

CERTIFIED UNIFIED PROGRAM AGENCY
Evaluation Progress Report #5

CUPA: Fresno County Department of Public Health Environmental Health Division

Evaluation Period: August 2020 through February 2021

Evaluation Team Members:

- **CalEPA Team Lead:** Kaeleigh Pontif, Samuel Porras
- **Cal OES/CalEPA*:** Fred Mehr, Garrett Chan
- **DTSC:** Mia Goings, Brennan Ko-Madden, Matthew McCarron
- **State Water Board:** Tom Henderson, Jessica Botsford
- **CAL FIRE-OSFM:** Glenn Warner

Evaluation Progress Report #5 Received on: October 20, 2023

Deficiencies Pending Correction: #'s 1 -3, 5, 6, 8, 9, 11-13, 18, 19, 22, 23

Incidental Findings Pending Resolution: None

Evaluation Progress Report #6 Due to CalEPA: June 10, 2024

Deficiencies Pending Correction: #'s 5, 6, 8, 11-13, 19, 22, 23 (3 is considered closed)

Incidental Findings Pending Resolution: None

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

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The Fresno CUPA will provide an evaluation progress report to CalEPA 60-days after the Final Summary of Findings report for the 2020 performance evaluation is issued to the CUPA. The Fresno CUPA will provide a subsequent evaluation progress report to CalEPA every 90-days thereafter, or in accordance with the specified date provided in the Evaluation Progress Report response, until all Deficiencies have been acknowledged as corrected and all Incidental Findings have been acknowledged as resolved.

CalEPA and the Fresno CUPA have entered into a Program Improvement Agreement (PIA), committing the Fresno CUPA to make necessary improvements in Unified Program implementation. The PIA will remain in effect until the Fresno CUPA has taken all necessary corrective actions and resolutions and can demonstrate capability of carrying out Unified Program duties. If the Fresno CUPA fails to complete the corrective actions and resolutions within the specified timeframes, CalEPA may exercise its discretion to withdraw the Fresno CUPA's certification to implement the Unified Program in Fresno County.

Each Evaluation Progress Report must be submitted to the CalEPA Team Lead via email at Kaeleigh.Pontif@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.

Upon receipt of each Evaluation Progress Report provided by the Fresno CUPA, the CalEPA Team Lead will schedule a meeting for the State Evaluation Team and the Fresno CUPA to review the CUPA's progress towards correcting and resolving all Deficiencies and Incidental Findings, improving Unified Program implementation, and complying with the established PIA.

*Effective July 1, 2021, oversight of the Hazardous Materials Release Response Plans and Inventory and the California Accidental Response Prevention Program transitioned from Cal OES to CalEPA.

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1. DEFICIENCY: CORRECTED

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

The following administrative procedures have not been established nor implemented:

- Data Management Procedures that include:
 - The collection, retention, and management of electronic data and documents,
 - The transfer and exchange of electronic data through an applicable local information management system or local reporting portal, and
 - The reporting of electronic data.
 - Note: The CUPA developed a Data Management Procedure during the 2017 CUPA Performance Evaluation process, which was not provided during the 2020 CUPA Performance Evaluation.
- Financial Management Procedures that include:
 - Single fee system,
 - Fee accountability program, and
 - Surcharge collection and reimbursement program.

The following administrative procedures have components that are inaccurate or incomplete:

- The Public Participation Procedure does not contain provisions ensuring the receipt and consideration of comments from regulated businesses and the public, in addition to ensuring the CUPA is coordinating, consolidating, and making consistent locally required public hearings. The CUPA has provided the general hours for which a public forum (hearing) will be conducted, however no information is provided in regards to how the CUPA facilitates these meetings.
- The Public Information Request procedure, titled "Inspection of Public Records," does not make any reference to the Environmental Health Document Portal which is a separate method of requesting public records. The procedure has not been updated since June 5, 2000.
- The Record Maintenance Procedure, titled "Requirements for Documents and Files" does not adequately address proper disposal methods.
 - Note: The CUPA developed a Record Maintenance Policy during the 2017 CUPA Performance Evaluation process, which was not provided during the 2020 CUPA Performance Evaluation.

Note: Not establishing nor implementing Financial Management Procedures was identified as a deficiency during the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CORRECTIVE ACTION: COMPLETED

By the 2nd Progress Report, the CUPA will develop and provide CalEPA with Data Management Procedures and Financial Management Procedures, which include all required components.

By the 2nd Progress Report, the CUPA will provide CalEPA with revised administrative procedures for the following, including all required components:

- Public Participation

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- Public Information Request
- Forwarding and providing HMRRP information
- Record Maintenance.

By the 3rd Progress Report, if revisions to the developed Unified Program administrative procedures (Data Management and Financial Management) are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the revised Unified Program administrative procedures. If no revisions are necessary, the CUPA will train CUPA personnel on the developed Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the developed administrative procedures.

By the 3rd Progress Report, if amendments to the revised Unified Program administrative procedures (Public Participation, Public Information Request, forwarding and providing HMRRP information, and Record Maintenance) are necessary based on feedback from CalEPA, the CUPA will provide CalEPA with the amended Unified Program administrative procedures. If no amendments are necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised administrative procedures.

By the 4th Progress Report, if revisions to the to the developed Unified Program administrative procedures (Data Management and Financial Management) were necessary, the CUPA will train CUPA personnel on the revised Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised administrative procedures.

By the 4th Progress Report, if amendments to the revised Unified Program administrative procedures (Public Participation, Public Information Request, forwarding and providing HMRRP information, and Record Maintenance) were necessary, the CUPA will train CUPA personnel on the amended Unified Program administrative procedures. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the amended administrative procedures.

CITATION:

California Code of Regulations (CCR), Title 27, Section 15180(e)
CCR, Title 27, Sections 15185
[CalEPA]

CUPA Update 1:

Fresno County CUPA has begun to use the Amanda 7 database now in replacement of the old EnvisionConnect program. The Amanda 7 database went live on June 28, 2021. Environmental Health staff are making the necessary changes to policy as we learn more about the new system. More will be reported on the 2nd Progress Report.

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Evaluation Team Response 1 [CalEPA]:

With the next Progress Report, develop and provide CalEPA with Data Management Procedures and Financial Management Procedures, which include all required components.

With the next Progress Report, provide CalEPA with revised administrative procedures for the following, including all required components:

- Public Participation
- Public Information Request
- Forwarding and providing HMRRP information
- Record Maintenance.

CUPA Update 2:

Placed in the SharePoint for review are:

- Collection of Information, Retention of CUPA Record -Draft
- DRAFT CUPA Data Management Procedures
- Public Participation Policy DRAFT

Please read and comment for the next report.

Evaluation Team Response 2 [CalEPA]:

Review of the draft documents provided finds revisions are necessary as follows:

- The “Collection of Information, Retention of CUPA Records” document includes a narrative summary of the collection, retention, and management of electronic documentation.
 - There is an outdated reference to the Envision Connect data management system, as the CUPA now uses the Amanda 7 data management system and no longer uses Envision Connect. Reference to Envision Connect should be removed upon finalization.
 - Though the document lists the applicable documentation to be destroyed if older than five years after it has been scanned and stored electronically, the document does not address the method(s) of paper document disposal.
 - The document has a section that includes a policy for responding to Public Information Requests. The policy routes to the CUPA’s website, which allows a requestor to search through an online database to find information. The policy and website do not allow a requestor to make a targeted request if the information can’t be found on the CUPA’s website.
 - The CUPA stipulates that confidential information is redacted “as needed” but does not specify methods for redacting information or what kind of information will be redacted.
- The Data Management and Record Maintenance Procedure includes a narrative summary of a process in place for transferring and exchanging electronic data through the local data management system (Amanda 7) and a means of reporting electronic data to CERS. The procedure addresses a process for handling requests for information from the public through the “Environmental Health Document Portal” on the CUPA’s website if the public is otherwise unable to access documents readily available on the CUPA’s website. The procedure is satisfactory.

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- The Public Participation Policy addresses the receipt of public comments through an annual survey and during inspections and phone conversations with the regulated community. Public notices and hearings are issued and scheduled “for any resolution, ordinance, or directive for activities related to the elements of the unified program.” Additionally, the policy addresses making public notices available for Risk Management Plans (RMPs) submitted by CalARP facilities and “for activities related to the elements of the unified program.” The policy is sufficient but would benefit by including additional details for facilitating public hearings.

With the next Progress Report, provide CalEPA with the following:

- The “Collection of Information, Retention of CUPA Records” document with:
 - method(s) available to dispose of paper documents;
 - a procedure for receiving and responding to requests for information otherwise unavailable on the CUPA’s website; and
 - specific methods outlining how the CUPA prevents the release of confidential information.
- Financial Management Procedures that include:
 - Single fee system,
 - Fee accountability program, and
 - Surcharge collection and reimbursement program.

CUPA Update 3:

Please see the SharePoint site for the requested documents.

Evaluation Team Response 3 [CalEPA]:

Review of the “Collection of Information, Retention of CUPA Records” document finds that it contains methods to dispose of paper documents and methods for preventing the release of confidential information. Though the “Collection of Information, Retention of CUPA Records” document reiterates the use of the Fresno County Division website for the public to access information, which also includes contact information for the public to request information that would otherwise be publicly unavailable and the ability to acquire further assistance by submitting inquiries, the document does not address how the CUPA will respond to the requests for information and assistance made through the Fresno County Division website.

Review of the Financial Management Procedures document finds provisions on the development and application of the single fee system and surcharge collection and reimbursement program are included. The document indicates that no single fees exist for the “SPCC program element” or are being considered at this time. The fee accountability program is addressed under the “Adjustments to Fee Schedule” section, however there is no mention if a review and update of the fee accountability program is conducted on an annual basis. The description indicates that “periodically, a proposal for increase of fees is sent to the Board of Supervisors.”

With the next Progress Report, provide the following:

- The “Collection of Information, Retention of CUPA Records” document with:
 - a procedure for responding to requests for information otherwise unavailable on the CUPA’s website; and
- Financial Management Procedures that include:

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- A statement affirming that the CUPA conducts an annual review and update of the fee accountability program.

CUPA Update 4:

Please see SharePoint for requested documents.

Evaluation Team Response 4 [CalEPA]:

The CUPA's "Collection of Information, Retention of CUPA Records" document now includes a procedure for responding to requests for information otherwise unavailable on the CUPA's website, and the "Financial Management Procedures" document now includes a statement affirming that the CUPA conducts an annual review and update of the fee accountability program.

With the next Progress Report, the CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance.

CUPA Update 5:

Following review of the Evaluation Teams response to progress report #4, the CUPA has uploaded to the SharePoint site the requested information which includes an outline of the training conducted and a list of CUPA personnel in attendance.

Evaluation Team Response 5 [CalEPA]:

The provided training documentation is sufficient. The CUPA will implement the revised administrative procedures. This Deficiency is considered corrected.

2. DEFICIENCY: CORRECTED

The Self-Audit Report for Fiscal Years (FYs) 2017/2018, 2018/2019, and 2019/2020 has incomplete information.

The following information is incomplete:

- A narrative summary of the effectiveness of activities including enforcement;
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program;
- A summary of new programs being included in the Unified Program.

Note: The Self-Audit Report for each FY did not include a date of completion to demonstrate compilation by September 30th.

CORRECTIVE ACTION: COMPLETED

By the 2nd Progress Report, the CUPA will provide CalEPA with a completed Self-Audit Report for FY 2020/2021 that includes all required components and incorporates a date of completion to demonstrate the report was compiled by September 30th. For each subsequent FY, the CUPA will complete a Self-Audit Report, which will include all required components, and incorporate a date of completion to reflect compilation by September 30th.

CITATION:

CCR, Title 27, Section 15280(c)

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[CalEPA]

CUPA Update 1:

No response requested for this Progress Report #1 however all Self Audits were completed on time. A Date will be added to all and submitted before next progress report.

Evaluation Team Response 1 [CalEPA]:

The CUPA provided a copy of the FY 2020/2021 Self-Audit Report dated September 30, 2021, upon request by CalEPA on October 28, 2021. The Self-Audit Report contains a section titled "Summary of Enforcement Activities" that includes information pertaining to the general implementation of enforcement across the Unified Program. The section does not include any relevant information regarding the effectiveness of enforcement or details specific to the past fiscal year of performance. The Self-Audit Report includes details throughout the document addressing the implementation and effectiveness of the Amanda 7 data management system. This information demonstrates that a new program has been incorporated into the Unified Program and therefore satisfies the requirement for addressing new program(s) being included in the Unified Program. The Self-Audit Report does not address any records of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

With the 5th Progress Report, the CUPA will provide CalEPA with a Self-Audit Report for FY 2021/2022 that contains all required information, including the following:

- A narrative summary of the effectiveness of activities including enforcement;
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

CUPA Update 2:

A copy of the Self Audit Report for FY 20-21 has been uploaded to the SharePoint for review and comment.

Evaluation Team Response 2 [CalEPA]:

With the 5th Progress Report, provide CalEPA with a Self-Audit Report for FY 2021/2022 that contains all required information, including the following:

- A narrative summary of the effectiveness of activities including enforcement;
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

CUPA Update 3:

No response provided.

Evaluation Team Response 3 [CalEPA]:

Review of the Self-Audit Report for FY 2020/2021 provided with the 2nd Update includes a section titled "Summary of Enforcement Activities." While this section outlines elements of how the CUPA applies enforcement, it does not summarize the actual enforcement actions or activities applied by the CUPA during FY 2020/2021. A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program are not addressed.

With the next Progress Report, provide the Self-Audit Report for FY 2021/2022 that reflects the date of compilation and contains all required information, including the following:

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- A narrative summary of the effectiveness of activities including enforcement (information relevant to the effectiveness of enforcement activities and/or details specific to enforcement actions occurring during FY 2021/2022).
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

CUPA Update 4:

As per Evaluation Progress Report 3 (pages 7 and 8), no response is due on this Deficiency until Progress Report 5.

Evaluation Team Response 4 [CalEPA]:

With the next Progress Report, provide the Self-Audit Report for FY 2021/2022 that reflects the date of compilation and contains all required information, including the following:

- A narrative summary of the effectiveness of enforcement activities and/or details specific to enforcement actions occurring during FY 2021/2022;
- A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

CUPA Update 5:

The requested Self-Audit Report for FY 2021/2022 has been uploaded to the SharePoint.

Evaluation Team Response 5 [CalEPA]:

The Self-Audit Report for FY 2021/2022 reflects the date of completion as September 30, 2022, and includes all required components. This Deficiency is considered corrected.

3. DEFICIENCY: CLOSED

The CUPA is not consistently or correctly reporting complete and accurate inspection, violation and enforcement information, also known as compliance, monitoring and enforcement (CME) information, to the California Environmental Reporting System (CERS) for the Hazardous Waste Generator (HWG) and Aboveground Petroleum Storage Act (APSA) Programs.

Review of CERS CME information, inspection reports and other information provided by the CUPA indicates the following:

HWG Program:

- CERS ID 10692001:
 - Two inspection reports in CERS dated August 2, 2018
 - One inspection report notes two violations and a return to compliance date (RTC) date of September 18, 2019
 - One inspection report notes no violations and a RTC date of July 30, 2019
- CERS ID 10697821:
 - One inspection report in CERS dated July 31, 2018 notes no violations and a RTC date of July 31, 2018
- CERS ID 10657324:
 - One inspection report in CERS dated July 25, 2018 notes no violations and a RTC date of July 25, 2018

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- CERS ID 10592833:
 - Four inspection reports in CERS dated August 23, 2017
 - One inspection notes three violations and an RTC date of September 22, 2017

APSA Program:

- CERS ID 10591144:
 - Inspection report dated April 17, 2019
 - Documents one violation.
 - CERS has no record of the inspection or violation.
- CERS ID 10691359:
 - Inspection report dated April 25, 2019
 - Documents four violations.
 - CERS has no record of the inspection or violations.
- CERS ID 10694995:
 - Inspection report dated August 10, 2018
 - Documents one violation.
 - CERS has no record of the inspection or violation.
- CERS ID 10695169:
 - Inspection report dated February 19, 2020
 - Documents one violation.
 - CERS has no record of the inspection or violation.
- CERS ID 10696291:
 - Inspection report dated November 14, 2019
 - Documents one violation.
 - CERS has no record of the inspection or violation.
- CERS ID 10697833:
 - Inspection report dated September 6, 2018
 - Documents one violation.
 - CERS has no record of the inspection or violation.
- CERS ID 10700272:
 - Inspection report dated December 6, 2018
 - Documents seven violations.
 - CERS has no record of the inspection or violations.
- CERS ID 10700284:
 - Inspection report dated November 13, 2017
 - Documents one violation.
 - CERS has no record of the inspection or violation.
- CERS ID 10807462:
 - Inspection report dated May 10, 2019
 - Documents two violations.
 - CERS has no record of the inspection or violations.

Note: The examples provided above for the HWG Program and APSA Program may not represent all instances of this deficiency.

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Note: This deficiency was identified for the HWG Program and APSA Program during the 2017 CUPA Performance Evaluation. The deficiency was corrected for the HWG Program during the Evaluation Progress Report process. The deficiency was not corrected for the APSA Program during the Evaluation Progress Report process.

CORRECTIVE ACTION: COMPLETED

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

- Identification and correction of the cause(s) of missing or incorrect HWG and APSA Program CME information reported to CERS, including any data transfer from the local data management system or portal to CERS to ensure all CME information is consistently reported completely and accurately to CERS;
- Review and revision of the existing CME reporting component of the Data Management Procedure, or other applicable procedure, to ensure HWG and APSA Program CME information is consistently reported completely and accurately to CERS;
- Identification of HWG and APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly, since July 1, 2013;
- A process for reporting HWG and APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports going back to July 1, 2013;
- A process for ensuring CUPA personnel and inspectors are trained in the consistent use of the most recent violation classifications and citations of the local data management system or CERS violation type numbers;
- A comparison of HWG Program and APSA Program CME information (including follow-up actions) in the local CUPA data management system with CERS to identify any CME information not being reported, or being reported incorrectly to CERS through electronic data transfer (EDT); and
- Future steps to ensure all HWG and APSA Program CME information is reported consistently and correctly to CERS as required.

By the 2nd Progress Report, if amendments to the revised CME reporting component of the Data Management Procedure, or other applicable procedure are necessary based on feedback from DTSC and OSFM, the CUPA will provide CalEPA with the amended CME reporting component of the data management procedure or other applicable procedure. If amendments are not necessary, the CUPA will train CUPA personnel on the revised CME reporting component of the data management procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA that will include, at minimum, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised CME reporting component of the data management procedure or other applicable procedure.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, if not available in CERS, the CUPA will provide CalEPA with an inspection report or Return to Compliance (RTC) documentation for up to three HWG Program facilities as requested by DTSC and for three APSA Program facilities as requested by OSFM.

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By the 5th Progress Report, the CUPA will consistently and correctly report all current and previous HWG Program and APSA Program CME information to CERS as required. The CUPA will provide a statement confirming the completion of all prior HWG and APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since July 1, 2013, as currently and correctly being reported to CERS.

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Section 15187(a)(2), 15187(c) and 15290(b)
[DTSC, OSFM]

CUPA Update 1:

Fresno County CUPA has begun to use the Amanda 7 database now in replacement of the old EnvisionConnect program. The Amanda 7 database went live on June 28, 2021. We already have current CME data being sent to CERS. While still working on the new database and a need to update the new violation library we will soon have more current data for CERS.

Past CME data from the old EnvisionConnect database will require assistance from our IT Division to extract cleanly and completely or we pay our Amanda vendor to convert all the violation data to the new database and send that way. We need to work on these options and progress towards final closure.

Evaluation Team Response 1 [DTSC, OSFM]:

DTSC: An improvement has been observed in CERS data. Ensure data for the CERS IDs identified above is corrected prior to being transferred to Amanda 7. Quality Assurance and Quality Control of both, current and previous data, is imperative.

With the next progress report, provide the revised CME reporting component of the Data Management Procedure, or other applicable procedure(s) as necessary.

With the next progress report, provide the remaining components of the action plan for reporting HWG Program CME information consistently and correctly to CERS:

- A process for reporting HWG and APSA Program CME information dated back to July 1, 2013 identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports;
- A process for ensuring CUPA personnel and inspectors are trained in the consistent use of the most recent violation classifications and citations of the local data management system or CERS violation type numbers; and
- Future steps to ensure all HWG and APSA Program CME information is reported consistently and correctly to CERS as required

OSFM: The CUPA has started to develop the action plan for reporting APSA Program CME information consistently and correctly to CERS, including identification of APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly, since July 1, 2013. The action plan is incomplete and does not address each element described in the corrective action.

A CERS APSA CME report generated on October 11, 2021, indicates:

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- FY 2013/2014: 149 inspections conducted and 115 violations cited
- FY 2014/2015: 226 inspections conducted and 195 violations cited
- FY 2015/2016: 101 inspections conducted and 84 violations cited
- FY 2016/2017: 98 inspections conducted and 112 violations cited
- FY 2017/2018: 158 inspections conducted and 111 violations cited
- FY 2018/2019: 47 inspections conducted and 1 violation cited
- FY 2019/2020: 54 inspections conducted and 0 violations cited
- FY 2020/2021: 0 inspections conducted and 0 violations cited
- FY 2021/2022: 7 inspections conducted and 6 violations cited

With the next Progress Report, provide an updated action plan for reporting APSA Program CME information consistently and correctly to CERS and ensure the action plan addresses each component described in the corrective action. When applicable, provide a statement to confirm when all prior APSA CME information has been reported to CERS that was not reported since July 1, 2013.

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA revised the I&E Plan text which reads: "Fresno County CUPA utilizes Amanda as its primary data management system in combination with an Inspector Application to perform APSA inspections of CUPA regulated facilities. CUPA APSA program inspection reports reside in "Back Office" within the Amanda data management system. When the Inspector Application is synced with Amanda, inspection data flows to and from Amanda and the California Environmental Reporting System (CERS). On occasion, some CUPA inspections may need to be performed in Back Office. For example, if application failure occurs. Please note that should an inspection need to be completed in Back Office; data related to the inspection will be transmitted to the CERS". A copy of I&E Plan text has been uploaded to the SharePoint site for review.

Evaluation Team Response 2 [DTSC, OSFM]:

DTSC: The CUPA has implemented an updated data management procedure and inspection procedures and has trained staff on the updated procedures to ensure review of data entered into the Amanda 7 database transfers to CERS. However, the document provided with Progress Report 1, titled "3 DEFICIENCY CORRECTIVE ACTION," and the CME related activities in the document provided with Progress Report 2, titled "Data Management Plan and Record Maintenance Procedure" do not address how they relate and support one another. Each of the documents would benefit by including examples of what will be done and specifics as to who, what, why, where, when and how. The more standardized the processes, the more likely mistakes by CUPA staff will be avoided and corrected consistently.

The document titled "3 DEFICIENCY CORRECTIVE ACTION" contains the following statements that are vague and require more detail to clearly illustrate the objective(s):

- Employees will continue receiving training through CUPA Conference and local training opportunities
 - What areas of training will be received through the CUPA Conference?
 - How often will training occur?
 - Will training occur after new Amanda 7 database upgrades, when new staff is on-boarded, any other times?
- Employees will be involved in Technical Advisory Group (TAG) meetings

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- Which TAGs?
 - How will involvement with TAGs ensure data quality?
- Routine checks will be conducted in CERS to confirm CME data is being transferred properly
 - How often with the routine checks occur, and by whom?
 - Will the routine checks occur after Electronic Data Transfer from Amanda 7 to CERS? What about data not in Amanda 7, and in the previous data management system(s)?
 - Will this be reflected in the annual Self-Audit Report?

The document titled “Data Management Plan and Record Maintenance Procedure” contains the following statements relative to CME related activities that are vague and require more detail to clearly illustrate the objective(s):

- The inspector shall review the inspection and violation information transferred to CERS to ensure it transferred and is accurate.
 - Is there any data management staff or supervisory oversight of the inspector doing this?
- If the violation is not correctly classified due to auto classify by Amanda 7, the inspector shall refer to the correct classification in the notes of the inspection and make the correction in CERS.
 - At what point in time is the classification corrected?
 - Is the classification corrected before a Notice of Violation is issued to the facility, or when RTC is posted?
- Violations submitted to Amanda 7 during an inspection will have EDT with CERS. If there is a failure of the upload to CERS, that specific violation will be manually uploaded into CERS, and the issue will be reported to their supervisor.
 - How and when is the inspector notified of a failure to upload to CERS?
 - When does the inspector upload corrections to CERS?

With the next Progress Report, provide:

- The following components of the action plan for reporting HWG Program CME information consistently and correctly to CERS:
 - A process for reporting HWG Program CME information dated back to July 1, 2013 identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports; and
 - As part of identifying any CME information not being reported, or being reported incorrectly to CERS through electronic data transfer (EDT), an update on the correction of CME information previously reported incorrectly to CERS for the following HWG facilities:
 - CERS ID 10692001
 - CERS ID 10697821
 - CERS ID 10657324
 - CERS ID 10592833
 - Future steps to ensure all HWG Program CME information is reported consistently and correctly to CERS as required.
- A revised “3 DEFICIENCY CORRECTIVE ACTION” document that clearly illustrates the objective(s).

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- A revised “Data Management Plan and Record Maintenance Procedure” document that clearly illustrates the objective(s).
- If applicable, a statement confirming the completion of all prior HWG Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since July 1, 2013, as currently and correctly being reported to CERS.
- The HWG inspection report or RTC documentation for:
 - CERS ID 10690558 dated March 7, 2022
 - CERS ID 10704694 dated March 2, 2022
 - CERS ID 10698478 dated March 2, 2022

OSFM: The CUPA has trained CUPA personnel on the revised CME reporting component of the data management procedure and provided training documentation. The CUPA has implemented the revised CME reporting component of the data management procedure.

A CERS APSA CME report generated on March 10, 2022, indicates:

- FY 2013/2014: 149 inspections conducted and 115 violations cited
- FY 2014/2015: 226 inspections conducted and 195 violations cited
- FY 2015/2016: 101 inspections conducted and 84 violations cited
- FY 2016/2017: 98 inspections conducted and 112 violations cited
- FY 2017/2018: 158 inspections conducted and 111 violations cited
- FY 2018/2019: 47 inspections conducted and 1 violation cited
- FY 2019/2020: 54 inspections conducted and 0 violations cited
- FY 2020/2021: 0 inspections conducted and 0 violations cited
- FY 2021/2022: 18 inspections conducted and 10 violations cited

With the next Progress Report, provide:

- The following components of the action plan for reporting APSA Program CME information consistently and correctly to CERS:
 - Identification of APSA Program CME information not previously reported to CERS, or reported to CERS incorrectly, since July 1, 2013.
 - A process for reporting APSA Program CME information dated back to July 1, 2013, identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports;
 - As part of identifying any CME information not being reported, or being reported incorrectly to CERS through electronic data transfer (EDT), an update on the circumstances related to the Amanda 7 database. A CERS APSA CME report generated on March 10, 2022 indicates the Amanda 7 database is sometimes reporting a CERS inspection date that corresponds to the RTC date reported to CERS.
- If applicable, a statement to confirm when all prior APSA Program CME information has been reported to CERS that was not reported since July 1, 2013.
- The most recent APSA inspection report or RTC documentation for:
 - CERS ID 10459594
 - CERS ID 10696924
 - CERS ID 10487920

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CUPA Update 3:

We have corrected in CERS DTSC's identified CME errors for the following CERS IDs: 10692001, 10697821, 10657324, and 10592833. These errors occurred during CME transmission from Envision Connect. For a discussion on the status of prior CME not in CERS, please refer to Deficiency 22.

We are taking steps to ensure CME transmits from Amanda accurately. Inspectors are instructed to verify their inspection makes it to CERS. The way this is currently being tracked is as follows: All inspection conducted are shown on our shared CUPA Specialist of the Day Calendar. The calendar identifies the inspector, the facility address and the type of the inspection(s) scheduled. After completing the inspections and syncing the inspector app, the inspectors are required to check CERS to make sure the inspection and any violations successfully transfer to CERS. If for some reason one or more inspections don't transfer, they inform a CUPA Supervisor (usually by email) to troubleshoot and either successfully re-send the inspection, or the inspector is instructed to manually enter the inspection in CERS. When the inspector confirms that all of the inspections performed at a facility have transmitted, they shade the appointment on the shared CUPA SD calendar green. If the inspection hasn't transferred, it is highlighted red for troubleshooting. CUPA Supervisors monitor the calendar against the inspections in CERS and look for anything unusual in CERS (e.g., duplicated inspections, missing inspections, etc). They also assist in shading the calendar as inspections are noted in CERS. Any corrections to violation class (if different than the default settings) are made by the inspector when confirming the inspection was transmitted and prior to any notices of violations.

Evaluation Team Response 3 [DTSC, OSFM]:

DTSC: Corrections to the requested inspections have been made for CERS IDs 10692001, 10697821, 10657324, and 10592833.

Review of the inspection reports and RTC documentation provided for the requested HWG facilities finds:

- No inspection report was received as requested for CERS ID 10690558. CERS identifies an inspection conducted on March 2, 2022, with seven violations issued, that currently do not have an RTC date.
- The inspection report received as requested for CERS ID 10704694 as well as the manifest documenting RTC for the one cited violation is acceptable.
- The closure inspection report received as requested for CERS ID 10698478 is acceptable.

Review of the response for Deficiency 22 finds:

- The CUPA has identified HWG Program CME information not previously reported to CERS since July 1, 2013.
- The CUPA has established a process to identify when CME information at present is not being reported or being reported incorrectly to CERS through EDT from Amanda 7, as well as steps to ensure the CME information in CERS is correct.
- The CUPA is researching efficient options related to the process for the correction of CME information previously reported incorrectly to CERS.

OSFM: Review of the RTC documentation provided for the following APSA facilities was acceptable:

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- CERS ID 10459594
- CERS ID 10696924
- CERS ID 10487920

Review of the response for Deficiency 22 finds:

- the CUPA has identified APSA Program CME information not previously reported to CERS since July 1, 2013.
- the CUPA has established a process to identify when CME information at present is not being reported or being reported incorrectly to CERS through EDT from Amanda 7, as well as steps to ensure the CME information in CERS is correct.
- correction of CME information previously reported incorrectly to CERS is not addressed
- The CUPA is researching efficient options related to the process for the correction of CME information previously reported incorrectly to CERS.

CERS APSA CME reports generated on October 11, 2021, March 10, 2022, and August 8, 2022, all indicate the same number of inspections conducted and the same number of violations cited for each of the following FYs:

- FY 2013/2014: 149 inspections conducted, and 115 violations cited
- FY 2014/2015: 226 inspections conducted, and 195 violations cited
- FY 2015/2016: 101 inspections conducted, and 84 violations cited
- FY 2016/2017: 98 inspections conducted, and 112 violations cited
- FY 2017/2018: 158 inspections conducted, and 111 violations cited
- FY 2018/2019: 47 inspections conducted, and 1 violation cited
- FY 2019/2020: 54 inspections conducted, and 0 violations cited
- FY 2020/2021: 0 inspections conducted, and 0 violations cited

CERS APSA CME reports generated on the following dates reflect different CME information for FY 2021/2022:

- Report generated on October 11, 2021, reflects 7 inspections conducted and 6 violations cited
- Report generated on March 10, 2022, reflects 18 inspections conducted and 10 violations cited
- Report generated on August 8, 2022, reflects 32 inspections conducted and 23 violations cited

A CERS APSA CME report generated on August 8, 2022, reflects the following CME information thus far for FY 2022/2023:

- 4 inspections conducted and 0 violations cited

With the next Progress Report, provide:

- A process for reporting HWG and APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports dating back to July 1, 2013.
- An update on the correction of HWG and APSA Program CME information in CERS previously reported incorrectly to CERS;

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- If applicable, a statement confirming the completion of all prior HWG and APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since July 1, 2013, as currently and correctly being reported to CERS.
- The HWG inspection report and RTC documentation for the inspection conducted on March 2, 2022 for CERS ID 10690558;
- A revised “3 DEFICIENCY CORRECTIVE ACTION” document, which clearly illustrates and/or affirms or identifies the following objectives:
 - Employees will continue receiving training through CUPA Conference and local training opportunities
 - What areas of training will be received through the CUPA Conference?
 - How often will training occur
 - Will training occur after new Amanda 7 database upgrades, when new staff is on-boarded, any other times?
 - Employees will be involved in Technical Advisory Group (TAG) meetings
 - Which TAGs?
 - How will involvement with TAGs ensure data quality?
 - Routine checks will be conducted in CERS to confirm CME data is being transferred properly.
 - How often with the routine checks occur, and by whom?
 - Will the routine checks occur after Electronic Data Transfer from Amanda 7 to CERS? What about data not in Amanda 7, and in the previous data management system(s)?
 - Will this be reflected in the annual Self-Audit Report?
- A revised “Data Management Plan and Record Maintenance Procedure,” which clearly illustrates and/or affirms or identifies the following objectives relative to CME related activities:
 - The inspector shall review the inspection and violation information transferred to CERS to ensure it transferred and is accurate.
 - Is there any data management staff or supervisory oversight of the inspector doing this?
 - If the violation is not correctly classified due to auto classify by Amanda 7, the inspector shall refer to the correct classification in the notes of the inspection and make the correction in CERS.
 - At what point in time is the classification corrected?
 - Is the classification corrected before a Notice of Violation is issued to the facility, or when RTC is posted?
 - Violations submitted to Amanda 7 during an inspection will have EDT with CERS. If there is a failure of the upload to CERS, that specific violation will be manually uploaded into CERS, and the issue will be reported to their supervisor.
 - How and when is the inspector notified of a failure to upload to CERS?
 - When does the inspector upload corrections to CERS?
- The most recent APSA inspection report or RTC documentation for:
 - CERS ID 10699123
 - CERS ID 10699918
 - CERS ID 10487920

CUPA Update 4:

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The HWG inspection report and RTC documentation for the inspection conducted on March 2, 2022 CERS ID 10690558 has been provided in the SharePoint. The requested DTSC and OSFM inspections/RTC, revised “3 DEFICIENCY CORRECTION ACTION” document, and revised Data Management Plan and Record Maintenance Procedure” has been uploaded as well.

Five CUPA staff members (including two new staff) were sent to the recent CUPA Conference in March of 2023 and received training in business plans, hazardous waste, APSA, underground storage tanks, and CalARP. Training will continue with TAG meetings when available to ensure data quality statewide consistency.

CUPA Staff and Supervisors will continuously monitor CERS to ensure that CME data is being transferred routinely following electronic data transfer from Amanda 7 to CERS. All CUPA staff are instructed to verify their inspection transfers successfully to CERS. This is currently being tracked as follows:

1. All inspection conducted are shown on our shared CUPA Specialist of the Day Calendar. The calendar identifies the inspector, the facility address and the type of the inspection(s) scheduled.
2. After completing the inspection(s) and syncing the inspector app, the inspectors are required to check CERS to ensure the inspection and any violations successfully transfer to CERS.
3. If for some reason one or more inspections did not transfer, they inform a CUPA Supervisor (usually by email) to troubleshoot and either successfully re-send the inspection, or the inspector is instructed to manually enter the inspection in CERS.
4. When the inspector confirms all of the inspections performed at a facility have transmitted successfully to CERS, they shade the appointment on the shared CUPA Specialist of the Day calendar green. If the inspection hasn't transferred, it is highlighted red for troubleshooting.
5. CUPA Supervisors monitor the calendar against the inspections in CERS and look for anything unusual in CERS (e.g., duplicated inspections, missing inspections, etc). They also assist in shading the calendar as inspections are noted in CERS.
6. The inspector updates corrections to CERS after a routine inspection has been conducted. Any corrections to violation class (if different than the default settings) are made by the inspector when confirming the inspection was transmitted after the routine inspection and prior to any notices of violations or when RTC is posted.

Fresno County CUPA has reached out via email to the CERS team for assistance in uploading the spreadsheet of missing inspections from Envision to CERS. We are also able to run reports and export spreadsheets from Amanda on CUPA inspections performed in a given time frame and compare with inspections in CERS to identify any missing inspections that require troubleshooting.

CME data transferred will be reflected in the annual self-audit report.

Evaluation Team Response 4 [DTSC, OSFM]:

DTSC: The CUPA has incorporated additional quality assurance review into the Data Management Plan to manage any potential data inaccuracies, including a process to correct entries. The Data Management Plan is acceptable.

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DTSC acknowledges the training received by the CUPA staff.

The inspection report and RTC documentation for CERS ID 10690558 were received. The RTC dates are correctly identified in CERS.

- Note: The inspection report uses the appropriate default descriptions from the Unified Program Violation Library in CERS. However, there are no comments for individual violations or RTC efforts (other than the RTC qualifier) in CERS. To provide a better understanding and to support any subsequent progressive enforcement, if applicable, pertinent information for violations and RTC should be transferred to CERS as comments.

The CUPA transitioned the data management system to Amanda 7 on June 28, 2021. Review of CME information in the CUPA's data management system between June 28, 2021 and May 1, 2023, finds 474 HWG inspections have been conducted. Review of CME information in CERS finds the following inspections were posted multiple times:

- CERS ID 10694959 dated July 17, 2021
- CERS ID 10908808 dated September 23, 2022
- CERS ID 10741705 dated November 15, 2022
- CERS ID 10407766 dated February 23, 2023

Notwithstanding the above examples, the CUPA has sufficiently met the corrective action requirements for the HWG Program. Review the anomalies regarding the posting of multiple inspections in CERS identified above and make any necessary corrections. Review and revise the data management procedure and make any necessary revisions to ensure the process is accurately reflected. This deficiency is considered corrected.

OSFM: The revised "3 DEFICIENCY CORRECTIVE ACTION" document is acceptable. The revised "Data Management Plan and Record Maintenance Procedure," does not address the APSA program.

Review of APSA inspection reports indicates the following:

- CERS ID 10487920, inspection report dated March 1, 2017, is recorded properly in CERS.
- CERS ID 10699123, inspection report dated October 1, 2019: CERS has no record of the inspection or violation.
- CERS ID 10699918: PDF inspection report file could not be viewed.

Review indicates the CUPA's current data management system, Amanda 7, is successfully transferring CME information to CERS.

Review of the response for Deficiency 22 indicates:

- The CUPA has reached out to the CalEPA CERS team for assistance in transferring the APSA Program CME information in Envision identified as missing or not previously

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reported in CERS between July 1, 2013, and June 28, 2021. The CUPA is currently awaiting a response from CalEPA.

- As of April 12, 2023, APSA Program CME information in Envision identified as missing in CERS beginning July 1, 2013, has not been uploaded to CERS.
- The CUPA has established a process for CUPA Program Supervisors and staff to verify CME information from the current data management system is correctly reported to CERS through EDT.

CERS APSA CME reports generated on October 11, 2021, March 10, 2022, August 8, 2022, and April 12, 2023, each indicate the same number of inspections conducted and the same number of violations cited for each of the following FYs:

- FY 2013/2014: 149 inspections conducted, and 115 violations cited
- FY 2014/2015: 226 inspections conducted, and 195 violations cited
- FY 2015/2016: 101 inspections conducted, and 84 violations cited
- FY 2016/2017: 98 inspections conducted, and 112 violations cited
- FY 2017/2018: 158 inspections conducted, and 111 violations cited
- FY 2018/2019: 47 inspections conducted, and 1 violation cited
- FY 2019/2020: 54 inspections conducted, and 0 violations cited
- FY 2020/2021: 0 inspections conducted, and 0 violations cited

A CERS APSA CME report generated on April 12, 2023, indicates the following for each FY:

- FY 2021/2022: 32 inspections conducted, and 23 violations cited
- FY 2022/2023: 47 inspections conducted, and 51 violations cited

With the next Progress Report, provide:

- A revised “Data Management Plan and Record Maintenance Procedure” that addresses the APSA Program.
- A process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports dating back to July 1, 2013.
- An update on the correction of APSA Program CME information in CERS previously reported incorrectly to CERS;
- If applicable, a statement confirming the completion of all prior APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since July 1, 2013, as currently and correctly being reported to CERS.
- The most recent APSA inspection report or RTC documentation for:
 - CERS ID 10614313
 - CERS ID 10704082
 - CERS ID 10692262

CUPA Update 5:

A revised “Data Management and Record Maintenance Procedure” that addresses the APSA Program is uploaded to the SharePoint.

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Please see Deficiency 22 response regarding status of APSA Program CME information identified as not being previously reported or correctly reported to CERS dating back to July 1, 2013.

The posting in CERS of duplicate inspections previously identified for the following CERS IDs has been corrected:

- CERS ID 10694959 dated July 17, 2021
- CERS ID 10908808 dated September 23, 2022
- CERS ID 10741705 dated November 15, 2022
- CERS ID 10407766 dated February 23, 2023

The requested most recent APSA inspection report or RTC documentation for the following CERS IDs has been uploaded to the SharePoint:

- CERS ID 10614313
- CERS ID 10704082
- CERS ID 10692262

We have also corrected entering the missing violation in CERS for CERS10699123.

Evaluation Team Response 5 [OSFM]:

The revised “Data Management Plan and Record Maintenance Procedure” addresses ensuring APSA Program CME information is consistently reported completely and accurately in CERS and is considered acceptable.

The CUPA refers to the response for Deficiency 22 regarding the status of the process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports, between July 1, 2013, and June 28, 2021. The corrective action for Deficiency 22 includes establishing an action plan, in coordination with CalEPA, for reporting historic CME information to CERS.

Review of a CERS APSA CME report generated on October 23, 2023, finds the CUPA’s data management system, Amanda 7, continues to successfully transfer current APSA CME information to CERS for the following FYs:

- FY 2021/2022: 32 inspections conducted, and 23 violations cited.
 - Review of CERS CME information for the APSA Program on April 12, 2023, for FY 2021/2022 reflected 32 inspections conducted, and 23 violations cited.
- FY 2022/2023: 61 inspections conducted, and 55 violations cited.
 - Review of CERS CME information for the APSA Program on April 12, 2023, for FY 2022/2023 reflected 47 inspections conducted, and 51 violations cited.

It is no longer necessary to provide a narrative update on the comparison of APSA Program CME information (including follow-up actions) in Amanda 7 with CERS to identify any CME information not being reported or being reported incorrectly to CERS through EDT.

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Review of the APSA inspection reports provided finds each is acceptable as follows:

- CERS ID 10614313
 - inspection report dated May 9, 2019, cites no violations. The inspection information is correctly reported to CERS.
- CERS ID 10704082
 - inspection report dated September 9, 2019, cites no violations. The inspection information is correctly reported to CERS.
- CERS ID 10692262
 - inspection report dated July 12, 2019, cites no violations. The inspection information is correctly reported to CERS.

Note: The correction of duplicate HWG inspections for the following facilities previously identified in Evaluation Team Response 4, by DTSC, remains acknowledged:

- CERS ID 10694959 dated July 17, 2021
- CERS ID 10908808 dated September 23, 2022
- CERS ID 10741705 dated November 15, 2022
- CERS ID 10407766 dated February 23, 2023

Due to the continual efforts to correct Deficiency 22, to ensure CME information is consistently reported to CERS:

- the following are no longer required to be provided:
 - a process for ensuring CUPA personnel and inspectors are trained in the consistent use of the most recent violation classifications and citations of the local data management system (Amanda 7), or the Unified Program Violation Library violation type numbers; and
 - training documentation on the revised "Data Management Plan and Record Maintenance Procedure," including an outline of training conducted and a list of CUPA personnel in attendance.
- the following remaining corrective actions will be considered addressed with the response for Deficiency 22:
 - a narrative update on the process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports dating back to July 1, 2017.
 - if applicable, a statement confirming the completion of all prior APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since July 1, 2017, as currently and correctly being reported to CERS.

This Deficiency is considered closed, however, further progress towards completion of corrective actions will continue to be considered with each subsequent Progress Report response for Deficiency 22.

4. DEFICIENCY: CORRECTED

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The CUPA is not properly classifying HWG Program violations.

Review of facility files and CERS CME information indicates the CUPA is classifying Class I or Class II HWG Program violations as minor violations in the following instances:

- Violation for exceedance of authorized accumulation time 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 minor violation as defined in Health and Safety Code, Section 25404(a)(3). CERS data indicates 24 of 28 (87%) violations cited for exceedance of authorized accumulation time were incorrectly classified as minor. Examples include:
 - CERS ID 10594900: inspection date February 21, 2018
 - CERS ID 10462696: inspection date January, 19, 2018
 - CERS ID 10467922: inspection date October 13, 2017

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

Note: This deficiency was identified during the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CORRECTIVE ACTION: COMPLETED

Beginning immediately, inspectors will ensure violations are correctly classified and appropriate informal or formal enforcement actions are pursued for non-minor (Class I and Class II) violations.

By the 1st Progress Report, the CUPA will train personnel on the classification of minor, Class I, and Class II violations, as defined in:

- HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6,
- HSC Chapter 6.11, Section 25404(a)(3), and
- CCR, Title 22, Section 66260.10

The CUPA will train personnel on how to properly classify HWG Program violations during inspections and ensure personnel review the following:

- Violation Classification Training Video 2014
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
- Violation Classification Guidance Document
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>

The CUPA will provide CalEPA with training documentation, which at minimum will include, an outline of the training conducted and a list of CUPA personnel attending the training, to demonstrate each inspector reviewed the Violation Classification Training Video and Guidance Document and received training on how to properly classify HWG Program violations.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a copy of inspection reports citing at least one HWG Program violation, for three HWG Program facilities, as requested by DTSC, that have

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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.

Note: The following additional HWG inspection, accumulation and generator requirement training resources are available to assist in training CUPA inspectors:

- Advanced Hazardous Waste Inspector Training Video 2016 (1 of 2)
<https://www.youtube.com/watch?v=Ign3TJftSUM>
- Advanced Hazardous Waste Inspector Training Video 2012 (5 of 7): Tanks and Sumps
<https://www.youtube.com/watch?v=oCrI3MvTd8M>
- Generator Requirements Fact Sheet
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/06/HWM_FS_Generator_Requirements.pdf
- Accumulation Time Fact Sheet
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_OAD_Accumulation.pdf
- Universal Waste
https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/UW_Factsheet1.pdf
- Managing Used Oil Filters for Generators
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/RAG_Used-Oil-Filters_Generators1.pdf
- Management of Spent Lead Acid Batteries
https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/02/FS_DutyOfficer_LeadAcidBatteries1.pdf
- Generator Summary Chart
<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/05/California-Generator-Chart.pdf>
and https://www.acgov.org/forms/aceh/Generator_Requirements_Summary_Chart.pdf

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6
CCR, Title 22, Sections 66260.10 and 66262.34
[DTSC]

CUPA Update 1:

All but one staff have completed the above items. The last staff person will return from a family leave soon and will complete the training.

As a note here, the move to Amanda has staff using electronic checklists with the violation library and the relevant violation classification is set automatically. Staff can raise the level but not lower the classification based on the settings.

Evaluation Team Response 1 [DTSC]:

The CUPA has completed the training requirements for staff, except for the person on leave. With the next Progress Report, provide training documentation for the person returning from leave, which at minimum will include, an outline of the training conducted and the person's name.

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With the next Progress Report, provide the most recent inspection report (occurring after training was completed on October 1, 2021, and within the last three months), citing at least one HWG Program violation, containing observations, factual basis, and corrective actions with each observed violation correctly identified and classified, for the following HWG Program facilities, as selected by DTSC:

- CERS ID 10501114, inspection dated November 30, 2021
- CERS ID 10473433, inspection dated November 19, 2021
- CERS ID 10697092, inspection dated November 22, 2021

CUPA Update 2:

The person who was on leave completed the training on 10/8/2021.

The requested inspection reports and digital signatures, and training documentation have been uploaded on the SharePoint.

The Amanda 7 database inspection checklists for CUPA have the violation classification automatically set by the system. An inspector may upgrade the violation classification but may only upgrade after the inspection is completed.

Evaluation Team Response 2 [DTSC]:

The CUPA has completed the staff training requirements. The violations cited in the inspection reports provided by the CUPA have proper classifications identified in CERS based on the violation descriptions and comments. This deficiency is considered corrected.

5. DEFICIENCY:

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

- The 2019/2020 Self-Audit Report identifies 2,962 regulated HWG facilities.
- CERS notes 1,810 facilities that self-identified as HWGs on the Business Activities page.
- Review of the DTSC Hazardous Waste Tracking System (HWTS) and Transporter Quarterly Report (TQR) finds 3,381 facilities with either U.S. Environmental Protection Agency (EPA) Identification (ID) or California issued numbers shipped hazardous waste from January 1, 2018 through December 31, 2020. This does not include counts of facilities with provisional U.S. EPA ID numbers issued for emergency or one-time removal actions.

Note: This deficiency was identified during the 2017 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process. This deficiency was identified during the 2014 CUPA Performance Evaluation as an observation.

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to identify all facilities subject to the HWG Program. The action plan will include, at minimum:

- A review and comparison of the data from the HWTS and TQR (CUPA Report) with the data from the CUPA's local data management system or CERS, to determine all facilities that generate hazardous waste and are subject to HWG Program requirements.

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- The CUPA will develop a spreadsheet containing each facility listed in the HWTS, TQR, the CUPA's local data management system and CERS. For each facility listed, the spreadsheet will, at minimum, include:
 - CERS ID
 - Date of the last routine inspection
 - Whether or not the facility self-identified as a HWG facility on the CERS Business Activities page
 - Any issued HWG permits (Tiered Permitting: Permit By Rule, Conditionally Authorized, Conditionally Exempt)
 - Any informative notes regarding the facility.
- For facilities identified as not being subject to the HWG Program, the CUPA will provide specific details on how the determination was made. Site visits and aerial photography (e.g., Google Maps) may be used to assist in identifying non-regulated facilities.
- Facilities identified as being subject to the HWG Program will be incorporated into the existing HWG inspection schedule, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated version of the spreadsheet to demonstrate the HWG facilities identified as being subject to the HWG Program that have been inspected, permitted, and are reporting to CERS.

By the 2nd Progress Report, the CUPA will train personnel regarding implementation of the HWG program. The CUPA will provide CalEPA with training documentation, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance. By the 4th Progress Report, the CUPA will have inspected all newly identified HWG facilities.

CITATION:

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

CUPA Update 1:

Fresno CUPA will again raise this issue with the CUPA Forum Board to again speak to CalEPA and all BDO representatives to move this type of deficiency to a standing observation. This deficiency is not beneficial to the evaluation process. Every CUPA in the State has this issue as a daily SOP for all Unified Programs. If the HWTS would have the CERS ID number as a required field and then a simple report could be run between the two systems to compare Facility Name and Address and then that report is sent to each county to verify that would be helpful.

This deficiency has been addressed previously and to continue this progress report it will take staff out of the field and then looking at thousands of lines of data from multiple data sources (HWTS, CERS, Amanda7) and compare each one and then go inspect if needed. Over 800 new permanent CalEPA ID numbers have been issued in Fresno County since 2017. Most of that is

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from our work here addressing this issue. This last year has been challenging with Covid-19 and the Creek Fire. Staff have not had sufficient time to deal with all the issues.

Our IT division is installing the Yellowfin Analytics into Amanda that will allow us to write reports that can be compared to HWTS as a first step.

An action plan will be submitted to the SharePoint site for review.

Evaluation Team Response 1 [DTSC]:

DTSC recognizes that the process to verify existing HWGs who are not in the CUPA's data management system will take considerable time and effort, especially with existing external impacts to staffing. Developing an action plan is the first step to identifying HWGs who are not currently being regulated. The provided action plan is thorough and should assist in sorting through the existing businesses with permanent EPA numbers. With the new Amanda system transferring data to CERS, CERS identifies 1,916 HWG facilities as of October 19, 2021.

The CUPA's action plan to contact facilities that are in the HWTS and not part of the current CUPA inventory should bring in new HWG facilities if the facilities are still generating hazardous waste.

With the next Progress Report, provide an update and brief description of how new HWG facilities are added to the HWG Program. The update should include a sortable spreadsheet identifying each HWG facility with a three-year inspection frequency and a sortable spreadsheet identifying each HWG facility with a five-year inspection frequency. Each sortable spreadsheet should be exported from the CUPA's data management system or CERS. Each spreadsheet will include the following information for each HWG facility listed, at minimum:

- Facility name,
- CERS ID,
- Facility ID (if applicable), and
- Date of the last routine inspection.

With the next Progress Report, the CUPA will train personnel regarding implementation of the HWG program. The CUPA will provide CalEPA with training documentation, which at minimum will include an outline of the training conducted and a list of CUPA personnel in attendance.

CUPA Update 2:

We are continuing our efforts to identify all Hazardous Waste Generators operating in our jurisdiction as well for other CUPA programs. Please see the progress on the updated spreadsheet. EPA ID numbers in red are numbers we have initially identified as ones which we may not currently permit and inspect. They will be our highest priority for contacting for further information and possible inspection.

As you are well aware, we are currently unable to obtain last inspection data from any one data source. Envision has historic inspection data through 6/28/21, some of which was successfully transferred to CERS. The data that has not been transferred we are still working to get the data transferred to CERS. Amanda holds inspection data from 6/29/21 going forward and transmits data to CERS providing the facility has a CERS ID entered into Amanda.

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We are constantly identifying new facilities (whether they are only haz waste generators or subject to other CUPA programs) to add to our constantly expanding regulated universe. Sometimes we find them from a new or revised CERS submittal, from HWTS, inspectors observing them in the field, or a complaint. Occasionally, the business will initiate contact with a phone call or email to hazmatcupa@fresnocountyca.gov with permitting questions.

Once we identify a CUPA facility that needs adding, we begin the initial inspection and permit application process. We also try to coordinate an initial inspection during the intake process. In the past, the intake application was an all-paper process that took a considerable time to process and collect fees. Now, we have a new public Citizen's portal where businesses can start a permit application with our program online. The portal collects basic business name, address and owner information and that information comes into our database as internet incomplete. If the applicant indicates they are applying for a CUPA permit, staff obtains the information from the applicant needed to determine the applicable CUPA programs and state surcharges. CUPA staff can create an invoice and the public can pay their invoice online. Their annual invoices, permits and inspection reports are also available to the business on the Citizen portal. The intake process has changed however it still takes significant CUPA staff time to manage duties involving facility entry and billing, and we only have two full time billing staff for the entire Environmental Health Division.

Staff have received training on the HW Generator program, the new process of adding facilities including HW generators into Amanda. Also staff will be receiving additional HW training during next month's CUPA Conference.

We also continue to have monthly training opportunities for staff's questions regarding use of the new database, Amanda.

For the requested staff training outline and documentation, please see SharePoint. The 3 and 5-year HW Generator inspection lists are provided in Deficiency 6 SharePoint upload.

Fresno CUPA will again raise this issue with the CUPA Forum Board to again speak to CalEPA and all BDO representatives to move this type of deficiency to a standing observation. This deficiency is not beneficial to the evaluation process. Every CUPA in the State has this issue as a daily SOP for all Unified Programs. If the HWTS would have the CERS ID number as a required field and then a simple report could be run between the two systems to compare Facility Name and Address and then that report is sent to each county to verify that would be helpful.

Evaluation Team Response 2 [DTSC]:

DTSC recognizes the training completed for identifying new and closing businesses. DTSC also recognizes the CUPA's effort with information provided on almost half of over 2,000 plus potential HWG facilities with EPA ID numbers not in the inspection program. The CUPA has made progress in evaluation of those possible HWG facilities.

The data provided by the CUPA indicates 1,593 HWG facilities subject to the 3-year inspection frequency and 319 HWG facilities subject to the 5-year inspection frequency for total of 1,912 HWGs identified in the HWG inspection program.

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Information in CERS Business activities submittals, utilizing the “Regulated Facilities Search” report and the list of HWG Facilities, and sorting the exported MS Excel spreadsheet details by “Applicable and Always,” and “=Y” (Column CI) for facilities that self-identified as a HWG indicates 1,853 HWG facilities. CERS also identifies an additional 806 HWG facilities in CERS that have no information in Column CI (neither “=Y” nor “=N”) Though Column CI is blank, 167 of 806 (%)HWG facilities also show past inspection dates. DTSC acknowledges that sometimes there is a lag between the time a new HWG facility is identified and the time which applicable data has been uploaded and made available in CERS. The same CERS “Regulated Facilities” report also creates a summary of CERS data and shows the same number of regulated Hazardous Waste Generator facilities for Fiscal Year 2018/2019 through 2021/2022, whereas CERS data as of July 1, 2021, indicates the exact same number of facilities for hazardous waste.

Regarding the expressed concerns for considering this deficiency as a standing observation, DTSC recognizes that additional CUPAs may also appreciate this consideration. DTSC issues a deficiency when a large discrepancy is identified between the number of HWG facilities shipping hazardous waste within a CUPA’s jurisdiction and the number of HWG facilities being regulated within the CUPA’s jurisdiction. The 2017 CUPA Performance Evaluation identified this same issue as a deficiency, after being identified as an observation during the 2014 CUPA Performance Evaluation. The identified discrepancy between the number of regulated HWG facilities within the jurisdiction of the CUPA and the number of HWG facilities shipping hazardous waste within the CUPA’s jurisdiction remains significant.

HWG facilities that are not being regulated within a CUPA’s jurisdiction are ultimately not conducting equitable business within the jurisdiction of the CUPA as well as the remainder of the state of California. This is a significant component of assessing the performance of a CUPA in the implementation of the Unified Program as it directly relates to effective HWG program implementation, which ultimately supports and warrants citation as a deficiency when a significant number of HWG facilities within a CUPA’s jurisdiction are excluded from regulatory oversight.

With the next Progress Report, provide:

- an updated sortable spreadsheet, containing each facility listed in the HWTS, TQR, the CUPA’s local data management system and CERS, including the following for each facility listed:
 - CERS ID,
 - Applicable inspection frequency: three-year or five-year
 - Date of the last routine inspection,
 - Whether or not the facility self-identified as a HWG facility on the CERS Business Activities page
 - Any issued HWG permits (Tiered Permitting: Permit By Rule, Conditionally Authorized, Conditionally Exempt)
 - Informative notes regarding the facility

Note: Once all HWG facilities are identified from HWTS, TQR, the CUPA’s local data management system and CERS, the CUPA will determine if the facility is actually a HWG facility and whether or not the facility should be included in the HWG Program. Ultimately, any HWG facility listed in the CUPA’s local data management system and CERS that ships hazardous waste should also be listed in HWTS and TQR.

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- an update on facilities identified as not being subject to the HWG Program, providing specific details on how the determination was made. Site visits and aerial photography (e.g., Google Maps) may be used to assist in identifying non-regulated facilities.
- an update on incorporating facilities identified as being subject to the HWG Program into the existing HWG inspection schedule, prioritizing the most delinquent inspections to be completed prior to any other HWG inspection.

CUPA Update 3:

We are continuing to identify hazardous waste generators and reconciling data between HWTS, TQR, AMANDA, and CERS. We are hopeful that the new EPA ID Verification tool in CERS will better validate data in the future. We are anticipating that we will be receiving calls from assistance from facilities when they are unable to validate their ID number in CERS.

Please see spreadsheet uploaded in SharePoint site for the requested spreadsheet (See tab 2, permanent active duplicates removed). We have highlighted where we have left off manually looking up actual last routine inspection date against CERS and prior Envision inspection date (tab 3). We would welcome CalEPA assistance in getting old inspection CME to CERS if possible. Once our new CUPA staff are trained, inspectors will be contacting facilities (EPA IDs in red on tab 2) that have not been previously inspected, and also inspecting facilities identified as overdue for inspection.

Evaluation Team Response 3 [DTSC]:

The spreadsheet provided documents the review of potential new HWG facilities including those which may be inspected at some point in the future. The spreadsheet identifies 2,204 potentially operating HWG facilities as well as 20 closed HWG facilities for which future evaluation actions will need to be completed. CERS information to date recognizes 1,936 facilities have self-identified as an HWG on the CERS Business Activities page, which is an improvement from the previous total of 1,810 facilities that self-identified in CERS as an HWG facility during the 2020 CUPA Performance Evaluation. The efforts of the CUPA to continue working through the HWG facilities identified on the spreadsheet is appreciated. The CUPA is encouraged to reach out directly to the CalEPA CERS team to coordinate review of the CUPA's process for ensuring CME data is entered into CERS consistently and correctly.

With next progress report, provide an updated spreadsheet, as well as an update on incorporating facilities identified as being subject to the HWG Program into the existing HWG inspection schedule. The most delinquent inspections shall be prioritized to be completed prior to any other HWG inspection.

CUPA Update 4:

Fresno County CUPA is continuing to make progress in identifying hazardous waste generators by reconciling data between HWTS, TQR, AMANDA, and CERS.

We have started conducting inspections on some facilities identified as being HWG and incorporating them into our existing HWG inspection schedule (as well as any other applicable CUPA inspection element that is identified during inspection).

Please see light green shaded rows on Def 5, tab 2 spreadsheet for recently inspected sites as well as need follow up column for comments.

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Also included is a listing of “new” haz waste generators identified and added to our Amanda database.

We have emailed CalEPA requesting assistance getting old inspection CME to CERS. If it is possible to get the basic inspection information up to CERS, it will be easier to run reports from CERS to determine which facilities are most overdue for HW inspections to prioritize them.

Also, in order to assist in identifying and prioritizing the order of inspections with the most delinquent inspections first, we have requested our database vendor to add the next open inspection (based on the last inspection date brought over from Envision or the last inspection done in Amanda whichever is most recent). By adding the next open inspections by due date, the inspections should appear on the inspector’s task list in order of due date (with the most overdue showing first). This addition of the next routine inspection has been requested for all of our CUPA inspections.

Lastly, in conjunction with Deficiency 12 (which identified our most overdue HMBP inspections), when staff conducts the overdue HMBP inspections, they will also conduct any other CUPA inspections including HW (so this will assist in prioritizing some of our most delinquent HW inspections as well.)

Evaluation Team Response 4 [DTSC]:

The CUPA spreadsheet file Def 5, tab 2 with notes demonstrates the CUPA’s ongoing efforts to identify new and or closed HWGs. The CUPA has also included additional reviews and coordination with other inspections to address the most delinquent facilities.

In referencing the accompanying CERS report generated on May 2, 2023, titled “FacilitiesListing(Detail).Def.5,” there are 1,899 HWG facilities within the jurisdiction of the CUPA. Within the accompanying CERS report, using the “Facilities” tab and sorting for “Always and Applicable,” a CERS search reflects the following:

- Column CI can be sorted to identify those businesses that checked the HW generator button on the Business Activities page.
- There are many facilities in Column CI that have no information and remain blank, yet have a corresponding HW last inspection date (provided in Column FL).
- 1,488 facilities are identified as having a HW inspection and 15 HWLQG facilities are identified as having an inspection. If the inspected facilities are further analyzed and sorted using the criteria of “HW = N”, CERS indicates there are only 143 facilities with an HWG inspection.

The existing CERS coding issue is not providing complete or accurate information regarding the regulated HWG universe within the jurisdiction of the CUPA. Updating and adding properly coded HWG facilities may more accurately identify the original number of HWGs shown as shipping hazardous waste within the county according to the DTSC HWTS.

The HWTS initially identified 3,381 facilities shipping waste within Fresno County between January 1, 2018, and December 31, 2020. In referencing the accompanying HWTS report generated on May 2, 2023, titled “Generator Waste Summary HWTS Fresno

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1.2020to5.2.23.Def.5,” there are 3,172 HWGs associated with a permanent EPA ID number, that have shipped hazardous waste within the jurisdiction of the CUPA between January 1, 2020, and May 2, 2023

- Note: While the HWTS manifest data for calendar year 2023 is incomplete regarding data transfers from the e-manifest system, it is up to date regarding consolidated manifesting shipments.

Some of the last HWG inspection dates reflected in CERS are 10 years old, suggesting that there may be businesses that no longer exist. If the inspection data from the CUPA's data management system could be reconciled with the CME information in CERS, the number of HWGs within the jurisdiction of the CUPA would be significantly more accurate, which would also likely improve the inspection frequency rate as facilities no longer in business would not be counted as facilities needing an inspection.

- When an HWG facility inspection is conducted, the Business activities submittals in CERS should be reviewed by the CUPA for accuracy. If the Business activities submittal in CERS does not indicate HWG as applicable, the CUPA's data management system may not register the facility as an HWG, and if the data management system is utilized to generate the HWG facility inspection schedule, those facilities not indicated as applicable to the HWG Program in CERS may not be inspected.

With the next Progress Report, provide:

- an updated sortable spreadsheet containing each facility listed in the HWTS, TQR, the CUPA's local data management system and CERS, including the following for each facility listed:
 - CERS ID,
 - Applicable inspection frequency: three-year or five-year
 - Date of the last routine inspection,
 - Whether or not the facility self-identified as a HWG facility on the CERS Business Activities page
 - Any issued HWG permits (Tiered Permitting: Permit By Rule, Conditionally Authorized, Conditionally Exempt)
 - Informative notes regarding the facility
- an update on facilities identified as not being subject to the HWG Program, providing specific details on how the determination was made. Site visits and aerial photography (e.g., Google Maps) may be used to assist in identifying non-regulated facilities.
- an update on incorporating HWG facilities newly identified as being subject to the HWG Program into the existing HWG inspection schedule and removing those facilities identified as being not subject to the HWG Program. The inspection schedule should be revised to prioritize completion of the most delinquent inspections prior to any other HWG inspection.

CUPA Update 5:

Fresno CUPA is continuing to make progress on identifying and inspecting HWGs not previously identified. We are working through the spreadsheet (as staffing time allows) to bring in newly identified HWG (and sort out inactive generators or those we already know of but aren't an exact name match). Staff are aware of the need to verify when a HWG is inspected that the Business Activities form shows HWG as applicable and includes the correct EPA ID.

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For the schools that generate HW that aren't ones that we are already currently inspecting, our management wishes to have discussions with local school superintendents regarding CUPA and other EH Food inspection and permit fees.

While we are making efforts in bringing in new HW generators, our greater priority needs to be inspecting the HWG facilities that are currently paying fees.

Evaluation Team Response 5 [DTSC]:

The provided spreadsheet demonstrates the CUPA's ongoing efforts to identify new and or closed HWG facilities. The continued effort towards verifying whether or not HWG facilities identified on the spreadsheet are subject to HWG Program regulations is appreciated.

There is a continued discrepancy between the number of active HWGs reflected among the HWTS, TQR, CERS, and those permitted by the CUPA. While prioritizing the inspection of currently permitted facilities is understood, the importance of continuing to identify and regulate previously unidentified facilities subject to the HWG Program should also be recognized and prioritized.

The process to verify existing HWG facilities not currently identified in the CUPA's data management system will take considerable time and effort. For assistance with CERS and HWTS data collection, contact DTSC evaluator Brenna Ko-Madden at Brennan.Ko-Madden@dtsc.ca.gov.

With the next Progress Report, provide:

- an updated sortable spreadsheet containing each facility listed in the HWTS, TQR, the CUPA's local data management system and CERS, to identify HWG facilities subject to the HWG Program;
- a brief update on facilities identified as not being subject to the HWG Program, providing specific details on how the determination was made. Site visits and aerial photography (e.g., Google Maps) may be used to assist in identifying non-regulated facilities.
- an update on incorporating HWG facilities newly identified as being subject to the HWG Program into the existing HWG inspection schedule and removing those facilities identified as being not subject to the HWG Program. The inspection schedule should be revised to prioritize completion of the most delinquent inspections prior to any other HWG inspection.

6. DEFICIENCY:

The CUPA is not inspecting each HWG facility once every three years.

The CUPA is not inspecting each Conditionally Exempt Small Quantity Generator (CESQG) facility that does not require a Hazardous Materials Business Plan (HMBP) due to threshold levels, once every five years, per the inspection frequency established in the I&E Plan.

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

- There are 1,608 HWG facilities with a three-year inspection frequency, per the CUPA.

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- Data from the CUPA's local data management system indicates:
 - 481 (30%) were inspected July 1, 2017 through June 30, 2020;
 - 1,127 (70%) were not inspected within the applicable three-year inspection frequency.
- There are 246 Conditionally Exempt Small Quantity Generator (CESQG) facilities with a five-year inspection frequency, per the CUPA.
 - Data from the CUPA's local data management system indicates:
 - 43 (17%) were inspected January 1, 2015 through December 31, 2020;
 - 203 (83%) were not inspected within the applicable five-year inspection frequency.
- There are 1,810 HWG facilities identified in CERS.
 - 963 (53%) were inspected July 1, 2017 through June 30, 2020;
- 10 of 15 (67%) Tiered Permitting facilities were not inspected within the three-year inspection frequency, as required by statute.

Note: The discrepancy in the number of regulated HWG facilities, the number of inspections conducted, and the corresponding data in CERS is due to the inaccuracies of the information in the CUPA's local data management system, and what is reported to CERS.

Note: This deficiency was identified during the 2003, 2006, 2008, 2011 and 2014 CUPA Performance Evaluations and was not corrected during the Evaluation Progress Report process for any Performance Evaluation.

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to incorporate steps to ensure HWG facilities are inspected at least once every three years, and once every five years, where applicable. The CUPA will provide the revised I&E Plan to CalEPA.

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure each HWG and Tiered Permitting facility is 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 program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A sortable spreadsheet exported from the CUPA's data management system or CERS, identifying each HWG and Tiered Permitting facility that has not been inspected per the inspection frequency established in the I&E Plan. For each HWG and Tiered Permitting facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID,
 - Facility ID (if applicable), and
 - Date of the last routine inspection.
- A schedule to inspect those HWG and Tiered Permitting facilities, prioritizing the most delinquent inspections to be completed prior to any other HWG and Tiered Permitting inspection.
- Future steps to ensure that all HWG and Tiered Permitting facilities will be inspected per the inspection frequencies established in the I&E Plan.

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By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan and amend the revised I&E Plan, based on feedback from DTSC. The CUPA will provide the revised action plan and amended I&E Plan to CalEPA. The action plan and inspection schedule will take into account and be adjusted accordingly with any newly identified HWG facilities found operating within the CUPA's jurisdiction as addressed in the Corrective Action for Deficiency 5.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to demonstrate the number of HWG and Tiered Permitting facility inspections that have been conducted during the previous three months.

By the 5th Progress Report, the CUPA will have inspected each HWG and Tiered Permitting facility per the inspection frequency established in the I&E Plan.

CITATION:

CCR, Title 27, Section 15200(a)(3)(A)
[DTSC]

CUPA Update 1:

1. The inspection frequency to inspect Hazardous Waste Generators has not been met due to the following reasons:
 - a. Staff assigned to Covid duties starting 4/2020,
 - b. Staff assigned to Creek Fire duties starting 9/2020 which cover over 120 square miles of damage at over 700 structures.
 - c. CUPA inspector staff positions – 2 current vacancies
 - d. The current fee accountability program is not funding the necessary costs to implement the Unified Program. No new inspector staff have been added to the CUPA program since 2007. The Board of Supervisors have not approved any new CUPA Program fees to date.

Evaluation Team Response 1 [DTSC]:

DTSC understands the resource challenges of the CUPA and impacts of past events.

The revised I&E Plan provided is adequate.

The action plan provided included a schedule to inspect all HWG and Tiered Permitting facilities currently identified as well as a description of future steps to ensure that all HWG and Tiered Permitting facilities will be inspected per the inspection frequencies established in the I&E Plan.

With the next Progress Report, if applicable, provide an updated action plan, including an updated HWG and Tiered Permitting facility inspection schedule, reflecting any newly identified HWG or Tiered Permitting facilities found operating within the jurisdiction of the CUPA, as addressed in the Corrective Action for Deficiency 5.

With the next Progress Report, provide a sortable spreadsheet identifying each HWG facility with a three-year inspection frequency and a sortable spreadsheet identifying each HWG facility with a five-year inspection frequency. Each sortable spreadsheet should be exported from the

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CUPA's data management system or CERS and will include, at a minimum, the following information for each HWG facility listed:

- Facility name,
- CERS ID,
- Facility ID (if applicable), and
- Date of the last routine inspection.

CUPA Update 2:

The proposed revisions to the I&E Plan were determined to be adequate. We have not identified any new TP facilities. New hazardous waste generators are being identified as discussed in Deficiency 5. Please see spreadsheet for requested listed of 3 and 5-year inspection frequencies. Due to time constraints and limited number of staff, we are unable to manually look up all prior inspection dates. New HW inspections are going to CERS. Once prior Envision data is transmitted to CERS, last inspection dates will be available in CERS. We also hope to manually mark all 5-year generator as Small Quantity Facilities in CERS when time and staffing allows.

Evaluation Team Response 2 [DTSC]:

DTSC acknowledges the CUPA's efforts and understands that the progress made towards addressing the correction of the other deficiencies identified also impacts the current inspection process. DTSC appreciates the 3- year and 5-year spreadsheets, separately noting the impacted facilities, however, the last inspection date of the facility should be added to the spreadsheet for each facility, unless clarification can be provided as to whether or not the "Expiry date" on each of the spreadsheets also identifies when the next inspection is due.

CERS indicates 95 routine inspections for all HWG facility types were conducted from July 1, 2021 through March 11, 2022.

CUPA Update 3:

We are continuing to make progress on inspecting hazardous waste generators. The inspections are being transmitted to CERS and can be found in the CERS inspection search. Please see CERS for current HW inspection data.

With several inspector vacant positions (including two more vacancies resulting from recent promotions to supervisory positions and other staff going out on leave) we are currently operating with approximately 58% staffing. COVID, other leave time, and required time off/vacation continues to impact our efforts.

CUPA Program Supervisors are occasionally conducting inspections due to the staffing limitations, as well as covering CUPA Specialist of the Day office duties (to free up field staff). This is in addition to supervisory duties and preparing the PIA progress reports.

Effective 7/1/22, we were able to fill a couple of the CUPA inspector vacancies. These new staff require training (i.e., more time of the current staff), but eventually should help us get closer to meeting our frequencies.

The "Expiry Date" on the previously submitted spreadsheet does not reflect when the next inspection is due.

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We have been asked in Deficiency 5 to also provide last inspection dates – please refer to that spreadsheet. Since this involves manually looking up hundreds of facilities in our old database as well as CERS, we may not be able to complete the list by the due date of this progress report. Nonetheless, we will get as far on this spreadsheet as time responding to deficiencies and current staffing permits.

Evaluation Team Response 3 [DTSC]:

The time and resources necessary to adequately train new inspectors is recognized and understood. It is encouraging that the CUPA has been successful in fulfilling inspector positions. The information from Deficiency 5 is very helpful with clarifying which facilities have the 3-year and 5-year inspection frequency, as well as identifying those facilities that have yet to be assigned a specified inspection frequency. CERS CME information finds 270 of 1,936 (10%) HWG facilities have had routine inspections between July 1, 2020 and December 6, 2022 and 3 of 9 (33%) TP facilities have been inspected between July 1, 2020 and December 6, 2022.

With the next progress report provide:

- An updated HWG and TP facility inspection schedule, reflecting any newly identified HWG or TP facilities identified as operating within the jurisdiction of the CUPA, as addressed in the Corrective Action for Deficiency 5.
- An updated 3-year and 5-year sortable spreadsheet noting the last inspection date of the facility for each facility, and clarification as to when the next inspection is due.
 - Continue to add status comments and/or the identified inspection frequency in the spreadsheet provided with Deficiency 5.

Note: Amidst the correction of the identified deficiencies, contact DTSC for assistance.

CUPA Update 4:

We have directed one experienced CUPA inspector to learn Tiered Permitting and have assigned all Tiered Permit facilities to that inspector to help ensure that the inspections are performed on time and CERS submittals are reviewed within 45 days. That inspector has been tasked with scheduling all overdue TP inspections for this month. *(All prior Tiered Permitting-trained inspectors have either left the CUPA Program, been promoted to supervisory positions, or are currently dedicated to inspecting CalARP facilities.)* The future TP inspector has been provided training materials (including videos) and has access to 2023's CUPA Conference videos for additional training. There are no new TP facilities identified. A schedule of TP inspections is included. Please also see associated spreadsheets from Def 5. We will also be catching overdue HW inspections as we complete the overdue HMBP inspections identified in Def 12. In addition, we are currently testing (in our AMANDA Dev environment) adding the next routine HW inspection based off on the last inspection in CERS, Envision, or AMANDA (whichever is more recent.) When testing is complete, it will be moved to the Amanda 7 Production environment. CUPA staff will then have the inspections added to their task lists and associated Inspector App in order of when inspections were/are due.

Evaluation Team Response 4 [DTSC]:

The adjustments the CUPA is making in assigning specific TP inspectors to catch up on inspections and coordinate efforts with other program needs is appreciated. The information submitted documents that the CUPA has inspected 4 of 8 (50%) TP facilities. Verify the

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information for CERS ID 10700545 as the records provided indicate a completed inspection on June 21, 2021, however, the inspection date is not reflected in CERS.

Review of the information provided in response to Deficiency 5, identifies CERS coding errors. To more accurately assess the inspection frequency rate, the existing status of facilities will need to be determined (i.e. whether or not a facility is subject to the HWG Program). Current CERS CME information identifies 441 of 1,899 (23%) HWG facilities being inspected since July 2020, noting that 246 of 1,899 (13%) HWG facilities are subject to a 5-year inspection cycle.

With the next Progress Report, provide:

- An updated HWG and TP facility inspection schedule, which incorporates any newly identified HWG or TP facilities identified as being subject to the HWG Program and removes those facilities identified as not being subject to the HWG Program. The inspection schedule should be revised to prioritize completion of the most delinquent inspections prior to any other HWG inspection, as addressed in the Corrective Action for Deficiency 5.
- Status comments and clarification as to when the next inspection is due for each facility listed in the sortable spreadsheet provided for Deficiency 5 (comprised of facilities listed in the HWTS, TQR, local data management system, and CERS). Each facility with a next inspection date should also be included in the HWG and TP facility inspection schedule.

CUPA Update 5:

To address overdue inspections, rather than continually updating an outdated spreadsheet, all overdue CUPA inspections have had a routine inspection opened and assigned to inspector's task lists in our data management system. This will help up prioritize the most delinquent inspections across all CUPA Programs.

Due to the sheer volume of HWG, and other CUPA Programs needing similar attention to past due inspections, this seems to be the most strategic way to address this problem.

In the SharePoint, we have included a schedule for next TP inspection dates and an example of a CUPA inspector's task list with newly added open CUPA inspections assigned.

Evaluation Team Response 5 [DTSC]:

Review of the "Tiered Permit Last Inspection Dates" spreadsheet and CERS CME information, finds 8 of 8 (100%) TP facilities have been inspected since June 1, 2020. The efforts to ensure all TP facilities have a current inspection is appreciated.

An updated inspection schedule for other HWG program inspections was not provided.

As of November 8, 2023, HWG facilities inspected since the last Progress Report update are identified as follows:

- Using the number of HWG facilities in the spreadsheet provided by the CUPA with Progress Report 2:
 - 532 of 1,593 (33%) HWG facilities with a three-year inspection frequency have not been inspected since July 1, 2017.

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- 82 of 319 (26%) HWG facilities with a five-year inspection frequency have not been inspected since July 1, 2015.
- Using the number of HWG facilities in the spreadsheet provided by the CUPA with Progress Report 5, for Deficiency 5:
 - 202 of 613 (33%) HWG facilities with a three-year inspection frequency have not been inspected since July 1, 2017.
 - 323 of 1,295 (25%) HWG facilities with a five-year inspection frequency have not been inspected since July 1, 2015.
 - The number of HWG facilities on a five-year inspection frequency (defined by the CUPA as CESQGs) has significantly increased from 246 at the onset of the evaluation to 1,295, while the overall number of HWG facilities has not increased by an equivalent amount.
 - Establishing a five-year inspection frequency for CESQG facilities is acceptable, however, each CESQG facility must be correctly identified. Review of the Hazardous Waste Tracking System (HWTS) finds multiple occurrences when a facility identified by the CUPA as a CESQG should not be identified as a CESQG facility. Facilities that are not actual CESQG facilities should be inspected once every three years.
- Using the number of HWG facilities identified in CERS at the onset of the evaluation:
 - 667 of 1,810 (37%) HWG facilities with a three-year inspection frequency have not been inspected since July 1, 2017.
 - 246 of 1,810 (14%) HWG facilities with a five-year inspection frequency have not been inspected since July 1, 2015. However, CERS cannot differentiate between these facilities.

With the next Progress Report provide:

- an updated HWG and TP facility inspection schedule, which incorporates any HWG or TP facilities newly identified as being subject to the HWG Program and removes those facilities identified as not being subject to the HWG Program. The inspection schedule should prioritize completion of the most delinquent inspections prior to any other HWG or TP inspection, as addressed in the Corrective Action for Deficiency 5.

7. DEFICIENCY: CORRECTED

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.

CERS data finds that 14 of 22 (64%) PBR Onsite Hazardous Waste Treatment Notifications were not reviewed, processed or authorized by the CUPA within 45 days of receipt. The

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following instances are examples where notifications were submitted and the CUPA did not respond:

- CERS ID 10694959: notification submitted February 21, 2020
- CERS ID 10704580: notification submitted March 9, 2020
- CERS ID 10699966: notification submitted March 30, 2020
- CERS ID 10699966: notification submitted April 1, 2020
- CERS ID 10704580: notification submitted April 7, 2020

Note: This deficiency was identified during the 2017 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CORRECTIVE ACTION: COMPLETED

By the 2nd Progress Report, the CUPA will provide inspectors with Tiered Permitting (TP) program training regarding 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.

The CUPA will provide CalEPA with training documentation and ensure that written procedures and provided in the I&E Plan to identify new tiered permitting submittals, and steps to assess the quality of those submittals, which at minimum will include an outline of the training conducted and a list of CUPA inspection staff attending the training.

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 may also be requested from DTSC.

By the 3rd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide an update to CalEPA on the status of the progress made toward accurately reviewing, processing and authorizing each Onsite Hazardous Waste Treatment Notification to ensure annual notification submittals are accurate, correct and represent the actual waste treatment systems used at the notifying facility.

By the 3rd Progress Report, the CUPA will follow-up with the facilities identified in this deficiency to obtain an Onsite Hazardous Waste Treatment Notification, if required.

CITATION:

CCR, Title 22, Section 67450.3(d)
[DTSC]

CUPA Update 1:

No response requested for this Progress Report #1

Evaluation Team Response 1 [DTSC]:

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With the next Progress Report, provide all HWG Program inspectors with Tiered Permitting (TP) program training regarding 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.

Provide CalEPA with training documentation and ensure that written procedures are provided in the I&E Plan to identify new tiered permitting submittals, and steps to assess the quality of those submittals, which at minimum will include an outline of the training conducted and a list of CUPA inspection staff attending the training.

CUPA Update 2:

All previously unreviewed Tiered Permitting submittals in CERS have been reviewed. All the pending submittals were annual notifications for existing facilities (i.e. none were for brand new submittals for authorization).

Because of the high volume of CERS submittals we receive, it is easy to miss TP submittals as they come in unless you are specifically looking for them. Once our new database pulls CERS submittal information down into our Amanda system, it should place the Tiered Permit submittal review on the assigned inspector's Task List. In the meantime, CUPA lead staff have set a monthly calendar reminder to check for unreviewed Tiered Permit submittals and review them within 45 days of submission.

Training to identify Tiered Permitting Submittal needing review:

Inspector will perform a CERS Submittal Search for the Status "submitted plus under review" submittals while selecting "Tiered Permitting" for the element. Inspector will note date of submission and prioritize reviewing older to newer submittals in order that all submittals are reviewed for completeness within 45 days of submittal.

When reviewing the TP submittals, inspectors are trained to look for any Guidance Messages to help identify any required, warning or advisory messages to help expedite the review:

Inspectors will assure that all required forms and attachments have been submitted. If there are multiple submittals of TP forms by the same facility, inspector may decline the older submittals with a comment that the most current submittal will be reviewed.

We have also sent out a reminder email to all our Tiered Permit facilities reminding them to submit their TP forms annually in CERS, revise their closure cost estimates and update for inflation, and submit the forms preferably between 1/1 and 3/1. The email also reminded that any RCRA LQG's Biennial Reports are due to DTSC 3/1/22. An additional email was sent with the 2022 inflation factor (1.04) for revising closure cost estimates by 3/1/22.

The CUPA utilizes two lead staff that review the TP Notification forms and have received training including watching the following Tiered Permit training videos on (12/8/2021). All Tiered Permit submittals have been reviewed, and there are currently none pending. We ask that this deficiency be considered corrected. Please see proposed Inspection & Enforcement Plan revisions and training documentation on SharePoint.

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Evaluation Team Response 2 [DTSC]:

Review of the training information and proposed I&E revisions find them acceptable. CERS information also indicates that since the training occurred on December 8, 2021, CUPA staff have successfully processed almost all of the submittals for annual Onsite Hazardous Waste Treatment Notification for Permit By Rule (PBR) facilities with a Fixed Treatment Unit (FTU).

Review of CERS indicates the following for each HWG facility:

- CERS ID 10704580: Two Permit By Rule inspections reflect the same date, July 2, 2021.
- CERS ID 10699966: Notification was submitted on February 28, 2022 and was approved and accepted on April 20, 2022. This is after training occurred.

With the next Progress Report, provide:

- an update regarding CERS CME information for CERS ID 10704580

DTSC will continue to review Tiered Permitting submission, approval and acceptance dates of HWG facilities.

CUPA Update 3:

CERS ID 10704580 is unique in that it is our only Tiered Permit Facility that has two active PBR FTUs. Each PBR unit has a separate active child folder in our database with the ability to add an inspection to the Inspector App. This inspection was conducted just a few days (7/2/21) after going live with our new database, and staff did not realize that they only needed to add the Tiered Permit inspection to one of the active folders (instead of all of the active folders as with all other CUPA inspections). Again, this is an exceptional case at a time when the system brand new to staff. Now that this has been identified, staff have been trained and alerted that this site is unique and needs only one PBR inspection report added per inspection. The duplicate PBR inspection report in CERS has been deleted.

Evaluation Team Response 3 [DTSC]:

Since training completion on December 8, 2021, CUPA staff have been responding to PBR submittals in a very timely manner. This deficiency is considered corrected. No further action is required.

8. DEFICIENCY:

The CUPA is not consistently following-up and documenting return to compliance (RTC) information in CERS nor the local data management system for APSA tank facilities cited with violations.

Review of CME information in the local data management system indicates there is no documented RTC for the following APSA Program violations:

FY 2019/2020

- 72 of 108 (67%)
 - Including 29 violations cited for not having an Spill Prevention, Control, and Countermeasure (SPCC) Plan, identified as # 12H139 in the CUPA's data management system.

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FY 2018/2019

- 17 of 64 (27%)
 - Including three violations cited for not having an SPCC Plan

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will review, revise, and provide CalEPA with the Inspection and Enforcement (I&E) Plan, which includes a delineated process to ensure facilities cited with violations return to compliance through the implementation of appropriate enforcement and addresses following-up with facilities and documenting RTC.

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 local data management system or CERS, that includes at minimum the following information for each APSA facility with open violations (no RTC). The CUPA will prioritize follow-up actions with each facility based on the level of hazard violations present to public health and the environment:

- 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 appropriate enforcement taken by the CUPA.

By the 2nd Progress Report, if amendments to the revised I&E Plan are necessary based on feedback from CalEPA and OSFM, the CUPA will provide CalEPA with a copy of the amended I&E Plan. If no amendments to the I&E Plan are necessary, the CUPA will train CUPA personnel on the revised I&E Plan. Once training is complete, the CUPA will implement the revised I&E Plan.

By the 3rd Progress Report 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 description of the appropriate enforcement taken by the CUPA.

By the 4th Progress Report, the CUPA will have ensured each APSA tank facility identified in the 1st Progress Report for not having an SPCC Plan has achieved compliance, or the CUPA will have applied appropriate enforcement.

By the 5th Progress Report, the CUPA will have ensured each APSA tank facility identified in the 1st Progress Report for having a violation has achieved compliance, or the CUPA will have applied appropriate enforcement.

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)

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[OSFM]

CUPA Update 1:

Response to this deficiency is provided in the documents within the folder uploaded in the SharePoint site.

Evaluation Team Response 1 [OSFM]:

The CUPA submitted a revised I&E Plan including a delineated process to ensure facilities cited with violations obtain compliance through the implementation of appropriate enforcement and addresses following-up with facilities and documenting RTC. No amendments are necessary.

The CUPA provided a spreadsheet identifying each APSA facility with open violations (no RTC) for FY 2017/2018 through FY 2019/2020, exported from the previous local data management system after data cleanup was performed, which indicates:

- FY 2017/2018 – FY 2019/2020:
 - 10 tank facilities with violations for not having an SPCC plan are without RTC
 - 7 tank facilities storing 10,000 gallons or more of petroleum have 19 other APSA violations (not including not having an SPCC Plan) without RTC
 - 8 tank facilities storing less than 10,000 gallons of petroleum have 15 other APSA violations (not including not having an SPCC Plan) without RTC

With the next Progress Report, the CUPA will train personnel on the revised I&E Plan and implement the revised I&E Plan. The CUPA will also provide an updated spreadsheet identifying each APSA tank facility with open violations (no RTC), including documenting appropriate follow-up activity and reporting progress with ensuring compliance at each facility.

CUPA Update 2:

OSFM's feedback indicated proposed I&E Plan revisions for this Deficiency (RTC follow up and documentation for APSA) do not require further amendments. Therefore, the CUPA has trained personnel on the I&E Plan revisions.

There is one open APSA violation in CERS (10459594) that is still in the process of being corrected. Per multiple phone calls and emails with the facility environmental contact, the SPCC engineer has visited the site and designed the secondary containment. The facility stated they expect the concrete company to contact them on 2/24/22 to set up a time and date to go forward with the containment project.

For open APSA violations in Envision (but not in CERS) see attached spreadsheet showing current follow up status. Since these are old violations, we have been making contact to verify the status. Two Notices of Violation have been issued for failure to prepare and another facility has come into compliance.

Evaluation Team Response 2 [OSFM]:

The CUPA has implemented and trained personnel on the revised I&E Plan. The CUPA provided an updated spreadsheet identifying each APSA tank facility with open Envision violations (no RTC), including documenting appropriate follow-up activity and reporting progress with ensuring compliance at each facility.

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The spreadsheet provided by the CUPA indicates:

- FY 2017/2018 – FY 2019/2020:
 - 6 tank facilities with violations for not having an SPCC plan are without RTC
 - No information was provided relative to other APSA violations (not including not having an SPCC Plan) without RTC

With the next Progress Report, provide:

- an updated spreadsheet identifying each APSA tank facility with open violations (no RTC), including violations for no having an SPCC Plan and all other APSA violations. The spreadsheet shall also document appropriate follow-up activity and report progress with ensuring compliance at each facility.
- APSA tank facility records for the following facilities, including RTC documentation or a description of the appropriate enforcement taken by the CUPA:
 - CERS ID 10421977
 - CERS ID 10829041
 - CERS ID 10630990

CUPA Update 3:

The requested spreadsheets and documentation have been uploaded to the SharePoint site for review. We have made progress is getting Return to Compliance documentation. As new staff are trained, we plan to focus on conducting APSA inspections at facilities overdue for inspections with open violations.

Evaluation Team Response 3 [OSFM]:

Review of updated CME information from Envision Connect indicates there is no documented RTC for the following APSA Program violations.

FY 2019/2020

- 30 of 81 (37%)
 - Including five violations cited for not having an SPCC Plan

FY 2018/2019

- 13 of 61 (21%)
 - Including two violations cited for not having an SPCC Plan

The APSA tank facility records provided for the following facilities do not adequately address RTC documentation or a narrative of the appropriate enforcement taken by the CUPA as follows:

- CERS ID 10421977
 - A screenshot of the last APSA facility information submittal was provided, which does not convey any information regarding the violations cited by the CUPA as noted in Envision Connect.
- CERS ID 10829041
 - RTC documentation was provided for 3 of 4 violations. The spreadsheet provided indicates RTC for all 4 violations, including the Tank Facility Statement/HMBP violation. CERS indicates the CUPA did not accept the facility's last Tank Facility Statement/HMBP submittals.
- CERS ID 10630990

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- A screenshot of the last APSA facility information submittal was provided, which does not convey any information regarding the 5 violations cited by the CUPA.

With the next Progress Report:

- Provide an updated spreadsheet identifying each APSA tank facility with open violations (no RTC), including violations for not having an SPCC Plan and all other APSA violations. The spreadsheet shall also document appropriate follow-up activity and report progress with ensuring compliance at each facility.
- Ensure each APSA tank facility identified in the 1st Progress Report for not having an SPCC Plan has achieved compliance, or the CUPA will have applied appropriate enforcement.
- Provide APSA tank facility records for the following facilities, including RTC documentation or a narrative of the appropriate enforcement taken by the CUPA:
 - CERS ID 10733266
 - CERS ID 10691593
 - CERS ID 10591144

CUPA Update 4:

The requested spreadsheets (one from CERS and one from our former database Envision Connect) and documentation have been uploaded to the SharePoint site for review. Our current APSA inspections are migrating successfully to CERS. Two new CUPA staff have successfully completed and passed their APSA inspector training. This will help assist in being able to get more facilities inspected and into compliance. Regarding the APSA facilities identified in the 1st Progress Report for not having an SPCC (with CERS IDs shaded blue on Def 8 Open APSA violations for SPCC not prepared from EC), we will be having staff conduct inspections of these facilities within 45 days in order to determine whether an NOV is still warranted. Some of these facilities are in vacant districts and the prior inspector citing the violation are no longer assigned to the CUPA Program, so we will be assigning as needed staff to cover.

Evaluation Team Response 4 [OSFM]:

The revised “3 DEFICIENCY CORRECTIVE ACTION” document is acceptable.

The revised “Data Management Plan and Record Maintenance Procedure,” does not address the APSA program.

Review of APSA inspection reports indicates the following:

- CERS ID 10487920, inspection report dated March 1, 2017, is recorded properly in CERS.
- CERS ID 10699123, inspection report dated October 1, 2019: CERS has no record of the inspection or violation.
- CERS ID 10699918, PDF inspection report file could not be viewed.

Review indicates the CUPA’s current data management system, Amanda 7, is successfully transferring APSA CME information to CERS.

Review of the response for Deficiency 22 indicates:

- The CUPA has reached out to the CalEPA CERS team for assistance in transferring the APSA Program CME information in Envision identified as missing or not previously

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reported in CERS between July 1, 2013, and June 28, 2021. The CUPA is currently awaiting a response from CalEPA.

- As of April 12, 2023, APSA Program CME information in Envision identified as missing in CERS beginning July 1, 2013, has not been uploaded to CERS.
- The CUPA has established a process for CUPA Program Supervisors and staff to verify CME information from the current data management system is correctly reported to CERS through EDT.

CERS APSA CME reports generated on October 11, 2021, March 10, 2022, August 8, 2022, and April 12, 2023, indicate the same number of inspections conducted and the same number of violations cited for each of the following FYs:

- FY 2013/2014: 149 inspections conducted, and 115 violations cited
- FY 2014/2015: 226 inspections conducted, and 195 violations cited
- FY 2015/2016: 101 inspections conducted, and 84 violations cited
- FY 2016/2017: 98 inspections conducted, and 112 violations cited
- FY 2017/2018: 158 inspections conducted, and 111 violations cited
- FY 2018/2019: 47 inspections conducted, and 1 violation cited
- FY 2019/2020: 54 inspections conducted, and 0 violations cited
- FY 2020/2021: 0 inspections conducted, and 0 violations cited

A CERS APSA CME report generated on April 12, 2023, indicates the following for each FY:

- FY 2021/2022: 32 inspections conducted, and 23 violations cited
- FY 2022/2023: 47 inspections conducted, and 51 violations cited

With the next Progress Report, provide:

- A revised "Data Management Plan and Record Maintenance Procedure" that addresses the APSA Program;
- A process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports dating back to July 1, 2013.
- An update on the correction of APSA Program CME information in CERS previously reported incorrectly to CERS;
- If applicable, a statement confirming the completion of all prior APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since July 1, 2013, as currently and correctly being reported to CERS.
- The most recent APSA inspection report or RTC documentation for:
 - CERS ID 10614313
 - CERS ID 10704082
 - CERS ID 10692262

CUPA Update 5:

A revised "Data Management and Record Maintenance Procedure" that addresses the APSA Program is uploaded to the SharePoint.

Please see Deficiency 22 response regarding status of APSA Program CME information identified as not being previously reported or correctly reported to CERS dating back to July 1, 2013.

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The posting in CERS of duplicate inspections previously identified for the following CERS IDs has been corrected:

- CERS ID 10694959 dated July 17, 2021
- CERS ID 10908808 dated September 23, 2022
- CERS ID 10741705 dated November 15, 2022
- CERS ID 10407766 dated February 23, 2023

All prior APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since July 1, 2013, is currently and correctly being reported to CERS.

See attached in SharePoint the most recent APSA inspection report or RTC documentation for:

- CERS ID 10614313
- CERS ID 10704082
- CERS ID 10692262

Evaluation Team Response 5 [OSFM]:

As noted in the response for Progress Report 2, CUPA staff were trained on the revised I&E Plan that established a delineated process to ensure facilities cited with violations RTC through the implementation of appropriate enforcement and addresses following-up with facilities and documenting RTC. The revised "Data Management Plan and Record Maintenance Procedure" also adequately addresses the APSA Program.

As stated in the response for Progress Report 4, review indicates the CUPA's current data management system, Amanda 7, is successfully transferring APSA CME information to CERS.

The CUPA refers to the response for Deficiency 22 regarding the status of the process for reporting APSA Program CME information identified as not being previously reported to CERS, or being previously reported incorrectly to CERS, including CME information for any revised inspection reports, between July 1, 2013, and June 28, 2021. The corrective action for Deficiency 22 includes establishing an action plan, in coordination with CalEPA, for reporting historic CME information to CERS.

Review of the requested APSA inspection reports provided finds each is acceptable as follows:

- CERS ID 10614313
 - inspection report dated May 9, 2019, cites no violations. The inspection information is correctly reported to CERS.
- CERS ID 10704082
 - inspection report dated September 9, 2019, cites no violations. The inspection information is correctly reported to CERS.
- CERS ID 10692262
 - inspection report dated July 12, 2019, cites no violations. The inspection information is correctly reported to CERS.

Though not requested, review of the APSA inspection reports provided finds the following:

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- CERS ID 10699918
 - inspection report dated January 29, 2019, cites one violation. The inspection is reported to CERS; however the cited violation is not reflected in CERS.
- CERS ID 10699123
 - inspection report dated October 1, 2019, cites one violation. The inspection and violation information is correctly reported to CERS.

Note: The correction of duplicate HWG inspections for the following facilities previously identified in Evaluation Team Response 4, by DTSC, remains acknowledged:

- CERS ID 10694959 dated July 17, 2021
- CERS ID 10908808 dated September 23, 2022
- CERS ID 10741705 dated November 15, 2022
- CERS ID 10407766 dated February 23, 2023

A CERS APSA CME report generated on March 14, 2024, indicates additional CME information has been reported to CERS for the following FYs:

- FY 2016/2017: 98 inspections conducted, and 112 violations cited
- FY 2017/2018: 158 inspections conducted, and 111 violations cited
- FY 2018/2019: 70 inspections conducted, and 15 violations cited. Each violation cited reflects RTC.
 - A CERS APSA CME report previously generated on April 12, 2023, indicated 47 inspections conducted, and 1 violation cited.
- FY 2019/2020: 98 inspections conducted, and 49 violations cited. RTC is not reflected for 10 violations, 6 of which are violations cited for not having an SPCC Plan.
 - A CERS APSA CME report previously generated on April 12, 2023, indicated 54 inspections conducted, and 0 violations cited.

With the next Progress Report, provide a narrative update on the progress towards ensuring each APSA tank facility identified as having an open violation (no RTC) for not having an SPCC Plan, cited between January 1, 2019, and June 30, 2020, has achieved compliance, including any follow-up action or applied enforcement. Follow-up actions should be prioritized with each facility based on the level of hazard present to public health and the environment.

9. DEFICIENCY: CORRECTED

The CUPA is not inspecting each APSA tank facility storing 10,000 gallons or more of petroleum at least once every three years.

Review of facility files, CERS CME information, and additional information from the CUPA indicates:

- 113 of 183 (62%) APSA tank facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.

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Note: The CUPA's inspection capability was impacted by resource limitations related to the dispatch of CUPA personnel to assist with recovery efforts in the Creek Fire.

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will develop, implement and provide CalEPA with an action plan to ensure all APSA tank facilities storing 10,000 gallons or more of petroleum and not conditionally exempt are inspected at least once every three years. The action plan will include at minimum:

- An analysis and explanation as to why the inspection frequency requirement for the APSA program is not being met. Existing inspection staff resources and how many facilities are scheduled to be inspected each year are factors to address in the explanation.
- 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 once every three years. For each APSA facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A proposed schedule to inspect those APSA facilities, prioritizing the most delinquent inspections to be completed prior to any other APSA inspection based on a risk analysis of all APSA tank facilities with 10,000 gallons or more of petroleum (i.e., large volumes of petroleum, proximity to navigable water).
- Future steps to ensure that all APSA tank facilities storing 10,000 gallons or more of petroleum will be inspected once every three years.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an updated spreadsheet to demonstrate the number of APSA tank facility inspections that have been conducted during the previous three months.

By the 5th Progress Report, the CUPA will have inspected each APSA tank facility storing 10,000 gallons or more of petroleum within the three-year inspection frequency.

CITATION:

HSC, Chapter 6.67, Section 25270.5(a)
[OSFM]

CUPA Update 1:

Currently inspection frequencies have not been met due to a shortage in staff and other assignments and responsibilities to CUPA Staff. Members of the CUPA Staff were and still are currently working on the Creek Fire response following up with property owners and assisting them on filling out forms for clean up funds. Also, during the initial COVID 19 pandemic response members of CUPA Staff were assigned to other departments to assist in contact tracing. Currently there are ten members total of CUPA Staff, down two inspectors. CUPA Staff are beginning to return to there regularly scheduled assignments which will allow frequencies to get back on track.

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With the new Amanda software, it will allow staff to have APSA sites that are due along with their current due dates show up on a daily task list. This will allow staff to get back on schedule and inspect the required sites on a yearly basis to meet frequencies. The most delinquent sites will show up on their task lists as priority to allow staff to complete those inspections first. Once Amanda is fully operational and CUPA Staff are back to their primary responsibilities' frequencies will begin to be met.

Evaluation Team Response 1 [OSFM]:

The CUPA provided a spreadsheet identifying each APSA tank facility storing 10,000 gallons or more of petroleum that has an overdue APSA inspection.

A CERS report generated October 11, 2021, indicates:

- 108 of 179 (60%) APSA tank facilities storing 10,000 gallons or more of petroleum (identified on CUPA list) have not been inspected in the last 3 years.

With the next Progress Report, provide an updated spreadsheet with inspections that have occurred during the previous quarter.

CUPA Update 2:

Please see spreadsheet for requested inspection frequencies. Due to time constraints and limited number of staff, we are unable to manually look up all prior inspection dates. New APSA inspections are going to CERS. Once prior Envision data is transmitted to CERS, last inspection dates will be available in CERS.

Evaluation Team Response 2 [OSFM]:

The provided a spreadsheet identifying each APSA tank facility storing 10,000 gallons or more of petroleum that has an overdue APSA inspection, and a spreadsheet identifying inspections that have occurred during the previous quarter.

A CERS report generated on March 10, 2022, indicates:

- 106 of 178 (60%) APSA tank facilities storing 10,000 gallons or more of petroleum (as identified on the list provided by the CUPA) have not been inspected in the last 3 years.

With the next Progress Report, provide an updated spreadsheet.

CUPA Update 3:

An updated spreadsheet is provided in the SharePoint site with APSA inspections conducted at facilities with over 10,000 gallons. The highlighted green facilities are the sights that were inspected that have over 10,000 gallons.

Evaluation Team Response 3 [OSFM]:

An updated spreadsheet identifying each APSA tank facility storing 10,000 gallons or more of petroleum that was recently inspected was provided.

A CERS report generated on August 8, 2022, indicates:

- 95 of 171 (56%) APSA tank facilities storing 10,000 gallons or more of petroleum have not been inspected within the last 3 years.

With the next Progress Report, provide an updated spreadsheet.

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CUPA Update 4:

An updated spreadsheet of APSA inspections conducted at facilities with over 10,000 gallons was uploaded to the SharePoint site for review. Those highlighted green are inspections of facilities with over 10,000 gallons.

Evaluation Team Response 4 [OSFM]:

Integrating the APSA inspection dates from a previously provided Envision Connect spreadsheet, with a CERS report generated on April 12, 2023, indicates:

- 63 of 176 (36%) APSA tank facilities storing 10,000 gallons or more of petroleum have not been inspected within the last 3 years.

With the next Progress Report, provide an updated spreadsheet of APSA inspections conducted at facilities with over 10,000 gallons or more of petroleum.

CUPA Update 5:

Please see the updated spreadsheet for progress on overdue APSA inspections conducted at facilities with over 10,000 gallons or more of petroleum. The spreadsheet was based on the 63 APSA facilities with delinquent inspections provided by Glenn Warner.

Evaluation Team Response 5 [OSFM]:

Integrating the APSA routine inspection dates from a previously provided Envision Connect spreadsheet with a CERS CME report generated on October 23, 2023, finds:

- 20 of 175 (11%) APSA tank facilities storing 10,000 gallons or more of petroleum have not been inspected within the last 3 years.

This Deficiency is considered corrected.

10. DEFICIENCY: CORRECTED

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

Review of HMBPs submitted to CERS by APSA tank facilities in lieu of a tank facility statement indicates:

- 186 of 544 (34%) have not submitted a chemical inventory and site map within the last 12 months.
- 192 of 544 (35%) have not submitted emergency response and employee training plans within the last 12 months.

CORRECTIVE ACTION: COMPLETED

By the 2nd 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 are annually submitted to CERS.

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By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's local 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 appropriate enforcement taken by the CUPA.

By the 5th Progress Report, the CUPA will ensure each APSA tank facility has annually submitted an HMBP to CERS when an HMBP is to be provided in lieu of a tank facility statement, or the CUPA will apply appropriate enforcement.

CITATION:

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

CUPA Update 1:

No response requested for this deficiency. However, the new Amanda 7 database was designed to address this situation. More information and a demo will be planned in the near future.

Evaluation Team Response 1 [OSFM]:

A CERS report was generated on October 11, 2021. Review of HMBPs submitted to CERS by APSA tank facilities in lieu of a tank facility statement indicates:

- 164 of 544 (30%) have not submitted a chemical inventory and site map within the last 12 months.
- 173 of 544 (32%) have not submitted emergency response and employee training plans within the last 12 months.

With the next 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 are annually submitted to CERS.

With the next Progress Report, the CUPA will provide a spreadsheet of APSA tank facilities that have not annually submitted an HMBP when an HMBP is provided in lieu of a tank facility statement to CERS. The spreadsheet will include, at minimum, the facility name, CERS ID, and a narrative of the appropriate enforcement taken by the CUPA.

CUPA Update 2:

We are aware that we have some APSA facilities that have not annually submitted a HMBP. Therefore, we have already implemented Step 1 of this plan by sending the blast email on 12/9/2021. This has helped us identify some facilities that have closed since their last submittal, as well as identify others with outdated environmental contact emails. We have assisted and continue assisting many facilities in making a new submittal.

Action Plan

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Step 1: Send out blast reminder email to the environmental contact listed on the Excel list.

Content of email shown below:

Greetings!

You are receiving this email because your email is listed as the environmental contact in CERS for one or more locations within Fresno County. At least one (or more) of your facilities has been identified as not submitting a complete HMBP or no-change certification within the last year (as required by Health & Safety Code Chapter 6.96, Section 25508.2)

Please make a complete submittal in CERS of all required elements (Facility Info, Inventory, Emergency Response Plans) within 30 days. Do not wait for any prior unreviewed submittals to be reviewed.

Also, if your facility is either an EPCRA or APSA (aboveground petroleum storage act) facility, please be advised that these facilities are required to submit annually between 1/1 and 3/1 and include the APSA component.

Thank you for your prompt attention to this matter.

If you have any questions, please contact us at hazmatcupa@fresnocountyca.gov

Sincerely,

Thank you!

Phone: 559-600-3271

Email: hazmatcupa@fresnocountyca.gov

1221 Fulton Street 3rd Floor

Fresno, CA 93721

www.fcdph.org/HazMat

Step 2: After March 1st rerun the list of APSA sites and determine the sites yet to update there HMBP. Possibly attempt to contact facility by phone or in person informing them of need to submit or verify current applicability (since some emails bounced back). If still no submittal, the violation may be noted in CERS as a non-inspection related violation. Further enforcement options will then be determined as appropriate.

Evaluation Team Response 2 [OSFM]:

The action plan provided to ensure that HMBPs provided in lieu of a tank facility statement are annually submitted to CERS is acceptable.

A CERS report generated on March 10, 2022 indicates the following regarding HMBPs submitted to CERS by APSA tank facilities in lieu of a tank facility statement:

- 121 of 546 (22%) have not submitted a chemical inventory and site map within the last 12 months.
- 129 of 546 (24%) have not submitted emergency response and employee training plans within the last 12 months.

With the next Progress Report, provide a spreadsheet obtained from the CUPA's local 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: the facility name, CERS ID, and a narrative of the appropriate enforcement taken by the CUPA.

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CUPA Update 3:

Updated spreadsheets are provided with the latest information on submittals in CERS for APSA facilities. The CUPA will continue to contact facilities that have not submitted an updated HMBP in lieu of a tank facility statement in CERS. We are still following up on the blast email that was sent out on December 9, 2021. We have requested an EH aide position to help us follow up on these types of projects. Our current focus is on training new staff and increasing the numbers of inspections.

Evaluation Team Response 3 [OSFM]:

Updated spreadsheets were provided with the latest information on submittals in CERS for APSA facilities.

A CERS report generated on August 8, 2022, indicates the following regarding HMBPs submitted to CERS by APSA tank facilities in lieu of a tank facility statement:

- 100 of 533 (19%) have not submitted a chemical inventory and site map within the last 12 months.
- 105 of 533 (20%) have not submitted emergency response and employee training plans within the last 12 months.

This deficiency is considered corrected. No further action is required.

11. DEFICIENCY:

The CUPA is not inspecting each facility subject to California Accidental Release Prevention (CalARP) Program requirements at least once every three years.

Review of CME information from CERS finds:

- 92 of 138 (67%) facilities subject to CalARP Program requirements were not inspected within the last three years.

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to incorporate steps to ensure CalARP facilities are inspected at least once every three years. The CUPA will provide the revised I&E Plan to CalEPA.

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

- An analysis and explanation as to why the inspection frequency for the CalARP Program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each CalARP facility that has not been inspected once every three years. For each CalARP facility listed, the spreadsheet will include, at minimum:
 - Facility name,
 - CERS ID, and
 - Date of the last routine inspection.
- A schedule to inspect those CalARP facilities, prioritizing the most delinquent inspections to be completed prior to any other CalARP inspection based on risk.

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

By the 2nd Progress Report, the CUPA will, if necessary, revise the action plan and amend the revised I&E Plan, based on feedback from Cal OES. The CUPA will provide the revised action plan and amended I&E 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 to demonstrate the number of CalARP facility inspections that have been conducted during the previous three months.

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

CITATION:

HSC, Chapter 6.95, Section 25537(a)
CCR, Title 19, Section 2775.3
[Cal OES]

CUPA Update 1:

CME data is being transferred from Amanda to CERS. The CME data shows an incorrect number of CalARP facilities inspected in the 3 prior fiscal years. Fresno CUPA is actively working on getting the correct data to CERS. There have been multiple challenges.

I&E plan includes details to inspect all CALARP facilities every three years. Fresno CUPA will continue to review the I&E plan and make changes as needed.

Due to COVID and Creek Fire the number of CalARP inspections conducted in fiscal year 2019-2020 was below the 33% goal. Fresno CUPA will continue to prioritize the most delinquent inspections to be completed prior to any other CalARP inspections based on risk category.

Future steps include adding additional staff to help complete the CalARP inspections.

Evaluation Team Response 1 [CalEPA]:

CalEPA acknowledges the CUPA's efforts amidst the Creek incident and COVID-19 pandemic. With the next Progress Report, provide a revised action plan indicating when and how the CUPA will utilize additional resources assigned to complete CalARP inspections, an updated spreadsheet identifying each CalARP facility that has not been inspected once every three years, and an inspection schedule for CalARP facilities.

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA amended Section 1 and Section 7 of the I&E Plan text as requested. Additional staff are being trained in CalARP. Updated spreadsheet is provided to demonstrate the number of CalARP facility inspections that have been conducted during the previous three months, Fresno CUPA will continue to prioritize the most delinquent inspections to be completed prior to any other CalARP inspections based on risk category.

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Evaluation Team Response 2 [CalEPA]:

With the next progress report, provide:

- a revised action plan indicating when and how the CUPA will utilize additional resources assigned to complete CalARP inspections as requested in Evaluation Team Response 1. Revised components of the action plan should address the estimated date additional staff will be fully trained and able to complete CalARP inspections, a revised schedule to inspect CalARP facilities, and how the CUPA is prioritizing the most delinquent inspections to be completed prior to any other CalARP inspection based on risk, and
- an updated spreadsheet.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #1 and #2, the CUPA amended Section 1 and Section 7 of the I&E Plan text as requested. Additional staff will be trained in CalARP, however, a timeline has yet to be established but we are anticipating the second half of the fiscal year. Due to the promotion of two CUPA staff to supervisory positions and the additional departure of two CUPA inspectors, we are short five CUPA inspectors. In July 2022 we were able to add two additional CUPA inspectors and anticipate by January 2023 we will add one more. An updated spreadsheet is provided to demonstrate the number of CalARP facility inspections that have been conducted during the previous three months. Fresno CUPA continues to prioritize the most delinquent inspections to be completed prior to any other CalARP inspections based on risk category.

Evaluation Team Response 3 [CalEPA]:

The CUPA's effort to amend the I&E Plan and provide the updated spreadsheet and action plan is appreciated.

A review of CERS CME information on August 24, 2022 finds 111 of 138 (80%) facilities subject to CalARP Program requirements were not inspected within the last three years.

With the next progress report, provide:

- a revised action plan indicating when and how the CUPA will utilize additional resources assigned to complete CalARP inspections as requested in Evaluation Team Response 1 and 2. Revised components of the action plan should address:
 - the estimated date additional staff will be fully trained and able to complete CalARP inspections,
 - a revised schedule to inspect CalARP facilities, and
 - how the CUPA is prioritizing the most delinquent inspections to be completed prior to any other CalARP inspection based on risk
- an updated spreadsheet

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #1, #2, and #3 the CUPA amended Section 1 and Section 7 of the I&E Plan text as requested. Additional staff are being trained in CalARP and will be fully trained and ready to do CalARP inspections by the start of the next fiscal year (July 1st). That staff person is currently training their replacement in the UST Program.) An updated spreadsheet has been uploaded to the SharePoint site and demonstrates the number of CalARP facility inspections that have been conducted during the previous three

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months. Fresno CUPA continues to prioritize the most delinquent inspections to be completed prior to any other CalARP inspections based on risk category. Please see attached updated spreadsheet

Evaluation Team Response 4 [CalEPA]:

The action plan provided states that the CUPA continues to prioritize the most delinquent inspections to be completed prior to any other CalARP inspections based on risk category however, the CUPA did not provide a schedule to inspect the CalARP facilities prioritizing the most delinquent inspections to be completed prior to any other CalARP inspection based on risk.

The CUPA estimates additional staff will be fully trained and ready to conduct CalARP inspections by July 1, 2023.

A review of CERS CME information between January 1, 2020, and December 31, 2022, finds 106 of 154 (69%) facilities subject to CalARP Program requirements were not inspected within the last three years.

With the next Progress Report, provide:

- a schedule to inspect CalARP facilities, prioritizing the most delinquent inspections to be completed prior to any other CalARP inspection based on risk. The inspection schedule can be incorporated into the spreadsheet exported from the CUPA's data management system or CERS, identifying each CalARP facility that has not been inspected once every three years; and
- an updated spreadsheet identifying each CalARP facility that has not been inspected once every three years.

CUPA Update 5:

Following review of the Evaluation Teams response to progress report #1, #2, #3 and #4 the spreadsheet in SharePoint that had the most delinquent CalARP sites has been update and the vast majority of CalARP sites have been inspected from the spreadsheet. Additionally, column "J" Target Inspection Date has been added to the spreadsheet with the inspection schedule date entered for the remaining facilities.

The inspection schedule has also been created in Amanda. See sample in SharePoint.

The CalARP self audit FY2022-2023 (see in SharePoint) has been completed and 34% of the CalARP facilities were inspected which is within the target range of 33% CalARP facilities being inspected annually

Evaluation Team Response 5 [CalEPA]:

The CalARP Performance Audit identifies 170 stationary sources. Review of CERS information finds there are 155 facilities subject to CalARP Program requirements. Facility information for all active CalARP facilities must be maintained in CERS.

The provided inspection schedule contains the month in which the past due inspections will be inspected and is acceptable.

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As of November 7, 2023, review of CERS CME information between October 1, 2020, and September 30, 2023, finds 70 of 155 (45%) facilities subject to CalARP Program requirements were not inspected within the last three years.

With the next Progress Report, provide an updated spreadsheet.

12. DEFICIENCY:

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

Review of CME information from CERS finds:

- 882 of 2180 (40%) facilities subject to HMBP Program requirements were not inspected within the last three years.

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will revise the I&E Plan to incorporate steps to ensure HMBP facilities are inspected at least once every three years. The CUPA will provide the revised I&E Plan to CalEPA.

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

- An analysis and explanation as to why the inspection frequency for the HMBP Program is not being met. Factors to consider include existing inspection staff resources and how many facilities each inspector is scheduled to conduct each year.
- A spreadsheet exported from the CUPA's data management system or CERS, identifying each HMBP facility that has not been inspected once every 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 HMBP inspection based on risk.
- 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 and amend the revised I&E Plan, based on feedback from Cal OES. The CUPA will provide the revised action plan and amended I&E 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 to demonstrate the number of HMBP facility inspections that have been conducted during the previous three months.

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

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CITATION:

HSC, Chapter 6.95, Section 25511(b)
[Cal OES]

CUPA Update 1:

A detailed write up is included on the SharePoint site. Main issues this fiscal year were the impact from the Covid pandemic and the Creek Fire response and cleanup.

A data report has been requested from our IT Division to extract all Unified Program site last entered inspection dates. All programs regardless of current billing status. Once this is done we will answer this deficiency and all others.

Evaluation Team Response 1 [CalEPA]:

Per the CUPA's response, with the next Progress Report, develop, implement and provide an action plan to ensure each HMBP Program facility is inspected at least once every three years.

CUPA Update 2:

We have not received any feedback from on our action plan or proposed amendments/revisions to I&E Plan that were submitted for this deficiency in Progress Report 1.

In order to ensure the HMBP inspection frequency is met, the total number of active HMBP facilities will be divided three, and then by the current number of HMBP inspectors, and then again by twelve to determine the monthly HMBP inspection target number for each inspector. In addition to HMBP inspections, CUPA staff will conduct any other CUPA inspection (HW, PBR, APSA, CalARP, UST-by certified staff) that is due for inspection at the same visit.

Our HMBP inspections are now being transmitted to CERS and can be exported from CERS. A spreadsheet of all HMBP inspections since transition the transition to Amanda has been uploaded in the SharePoint.

Evaluation Team Response 2 [CalEPA]:

CalEPA is appreciative of the CUPA for economizing inspection efforts by conducting multi-media inspections as indicated in the provided action plan.

With the next progress report, provide:

- a revised action plan, ensuring all required elements are addressed, per the corrective action. The action plan shall include:
 - a schedule to inspect those HMBP facilities, prioritizing the most delinquent inspections to be completed prior to any other HMBP inspection based on risk
 - future steps to ensure that all HMBP facilities will be inspected at least once every three years.
- an updated spreadsheet.

CUPA Update 3:

We are continuing to make progress on increasing the numbers of HMBP inspections being conducted. Inspectors have a set target number of facility inspections to complete per week. Inspection CME is being successfully transmitted to CERS via Amanda on a daily basis. The increase in HMBP inspections comes at a time when CUPA staffing is at an all-time low.

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We have not been able to transfer our missing historic HMBP inspection CME that is not in CERS. We would welcome any assistance from CalEPA in this regard as we do not have the resources to accomplish this in a timely fashion. The transfer of this data would make it easier to tell which facilities truly haven't been inspected and which ones are most overdue to prioritize for inspection (along with risk-based criteria such as EHS handlers and volume of materials handled).

On the attached spreadsheet, the first page was initially exported from CERS. Column H dates in black shows the most recent CERS HMBP inspection. The brown dates in Column H reflect the fact that if we did a HW inspection (Column N), we would have also performed a HMBP inspection at that time (if applicable and if the facility was not below reportable quantities) so they were copied over from Column N. The dates in Red in Column H reflect the date of the most recent HMBP on the second sheet. (The second sheet includes all inspections in Envision from 7/1/13 to 6/30/22.) The CERS ID marked blue shows our current progress in manually checking the last HMBP dates per this progress report request. Once all of the last HMBP inspection dates have been updated on page 1, Column H, we will sort by last inspection date.

Please note that just because a HMBP date is not within 3 years, it does not necessarily mean we have not been at the facility inspecting other programs such as CalARP, HW or USTs. Also some of the facilities are below reportable quantities for HMBP thresholds but generate very small amounts of hazardous waste.

Our action plan is to continue increasing the number of HMBP inspections conducted by using the spreadsheet to target the facilities never inspected, or most overdue (based on last inspection date) and by higher risk (which we can identify by the work type category of their permit). We will provide the inspectors a list of HMBP facilities to target when this spreadsheet is complete and sorted by last HMBP inspection date.

In July 2022, we received two new CUPA staff that will be assigned to work in the HMBP program, HW and APSA programs. These staff are currently being trained and should be able to start performing solo inspections soon. By the end of the year, we anticipate receiving an additional new CUPA staff member to assist with increasing the inspections in the HMBP HW and APSA programs. The additional staff will help us towards getting on track for meeting future HMBP inspection frequencies.

Evaluation Team Response 3 [CalEPA]:

The narrative describing what the information in each of the columns is and what the different font colors represent is beneficial to understanding the provided spreadsheet. The CUPA is encouraged to reach out directly to the CalEPA CERS team to coordinate review of the CUPA's process for ensuring missing HMBP CME data is entered into CERS consistently and correctly.

A review of CERS CME information on August 24, 2022 finds 1,057 of 2,180 (48%) facilities subject to HMBP Program requirements were not inspected within the last three years.

CalEPA can assist the CUPA regarding the historic CME data within our capabilities. The CUPA may contact Garrett Chan (garett.chan@calepa.ca.gov) or hmbp@calepa.ca.gov for assistance.

With the next Progress Report, provide:

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- a revised action plan including:
 - future steps to ensure that all HMBP facilities will be inspected at least once every three years.
- an updated spreadsheet.

CUPA Update 4:

Thank you for providing names and emails for CalEPA staff to contact regarding our historic CME data. We have reached out and provided the spreadsheet of inspections that our IT Department has identified as not having transmitted to CERS. We greatly appreciate any assistance with transferring our historic CME. The transfer of this data would make it much easier to identify which facilities truly haven't been inspected and which ones are most overdue to prioritize for inspection (along with risk-based criteria such as EHS handlers and volume of materials handled).

Progress is being made on increasing numbers of HMBP inspections conducted and our new Inspector App is successfully transmitting inspections to CERS on a near daily basis (transmission time depends on when the inspector finishes their day and can perform a quick sync of their app).

In terms of revising our Action Plan, we are currently testing (in our AMANDA DEV and Inspector App (IA) DEV testing environments) having the next routine CUPA inspection automatically added to all CUPA inspectors' Inspector Apps. The next routine inspection date would be calculated and added based on either the last routine inspection date that transferred from Envision to Amanda, or the last inspection performed in Amanda – whichever is later. By managing it this way, we hope to streamline the process for inspectors to quickly identify and then inspect facilities overdue and due for inspection. The inspections will automatically show up in their Inspector App Inbox.

If this testing currently being done in DEV is successful, and we expect it to be so, we will quickly move the feature into our live Production environment for inspector use.

As part of our action plan, on the uploaded spreadsheet, we have researched CERS, Amanda, and Envision last HMBP inspection dates and have determined our most overdue HMBP inspections. We have also looked up the current assigned inspector for these sites and will direct staff to focus on scheduling and completing these overdue inspections first, for the rest of this fiscal year. We will have them focus on facilities that are currently being charged inspection fees (so farm exempt, or below reportable sites will be skipped). Please see uploaded spreadsheet.

The two new CUPA staff we received were recently shifted to training for UST inspector certification (and any associated HMBPs). One of the new staff has successfully completed and passed UST ICC exam (replacing an UST inspector that promoted to supervisor), and when the next new staff member passes the UST ICC exam, then one of our senior UST inspectors will be transitioned to focusing on CalARP (and associated HMBP, HW, APSA) programs. We also expect to receive an additional new staff member, possibly late April, that we plan to focus on HMBP and HW inspections.

Evaluation Team Response 4 [CalEPA]:

The updated action plan is acceptable and contains future steps to ensure that all HMBP facilities will be inspected at least once every three years, however, CalEPA is unable to review

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the accuracy of the spreadsheet provided because the headers in the MS Excel worksheet labeled "Sheet1" and the names of the worksheets within the MS Excel workbook are not clearly identified.

A review of CME information in CERS between January 1, 2020, and December 31, 2022, finds 2,961 of 3,646 (81%) facilities subject to HMBP Program requirements were not inspected.

With the next Progress Report, provide an updated spreadsheet. The worksheet labeled "Sheet1" in the spreadsheet, will need to include column headers to clearly identify what each column represents within the worksheet and the names of the worksheets within the MS Excel workbook will need to be clearly identified.

CUPA Update 5:

We have provided a new spreadsheet that we hope will be easier to understand. We continue to take the steps mentioned in Update #4. We've also identified a list of facilities that most urgently require an inspection (sites possibly not inspected since 2014). That list has been divided up amongst our inspectors as a special assignment to be completed at their earliest feasible opportunity (keeping in mind that some staff are juggling multiple projects and others are still training). The accompanying spreadsheet indicates dates inspected or future dates for which inspections have been scheduled. We anticipate having these completed on or before November 30, 2023. Once completed, we'll repeat this method for sites that haven't been completed since 2015.

Evaluation Team Response 5 [CalEPA]:

The provided spreadsheet does not include each HMBP facility that has been inspected during the last three months.

As of November 7, 2023, review of CME information in CERS between October 1, 2020, and September 30, 2023, finds 2,608 of 3,676 (71%) facilities subject to HMBP Program requirements were not inspected at least once every three years.

With the next Progress Report, provide an updated spreadsheet.

13. DEFICIENCY:

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

Review of HMBPs submitted to CERS by regulated businesses subject to Business Plan reporting requirements finds:

- 1,102 of 3,154 (35%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.

CORRECTIVE ACTION:

By the 2nd Progress Report, the CUPA will develop and provide CalEPA with an action plan to ensure that all business plan facilities have annually submitted a HMBP or a no-change certification.

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By the 3rd 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 a minimum the following information for each regulated business subject to Business plan reporting requirements that has not submitted an HMBP containing all required components within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:
 - Recent review, acceptance and rejection of HMBPs
 - For those businesses that have not complied, the appropriate enforcement taken 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 business plan facility identified in the action plan, to ensure the facility submits a complete HMBP or a no-change certification, or the CUPA will apply appropriate enforcement.

By the 5th Progress Report, the CUPA will ensure each regulated business subject to Business Plan reporting requirements submits a complete HMBP or a no-change certification to CERS, or the CUPA will apply appropriate enforcement.

CITATION:

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

CUPA Update 1:

No response requested for this deficiency.

Evaluation Team Response 1 [CalEPA]:

CalEPA looks forward to receiving the action plan with the next Progress Report.

CUPA Update 2:

Please see the action plan uploaded on SharePoint. We have emailed all facilities that have not submitted an inventory in over a year and directed them to submit. Please note action plan steps 1-3 have been completed.

Evaluation Team Response 2 [CalEPA]:

Revision to the action plan provided is necessary to incorporate language as to what happens to a facility when a violation is not "noted in CERS as a non-inspection related violation," and elaboration on what further enforcement actions are available.

With the next progress report, provide the revised action plan and a spreadsheet obtained from the CUPA's data management system or CERS that includes, at a minimum, the following information for each regulated business subject to Business plan reporting requirements that has not submitted an HMBP containing all required components or a no-change submittal within the last 12 months:

- Facility name;
- CERS ID;
- Follow-up actions including:

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- Recent review, acceptance, and rejection of HMBPs
- For those businesses that have not complied, the appropriate enforcement taken by the CUPA to ensure a complete HMBP is annually submitted to CERS.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA has contacted businesses via blast email directing them to annually submit in CERS an HMBP or indicate there is no change. In the last ten days we have received 278 facility submittals, of which the vast majority have been in response to our notification. We anticipate more will submit in the coming weeks.

Please be aware that Fresno County CUPA currently has was operating with 58 percent of historic staffing levels over the last year. We currently have two new staff being trained, however, due to other CUPA vacancies some veteran staff are being trained in other CUPA programs areas. Our main priority during these challenging times is performing more routine compliance inspections. During these inspections facilities that have failed to submit in CERS will receive a violation. If we receive an Environmental Health Aide position as requested more focus will be placed on following up on those businesses that have failed to annually submit.

Evaluation Team Response 3 [CalEPA]:

It is encouraging that the CUPA has had a positive response to the email notifications sent to regulated businesses directing attention to annually submit an HMBP or provide a no-change certification in CERS.

A review of CERS CME information on August 24, 2022, finds 963 of 3,154 (31%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months. The CUPA is making significant progress towards the correction of this deficiency, however a spreadsheet outlining the CUPA's follow-up actions has not been provided.

With the next Progress Report, provide:

- a revised action plan that incorporates:
 - language as to what happens to a facility when a violation is not “noted in CES as a non-inspection related violation,” and
 - elaboration of what further enforcement actions are available;
- 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 Business plan reporting requirements that has not submitted an HMBP containing all required components or a no-change submittal within the last 12 months:
 - Facility name;
 - CERS ID;
 - Follow-up actions including:
 - Recent review, acceptance, and rejection of HMBPs

For those businesses that have not complied, the appropriate enforcement taken by the CUPA to ensure a complete HMBP is annually submitted to CERS.

CUPA Update 4:

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Ensuring that the businesses in our jurisdiction annually submit/certify their hazardous materials business plans remains a priority for the CUPA. Please understand that we're still experiencing a shortage of trained staff. Even so, current staff is diligently working on this as much as time and resources allow. Staff have been instructed to prioritize inspections at these sites.

As part of our action plan we are working on the following:

1. Our office is currently interviewing Environmental Health Aide candidates who will (amongst other duties) assist in this endeavor.
2. Another mass email will be sent to businesses that need to submit. Given the effectiveness of our last mass email, we believe another would be successful.
3. Continuing to contact and/or inspecting businesses to remind them to submit their HMBP. EH Aides will be utilized to assist in this endeavor.
4. Utilize EH Aides to assist with reviewing submitted HMBP's on CERS.

While we've considered the idea of submitting a "non-inspection related violation" for each facility, we've not currently elected to use this tool as it would cost us time that could be spent contacting and inspecting businesses. We may revisit this decision at a later date. Enforcement tools we *may* utilize as time permits are as follows:

1. Writing inspection violations.
2. Assisting operators with simple updates as time allows.
3. Upgrading HMBP violations to Class II & Class I status.
4. Sending a Notice of Violation if time allows.

Please note that the volume of facilities we are dealing with make the aforementioned enforcement tools difficult to execute under current circumstances.

We have downloaded a list of facilities that need to certify/update their HMBP. The sheer volume of facilities on the list prohibits us from updating each site with "follow-up actions" at the moment. It is our intent that EH Aides can assist with this endeavor.

Evaluation Team Response 4 [CalEPA]:

The action plan provided is acceptable, however, CalEPA is unable to review the accuracy of the spreadsheet provided because the headers in the worksheets within the MS Excel workbook are not clearly identified.

A review of CERS CME information on April 26, 2023, finds 1,103 of 3,646 (30%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.

With the next Progress Report, provide an updated spreadsheet including column headers to clearly identify what each column within each worksheet of the MS Excel workbook represents.

CUPA Update 5:

We have included an updated spreadsheet that we hope will be easier to understand. We've also executed some of the steps outlined in our previous update (Update #4). As of 10-18-23, we have:

1. Hired an Environmental Health Aide to assist us.

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2. Sent a blast email to business who have not submitted within the last year. As of 10-18-23, we have gained 164 submissions from facilities which had not previously submitted in the last year.

As a result of the email's response, we're doing data clean up by updating reporting requirements in CERS as we encounter sites that are closed or below-reportable. We're also reaching out to businesses with outdated contact info.

In addition to the steps above, we'll also be holding a free webinar for our businesses and their representative to get help on their HMBP submissions. We've had twelve businesses already express interest and are currently looking at dates in early November for the webinar.

Evaluation Team Response 5 [CalEPA]:

The provided spreadsheet is adequate.

Outreach efforts to encourage and assist business plan facilities to meet the requirement to annually submit a current HMBP are acknowledged.

A review of CERS CME information on November 7, 2023, finds 911 of 3,676 (25%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.

With the next Progress Report, provide an updated spreadsheet.

14. DEFICIENCY: CORRECTED

The consolidated Unified Program Facility Permit (UPFP) contains permit to operate authorizations for programs inconsistent with statutory and regulatory requirements. The CUPA is issuing permit to operate authorizations for food-operating facilities under the UPFP template.

A review of UPFPs finds the following inconsistencies with statutory and regulatory requirements:

- CERS ID 10146197
 - The UPFP contains a permit to operate for the following: a bakery, restaurant with seating, and a market with a meat department greater than 3,000 square feet. A permit to operate all three components of the regulated facility is not consistent with the permit authorizations allowed under the statutory and regulatory requirements of the UPFP template.
- CERS ID 10174625
 - The UPFP contains a permit to operate for the following: a liquor store market of 1,500 square feet. A permit to operate this component of the regulated facility is not consistent with the permit authorizations allowed under the statutory and regulatory requirements of the UPFP template.
- CERS ID 10691317
 - The UPFP contains a permit to operate for the following: a market without meat, greater than 3,000 square feet. A permit to operate this component of the regulated facility is not consistent with the permit authorizations allowed under the statutory and regulatory requirements of the UPFP template.

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

Note: Though the CUPA is invoicing food operations on the single fee invoice sheets for CUPA Program activities, the CUPA has informed CalEPA that fees are not being retained by the CUPA from food operations.

CORRECTIVE ACTION: COMPLETED

By the 2nd Progress Report, the CUPA will provide CalEPA with a revised consolidated UPFP template that includes only required components under the statutory and regulatory requirements and removes any permit to operate authorizations for food-operating facilities.

By the 3rd Progress Report, the CUPA will, if necessary, amend the revised consolidated UPFP template, based on feedback from CalEPA, and will provide the amended template to CalEPA. If no amendments are necessary, the CUPA will provide CalEPA with a copy of three consolidated UPFPs issued to food-operating facilities using the revised consolidated UPFP template.

By the 4th Progress Report, if amendments to the revised consolidated UPFP template were necessary, the CUPA will provide CalEPA with a copy of three consolidated UPFPs issued to food-operating facilities using the amended template.

CITATION:

HSC, Chapter 6.11, Section 25404(a)(6)
CCR, Title 27, Sections 15110(q) and 15190
[CalEPA]

CUPA Update 1:

No response requested for this report #1. Our permit is unchanged from the last evaluation in 2017 and this was not mentioned at that time. Nowhere in the citations noted here does it exclude and other environmental health program from being on the consolidated permit. This deficiency will be contested by this CUPA. We will also take this item to the CUPA Forum Board for further discussion.

Evaluation Team Response 1 [CalEPA]:

The validity of the deficiency as well as creative solutions to address revising the Unified Program Facility Permit (UPFP) template were discussed at length with the CUPA during the 2nd Questions and Answers (Q&A) Meeting on February 24, 2021 and during the Exit Briefing meeting on April 14, 2021

Language supporting the separation of any non-Unified Program elements from the UPFP, applicable to permit to operate authorizations for food-operating facilities, is as follows:

- HSC, Chapter 6.11, Section 25404(a)(6): “Unified program facility permit” means a permit issued pursuant to this chapter. For purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and permit or authorization requirements under a local ordinance or **regulation relating to the generation or handling of hazardous waste or hazardous materials**, but does not

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encompass the permitting requirements of a local ordinance that incorporates provisions of the California Fire Code or the California Building Code.

- CCR, Title 27, Section 15110(q): Unified Program Facility Permit means those permits issued under the Unified Program. The permit may be a single permit or multiple permits in a single package which shall minimize duplicate information. It includes the UST permit, permit-by-rule, and any other permit or authorization requirements found under any local ordinance or requirement **relating to the generation or handling of hazardous waste or materials**. The Unified Program Facility Permit does not include the permitting requirements of a local ordinance that incorporates provisions of the California Fire or Building Code.

On December 17, 2021 CalEPA and the CUPA held a meeting to discuss the Fresno County Environmental Health Permit, the requirements of the UPFP, and the incorporation of authorizations for non-Unified Programs such as food-operating facilities. The Fresno County Environmental Health Permit encompasses the consolidated UPFP, as well as other regulatory program permit authorizations. As an alternative to revising the UPFP template to remove non-Unified Program permit authorizations, CalEPA and the Fresno CUPA agreed to the following:

- The CUPA will revise the existing applicable permitting procedures to clarify that the Fresno County Environmental Health Permit encompasses the UPFP, and that the UPFP is issued under the consolidated Fresno County Environmental Health Permit to applicable Unified Program regulated facilities. The permitting procedures will clarify that the Fresno County Environmental Health Permit does include authorizations to operate for other regulatory programs, however, the consolidated UPFP is issued to applicable Unified Program regulated businesses as part of the Fresno County Environmental Health Permit.
- Once the revised permitting procedures are received, CalEPA will consult with CalEPA legal representatives to ensure incorporating the UPFP into the Fresno County Environmental Health Permit is not in conflict with requirements of HSC, Chapter 6.11, Section 25404(a)(6) and CCR, Title 27, Section 15110(q).

With the next progress report, the CUPA will provide CalEPA with revised permitting procedures detailing the use of the Fresno County Environmental Health Permit and its association with the consolidated UPFP.

CUPA Update 2:

We have provided two copies of recently issued permits by Amanda 7 for review. You can clearly see that any non-Unified Program permitted by our department is separate from the “Unified Program Facility Permit” (UPFP). While the system needs some small fixes to the UPFP we believe we completely meet the intent of the law and regulation pertaining to issuance of program permits.

Permitting procedures are still being drafted at this time since other Environmental Health programs are affected. The new Amanda 7 system does not issue a permit until all fees are paid and compliance is achieved.

Evaluation Team Response 2 [CalEPA]:

The provided permit template titled “Environmental Health Permit” separates Unified Program elements and non-Unified Program elements. Unified Program elements are listed under the

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header “Unified Program Facility Permit.” Upon receipt of the permitting procedures, CalEPA will consult with CalEPA legal representatives to ensure incorporating the UPFP into the Fresno County Environmental Health Permit is not in conflict with requirements of HSC, Chapter 6.11, Section 25404(a)(6) and CCR, Title 27, Section 15110(q).

With the next progress report, provide the revised permitting procedures detailing the use of the Fresno County Environmental Health Permit and its association with the consolidated UPFP. The permitting procedures should clearly address which fees must be paid and the degree to which the facility must be compliant in order to be issued a UPFP.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA has uploaded a copy of its Permitting Procedures to the SharePoint site for review. While it does not specifically identify which fees shall be paid, it does state “and applicable fees have been paid.” This statement implies CUPA fees as well as other program fees shall be paid prior to issuance of a permit.

Additionally, the CUPA’s permitting procedures do address compliance and issuance of a permit. While its procedures do not solely address compliance and violations specifically related to the CUPA program, it does state “If the Environmental Health Specialist finds that the facility and its methods of operation conforms to State and local standards.” This statement implies the facility, including CUPA facility, must conform to State and local laws prior to issuance of a permit.

Evaluation Team Response 3 [CalEPA]:

Review of the permitting procedures finds the Fresno County Environmental Health Permit has been consolidated under the UPFP. Review of the permitting procedures and the CUPA’s responses ensures that the CUPA has addressed that the fees that must be paid are any applicable fees, and that the facility must be compliant with state and local requirements, as determined by the Environmental Health Specialist in order to be issued a UPFP. It is understood that the language within the Permitting Procedures and the language on the general permit template, which includes the UPFP, is somewhat vague as both apply to permitting various environmental health programs regulated by the County.

In consulting with CalEPA legal, it has been interpreted that incorporating the UPFP into the Fresno County Environmental Health Permit is not in conflict with requirements of HSC, Chapter 6.11, Section 25404(a)(6) and CCR, Title 27, Section 15110(q).

With the next Progress Report, provide the “Environmental Health Permit” issued to 3 food-operating facilities, which have also been issued a UPFP using the revised consolidated permit template.

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #3, the CUPA has uploaded the requested copies of its UPFP to the SharePoint site for review.

Evaluation Team Response 4 [CalEPA]:

The provided permits for the 3 food-operating facilities, which have also been issued a Unified Program Facility Permit (UPFP) using the revised template identify the associated permit

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conditions for each applicable element of the Unified Program. This deficiency is considered corrected.

15. DEFICIENCY: CORRECTED

The Underground Storage Tank (UST) operating permit, and UST operating permit conditions, issued under the consolidated Unified Program Facility Permit (UPFP), is inconsistent with UST Regulations and HSC.

Review of permits, issued under the consolidated UPFP finds the following inconsistencies:

- Permit states “Post in a conspicuous place at the underground storage tank facility”, which is more stringent than UST Regulations and HSC, and where no local ordinance authority exists. UST Regulations require a paper or electronic copy of the UST operating permit be readily accessible at the facility. Additionally, the permit incorrectly cites HSC as the authority to require the UST operating permit to be posted when no provisions of the HSC require the permit to be posted at the facility.
- Permit conditions indicate UST owners or operators shall notify the CUPA of any changes in the usage of the UST within 30 days, while the UST regulatory requirement is to notify the CUPA 30 days *prior* to any change in substance stored.
- Permit conditions indicate UST monitoring plan, emergency response plan, and plot plan shall be maintained on-site, by the owner or operator, at all times, while the UST regulatory requirement is to have these plans submitted to the California Environmental Reporting System (CERS).
- Permit conditions state the Designated Operator(s) (DO) must conduct monthly visual inspections, however, the UST regulatory requirement is “at least once every 30 days”.
- Permit conditions state the permittee shall report any unauthorized release to the CUPA, however, this statement is narrow in scope and implies that only the CUPA is required to be notified when there are other notifications necessary.
- Permit conditions state monitoring records must be maintained on-site for at least 3-years, however, the regulatory requirement is that monitoring records can be maintained on-site or off-site if approved by the Local Agency, for at least 36 months.
- Permit conditions cite HSC, Section 25293 as the authority for UST record retention. The correct implementing citation is UST Regulations, Section 2712(b).
- Permit conditions cite HSC, Section 25284.2 as the authority for spill containment requirements. The correct implementing citation is UST Regulations, Section 2637.1(a)(1).
- Permit conditions indicate the permittee is subject to comply with HSC, Chapter 6.95, however, the correct citation to indicate on the UST operating permit is HSC, Chapter 6.7.
- Permit conditions indicate the permittee shall meet all “Federal/State” financial responsibility requirements, however, the CUPA does not have the authority to implement Federal UST requirements.

Note: The following may be referenced: State Water Board correspondence dated April 7, 2017 “Amended Requirements for Unified Program Facility Permits Effective January 1, 2017.”

CORRECTIVE ACTION: COMPLETED

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By the 1st Progress Report, the CUPA will provide CalEPA with a revised UPFP template, which includes the corrected UST operating permit and UST operating permit conditions, consistent with UST Regulations and HSC requirements.

By the 2nd Progress Report, the CUPA will, if necessary, amend the revised UST operating permit and UST operating permit conditions portions of the UPFP template, based on feedback from the State Water Board, and will provide the amended UPFP template to CalEPA. If no amendments are necessary, the CUPA will provide CalEPA with five UPFPs issued to UST facilities using the revised UPFP template.

By the 3rd Progress Report, if amendments to the revised UST operating permit and UST operating permit conditions portions of the UPFP template were necessary, the CUPA will provide CalEPA with five UPFPs issued to UST facilities using the amended UPFP template.

CITATION:

Health and Safety Code (HSC), Chapter 6.7
CCR, Title 23, Sections 2632(d)(1), 2637.1, & 2712
CCR, Title 27, Section 15190(h)
[State Water Board]

CUPA Update 1:

A revised UPFP template, which includes the corrected UST operating permit and UST operating permit conditions has been uploaded to the SharePoint site for review and comment.

Evaluation Team Response 1 [State Water Board]:

Review of the revised UST operating permit and UST operating permit conditions finds the following revisions necessary:

- Permit condition for reporting of an unauthorized release must include reporting requirements in Water Code, sections 13271 and 13272 and reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time.
- Permit condition for testing requirements for secondary containment systems (b) states spill containment structures shall be tested annually. The requirement is to test the spill containment at least once every 12 months.
- Permits have a valid date, which in some cases is prior to the date the permit is issued to the facility. Permits should reflect an issue date and an expiration date per CCR, Title 27, Section 15110(q).
- Permit condition states that the owner or operator shall notify the CUPA of any change of the operator of the facility, however, the condition also needs to reflect a timeframe of when the owner needs to provide this information to the CUPA.
- Permit condition states all annual fees shall be paid, however, it should specify permit fees and state surcharges.
- Permit condition states monitoring and service checks shall be performed at least once per calendar year. The regulatory requirement is at least once every 12 months. Additionally, the code citations provided are incorrect. Section 2630 should be UST Regulations, Section 2638, and Section 2641 does not contain a subsection (u).

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- Permit condition for monitoring systems state they should be tested annually. The regulatory requirement is for all monitoring equipment to be tested at least once every 12 months. Additionally, the code citations should include UST Regulations, Section 2638.

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

Note: While the requirements to update permit conditions for the issuance and expiration dates on the permit, the timeframe for notifying the CUPA of any change in operator of the facility, and the testing of monitoring systems referenced as at least once every 12 months, were not identified during the initial evaluation, the changes are necessary for the UST operating permit conditions to be in compliance with UST Regulations and HSC. Additionally, elements added to the revised UST operating permit conditions provided with the 1st Progress Report need further clarification as outlined above in regards to code citations .

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA amended the UFPP template which includes the corrected UST operating permit and the UST operating permit conditions. Please note, two items identified in response #1, and listed below, were not incorporated into the UFPP. Please review these conditions and the CUPA's response. A copy of the amended UFPP has also been added to the SharePoint site for review.

1. Permit condition for reporting of an unauthorized release must include reporting requirements in Water Code, sections 13271 and 13272 and reporting an unauthorized release to the Office of Emergency Services if emergency response personnel and equipment were involved at any time.

CUPA's Response: The CUPA is not comfortable adding California Water Code citations to its permit as we do not have the authority to enforce these laws. Additionally, reporting of an unauthorized release to the Office of Emergency Services is already incorporated into the UFPP.

2. Permits have a valid date, which in some cases is prior to the date the permit is issued to the facility. Permits should reflect an issue date and an expiration date per CCR, Title 27, Section 15110(q).

CUPA's Response: The CUPA's UFPP does contain the "Issued On" and "Expiration" dates. Although not specifically stated as "Expiration", it does have a valid from period implying the permit is expired outside these dates.

Evaluation Team Response 2 [State Water Board]:

The State Water Board and the CUPA discussed amending the UST operating permit and UST operating permit conditions, The State Water Board is providing the CUPA with an example UST operating permit and permit conditions template that has been recently reviewed and accepted. As a result of the discussion, the State Water Board and the CUPA have agreed the CUPA will amend the UST operating permit and UST operating permit conditions to ensure consistency with UST Regulations and HSC requirements.

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With the next Progress Report, provide the amended UST operating permit and UST operating permit conditions template. As amendments to the UST operating permit and UST operating permit conditions template are completed via the Amanda 7 data services vendor, if the amended templates are not available to provide with the next Progress Report, provide a narrative as to the status of amending the templates.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA welcomes the "Example" UST permit to operate template and is currently in process with amending it's UST Operating Permit and UST operating permit conditions. Our staff are working with the vendor to make the changes and are hopeful the amendments will be completed by the end of August 2022. When the amendments are completed in Amanda 7 we will provide the SWRCB with a copy of an example permit.

Evaluation Team Response 3 [State Water Board]:

CalEPA provided the UST operating permit template example to the CUPA via email correspondence on April 26, 2022, and July 26, 2022.

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

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #3, the CUPA has uploaded to the SharePoint site for review, three copies of its UPFP that were issued to active CUPA facilities.

Evaluation Team Response 4 [CalEPA]:

The modified permit provided is acceptable. This deficiency is considered corrected.

16. DEFICIENCY: CORRECTED

The CUPA is not consistently ensuring return to compliance (RTC) is obtained within 60 days or is not consistently following-up and documenting RTC information in CERS for UST testing or leak detection failure violations.

Review of RTC data provided by the CUPA finds the following testing and leak detection failure violations did not obtain RTC within 60 days:

- Fiscal Year (FY) 2019/2020
 - 10 of 26 (38%)
- FY 2018/2019
 - 9 of 29 (31%)
- FY 2017/2018
 - 3 of 12 (25%)

Review of RTC data provided by the CUPA finds the following testing and leak detection failure violations have no documented RTC:

- CERS ID 10019797

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- Violation cited July 2, 2019: Spill containers need replacement to meet five-gallon capacity
- CERS ID 10407922
 - Violations cited March 9, 2020: Spill bucket failure, documentation identifying overfill prevention equipment has been tested, sump containing leaked diesel fuel
- CERS ID 1039775
 - Violation cited March 16, 2018: Diesel spill bucket failure
- CERS ID 10407919
 - Violation cited January 30, 2019: Overfill Prevention Equipment Inspection not completed

Note: The examples provided above may not represent all instances of this deficiency. These examples only include testing and leak detection and not do not include RTC for administrative or minor violations.

Note: This deficiency was identified and not corrected during the 2017 CUPA Performance Evaluation process.

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will review, revise and provide CalEPA with the Inspection and Enforcement (I&E) Plan, which includes a delineated process to ensure facilities with cited violations return to compliance through the implementation of appropriate enforcement and address following-up with facilities and documenting RTC.

By the 1st Progress Report, the CUPA will establish a process for following up with UST facilities which have testing or leak detection violations and require RTC within 60 days. The process, will at minimum document actions as to how the CUPA will:

- follow-up with facilities which have violations cited for testing or leak detection failures and have no RTC within 60 days of the violation being cited; and
- Implement appropriate enforcement for facilities that have no documented RTC for cited violations for testing or leak detection failures.

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

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with five UST facility records, as selected by the State

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Water Board, that include documentation of the applied appropriate enforcement or documentation of RTC. In the event enforcement documentation is confidential, a copy of the enforcement documentation with redacted confidential information can be provided. Any information that can be obtained from CERS is not considered confidential.

CITATION:

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

CUPA Update 1:

We have revised our Inspection and Enforcement (I&E) Plan, which includes a delineated process for your review. Please see the I&E Plan submitted within this deficiency folder on the SharePoint site.

Evaluation Team Response 1 [State Water Board]:

Review of the “Data Entry, Follow up and Return to Compliance” process incorporated into the revised I&E Plan finds the following sections need amendments:

- Section 1 states that in the event of application failure, the inspector shall perform the UST Inspection through Back Office in the CUPA’s data management system, however, it is unclear if Back Office will transfer the data to CERS as required.
- Section 7 states if facilities fail to provide RTC documentation further enforcement will be necessary, however, what enforcement will be taken to ensure compliance is not specified.

With the next Progress Report, provide CalEPA with an I&E Plan that includes the amended “Data Entry, Follow up and Return to Compliance” process.

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA amended Section 1 and Section 7 of the I&E Plan text as requested. With respect to Section 7, “if facilities fail to provide RTC documentation further enforcement will be necessary” was omitted as enforcement options are already established in items 4 and 5 of this section. Item 6 (Formerly item 7) merely explains what documentation is required when returning to compliance. (Note: Please be advised items 6 and 7 were reversed in order of precedence). A copy of I&E Plan text has been uploaded to the SharePoint site for review.

Evaluation Team Response 2 [State Water Board]:

The amended section of the I&E Plan is sufficient.

With the next Progress Report, provide training documentation to CalEPA, which at minimum, will include an outline of the training on the amended I&E Plan and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA reviewed and trained UST Staff on its I&E Plan as it relates to CUPA UST Inspection Procedures & Follow Up. A copy of the of the training outline, attendees, and I&E Plan text has been uploaded to the SharePoint site for review.

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Evaluation Team Response 3 [State Water Board]:

The training documentation provided is sufficient.

With the next Progress Report, provide UST facility records that include documentation of RTC or an applied appropriate enforcement action for the following UST facilities:

- CERS ID 10407748
- CERS ID 10694839
- CERS ID 10698835
- CERS ID 10482526
- CERS ID 10702339

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #3, the CUPA has uploaded the requested documentation to the SharePoint site for review.

Regarding RTC documentation for CERS ID 10482526 - The UST Service Technician overlooked testing the ELLD and the initial Monitoring Equipment Certification on February 28th. The contractor returned to the site on March 24th and tested the ELLD. Per NWestco (Contractor) the ELLD passed the required testing. As of April 6th, 2023, Fresno County is still waiting on testing results from the contractor. Once received and we confirm passing results, the violation in CERS will be cleared.

Evaluation Team Response 4 [CalEPA]:

The documents provided for the requested facilities and the associated RTC data in CERS are acceptable. This deficiency is considered corrected.

Other than the facilities listed above, the RTC rate in CERS for all violations cited in 2022 is 16%, and the RTC rate for Class I and Class II violations is 30%. Though the RTC statistics for 2022 fall outside the timeframe evaluated for this evaluation, if the RTC rate does not improve, this deficiency will likely be identified in the next CUPA Performance Evaluation.

17. DEFICIENCY: CORRECTED

The CUPA is not reporting UST inspections or violations, including technical compliance rate (TCR) criteria, in CERS.

Review of UST compliance inspection reports, associated monitoring certifications, and inspection, violation and enforcement information, also known as compliance, monitoring and enforcement (CME) information in CERS finds:

- CERS ID 10146197
 - Inspection Report dated April 9, 2020, identifies 91 and 87 spill container failures. However, the inspection and violation are not in CERS.
- CERS ID 10398253
 - Inspection Report dated November 14, 2018, identifies overfill prevention equipment failure. However, the inspection and violation are not in CERS.
- CERS ID 10407919

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- Inspection Report dated January 22, 2020, identifies a violation for not providing overfill prevention equipment inspection report to the CUPA., However, the inspection and violation are not in CERS.
- CERS ID 10407922
 - Inspection Report dated March 9, 2020, identifies 87 spill bucket failed. However, the inspection and violation are not in CERS.
- CERS ID 10408663
 - Inspection Report dated June 30, 2020, identifies precision line test is past due. However, the inspection and violation are not in CERS.
- CERS ID 10476715
 - Inspection Report dated March 28, 2020, identifies under dispenser containment (UDC) failures on the secondary containment test. However, the inspection and violations are not in CERS.
- CERS ID 10141827
 - Inspection Report dated November 11, 2019, identifies spill bucket failure. However, the inspection and violation are not in CERS.
- CERS ID 10692268
 - Inspection Report dated January 24, 2019, identifies overfill prevention equipment is not functional. However, the inspection and violation are not in CERS.

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

CORRECTIVE ACTION: COMPLETED

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 for UST inspection staff to report all inspections and violations, including TCR criteria, in CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

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 a copy of 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 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 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 procedure.

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, if not available in CERS, the CUPA will provide CalEPA with facility records for five UST facilities, as selected by the State Water Board, including but not limited to: UST

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compliance inspection reports, associated monitoring certifications, spill container testing, and any other necessary testing and compliance documentation.

CITATION:

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

CUPA Update 1:

Fresno County CUPA has begun to use the Amanda 7 database now in replacement of the old EnvisionConnect program. The Amanda 7 database went live on June 28, 2021. We already have current CME data being sent to CERS. While still working on the new database and a need to update the new violation library we will soon have more current data for CERS.

Past CME data from the old EnvisionConnect database will require assistance from our IT Division to extract cleanly and completely or we pay our Amanda vendor to convert all the violation data to the new database and send that way. We need to work on these options and progress towards final closure.

Evaluation Team Response 1 [State Water Board]:

A revised Data Management Procedure, or other applicable procedure was not provided. Review of CERS CME and Report 6 information for FY 2020/2021 finds the CUPA reported 68 routine UST compliance inspections in CERS and 432 routine UST compliance inspections in Report 6. Therefore, the CUPA is not reporting all current UST inspection information to CERS.

With the next Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure the establishment of a process for UST inspection staff to report all inspections and violations, including TCR criteria, in CERS. The CUPA will provide CalEPA with the revised Data Management Procedure, or other applicable procedure.

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA revised the I&E Plan text which reads: "Fresno County CUPA utilizes Amanda as its primary data management system in combination with an Inspector Application to perform inspections of CUPA regulated facilities. CUPA program inspection reports reside in "Back Office" within the Amanda data management system. When the Inspector Application is synced with Amanda, inspection data flows to and from Amanda and the California Environmental Reporting System (CERS). On occasion, some CUPA inspections may need to be performed in Back Office. For example, if application failure occurs. Please note that should an inspection need to be completed in Back Office, data related to the inspection will be transmitted to the CERS". A copy of I&E Plan text has been uploaded to the SharePoint site for review.

Evaluation Team Response 2 [State Water Board]:

The revised I&E Plan is sufficient.

With the next Progress Report, provide training documentation to CalEPA, which at minimum, will include an outline of the training on the revised I&E Plan and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

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CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA reviewed and trained UST Staff on its I&E Plan as it relates to CUPA UST Inspection Procedures & Follow Up. **Please refer to deficiency #16 for a copy of the of the training outline and attendees**.

Evaluation Team Response 3 [State Water Board]:

The training documentation provided is sufficient.

Review of CERS CME data and Report 6 finds significant discrepancies remain between the number of routine UST compliance inspections reported. For example, Report 6 and CERS CME data finds in 2021 the CUPA reported 194 routine UST compliance inspections in CERS and 435 routine UST compliance inspections in Report 6. Furthermore, there is no CME data reported in CERS for 2019 and 2020 although TCR data was reported in Report 6 for 2019 and 2020.

With the next Progress Report, and with each subsequent Progress Report until considered corrected, provide the following:

- Facility records including, but not limited to UST compliance inspection reports, associated monitoring certifications, spill container testing, and other necessary testing and compliance documentation for the following five UST facilities:
 - CERS ID 10692268
 - CERS ID 10146197
 - CERS ID 10407919
 - CERS ID 10407922
 - CERS ID 10408663

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #3, the CUPA has uploaded the requested documentation to the SharePoint site for review.

Evaluation Team Response 4 [State Water Board]:

The documents provided for the requested facilities are consistent with the data in CERS. This deficiency is considered corrected.

18. DEFICIENCY: CORRECTED

UST compliance inspection information 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 for the following Fiscal Years (FYs) finds:

- FY 2019/2020
 - Report 6: 10 of 409 (2%) UST facilities were not inspected
 - CUPA Self-Audit Report: 17 of 408 (4%) UST facilities were not inspected
 - CERS CME information: 330 of 408 (81%) UST facilities were not inspected
- FY 2018/2019

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- Report 6: 0 of 413 (0%) UST facilities were not inspected
- CUPA Self-Audit Report: 0 of 417 (0%) UST facilities were not inspected
- CERS CME information: 341 of 413 (82%) UST facilities were not inspected
- FY 2017/2018
 - Report 6: 404 of 416 (97%) UST facilities were not inspected
 - CUPA Self-Audit Report: 0 of 417 (0%) UST facilities were not inspected
 - CERS CME information: 59 of 415 (14%) UST facilities were not inspected

Note: This deficiency was identified as an Incidental Finding and was not resolved during the 2017 CUPA Performance Evaluation process.

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure 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, 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 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 a copy of 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 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 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.

By the 4th Progress Report, the CUPA will have accurately reported UST compliance inspection information in Report 6 and CERS for two consecutive Report 6 reporting periods.

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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]

CUPA Update 1:

Fresno County CUPA has begun to use the Amanda 7 database now in replacement of the old EnvisionConnect program. The Amanda 7 database went live on June 28, 2021. All the reports for the fiscal year 20-21 have matching data for UST Report 6 and the Self-Audit.

Evaluation Team Response 1 [State Water Board]:

A revised Data Management Procedure, or other applicable procedure was not provided.

With the next Progress Report, the CUPA will review and revise the Data Management Procedure, or other applicable procedure, to ensure 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.

With the next 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.

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA revised the I&E Plan text which reads: "Fresno County CUPA utilizes Amanda as its primary data management system in combination with an Inspector Application to perform inspections of CUPA regulated facilities. CUPA program inspection reports reside in "Back Office" within the Amanda data management system. When the Inspector Application is synced with Amanda, inspection data, including Technical Compliance Rating (TCR) criteria, flows to and from Amanda and the California Environmental Reporting System (CERS). On occasion, some CUPA inspections may need to be performed in Back Office. For example, if inspector application failure occurs. Please note, should an inspection need to be completed in Back Office, data related to the inspection, including Technical Compliance Rating (TCR) criteria, will be transmitted to the CERS". A copy of I&E Plan text has been uploaded to the SharePoint site for review.

Evaluation Team Response 2 [State Water Board]:

The revised I&E Plan is sufficient.

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The CUPA's new database management system, Amanda 7, is now the primary system for the implementation of the Unified Program. The Amanda 7 system is collecting and uploading CME information to complete CUPA to State reporting.

With the next Progress Report, provide training documentation to CalEPA, which at minimum, will include an outline of the training on the revised I&E Plan and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA reviewed and trained UST Staff on its I&E Plan as it relates to CUPA UST Inspection Procedures & Follow Up. **Please refer to deficiency #16 for a copy of the of the training outline and attendees**.

Evaluation Team Response 3 [State Water Board]:

The training documentation provided is sufficient.

With the next Progress Report, provide an update on the progress made towards accurately report UST compliance inspection information in CERS and the two most recent Report 6 reporting periods.

CUPA Update 4:

Fresno County CUPA utilizes Amanda as its primary data management system in combination with an Inspector Application to perform inspections of CUPA regulated facilities. CUPA program inspection reports reside in the "Back Office" environment within the Amanda data management system. When the Inspector Application is synced with Amanda, inspection data, including Technical Compliance Rating (TCR) criteria, flows to and from Amanda and the California Environmental Reporting System (CERS). On occasion, some CUPA inspections may need to be performed in Back Office. For example, if inspector application failure occurs. Please note, should an inspection need to be completed in Back Office, data related to the inspection, including Technical Compliance Rating (TCR) criteria, will be transmitted to the CERS.

Following an inspection, CUPA Program staff review CERS to ensure the inspection and any associated violations, if any, transmitted properly. In the event the inspection did not transmit correctly, the inspector will manually create the inspection and any associated violations, if any, in CERS.

Evaluation Team Response 4 [State Water Board]:

Though the data in CERS and the data provided as part of the Report 6 has greatly improved, further review is necessary to ensure UST compliance inspection information is accurately reported in both Report 6 and CERS.

With the next Progress Report, provide an update on the progress made towards accurately reporting UST compliance inspection information in CERS and the two most recent Report 6 reporting periods.

CUPA Update 5:

Fresno County CUPA continues to utilize Amanda and the Inspector Application to perform inspections of CUPA regulated facilities, including but not limited to underground storage tank

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facilities. The transfer of inspection and CME data from Amanda continues to be accurate when compared to data in CERS. Additionally, our team continues to confirm the transfer of inspection and CME data between the two data bases following completion of an inspection. In the event an inspection did not transmit correctly, our team continues to manually create the inspection and any associated violations, if any, in CERS.

The CUPA has uploaded to the SharePoint site for review, the two most recent Report 6 reporting periods (July-December 2022 & January-June 2023).

Evaluation Team Response 5 [State Water Board]:

The CME information in CERS, as well as the data provided as part of Report 6, is adequate. This Deficiency is considered corrected.

19. DEFICIENCY:

The CUPA is not reporting or inspecting improperly abandoned USTs, enforcing the proper closure of abandoned USTs, or applying appropriate enforcement.

The U.S. Environmental Protection Agency (EPA), State Water Board, and Report 6 identify improperly abandoned USTs at the following facilities:

- Global ID: UST10000275
- Global ID: UST10000277
- Global ID: UST10000280
- Global ID: UST10000286
- Global ID: UST10000287
- Global ID: UST10000289
- Global ID: UST10000349
- CERS ID 10704208: UST10000292 listed in CERS as UST applicable
- CERS ID 10695706: UST10000294 listed in CERS as UST applicable
- CERS ID 10704046: UST10000296
- CERS ID 10700422: UST10000297
- CERS ID 10701604: UST10000347
- CERS ID 10690882: UST10000348

State Water Board finds the following:

- Some of the identified abandoned USTs are not in CERS, listed above with only a Global ID;
- The CUPA is not consistently conducting required UST compliance inspections;
- The CUPA is not applying appropriate enforcement; and
- The CUPA is not reporting TCR information.

Note: This deficiency was identified and not corrected during the 2017 CUPA Performance Evaluation process.

Note: The following may be referenced:

- State Water Board correspondence dated April 27, 2017, "Conclusion of the Abandoned Underground Storage Tank Initiative, and Unified Program Agency Inspection and Reporting Requirements"

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- CERS FAQ: “Reporting Abandoned USTs.”

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop an action plan to properly inspect abandoned USTs and/or, implement appropriate enforcement for the proper closure of abandoned USTs. The CUPA will provide CalEPA with the action plan.

By the 2nd Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure, to ensure establishment of a process for proper closure of abandoned USTs, including how the CUPA inspects abandoned USTs, and enforces proper closure of USTs. The process at minimum will address:

- Ensuring abandoned USTs are reported to CERS and remain in CERS until UST closure is completed;
- Conducting UST compliance inspections;
- Applying appropriate enforcement to obtain RTC; and
- Providing TCR information to the State Water Board.

The CUPA will provide CalEPA with 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 are necessary, based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of 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 an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the revised I&E Plan or other applicable procedure.

By the 4th Progress Report, if amendments to the revised I&E Plan or other applicable procedure were necessary, the CUPA will train UST inspection staff on the amended I&E Plan or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended I&E Plan or other applicable procedure.

By the 5th Progress Report, and with each subsequent Progress Report until considered corrected, for each remaining abandoned UST, the CUPA will provide CalEPA with UST compliance inspections, TCR information, UST closure records (if applicable), or the applied graduated series of informal and/or formal enforcement.

With respect to the identified abandoned USTs, the CUPA will follow up and ensure proper closure is completed. Any UST installed on or after January 1, 1984, which is operational, or temporarily closed or abandoned, and previously regulated by the CUPA, shall be:

- reported to CERS, or to a local reporting portal;
- inspected annually, applying a graduated series of enforcement if needed, and;
- Reported in Report 6 with TCR information

CITATION:

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HSC, Chapter 6.7, Sections 25298 and 25299(a)(5) and/or (b)(3)
[State Water Board]

CUPA Update 1:

Due to some members of the CUPA UST Staff being assigned to other duties since March 2019 because of COVID 19 and Creek Fire, follow up was not able to be conducted at all the abandoned underground store tank sites. The CUPA Staff will identify the UST's not in CERS and attempt to contact the property owners to have them report properly. Once identified CUPA Staff will contact all the property owners with abandoned underground storage tanks and begin the process of having them removed following the Fresno County I&E plan.

Evaluation Team Response 1 [State Water Board]:

The action plan identified above does not include how the CUPA will implement appropriate enforcement to ensure the proper closure of abandoned USTs or a plan for inspecting all abandoned USTs.

With the next Progress Report, amend the action plan to include how the CUPA will implement appropriate enforcement for the proper closure of abandoned USTs and inspection of abandoned USTs until properly closed. The CUPA will provide CalEPA with the amended action plan.

By the 2nd Progress Report, the CUPA will review and revise the I&E Plan or other applicable procedure, to ensure establishment of a process for proper closure of abandoned USTs, including how the CUPA inspects abandoned USTs, and enforces proper closure of USTs. The process at minimum will address:

- Ensuring abandoned USTs are reported to CERS and remain in CERS until UST closure is completed;
- Conducting UST compliance inspections;
- Applying appropriate enforcement to obtain RTC; and
- Providing TCR information to the State Water Board.

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

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA responds as follows:

Ensuring abandoned USTs are reported to CERS and remain in CERS until UST closure is completed: Fresno County CUPA is currently working with Dan Firth and reconciling UST data in CERS. Any abandoned UST not currently in CERS will be added throughout this year as data is reconciled.

Conducting Compliance Inspections: Fresno County CUPA currently performs inspections of abandoned UST sites. Abandoned UST sites will be added to staff's inventory to ensure annual inspections are being completed. Fresno County CUPA will apply enforcement as outlined in its I&E plan for abandoned UST sites found to be out of compliance.

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Providing TCR information to the State Water Board: Fresno County utilizes the Amanda data management system and the Inspector Application. Inspection data, including Technical Compliance Rating (TCR) criteria, will flow to from Amanda and the California Environmental Reporting System (CERS). This data will help with ensuring an accurate Report 6, CUPA Self Audit, and CERS CME data.

A copy of Abandoned UST inspections, I&E Plan text, and a spreadsheet for CERS Id's and Global ID's, listed above, has been uploaded to the SharePoint site for review.

Evaluation Team Response 2 [State Water Board]:

The amended action plan is sufficient as it includes working with the State Water Board contractor to reconcile UST data in CERS.

The revised I&E Plan provided addresses applying appropriate enforcement to obtain RTC and providing TCR information. However, the revised I&E Plan provided does not address ensuring abandoned USTs are reported to CERS and remain in CERS until UST closure is completed, nor does it address conducting UST compliance inspections.

The CUPA provided a spreadsheet, which includes each of the 13 improperly abandoned USTs listed above as identified by the U.S. EPA, the State Water Board, and Report 6 and indicates there is only one remaining facility identified as being abandoned. The CUPA has reviewed the UST locations in GeoTracker and have identified UST removal dates. The CUPA provided the last two inspection reports for the one remaining abandoned UST facility and CERS indicates routine inspections have been completed for the facility since 2014 with reported UST violations.

With the next Progress Report, amend the I&E Plan to address ensuring abandoned USTs are reported to CERS and remain in CERS until UST closure is completed, and conducting UST compliance inspections.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA revised its I&E Plan text to include the requested information. A copy of the of the amended I&E Plan has been uploaded to the SharePoint site for review.

Due to current UST staffing levels and training of new UST staff, Fresno County will not meet its goal of reconciling UST data in CERS by December 2022. Fresno County will continue to work on reconciling and adding abandoned/removed UST data in CERS with a new target date of July 2023. We will continue to work with Dan Firth as needed to ensure all data is entered and acceptable.

Evaluation Team Response 3 [State Water Board]:

Review of the amended I&E plan provided is acceptable.

With the next Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide a spreadsheet that identifies the following information for each abandoned UST:

- UST compliance inspection dates;
- TCR information;
- UST closure records (if applicable); and

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- Applied graduated series of informal and/or formal enforcement

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #3, the CUPA has provided an updated spreadsheet of remaining abandoned UST sites, as identified by this document and UST Report 6. All facilities that were not previously added to CERS have been added in January 2023.

All abandoned UST facilities have been added to staff's inventory. It is our intent in 2023 and forward, that each site be inspected, TCR data transferred to CERS, and a graduated series of enforcement be applied to each facility found to be out of compliance.

Evaluation Team Response 4 [State Water Board]:

The spreadsheet provided for the abandoned tank facilities is acceptable.

With the next Progress Report, and with each subsequent Progress Report until the CUPA has performed a compliance inspection for each UST and begun enforcement at each abandoned facility, the CUPA will continue to provide a spreadsheet that identifies the following information for each abandoned UST:

- UST compliance inspection dates;
- TCR information;
- UST closure records (if applicable); and
- Applied graduated series of informal and/or formal enforcement.

With respect to the identified abandoned USTs, the CUPA will follow-up and ensure proper closure is completed. Any UST installed on or after January 1, 1984, which is operational, or temporarily closes or abandoned, and previously regulated by the CUPA, shall be:

- Reported to CERS
- Inspected annually, applying a progressive series of enforcement if needed, and
- Reported in Report 6 with TCR information

CUPA Update 5:

Following review of the Evaluation Teams response to progress report #4, the CUPA has uploaded to the SharePoint site an updated spreadsheet which includes the requested information for the remaining abandoned UST sites.

Note: All abandoned UST facilities have been inspected in 2023, TCR data has successfully transferred to CERS, and a Notice of Violation is pending. It is our intent to apply a graduated series of enforcement be applied to each facility found to be out of compliance.

Evaluation Team Response 5 [State Water Board]:

The spreadsheet provided for the abandoned tank facilities is acceptable.

With the next Progress Report, provide the date the Notice of Violations were issued to each UST facility owner/operator having one or more remaining abandoned UST, and a narrative description of any applied graduated series of enforcement.

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20. DEFICIENCY: CORRECTED

The CUPA is not consistently implementing proper UST closure activities.

Review of facility files finds the CUPA did not consistently implement the following UST closure activities:

- CERS ID 10705243
 - Proper number of samples taken for each UST
 - Providing documentation of proper disposal of the UST
 - Providing chain of custody for samples taken

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

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will review and revise the I&E Plan, or other applicable procedure, to ensure establishment of a process for requiring UST closure activities, which will at minimum address:

- Taking soil samples immediately beneath the removed portions of the UST, a minimum of two feet into native material at each end of the UST and/or water samples if water is found in the excavation pit;
- Proper analysis of soil and/or water samples;
- Taking separate samples for each 20 linear-feet of trench for piping;
- Permanent closure where USTs are closed in place, including taking a minimum of one boring sample as close as possible to the midpoint beneath the UST using a slant boring or other appropriate method such as vertical borings drilled on each long dimensional side of the tank as approved by the local agency;
- Provide documentation of proper disposal of the removed UST or documentation that the USTs were filled with an inert solid; and
- Provide chain of custody for all samples taken

The CUPA will provide CalEPA with the revised I&E Plan or other applicable procedure. If revisions are made to a procedure other than the I&E Plan, the I&E Plan must be revised to incorporate reference to the revised procedure.

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 a copy of 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 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 were necessary to the revised I&E Plan or other applicable procedure, 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 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.

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By the 4th Progress Report, or until considered corrected, for the next two UST removals or closures in place, if not available in CERS, the CUPA will provide CalEPA with a copy of the UST closure records, including sampling results.

CITATION:

CCR, Title 23, Section 2672(d)
[State Water Board]

CUPA Update 1:

We have uploaded our UST Closure Guidelines for review and comment. Please see the documents loaded to the SharePoint site.

Evaluation Team Response 1 [State Water Board]:

Review of the UST Permit Application finds the following amendments necessary:

- The permit has an option for abandonment-in-place; however, USTs are not authorized to be abandoned, they must be properly closed. The statement should reflect closure-in-place.
- Section 5 states that soil sampling will be required for the following: tank removal or replacement, piping removal or replacement, dispenser pan removal, installation, or replacement. However, soil sampling is also required for UST closure in place and water samples will be required when groundwater is encountered during closure activities.
- Section 5 states that a statement of qualification/resume and a valid registration/Certification of an engineer or geologist who is registered/certified by the state. This is more stringent than UST Regulations, which does not require a statement of qualification/resume and a valid registration/Certification of an engineer or geologist who is registered/certified by the state to perform sampling and there is no local ordinance authority for this requirement.

Review of the Grading Permit Application finds the permit must be issued prior to obtaining a UST abandonment permit, however, USTs are not authorized to be abandoned and must be properly removed.

Review of the UST Closure Guidelines finds the following amendments necessary:

- Section 1.1 lists contractor licensing requirements based on Contractors State License Board (CSLB), however, the Fresno County CUPA does not have the authority to determine which CSLB licenses are appropriate for UST work. Further, the CSLB changes requirements occasionally, therefore, the UST Closure Guidelines should state that UST owners, operators, and contractors contact the CSLB before conducting any UST work.
- Sections throughout state abandonment in place, however, no UST system is authorized to be abandoned in place. The statement should reflect closure-in-place.
- Section 4 states that samples (soil and/or groundwater) must be obtained under the direction of the Fresno County Department of Public health, however, this can lead to less stringent requirements, and soil and/or groundwater samples must be obtained in accordance with UST Regulations, Section 2672.

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- Section 4.1 states that soil or groundwater samples shall be obtained by a professional engineer, geologist, or authorized representative of a state approved laboratory, which is more stringent than UST Regulations or HSC, and there is no local ordinance authority for this requirement.
- Section 4.1 states that the number of samples and locations must be approved by the Environmental Health Specialist, however, soil and/or groundwater samples must be obtained in accordance with UST Regulations, Section 2672.
- Section 4.3.1 states the number of soil samples required will be based on the tank size, however this can lead to a fewer number of samples being taken, which is less stringent than UST Regulations. UST Regulations, Section 2672 state that a minimum of one sample must be taken at each end of the UST, for a total of two samples per UST.
- Section 4.4 states sample analysis must be performed based on the “Tri-Regional Board Staff Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites”, however, UST Regulations, Section 2672 describes the proper analysis required for samples taken during closure activity.
- The Guidance and Reference section does not associate the guidance and information with the originating source, whether it be the National Fire Protection Association and/or the American Petroleum Institute

With the next Progress Report, provide CalEPA with the amended documents listed above.

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA revised its UST Closure Guidelines. A copy of the UST Closure Guidelines has been uploaded to the SharePoint site for review.

Evaluation Team Response 2 [State Water Board]:

The UST Closure Guidelines which include the UST Permit Application and Grading Permit Application are sufficient. With the next Progress Report, provide training documentation to CalEPA, which at minimum, will include an outline of the training on the UST Closure Guidelines and a list of UST inspection staff in attendance. Once training is complete, the CUPA will implement the amended UST Closure Guidelines for UST closure activities.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA reviewed and trained UST Staff on its UST Closure Guidelines. A copy of the of the training outline, attendees, and UST Closure Guidelines has been uploaded to the SharePoint site for review.

Evaluation Team Response 3 [State Water Board]:

Review of the training documentation provided is acceptable.

With the next Progress Report, or until considered corrected, for the next two UST removals or closures in place, provide the UST closure documentation, including sampling results.

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #3, the CUPA has uploaded copies of the requested documentation to the SharePoint site for review.

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Evaluation Team Response 4 [State Water Board]:

Remove the term “Abandoned in Place” from all CUPA documents. The closure documents provided are acceptable. This deficiency is considered corrected.

21. DEFICIENCY: CORRECTED

The CUPA is not consistently issuing closure documentation and is not documenting in sufficient detail whether the UST owner or operator has demonstrated to the satisfaction of the CUPA, UST closure, removal, and soil and/ or water sampling complies with UST Regulations and HSC.

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

- 47XX E Kings Canyon
 - The letter provided to document the owner or operator has demonstrated proper closure does not include the section for UST Regulations.
- 36XXX S. Lassen
 - The letter provided was a referral letter to the Regional Board for site cleanup, which does not document in sufficient detail that the owner or operator has demonstrated proper closure to the satisfaction of the CUPA.
- CERS ID 10165937
 - The letter provided was a referral letter to the Regional Board for site cleanup, which does not document in sufficient detail that the owner or operator has demonstrated proper closure to the satisfaction of the CUPA.

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

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

Note: State Water Board appreciates the CUPA generating the required Closure Letter dated December 18, 2020, for UST removals that occurred October 25, 2018, for the 47XX E Kings Canyon facility. However, because this closure letter was generated by the CUPA after State Water Board requested the documentation on December 15, 2020, and subsequently much later than the closure letter should have been issued to the facility owner or operator, State Water Board finds for the purposes of this evaluation that the CUPA has not complied with the requirement to issue closure documentation. State Water Board will, however, use this letter as an example to demonstrate compliance with the corrective action for this deficiency and will reduce the number of closure letters required in the corrective action below.

CORRECTIVE ACTION: COMPLETED

By the 2nd Progress Report, the CUPA will develop or review and revise a UST Closure procedure or other applicable procedure, ensuring a process is established, which will include at minimum how the CUPA will:

- Provide UST closure documentation to the UST owner or operator which demonstrates to the satisfaction of the CUPA, UST closure, removal, and soil and/or water sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d).

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By the 2nd Progress Report, the CUPA will develop or review and revise a UST closure letter template. The CUPA may consider including the following language in the UST closure letter template: “the Fresno CUPA has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with HSC, Chapter 6.7, Section 25298(c), and CCR, Title 23, Section 2672(d).” The CUPA will provide the developed or revised UST closure letter template to CalEPA.

By the 3rd Progress Report, if revisions to the developed or amended UST closure procedure or other applicable procedure are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the revised or amended UST closure procedure or other applicable procedure. If no revisions or amendments are necessary, the CUPA will train UST inspection staff on the revised or amended UST closure procedure or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include 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.

By the 3rd Progress Report, if revisions to the developed or amendments to the revised UST closure letter template are necessary based on feedback from the State Water Board, the CUPA will provide CalEPA with a copy of the revised or amended UST closure letter template. If no revisions or amendments are necessary, the CUPA will train UST inspection staff on the use of the revised or amended UST closure letter template. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will use the revised or amended UST closure letter template.

By the 4th Progress Report, if amendments to the revised or amended UST closure procedure or other applicable procedure were necessary, the CUPA will train UST inspection staff on the revised or amended UST closure procedure or other applicable procedure. The CUPA will provide training documentation to CalEPA, which at minimum, will include 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.

By the 4th Progress Report, if amendments to the revised or amended UST closure letter template were necessary, the CUPA will train UST inspection staff on the use of the revised or amended UST closure letter template. The CUPA will provide training documentation to CalEPA, which at minimum will include an outline of the training conducted and a list of UST inspection staff in attendance. Once training is complete, the CUPA will use the revised or amended UST closure letter template.

With respect to facilities which have not been provided adequate UST closure documentation, the CUPA will use the revised UST closure letter template and provide the requested documentation upon request or in the event of a public records request.

By the 5th Progress Report or until considered corrected, for the next two UST removals or closures in place, the CUPA will provide CalEPA with a copy of the UST closure documentation that demonstrates to the satisfaction of the CUPA that UST closure, removal and soil and/or

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water sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d).

CITATION:

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

CUPA Update 1:

No response requested for Report #1.

Evaluation Team Response 1 [State Water Board]:

With the next Progress Report, develop or review and revise a UST Closure procedure or other applicable procedure, ensuring the establishment of a process, which will include at minimum how the CUPA will:

- Provide UST closure documentation to the UST owner or operator which demonstrates to the satisfaction of the CUPA, UST closure, removal, and soil and/or groundwater sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d).

Reference the State Water Board response in Deficiency #20 for required amendments to the “UST Closure Guidelines” document.

With the next Progress Report, the CUPA will develop or review and revise a UST closure letter template. The CUPA may consider including the following language in the UST closure letter template: “the Fresno CUPA has reviewed the UST closure documentation and approves the UST closure as properly completed in accordance with HSC, Chapter 6.7, Section 25298(c), and CCR, Title 23, Section 2672(d).” The CUPA will provide the developed or revised UST closure letter template to CalEPA.

CUPA Update 2:

Following review of the Evaluation Teams response to progress report #1, the CUPA revised its UST Closure and UST Closure and Referral of Oversight letters. Copies of the amended UST Closure Letters have been uploaded to the SharePoint site for review.

Evaluation Team Response 2 [State Water Board]:

The provided UST Closure Guidelines do not ensure the establishment of a process as to how UST closure documentation will be provided to UST owners or operators which demonstrates to the satisfaction of the CUPA, UST closure, removal, and soil and/or groundwater sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d).

Review of the revised UST Closure and UST Closure and Referral of Oversight letter templates provided, for removal/closure in place finds no revisions are necessary.

With the next Progress Report, provide training documentation to CalEPA, which at minimum will include an outline of the training on use of the revised UST closure letter templates and a list of UST inspection staff in attendance. Once training is complete, the CUPA will use the revised UST closure letter templates.

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With the next Progress Report, amend and provide the UST Closure Guidelines to ensuring the establishment of a process as to how the CUPA will provide UST closure documentation to UST owners or operators which demonstrates to the satisfaction of the CUPA, UST closure, removal, and soil and/or groundwater sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d).

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA revised its UST Closure Guidelines to incorporate a process as to how the CUPA will provide UST closure documentation to UST owners or operators. The amended section begins at section 5. A copy of the UST Closure Guidelines has been uploaded to the SharePoint site for review.

Additionally, the CUPA reviewed and trained UST Staff on its use of UST Closure and UST Closure and Referral of Oversight Letters. A copy of the of the training outline, attendees, and UST Closure letters has been uploaded to the SharePoint site for review.

Evaluation Team Response 3 [State Water Board]:

Review of the amended UST Closure Guidelines and training documentation provided is acceptable.

With the next Progress Report, or until considered corrected, for the next two UST removals or closures in place, provide the UST closure documentation that demonstrates to the satisfaction of the CUPA that UST closure, removal, and soil and/or groundwater sampling complies with HSC, Chapter 6.7, Section 25298(c) and CCR, Title 23, Section 2672(d).

CUPA Update 4:

Following review of the Evaluation Teams response to progress report #3, the CUPA has uploaded copies of the requested documentation to the SharePoint site for review.

Evaluation Team Response 4 [State Water Board]:

The documents provided are acceptable. The CUPA is encouraged to utilize the [Notification of UST Permanent Closure](#) found on the State Water Board website. This deficiency is considered corrected.

22. DEFICIENCY:

The CUPA's data management system is unable to consistently electronically transfer or exchange CME information to CERS, therefore all CME information is not in CERS.

Note: This deficiency was identified during the 2017 CUPA Performance Evaluation and was considered corrected during the Evaluation Progress Report process. This deficiency was identified during the 2014 CUPA Performance Evaluation and was not corrected during the Evaluation Progress Report process.

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to successfully electronically transfer or exchange CME information from the data

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management system to CERS, as well as providing the missing CME data. The action plan will identify, at a minimum:

- Problem areas and solutions;
- Timeframe for implementing solutions;
- The anticipated date of resolution, when the local data management system will successfully electronically transfer or exchange CME information to CERS; and
- A schedule for transferring all missing CME information from the local data management system to CERS dating back to July 2013.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an update of the progress towards the successful electronic transfer or exchange of CME information from the data management system to CERS, as well as providing missing CME data.

CITATION:

HSC, Chapter 6.11, Section 25404(e)(4)
CCR, Title 27, Section 15187(a)(2) and (c)
[CalEPA]

CUPA Update 1:

Fresno County CUPA has begun to use the Amanda 7 database now in replacement of the old EnvisionConnect program. The Amanda 7 database went live on June 28, 2021. We already have current CME data being sent to CERS. While still working on the new database and a need to update the new violation library we will soon have more current data for CERS.

Past CME data from the old EnvisionConnect database will require assistance from our IT Division to extract cleanly and completely or we pay our Amanda vendor to convert all the violation data to the new database and send that way. We need to work on these options and progress towards final closure.

Evaluation Team Response 1 [CalEPA]:

A complete action plan was not provided. With the next Progress Report, provide an action plan to successfully electronically transfer or exchange CME information from the data management system to CERS, as well as providing the missing CME data, outlining the following:

- Timeframe for implementing solutions;
- The anticipated date of resolution, when the local data management system will successfully electronically transfer or exchange CME information to CERS; and
- A schedule for transferring all missing CME information from the local data management system to CERS dating back to July 2013.

As noted by DTSC and OSFM in the Evaluation Team Response for Deficiency #3, the CUPA has made progress toward transferring and exchanging current CME data to CERS using Amanda 7. Continue to pursue any options available to correctly transfer all missing CME information from CERS dating back to July 2013.

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With the next Progress Report, provide an update of the progress towards the successful electronic transfer or exchange of CME information from the data management system to CERS, as well as providing missing CME information.

CUPA Update 2:

We have worked with our IT division to retrieve all CME data from 7/1/2013 to 6/28/2021. This data was analyzed and compared to CERS CME data for the same time frame. All duplicate data based on CERS ID, Date of inspection and other comparative data were eliminated as duplicate. We have attached "Copy of CERS Dedupe 2022-01-31" for your review.

This data is not yet formatted into the proper upload template and additional information columns need to be added. We are reviewing the data to assure there is no duplicative data already in CERS. This is a time and staffing issue for us and our IT division at this time, but we are progressing.

Evaluation Team Response 2 [CalEPA]:

Retrieval and analyzation of all CME data from the EnvisionConnect system July 1, 2013 through June 28, 2021 is essential to ensure the accurate transfer of all missing CME information to CERS. CalEPA acknowledges the demand and dedication of time and resources necessary for correction of this deficiency.

The provided spreadsheet indicates there are 1,218 violations remaining to be reported in CERS between June 14, 2017 and June 25, 2021.

For reference, a CERS HMRRP CME report generated on March 23, 2022, indicates a total of 3,307 violations cited between July 1, 2013 and March 23, 2022. Additional CME information in the same CERS report is as follows:

- FY 2013/2014:
 - 1,005 inspections conducted
 - 956 violations cited
 - 6 enforcement actions
- FY 2014/2015:
 - 969 inspections conducted
 - 721 violations cited
 - 1 enforcement action
- FY 2015/2016:
 - 528 inspections conducted
 - 370 violations cited
 - 11 enforcement actions
- FY 2016/2017:
 - 742 inspections conducted
 - 666 violations cited
 - 22 enforcement actions
- FY 2017/2018:
 - 835 inspections conducted
 - 420 violations cited
 - 38 enforcement actions

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- FY 2018/2019:
 - 393 inspections conducted
 - 21 violations cited
 - 0 enforcement actions
- FY 2019/2020:
 - 382 inspections conducted
 - 0 violations cited
 - 0 enforcement actions
- FY 2020/2021:
 - 2 inspections conducted
 - 4 violations cited
 - 0 enforcement actions
- FY 2021/2022:
 - 191 inspections conducted
 - 149 violations cited
 - 0 enforcement actions

With the next Progress Report, provide an update on the following action plan components to ensure successful electronic transfer or exchange of CME information: from the data management system to CERS, as well as providing the missing CME data, including the following:

- Confirmation that the local data management system is still successfully electronically transferring or exchanging CME information to CERS since June 28, 2021; and
- A schedule for adding the additional information columns and formatting the non-duplicative EnvisionConnect spreadsheet with CME information from July 1, 2013 through June 28, 2021 into the proper upload template for transfer to CERS.

CUPA Update 3:

Following review of the Evaluation Teams response to progress report #2, the CUPA responds as follows:

1. Fresno County's Amanda 7 data base continues to successfully transfer CME data to CERS. To maintain accuracy, CUPA staff have been instructed to confirm their inspection data (CME) successfully transmitted to CERS following completion of their inspection. In the event CME data from an inspection fails to transmit to, CUPA staff will enter CME data directly into CERS.
2. Fresno County continues to work with their IT department on adding additional informational columns to the spreadsheet so data can be uploaded to CERS. Unfortunately, due to staffing levels and having to train new CUPA staff we are unable to provide an accurate timeframe for completion of this project. We have uploaded a copy of the missing data and would welcome assistance from CalEPA for uploading this data to CERS.

Evaluation Team Response 3 [CalEPA]:

The demand and dedication of time and resources necessary for correction of this deficiency is acknowledged. The CUPA is encouraged to reach out directly to the CalEPA CERS team to

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coordinate review of the CUPA's process for ensuring missing CME information dating back to July 2013 is entered into CERS.

The provided spreadsheet indicates there are 6,126 violations remaining to be reported in CERS between July 1, 2013 and June 25, 2021. The number of violations has increased by 503% from the 1,216 violations, remaining to be reported in CERS, as provided in the spreadsheet provided in the previous progress report. 868 violations were identified by the CUPA between July 1, 2013 and June 25, 2021 that were previously unreported with the last progress report. The CUPA continues to make progress toward identifying all violations that are missing from CERS dating back to July 1, 2013.

To demonstrate progress made towards the consistency in electronic transfer or exchange of CME information to CERS, the number of inspections conducted and the number of violations cited remain the same in CERS HMRRP CME reports generated on March 23, 2022 and September 13, 2022 as follows:

- FY 2013/2014:
 - 1,005 inspections conducted
 - 956 violations cited
- FY 2014/2015:
 - 969 inspections conducted
 - 721 violations cited
- FY 2015/2016:
 - 528 inspections conducted
 - 370 violations cited
- FY 2016/2017:
 - 742 inspections conducted
 - 666 violations cited
- FY 2017/2018:
 - 835 inspections conducted
 - 420 violations cited

To demonstrate progress made towards the electronic transfer or exchange of missing CME information to CERS, the number of overall enforcement actions cited has increased from what was reflected in the CERS HMRRP CME report generated on March 23, 2022 and the CERS HMRRP CME report generated on September 13, 2022 as follows:

- FY 2013/2014:
 - 6 enforcement actions reported in CERS as of March 23, 2022
 - 37 enforcement actions reported in CERS as of September 13, 2022
- FY 2014/2015:
 - 1 enforcement action reported in CERS as of March 23, 2022
 - 36 enforcement actions reported in CERS as of September 13, 2022
- FY 2015/2016:
 - 11 enforcement actions reported in CERS as of March 23, 2022
 - 84 enforcement actions reported in CERS as of September 13, 2022
- FY 2016/2017:
 - 22 enforcement actions reported in CERS as of March 23, 2022

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- 78 enforcement actions reported in CERS as of September 13, 2022
- FY 2017/2018:
 - 38 enforcement actions reported in CERS as of March 23, 2022
 - 151 enforcement actions reported in CERS as of September 13, 2022

To demonstrate CME information is still missing from CERS, the number of HMRRP inspections conducted, the number of HMRRP violations cited, and the number of overall Unified Program enforcements differ among the CERS HMRRP CME reports generated on March 23, 2022 and September 13, 2022 as follows:

- FY 2018/2019:
 - Inspections conducted
 - 393 reported in CERS as of March 23, 2022
 - 394 reported in CERS as of September 13, 2022
 - Violations cited
 - 21 reported in CERS as of March 23, 2022
 - 21 as reported in CERS as of September 13, 2022
 - Enforcement actions
 - 0 reported in CERS as of March 23, 2022
 - 0 reported in CERS as of September 13, 2022
- FY 2019/2020:
 - Inspections conducted
 - 382 reported in CERS as of March 23, 2022
 - 382 reported in CERS as of September 13, 2022
 - Violations cited
 - 0 reported in CERS as of March 23, 2022
 - 0 reported in CERS as of September 13, 2022
 - Enforcement actions
 - 0 reported in CERS as of March 23, 2022
 - 0 reported in CERS as of September 13, 2022
- FY 2020/2021:
 - Inspections conducted
 - 2 reported in CERS as of March 23, 2022
 - 2 reported in CERS as of September 13, 2022
 - Violations cited
 - 4 reported in CERS as of March 23, 2022
 - 4 reported in CERS as of September 13, 2022
 - Enforcement actions
 - 0 reported in CERS as of March 23, 2022
 - 0 reported in CERS as of September 13, 2022
- FY 2021/2022:
 - Inspections conducted
 - 191 reported in CERS as of March 23, 2022
 - 321 reported in CERS as of September 13, 2022
 - Violations cited
 - 149 reported in CERS as of March 23, 2022
 - 243 reported in CERS as of September 13, 2022
 - Enforcement actions

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- 0 reported in CERS as of March 23, 2022
- 0 reported in CERS as of September 13, 2022

With the next Progress Report, provide an update on the following action plan components to ensure successful electronic transfer or exchange of CME information from the data management system to CERS, including the missing CME information dating back to July 2013:

- A schedule for transferring all missing CME information from the local data management system to CERS dating back to July 2013.
- A schedule for adding the additional information columns and formatting the non-duplicative EnvisionConnect spreadsheet with CME information between July 1, 2013, and June 28, 2021 into the proper upload template for transfer to CERS.

CUPA Update 4:

Fresno County CUPA have reached out via to CalEPA's CERS team for assistance in transferring missing CME data from July 1, 2013, thru June 28, 2021, into CERS. We are currently awaiting a response. As discussed in our meeting on January 26, 2023, some of this old data may soon reach CERS retention timeframes. CUPA Program Supervisors and staff continue monitoring current CME transfers from Amanda to CERS to ensure successful EDT.

Evaluation Team Response 4 [CalEPA]:

With the next Progress Report, provide an update on:

- the response from the CalEPA CERS team regarding assistance with transferring missing CME information to CERS between July 1, 2013 and June 28, 2021.
 - Ensure to include CalEPA Team Lead, Kaeleigh Pontif (Kaeleigh.Pontif@calepa.ca.gov), and Melinda Blum (Melinda.Blum@calepa.ca.gov) on all future correspondence with the CERS team
- the following action plan components to ensure successful electronic transfer or exchange of CME information from the data management system to CERS, including the missing CME information dating back to July 2013:
 - A schedule for transferring all missing CME information from the local data management system to CERS dating back to July 2013.
 - A schedule for adding the additional information columns and formatting the non-duplicative EnvisionConnect spreadsheet with CME information between July 1, 2013, and June 28, 2021, into the proper upload template for transfer to CERS.

CUPA Update 5:

Fresno County CUPA have reached out to CalEPA's CERS team for assistance in transferring missing CME data from July 1, 2013, thru June 28, 2021, into CERS.

We have been in contact with Erika Michelotti from CalEPA who has been assisting with the missing CME data. Ms. Michelotti has been in consultation with CERS IT and Melinda Blum from CalEPA regarding our case. Ms. Blum is assisting with developing a plan for the transfer of data, but before one can be finalized, a few more details need to be worked out. Ms. Blum will be scheduling a meeting with the Fresno County CUPA prior to the EPR 5 review to discuss a pathway forward and set expectations.

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CUPA Program Supervisors and staff continue monitoring current CME transfers from Amanda to CERS to ensure successful EDT.

Evaluation Team Response 5 [CalEPA]:

On November 7, 2023, the State Evaluation Team and CERS IT met with the CUPA and established the following action plan for reporting historic CME information to CERS:

- **For CalARP, EPCRA (HMBP), Tiered Permitting (TP), RCRA LQG and APSA inspections conducted between January 1, 2019, and December 31, 2021**
 - The CUPA will directly enter CME information to CERS for 3,439 inspections conducted at 2,404 sites.
 - The CUPA has identified 286 of 3,439 (8%) inspections as “high-risk” facility inspections based on the amount of material on site and reporting requirements.
 - CME information for the following 286 “high-risk” inspections will be entered first
 - CalARP (all sites, regardless of level): 45 inspections
 - EPCRA (HMBP): 68 inspections
 - Tiered Permitting (TP): 5 inspections
 - RCRA LQG: 5 inspections
 - APSA: 163 inspections (all thresholds)
 - 61 of 163 (37%) inspections consist of Envision Connect Program Element (PE) Codes 6603, 6604, and 6606
 - Inspection information can be further prioritized as medium/low risk based on threshold quantity.
 - CME information for the remaining 3,153 inspections will be entered after the CME information is entered for the 286 “high-risk” inspections.
 - CME information for each of the 3,439 inspections will include:
 - CERS ID
 - Date of inspection
 - Inspection Program
 - Violation occurred on date (if different than inspection date)
 - Violation type ID (the Unified Program Violation Library Violation Type Number)
 - Violation Class
 - Violation actual RTC date
 - Actual RTC qualifier (if possible)
- **For CalARP, EPCRA (HMBP), TP, RCRA LQG and APSA inspections conducted between January 1, 2017 and December 31, 2018**
 - There are 15,250 inspections without CME information in CERS.
 - The CUPA will identify how the following information can be extracted from Envision (the previous data management system) for CalARP, EPCRA, TP, RCRA LQG and APSA inspections conducted between January 1, 2017, and December 31, 2018:
 - CERS ID
 - Date of inspection
 - Type of inspection (Routine or Other)
 - Applicable program elements
 - Cited violations

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- RTC, if any
 - Enforcement, if any
 - If extracting the CME information from Envision for CalARP, EPCRA, TP, RCRA LQG and APSA inspections conducted between January 1, 2017, and December 31, 2018, to report to CERS is not possible or practical, the CUPA will utilize a MS Excel spreadsheet to upload the following basic information to CERS for CalARP, EPCRA, TP, RCRA LQG and APSA inspections conducted between January 1, 2017, and December 31, 2018:
 - CERS ID
 - Inspection date
 - Inspection type identified as “Other” as the actual type of inspection conducted is not able to be determined unless reviewing the inspection report
 - Applicable program elements
 - Same comment for all entered inspection, such as, “CUPA conducted onsite inspection. Inspection and violation information are not electronically available in CERS. Contact the CUPA.”
- Upon upload of the spreadsheet to CERS:
- there will be no violation or RTC information for each inspection, as CME information is not able to be determined unless reviewing the inspection report; and
 - existing information for a facility in CERS will not be overwritten, however, the spreadsheet could potentially duplicate existing information for a facility.
- **For CalARP, EPCRA (HMBP), TP, RCRA LQG and APSA inspections conducted between January 1, 2013, and December 31, 2016**
 - The CalEPA Electronic Data Retention Policy will apply to the transfer of CME information from CERS to CERS NextGen. Only CERS CME information from January 1, 2017, forward will be transferred to CERS Next Gen.
 - It is not necessary to enter information for inspections conducted between January 1, 2013, and December 31, 2016 (unless otherwise necessary for U.S. EPA).
 - **For the UST Program, there is no need to enter historical CME information.**
 - The CUPA will enter CME information for current routine inspections.

On February 6, 2024, prior to receiving the Evaluation Team Responses for Progress Report 5:

- The CUPA provided the following update:
 - manual entry of CME information to CERS has been completed for the 286 inspections conducted between January 1, 2019 and December 31, 2021, identified as “high-risk” by the CUPA; and
 - the following information was extracted from Envision for the 15,250 CalARP, EPCRA, TP, RCRA LQG and APSA inspections conducted between January 1, 2017, and December 31, 2018, however, it is not practical to enter the CME information extracted from Envision into a spreadsheet to upload to CERS :
 - CERS ID
 - Date of inspection
 - Type of inspection (Routine or Other)

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- Applicable program elements
- Cited violations
- RTC, if any
- Enforcement, if any
- The CUPA requested CalEPA to consider the effort required to filter the extensive data extracted from Envision for the 15,250 CalARP, EPCRA, TP, RCRA LQG and APSA inspections conducted between January 1, 2017, and December 31, 2018, in order to obtain the inspection date and applicable program elements of each inspection, for each facility, to enter into the spreadsheet to upload to CERS at the risk of potentially duplicating existing CERS CME information.

With the next Progress Report, provide:

- a narrative on the progress made towards implementing the established action plan for reporting missing historic CME information to CERS for the remaining 3,153 CalARP, EPCRA, TP, RCRA LQG and APSA inspections conducted between January 1, 2019, and December 31, 2021, including:
 - how RTC will be documented for violations occurring prior to the transition of Envision to Amana 7;
 - whether or not CME information for inspections conducted between January 1, 2019, and December 31, 2023, will be entered into Amana 7 for each program element
- a narrative on the progress of successfully reporting CME information to CERS from Amana 7 through EDT, including a comparison of CERS CME information (and any follow-up actions) with the CME information in Amana 7 to identify any CME information not being reported, or being reported incorrectly to CERS through EDT.

Prior to the due date for submitting the response for Progress Report 6, the CUPA will receive a response from CalEPA as to whether or not the CUPA should proceed with efforts to filter the extensive data extracted from Envision for the 15,250 CalARP, EPCRA, TP, RCRA LQG and APSA inspections conducted between January 1, 2017, and December 31, 2018, in order to obtain the inspection date and applicable program elements of each inspection, for each facility, to enter into the spreadsheet to upload to CERS considering the risk of potentially duplicating existing CERS CME information.

When applicable, the CUPA will provide a statement confirming the completion of all prior HWG and APSA Program CME information not previously reported to CERS, or previously reported incorrectly to CERS, since January 1, 2017, as currently and correctly being reported to CERS.

23. DEFICIENCY:

The CUPA's single fee system does not fund the necessary and reasonable costs necessary to implement the Unified Program.

- The CUPA has not implemented any single fees to recover costs for regulating the APSA Program.

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- The CUPA implemented phased fee increases for the CalARP and UST Programs over a two-year period from 2018 through 2019. There have been no other Unified Program fee increases since October 2019.

The CUPA provided Self-Audit Reports for FY 2017/2018, 2018/2019, and 2019/2020 with the budget breakdown of expenditures and revenues for each fiscal year.

- FY 2017/2018:
 - The CUPA reported expenditures of \$2,197,907.75 and single fee revenues of \$1,553,403.64. The CUPA has a budget deficit of \$644,504.11.
- FY 2018/2019
 - The CUPA reported expenditures of \$1,811,608.29 and single fee revenues of \$1,539,323.94. The CUPA has a budget deficit of \$272,284.35.
- FY 2019/2020
 - The CUPA reported expenditures of \$2,434,400 and single fee revenues of \$1,865,188.50. The CUPA has a budget deficit of \$569,211.50.

Note: This deficiency was identified during the 2014 and 2017 CUPA Performance Evaluations and was considered corrected during both of the Evaluation Progress Report processes.

CORRECTIVE ACTION:

By the 1st Progress Report, the CUPA will provide CalEPA with a plan for the reassessment of the fee accountability program to ensure the single fee amount is adequate to fund the necessary and reasonable costs needed to implement the Unified Program, including the APSA Program.

By the 2nd Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with an update regarding the status of the reassessment of the fee accountability program, including the revised single fee schedule, if adjusted.

CITATION:

HSC, Chapter 6.11, Section 25404.5(a)(2)(A)
CCR, Title 27, Sections 15210(d) and 15220(a)
[CalEPA]

CUPA Update 1:

Fresno County CUPA has never had a “budget deficit” when we look at our entire budget and all revenue resources. Yes, we do not collect 100% of our costs through our fees. We have been using Health Realignment funds to offset our typical short fall of approximately 15% each fiscal year. In addition, we have had a significant amount in our Enforcement Account which prevented us from asking our Board of Supervisors for new fees. We have spent that account down over the years and now are ready to submit to our Board a packet of new CalARP and APSA annual fees. This process will take time with a legal review and accounting of our new fees. Plus we’ll have public comment sessions before we submit to the Board for hopeful approval.

Evaluation Team Response 1 [CalEPA]:

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The CUPA provided a response detailing the use of Health Realignment funds and money collected from Enforcement actions to offset the cost of Unified Program activities, which adequately finds the necessary and reasonable costs to implement the Unified Program. The CUPA did not provide a timeframe for submitting the proposal for fee assessments for the CalARP and APSA programs to the Board of Supervisors. With the next progress report, provide an update regarding the status of the submittal to the Board of Supervisors and include the revised single fee schedule, if adjusted.

CUPA Update 2:

We have provided our administration with the first portion of the proposed CalARP and APSA annual fees. We are still recovering staff from Covid duties and are sending more staff into the field to continue to inspect those facilities so that we can have more current time and activity data to present to our Board of Supervisors.

Evaluation Team Response 2 [CalEPA]:

A newly developed fee schedule was provided and includes newly developed fees for the APSA and CalARP Programs, as well as a fee for unstaffed HMBP facilities and well sites. The fee schedule contains a comparison of the proposed fees with neighboring jurisdictions and others throughout the state. The total potential revenue to be generated based on the number of facilities under each program element and specification could be up to \$277,246 each fiscal year. For example, this additional revenue would compensate for up to 49% of the budget deficit from FY 2019/2020 that was not previously captured under the single fee system.

With the next Progress Report, provide an update regarding the status of submittal of the revised fee schedule to the Board of Supervisors.

CUPA Update 3:

We are continuing to collect time and activity data to present to the Board of Supervisors to support our proposed fee amounts. In addition, we will need to meet with industry on the proposed fees for their input and comment.

Evaluation Team Response 3 [CalEPA]:

The CUPA has not yet submitted the proposal for increasing the APSA and CalARP fees as well as the fee for unstaffed HMBP facilities and well sites to the Board of Supervisors for support and approval. The CUPA continues to collect data and is working to meet with regulated industries to obtain feedback on the proposed fees.

With the next Progress Report, provide an update and planned timeline regarding submitting the revised fee schedule to the Board of Supervisors for approval and adoption.

CUPA Update 4:

In addition to CUPA, other Environmental Health (EH) programs are also in various stages of preparing proposed new fees/changes to existing fees (as well as updates to local ordinance). Therefore a comprehensive proposed fee package for all EH fees is necessary.

All fees are required to be extensively reviewed both internally within DPH and externally by County Counsel, the Auditor's Office and the CAO before going to the Board of Supervisors for possible approval and adoption. Given this, it will take at least 6 months to have a package ready to go before the board.

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Once EH's (including CUPA) proposed fees ready to go (i.e, we've already done the legwork such as completing our cost study, determined the increase and applied it and we know the rates to be charged), it will take approximately 6 weeks for it to be presented to the Board of Supervisors for consideration for approval and adoption.

The timeline required to present a proposed new fee schedule to the Board of Supervisors for their consideration for approval and adoption of the new permit fees requires a minimum of six weeks. A review of the new fees, including a draft of the Board Agenda Item and all supporting documents, is required by each of the following County Offices: Department of Public Health (DPH), County Counsel, the Auditor Controller's Office, and the County Administrative Office. Each Office may take approximately a week to review, discuss, recommend revisions or clarification and approve the fee schedule and the Agenda item. Once this approval process is completed, the Board Agenda Item with the supporting documents is placed on the Board of Supervisors Agenda, which requires a minimum of two weeks from receipt by the Clerk to the Board to the placement on the Agenda. There are two hearings/Agenda items to discuss the Agenda Item and proposed fees. The first hearing presents the rates to the BOS and allows for comments or discussion from the public regarding the proposed rates. The BOS can choose to move forward with the approval and place the item for the second hearing which authorizes the fee and publishes the new rates to the public. Alternatively, the Board can request the second hearing be delayed if they request additional information or have public commentary they wish to resolve. This would add approximately two weeks to the projected time frame. The Senior Staff Analyst position, that would normally play a key role in this process, has retired and we are currently in process to fill this position.

Evaluation Team Response 4 [CalEPA]:

With the next Progress Report, provide an update regarding the status of submitting the revised fee schedule to the Board of Supervisors for approval and adoption.

CUPA Update 5:

Fresno County CUPA is continuing on the pathway previously described in Response #4. Barring a setback, we anticipate being able to present our fee and ordinance packages to the Board by the end of the year.

Evaluation Team Response 5 [CalEPA]:

With the next Progress Report, provide an update regarding the status of submitting the revised fee schedule to the Board of Supervisors for approval and adoption.

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1. NCIDENTAL FINDING: RESOLVED

The CUPA is not submitting quarterly Surcharge Transmittal Reports to CalEPA within 30 days after the end of each fiscal quarter.

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

- FY 2017/2018
 - 1st Quarter submitted on November 6, 2017
 - 4th Quarter submitted on August 20, 2018
- FY 2018/2019
 - 1st Quarter submitted on November 15, 2018
 - 2nd Quarter submitted on February 1, 2019
- FY 2019/2020
 - 1st Quarter submitted on November 4, 2019
 - 2nd Quarter submitted on February 14, 2020

RESOLUTION: RESOLVED

By the 2nd Progress Report, the CUPA will have submitted to CalEPA the 1st quarterly Surcharge Transmittal Report for FY 2021/2022 by the required due date. Thereafter, the CUPA will submit each quarterly Surcharge Transmittal Report to CalEPA no later than 30 days after the end of each fiscal quarter.

CITATION:

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

CUPA Update 1:

No report requested. We have had some issues with our business office and accounting to have the check printed and returned to us in order to send in time to the State. We will make every effort to submit on time.

Evaluation Team Response 1 [CalEPA]:

With the next Progress Report, the CUPA will have submitted to CalEPA the 2nd quarterly Surcharge Transmittal Report for FY 2021/2022 by the required due date.

CUPA Update 2:

Surcharge Report #2 was submitted just after it's due date.

Evaluation Team Response 2 [CalEPA]:

The CUPA provided the 2nd quarterly Surcharge Transmittal Report for FY 2021/2022 on February 15, 2022 though it was due on January 30, 2022. The CUPA has made diligent efforts to train administrative staff to complete and submit the reports in a timely manner. With the next Progress Report, the CUPA will have submitted to CalEPA the 3rd quarterly Surcharge Transmittal Report for FY 2021/2022 by the required due date.

CUPA Update 3:

CUPA surcharge report for the 3rd quarter was submitted on 04/29/2022 and CUPA surcharge report for the 4th quarter was submitted on 07/25/2022. Reports uploaded to SharePoint for review.

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Evaluation Team Response 3 [CalEPA]:

Review of the 3rd and 4th quarter Surcharge Transmittal Reports for FY 2021/2022 finds that the CUPA submitted the reports by the required due date. Effective June 25, 2021, the quarterly Surcharge Transmittal Report template was updated to reflect the increased CUPA Oversight state surcharge, which includes an assessment for the CERS NextGen Project. The current quarterly Surcharge Transmittal Report template can be found at: https://calepa.ca.gov/wp-content/uploads/sites/6/2021/07/SURCHARGE-TRANSMITTAL-REPORT_20210709-ADA.pdf.

The incidental finding is considered resolved. No further action is required.

2. INCIDENTAL FINDING: RESOLVED

The Semi-Annual Report 6 (Report 6) was submitted after the regulatory deadline for the period of July – December 2018, and January – June 2017.

RESOLUTION: COMPLETED

The CUPA will submit Report 6 in accordance with the regulatory deadline of March 1st for the July – December reporting period and September 1st for the January – June reporting period.

By the regulatory deadline of September 1st, the CUPA will provide Report 6 information for January – June of the current year to the State Water Board.

CITATION:

CCR, Title 23, Section 2713(c)
CCR, Title 27, Section 15290 (a)(4)
[State Water Board]

CUPA Update 1:

We have submitted Report 6 on time since those past periods noted in the finding.

Evaluation Team Response 1 [State Water Board]:

Review of Report 6 submissions finds the CUPA has submitted Report 6 on time since July – December 2018, and January – June 2017 reporting periods. This incidental finding is resolved.

3. INCIDENTAL FINDING: RESOLVED

The CUPA is not consistently addressing each referred complaint in accordance with the I&E Plan.

The CUPA is not addressing each compliant referred through the CalEPA Environmental Complaint System (<https://calepacomplaints.secure.force.com/complaints/Complaint>). The following complaint numbers were referred to the CUPA and have not been addressed:

- COMP-47199
- COMP-46187
- COMP-42282
- COMP-41782

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RESOLUTION: COMPLETED

During the evaluation, the CUPA stated that the ability for the CUPA to receive and respond to complaints through the CalEPA Environmental Complaint System was compromised due to an internal IT security protocol blocking referrals to the CUPA. The CUPA has ensured a valid email address would enable notification of complaints referred to the CUPA through the CalEPA Environmental Complaint System.

By the 2nd Progress Report for each referred complaint identified in this finding, the CUPA will provide CalEPA with a copy of follow-up documentation and explain the outcome.

CITATION:

CCR, Title 27, Section 15200(a)(13)
[DTSC]

CUPA Update 1:

No response requested for this Report #1.

Evaluation Team Response 1 [DTSC]:

With the next Progress Report, provide the follow-up documentation and an explanation of the outcome of each of the following complaints referred through the CalEPA Environmental Complaint System:

- COMP-47199
- COMP-46187
- COMP-42282
- COMP-41782

CUPA Update 2:

Staff have updated the follow up information for all four of the requested complaints into the CalEPA Environmental Complaint System. See SharePoint for other available documentation. In addition, all CUPA staff have been instructed to obtain access to the CalEPA Environmental Complaint System. Going forward, we plan to have a process to enter CalEPA Environmental Complaint System complaints into Amanda so that these complaints can be located by search of complaint system numbers.

Evaluation Team Response 2 [DTSC]:

DTSC has reviewed the CUPA's complaints, complaint process, and corresponding responses and appreciates the CUPA's efforts implemented to address this finding. This incidental finding is considered resolved.
