 through 2021/2022
 - 14 violations for not having, or failure to prepare, an SPCC Plan were classified as minor.

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

CITATION:

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

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will train APSA inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and how to properly classify violations during compliance inspections as minor, Class I, and Class II.

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

- Violation Classification Training Video 2014
 - <https://www.youtube.com/watch?v=RB-5V6RfPH8>
- 2020 Violation Classification Guidance for Unified Program Agencies

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- <https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
- U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998 for SPCC violations
 - https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998_.html

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 inspection staff in attendance.

CUPA Update 1:

Training video and guidance was provided to staff and was discussed at our August staff meeting. A copy of the meeting agenda was uploaded to the SharePoint.

Evaluation Team Response 1 [OSFM]:

The training documentation provided is acceptable. This Incidental Finding is considered resolved.
