

**CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3**

CUPA: San Mateo County Environmental Health Division

Evaluation Period: February - November 2023

Evaluation Team Members:

- CalEPA Team Lead: Kaeleigh Pontif
- CalEPA: Garrett Chan
- DTSC: Matthew McCarron, Mia Goings
- State Water Board: Kaitlin Cottrell
- CAL FIRE-OSFM: Denise Villanueva

Evaluation Progress Report #3 Received by CalEPA: June 23, 2025

Deficiencies Pending Correction: None, all corrected

Incidental Findings Pending Resolution: #'s 2, 3 (#'s 3, 4 closed)

This Evaluation Progress Report concludes the 2023 CUPA Performance Evaluation.

No further Evaluation Progress Reports are applicable.

All Deficiencies are considered corrected, and all Incidental Findings are considered resolved or closed.

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

Kaeleigh Pontif
Phone: (916) 803-0623
E-mail: Kaeleigh.pontif@calepa.ca.gov

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

DEFICIENCIES REQUIRING CORRECTION

1. DEFICIENCY: CORRECTED

The CUPA is not conducting complete annual UST compliance inspections.

The CUPA is not correctly citing nor documenting noncompliance and is not citing UST violations identified during annual UST compliance inspections in inspection reports and is not correctly reporting UST violations in CERS when UST violations are cited, including technical compliance rate (TCR) criteria.

Review of annual UST compliance inspection reports, associated testing and leak detection documents, and inspection, violation, and enforcement information, also known as compliance, monitoring and enforcement (CME) information reported in CERS finds:

- UST construction and testing discrepancies for the following single-walled USTs:
 - CERS ID 10065463
 - Monitoring System Certification Forms dated January 19, 2021, state In-Tank Gauging as only being used for inventory control, while the tank construction reported in CERS requires monthly 0.2 GPH ATG testing.
 - No violation was issued in CERS for Unified Program violation number 2030002 - Leak Detection Equipment Maintenance (USEPATCR 9d).
- Non-compliance was not observed, and a violation was not issued in CERS for the following:
 - CERS ID 10065463
 - UST Inspection Report dated January 18, 2023, cites "Diesel spill bucket lost ½" in the initial one-hour test period. The technician found the drain valve to be leaking. After minor repairs, the bucket was tested, passed."
 - No violation was issued in CERS for Unified Program violation number 2060020 – Spill Container (USEPATCR 9a).
 - CERS ID 10729288
 - UST Inspection Report dated May 19, 2021, cites "Three floats and chains required adjustment to function properly."
 - No violation was issued in CERS for Unified Program violation number 2030043 - Monitoring Equipment (USEPATCR 9d).
 - Overfill Prevention Equipment Inspection Report dated May 20, 2021, cites Tanks 1-4 failing.
 - No violation was issued in CERS for Unified Program violation number 2030036 – Overfill Prevention (USEPATCR 9b).
 - CERS ID 10341253
 - UST Inspection Report dated April 27, 2021, cites "L2: Fill 87-1 Did not trigger on first test. Second time it passed."
 - No violation was issued in CERS for Unified Program violation number 2030043 - Release Detection (USEPATCR 9d).

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

- CERS ID 10166167
 - Overfill Prevention Equipment Inspection Report dated September 8, 2020, cites Tanks T1 and T3 failing.
 - No violation was issued in CERS for Unified Program violation number 2030036 – Overfill Prevention (USEPATCR 9b).
- CERS ID 10065799
 - UST Inspection Report dated August 18, 2022, cites “The LLD for 91 initially failed the test, however, after one quarter turn on the LLD, the test passed.”
 - No violation was issued in CERS for Unified Program violation number 2030025 - Line Leak Detector (LLD)-Double-Walled Pressurized Pipe (USEPATCR 9d).

CITATION:

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

CORRECTIVE ACTION: COMPLETED

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

- the review and follow-up of submitted UST testing and leak detection documents by the UST owner or operator as part of the annual UST compliance inspection;
- conducting complete annual UST compliance inspections at all UST facilities, including single-walled UST facilities;
- conducting annual UST compliance inspections when UST inspection staff are on-site to witness the monitoring system certification and visually inspect all UST required components;
- conducting annual UST compliance inspections when UST inspection staff are not on-site to witness the monitoring system certification and visually inspect all UST required components;
- ensuring violations observed during annual UST compliance inspections are correctly and consistently cited on the inspection report;
- reporting all inspections and observed noncompliance, including TCR criteria, documented in annual UST compliance inspection reports to CERS;
- reviewing the annual UST compliance inspection checklist for thoroughness to capture citations in accordance with UST Regulations, HSC, and the Unified Program violation library to CERS; and
- accurate U.S. Environmental Protection Agency (U.S. EPA) TCR reporting

The CUPA will provide CalEPA with the revised I&E Plan, or other applicable procedure. The CUPA will contact the State Water Board for any assistance needed.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

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

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with facility records for five UST facilities, as requested by the State Water Board, including, at minimum: annual UST compliance inspection reports and associated testing and leak detection documents.

CUPA Response 1:

Internal Policy No. UST-05 describes the procedure for completing thorough annual compliance inspections and how to properly cite violations at UST sites.

Internal Policy No. UST -01 describes procedures for reviewing electronically reviewed UST data. The policies have been submitted for reference and training for all inspectors is scheduled for April 17, 2024.

All inspection violation and non-compliance information is sent from the EHS Data Management System to CERS per the Internal Policy No: DM-02 which was previously provided. A new EHS Data Management System (Incapsulate/Delphi) was launched in 2023. Incapsulate has obtained Tier5 access and has been successfully sending CME to CERS. TCR reports are submitted semi-annually per the requirements.

Evaluation Team Response 1 [State Water Board]:

The provided Internal Policy procedures are acceptable. With the next Progress Report, train UST inspection staff on Internal Policy No. UST-01 and Internal Policy No. UST-05, and provide training documentation. If available, provide facility records for five UST facilities that have been inspected after training was conducted. The facility records for each facility should include, at minimum: annual UST compliance inspection reports and associated testing and leak detection documents.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

CUPA Response 2:

On October 09, 2024, CUPA staff was trained on implementing Internal Policy No. UST-01 and UST-05. Training records have been submitted to CalEPA.

Routine inspection reports and available testing documents of five facilities inspected after October 09, 2024, have been submitted to CalEPA.

Evaluation Team Response 2 [State Water Board]:

The provided facility files are acceptable. This deficiency is considered corrected.

2. DEFICIENCY: CORRECTED

The UST Program permit conditions on the "Permit to Operate," issued as the Unified Program Facility Permit (UPFP) are inconsistent with HSC and CCR, Chapter 16.

Review of the UST operating permit, issued under the UPFP, finds the following components required under CCR, Chapter 16 are missing:

- CERS Tank ID
- UST monitoring requirements

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

- Permit condition i states "The permittee must obtain approval from this division, local Fire, and Building authorities prior to modifying any UST system."
 - A requirement to contact the Fire and Building authorities is outside the scope of the "Permit to Operate" issued as the UPFP, which includes the UST operating permit. A UPFP cannot incorporate provisions of the California Fire Code or the California Building Code.
- A general permit condition states "This permit must be kept on-site and available for inspection upon request."
 - This is more stringent than CCR, Chapter 16, Section 2712(i), which requires a paper or electronic copy of the permit to be readily accessible at the facility.
- A general permit condition states the permit is "not transferable and may be revoked for noncompliance with requirements."
 - This is more stringent than CCR, Chapter 16, section 2712 (d) and HSC, Section 25284(b) which allows for the transfer of permits.
- A general permit condition states "This permit is valid unless expired, revoked, or suspended ..."
 - The CUPA does not have the authority to suspend a UST operating permit.

CITATION:

HSC, Chapter 6.7, Sections 25283(b)(1)(B), 25284(b), 25285.1 and 25297.01(b)

HSC, Chapter 6.11, Section 25404(a)(6)

CCR, Chapter 16, Sections 2711(c) and (i), and 2712(c), (d), and (i) [State Water Board]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will revise the UST permit conditions template of the "Permit to Operate," issued as the UFPF, to be consistent with UST Regulations and HSC. The CUPA will contact the State Water Board for assistance with revising the UST permit conditions, if necessary. The CUPA will provide the revised UST permit conditions template of the "Permit to Operate" to CalEPA.

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

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

CUPA Response 1:

A sample of the current Permit to Operate has been submitted. The permit includes the CERS ID and the UST monitoring requirements.

Regarding the general permit conditions, a letter from our agency requesting written legal interpretation/opinion was sent to the State Waterboards on December 15, 2023. We followed up again on March 1, 2024 asking for a response and we have not heard anything back at this time. These emails and the letter have been submitted for your reference.

Evaluation Team Response 1 [State Water Board]:

The amendments to the Permit to Operate are acceptable. The State Water Board is working with the Office of Chief Counsel regarding the general permit condition interpretation and will respond to the letters upon completion. With the next Progress Report, provide the Permit to Operate issued to five UST facilities using the amended UST permit conditions template.

CUPA Response 2:

Five UST Permits to Operate have been submitted to CalEPA.

Evaluation Team Response 2 [State Water Board]:

The provided UST Operating Permits are acceptable. This deficiency is considered corrected.

3. DEFICIENCY: CORRECTED

The CUPA is not properly classifying HWG Program violations.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

Review of facility files and CERS CME information between January 1, 2020, and December 31, 2022, finds the following non-minor violations were classified as minor violations, in the following instances:

- Violation for exceedance of authorized accumulation time (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - CERS indicates 340 of 390 (87%) violations cited between January 1, 2020, through December 31, 2022, for exceedance of accumulation timeframe were classified as minor. Examples include, but are not limited to:
 - CERS ID 10069285: inspection dated December 5, 2021
 - CERS ID 10507609: inspection dated March 1, 2022
 - CERS ID 10064734: inspection dated November 29, 2022

- Violation for failure to provide or conduct training for employees incorrectly cited as a minor violation. Since no training was provided, employees are not familiar with hazardous waste management and handling, nor how to respond to emergencies. There may have been an economic benefit to the facility by not providing training. This does not meet the definition of minor violation as described in HSC, Section 25404(a)(3).
 - CERS indicates 70 of 88 (80%) violations cited between January 1, 2020, through December 31, 2022, for failure to provide or conduct training for employees were cited as a minor violation. Examples include, but are not limited to:
 - CERS ID 10067383: inspection dated January 16, 2021
 - CERS ID 10156761: inspection dated May 26, 2021
 - CERS ID 10445923: inspection dated March 10, 2022

- Violation for failure to accumulate hazardous waste in a container that is in good condition (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Storage of hazardous waste in damaged containers may lead to a release of hazardous waste to the environment. Failure to accumulate hazardous waste in a container that is in good condition may result in a failure to prevent releases of hazardous waste or constituents to the environment. This does not meet the definition of a minor violation as defined in HSC, Section 25404(a)(3).
 - CERS indicates 33 of 35 (94%) violations cited between January 1, 2020, through December 31, 2022, for failure to accumulate hazardous waste in a container that is in good condition were cited as a minor violation. Examples include, but are not limited to:
 - CERS ID 10782052: inspection dated July 27, 2021
 - CERS ID 10065964: inspection dated August 3, 2021
 - CERS ID 10764424: inspection dated October 17, 2022

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

- Violation for failure to accumulate or store hazardous waste in containers made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored (CCR, Title 22, Section 66262.34) incorrectly cited as a minor violation. Failure to store hazardous wastes in containers which will not react with, and are otherwise compatible with, the hazardous waste to be stored may result in a significant threat to human health or safety or the environment. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - CERS indicates 10 of 10 (100%) violations cited between January 1, 2020, and December 31, 2022, for failure to accumulate or store hazardous waste in containers made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored were cited as a minor violation. Examples include, but are not limited to:
 - CERS ID 10764241: inspection date August 27, 2021
 - CERS ID 10757719: inspection date February 11, 2022
 - CERS ID 10877740: inspection date June 7, 2022

- Violation for failure to separate incompatible wastes [CCR, Title 22, Section 66265.173 and CCR, Title 22, Section 66262.34(d)(2)] incorrectly cited as a minor violation. Failure to separate incompatible wastes may result in a significant threat to human health or safety or the environment. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - CERS indicates 9 of 10 (90%) violations cited between January 1, 2020, through December 31, 2022, for failure to separate incompatible wastes were cited as a minor violation. Examples include, but are not limited to:
 - CERS ID 10689997: inspection date February 11, 2020
 - CERS ID 10737526: inspection date April 9, 2021
 - CERS ID 10731691: inspection date June 1, 2021

- Violation for failure to minimize the possibility of a fire, explosion, or release of hazardous waste to the environment [CCR, Title 22, Section 66265.31 and CCR, Title 22, Section 66262.34(d)(2)] incorrectly cited as a minor violation. Failure to minimize the possibility of a fire, explosion, or release may pose a significant threat to human health or safety or the environment, or failure to ensure prevention of releases of hazardous waste or constituents to the environment. This does not meet the definition of minor violation as defined in HSC, Section 25404(a)(3).
 - CERS indicates 49 of 161 (30%) violations cited between January 1, 2020, through December 31, 2022, for failure to minimize the possibility of a fire, explosion, or release of a hazardous waste to the environment were cited as a minor violation. Examples include, but are not limited to:
 - CERS ID 10067383: inspection date January 16, 2021
 - CERS ID 10071769: inspection date February 9, 2022
 - CERS ID 10723768: inspection date February 9, 2022

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6

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

CCR, Title 22, Section 66260.10 [DTSC]

CORRECTIVE ACTION: COMPLETED

By the 1st Progress Report, the CUPA will train inspection staff on the definition of minor violation as defined in HSC, Chapter 6.11, Section 25404(a)(3) and Class I, and Class II violations, as defined in:

- HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6 and
- CCR, Title 22, Section 66260.10

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

- Violation Classification Training Video 2014
<https://www.youtube.com/watch?v=RB-5V6RfPH8>
 - Additional violation classification classes are available in the video library on the CalCUPA Forum Board website at:
<http://www.calcupa.org/videow.html>.
- 2020 Violation Classification Guidance for Unified Program Agencies
<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>
 - This document provides examples of what is considered minor versus non-minor violations.

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

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

CUPA Response 1:

Violation classification training was completed by Apollonia Helm and Dan Rompf on March 20, 2024.

The PowerPoint and the training roster have been submitted.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

Evaluation Team Response 1 [DTSC]:

The provided training documentation is acceptable. With the next Progress Report, provide an inspection report citing at least one HWG Program violation, for three HWG Program facilities, that have been inspected after March 20, 2024, and within the last three months. Each inspection report will contain observations, factual basis, and corrective actions to correctly identify and classify each observed HWG Program violation.

CUPA Response 2:

Inspection reports for three hazardous waste generator facilities conducted on August 08, October 21, and October 23, 2024, have been submitted to CalEPA.

Evaluation Team Response 2 [DTSC]:

The provided inspection reports are acceptable. This deficiency is considered corrected.

4. DEFICIENCY: CORRECTED

Required components of the I&E Plan are missing or incomplete. The following component is missing:

- An indication that the I&E Plan is reviewed annually, at minimum. The following component is incomplete:
 - Provisions for ensuring sampling capability
 - Though the I&E Plan discusses collecting and using samples as evidence, it does not describe the sampling capabilities of the CUPA. Sampling capability information should include training, identification of sampling equipment, methods to preserve physical evidence obtained through sampling and testing information. This information was required when the CUPA became certified and is necessary to proceed with any potential enforcement actions as needed.

CITATION:

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

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA revised the I&E Plan to adequately incorporate and correctly address the missing component. The I&E Plan now includes an indication that it is reviewed annually, at minimum.

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

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

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

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

Note: The CUPA has requested DTSC to provide onsite sampling training. Due to staffing shortages, DTSC is unable to provide the requested training prior to the issuance of this Final Summary of Findings Report, however, DTSC is currently arranging to offer sampling training in the near future. DTSC encourages the CUPA to begin drafting a sampling procedure using the example sampling plans provided. The CUPA can revise the draft sampling procedure, making any desired changes or refinements, following receipt of training provided by DTSC.

CUPA Response 1:

The Inspection Program Plan was updated to include more info on training and chain of custody procedures. The updated plan has been submitted. Staff will be trained on sampling procedures once the plan has been approved.

Evaluation Team Response 1 [CalEPA, DTSC]

The CUPA has adequately incorporated and correctly addressed the incomplete component. The updated Inspection Program Plan includes identification of sampling equipment, methods to preserve physical evidence, including chain of custody protocols, handling of photo evidence, and training. With the next Progress Report, train CUPA personnel on the revised Inspection Program plan and provide training documentation to CalEPA, which at minimum will include the date training was conducted, an outline of the training conducted and a list of CUPA personnel in attendance. Once training is complete, the CUPA will implement the revised Inspection Program Plan.

CUPA Response 2:

On November 19, 2024, CUPA staff was trained on the Inspection Program Plan, which is being implemented by all staff. Training records have been submitted to CalEPA.

Evaluation Team Response 2 [CalEPA, DTSC]:

The training documentation provided is acceptable. This deficiency is considered corrected.

5. DEFICIENCY: CORRECTED DURING EVALUATION

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 receipt.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

During the 45-day review process the CUPA must:

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

Review of CERS CME information finds the following PBR Onsite Hazardous Waste Treatment Notifications submitted between January 1, 2020, and December 31, 2022, were not reviewed, processed, or authorized by the CUPA within 45 days of receipt:

- 16 of 38 (42%)
 - Examples include:
 - CERS ID 10591699
 - PBR notification submitted February 26, 2021, and authorized February 16, 2022
 - PBR notification submitted February 28, 2022, and authorized April 29, 2022
 - CERS ID 10063930
 - PBR notification submitted May 10, 2021, and authorized February 10, 2022.
 - PBR notification submitted December 2, 2021, and authorized February 10, 2022
 - PBR notification submitted December 22, 2021, and authorized February 24, 2022
 - CERS ID 10071769
 - PBR notification submitted December 18, 2020, and authorized March 22, 2021.
 - PBR notification submitted December 16, 2021, and authorized April 23, 2023
 - PBR notification submitted December 15, 2022, and authorized April 21, 2023

Note: This deficiency was identified during the 2018 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

CCR, Title 22, Sections 67450.2(b)(4) and 67450.3(c)(1) and (d)
[DTSC]

CORRECTIVE ACTION: COMPLETED

During the evaluation, the CUPA identified why annual Onsite Hazardous Waste Treatment Notifications for Permit-By-Rule (PBR) facilities with a Fixed Treatment Unit (FTU) were not properly reviewed, processed, and authorized within 45 calendar days of receipt. The CUPA developed an updated policy for reviewing notifications and ensured the policy was made available to all staff. Staff were trained on the updated policy.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

The CUPA has demonstrated accurate and timely review, processing and authorization of Onsite Hazardous Waste Treatment Notifications following the training of staff. This deficiency is considered corrected.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

INCIDENTAL FINDINGS REQUIRING RESOLUTION

1. INCIDENTAL FINDING: RESOLVED

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

Review of HMBPs submitted to CERS between April 17, 2022, and May 17, 2023, by regulated businesses subject to Business Plan reporting requirements finds:

- 415 of 2,968 (14%) business plan facilities have not submitted a chemical inventory (including site map) or a no-change certification within the last 12 months.
- 434 of 2,968 (15%) business plan facilities have not submitted emergency response and employee training plans or a no-change certification within the last 12 months.

Note: This incidental finding was identified as a deficiency during the 2018 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

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

RESOLUTION: COMPLETED

Note: With each Progress Report until considered corrected, CalEPA will review CERS information to identify each regulated business subject to Business Plan reporting requirements that has not submitted an HMBP or a no-change certification to CERS within the last 12 months.

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all businesses subject to business plan reporting requirements annually submit an HMBP or a no-change certification to CERS. The action plan, at minimum, will include steps to follow up with those facilities that have not submitted an HMBP or a no-change certification to CERS within the last 12 months, such as correspondence or other communication with regulated businesses.

By the 4th Progress Report, the CUPA will ensure each regulated business subject to business plan reporting requirements has submitted a business plan or a no-change certification to CERS within the last 12 months, or the CUPA will have applied enforcement.

CUPA Response 1:

Internal Policy No: HMBP-015 provides procedures for identifying and notifying businesses that have not submitted an HMBP or a no-change certification to CERS within the last 12 months.

This policy has been submitted.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

On March 7, 2024, a report was created showing all the overdue HMBPs at that time. An email notification was sent on March 11, 2024 to 840 facilities with instructions to log in and resubmit their HMBP. An example of the email is included for reference. Inspectors followed up and assisted sites with submitting their plans. Violations were cited for sites that have not come into compliance and the enforcement procedures will continue to be followed.

Evaluation Team Response 1 [CalEPA]:

The action plan and Internal Policy No: HMBP-015 are adequate. Per Internal Policy No: HMBP-015 and the use of a report generated from the CUPAs data management system, businesses that have not annually submitted an HMBP or certified that there are no changes to the existing HMBP will be notified at least twice a year. This Incidental Finding is considered resolved.

2. INCIDENTAL FINDING: RESOLVED

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

Review of 15 HMBP CERS submittals finds the following 7 (46%) were recently accepted with missing or incomplete required elements:

- CERS ID 10831315
 - Plans submitted and accepted on March 22, 2023
 - Missing required emergency response plan element such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10064008
 - Inventory submitted on April 7, 2023, and accepted on May 17, 2023
 - Missing required site map elements such as emergency shutoffs.
- CERS ID 10064242
 - Inventory submitted and accepted on April 13, 2022
 - Missing required site map element such as emergency shutoffs.
- CERS ID 10071769
 - Inventory submitted on April 15, 2022, and accepted on June 27, 2022
 - Missing required site map elements such as adjacent streets and evacuation staging areas.
- CERS ID 10735747
 - Inventory submitted on May 8, 2023, and accepted on May 9, 2023
 - Missing required site map element such as adjacent streets.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

- CERS ID 10068703
 - Plans submitted on June 29, 2022, and accepted on July 27, 2022
 - Missing required emergency response plan element such as immediate notification contacts to the appropriate local emergency response personnel and to the unified program agency.
- CERS ID 10063429
 - Inventory submitted on December 9, 2022, and accepted on January 9, 2023
 - Missing required site map element such as internal roads.

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

CITATION:

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

RESOLUTION: COMPLETED

During the evaluation, the CUPA accepted a complete HMBP for the following facilities:

- CERS ID 10064242
- CERS ID 10071769
- CERS ID 10735747
- CERS ID 10068703
- CERS ID 10063429

By the 1st Progress Report, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each future HMBP submittal is thoroughly reviewed and contains all applicable required elements before being accepted in CERS. The action plan will include steps to follow up with regulated businesses whose HMBP submittals were reviewed and identified with missing or incomplete components.

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

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

By the 4th Progress Report, the CUPA will ensure each HMBP facility has annually submitted a complete HMBP to CERS, or the CUPA will have applied enforcement.

CUPA Response 1:

Internal Policy No: HMBP-011 describes the review process for submissions made in CERS. This policy was recently updated and has been submitted for reference. Staff will be trained on this policy during a future staff meeting.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

The submissions for CERS ID 10831315 and CERS ID 10064008 have been rejected with comments on how to correct the deficiencies, and the facility representatives were contacted via phone in April 2024 to discuss the requirements and missing elements of their plans.

Evaluation Team Response 1 [CalEPA]:

The CUPA provided an adequate action plan, Internal Policy No: HMBP-011, which identifies whether data elements and information are required or optional to be considered a complete HMBP submittal by statute and regulation.

With the next Progress Report, provide CalEPA with:

- training documentation, which at minimum, will include the date training was conducted, an outline of the training conducted, and a list of CUPA personnel in attendance; and
- a narrative of the implementation of the action plan.

CUPA Response 2:

On October 09, 2024, CUPA staff was trained on the Internal Policy No: HMBP-011. The HMBP Program Specialist discussed each section of the policy with special attention to the applicable required elements in a CERS submission. Training records have been submitted to CalEPA.

Evaluation Team Response 2 [CalEPA]:

The training records provided are acceptable. With the next Progress Report, provide a narrative of the implementation of the action plan.

CUPA Response 3:

The action plan to ensure HMBP submittals are thoroughly reviewed and contain all applicable required elements before being accepted in CERS included training CUPA staff on the revised Internal Policy No: HMBP-011, which was completed on October 09, 2024. Then, the HMBP program specialist will conduct a routine quality control of a sample of HMBPs approved by each inspector.

The quality control was implemented in May 2025. The program specialist informed each inspector and supervisor of the results and sent an email with general aspects to all CUPA staff as a reminder. This process will be implemented at least every other month. The supervisors discussed specific issues with CUPA staff and follow up was provided.

Evaluation Team Response 3 [CalEPA]:

The provided update is acceptable. This Incidental Finding is considered resolved.

3. INCIDENTAL FINDING: CLOSED

The CUPA is not consistently citing construction violations at existing used oil UST systems, nor requiring the correction of construction violations identified in State Water Board Local Guidance (LG) Letter 150 dated February 2021.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

Review of the CERS Facility/Tank Data Download information finds USTs at the following USTs have single-walled vent or tank risers, and do not meet the secondary containment exemption requirements of CCR, Title 23, Section 2636(a) for vent and riser pipe to have overfill prevention equipment meeting the requirements specified in CCR, Title 23, Section 2635(c)(1)(B) or (C):

- CERS Tank ID 10065703-003
- CERS Tank ID 10341529-003
- CERS Tank ID 10063678-004
- CERS Tank ID 10070869-003
- CERS Tank ID 10066480-004
- CERS Tank ID 10065484-005
- CERS Tank ID 10065481-004
- CERS Tank ID 10064050-001
- CERS Tank ID 10065502-003
- CERS Tank ID 10066396-004

Note: State Water Board CUPA Evaluation Guidance Documents, Single-Walled Vent or Riser Piping (<https://www.waterboards.ca.gov/ust/single-walled-vent-riser.html>) and the State Water Board LG 150-3 (https://waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf) may be referenced.

CITATION:

CCR, Title 23, Section 2631 (a), 2636(a) and 2635(c)(1) [State Water Board]

RESOLUTION:

The CUPA must ensure UST systems are properly constructed and meet the secondary containment requirements of CCR, Title 23, Section 2636(a).

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

By the 1st Progress Report, the CUPA will draft and provide to CalEPA written correspondence addressed to the UST facility owner(s) or operator(s) to inform the UST owner(s) or operator(s) of the requirement for installation of overfill prevention equipment, or to construct secondary containment for single-walled vent and tank risers. The written correspondence will include language stating that failure to comply with overfill prevention equipment requirements specified in CCR, Title 23, Section 2635(c)(1)(B) or (C), or secondary containment exemptions in CCR, Title 23, Section 2636(a) will lead to enforcement. The State Water Board will review the draft written correspondence before the CUPA distributes it to the UST facility owner(s) or operator(s) identified as incorrectly utilizing the overfill prevention equipment exemption.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

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

By the 2nd Progress Report, if revisions to the draft written correspondence addressed to the UST facility owner(s) or operator(s) are necessary based on feedback from the State Water Board, the CUPA will revise the written correspondence and will provide the revised written correspondence to CalEPA. If no revisions are necessary, the CUPA will finalize the draft written correspondence and distribute it to UST facility owner(s) or operator(s) identified as incorrectly utilizing the overfill prevention equipment exemption. The CUPA will include the State Water Board as a carbon copy recipient on the correspondence.

By the 3rd Progress Report, if revisions to the written draft correspondence were necessary, the CUPA will finalize the draft written correspondence and distribute it to UST facility owner(s) or operator(s) identified as incorrectly utilizing the overfill prevention equipment exemption. The CUPA will include the State Water Board as a carbon copy recipient on the correspondence.

By the 3rd Progress Report, if appropriate steps have not been taken by the UST owner(s) or operator(s) to remedy the construction violations, the CUPA will apply enforcement. The CUPA will provide CalEPA with documentation of the applied enforcement.

The State Water Board will consider this incidental finding resolved when the CUPA has applied administrative enforcement, or when the UST owner(s) or operator(s) install the correct overfill prevention equipment or secondarily contain the vent and fill piping.

CUPA Response 1:

A letter has been drafted to send to all sites that have been identified as being out of compliance with this requirement. A copy of the letter has been submitted for reference.

A spreadsheet with the list of UST facilities (including the CERS ID and Tank ID), which are incorrectly utilizing the overfill prevention equipment exemption has also been submitted.

Evaluation Team Response 1 [State Water Board]:

The provided Used Oil OPE letter is acceptable. Review of the waste oil tank spreadsheet finds reference to pre-July 1, 1987, installation dates. This exemption described in HSC, Section 25291(a)(7)(E) for tanks installed prior to July 1, 1987, only applies to motor vehicle fueling systems. Ensure all listed waste oil tanks have received the Used Oil OPE letter.

With the next Progress Report, provide an updated spreadsheet, including:

- the date the Used Oil OPE letter was sent to UST facility owner(s) or operator(s) identified as incorrectly utilizing the overfill prevention equipment exemption;

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

- the status of UST owner(s) or operator(s) obtaining compliance with the installation of correct overfill prevention equipment, having secondarily contained the vent and/or fill piping for each UST, or
- the applied enforcement If appropriate steps have not been taken by the UST owner(s) or operator(s) to remedy the construction violations. The CUPA will provide CalEPA with documentation of the applied enforcement.

CUPA Response 2:

Between April and July 2024, the UST facility owner(s) or operator(s) identified as incorrectly utilizing the overfill prevention equipment exemption were notified separately.

A spreadsheet with the list of UST facilities incorrectly utilizing the overfill prevention equipment exemption has been submitted to CalEPA.

Evaluation Team Response 2 [State Water Board]:

The provided spreadsheet is acceptable. Review of the provided spreadsheet and CERS finds:

- Five USTs are identified in the spreadsheet as having had an overfill method installed on the waste oil tanks. As of January 23, 2025, no CERS submittal reflecting this information has been accepted for the following two facilities:
 - CERS ID 10066630
 - CERS ID 10066396
- A notice of violation has been issued to the following facilities for incorrect use of the overfill exemption for single walled vent or fill riser piping:
 - CERS ID 10063678
 - CERS ID 10064050
 - CERS ID 10065466
 - CERS ID 10065502
 - CERS ID 10066027
 - CERS ID 10066051
 - CERS ID 10070869
 - CERS ID 10340770
 - CERS ID 10341334
 - CERS ID 10838962
 - CERS ID 10897885
 - CERS ID 10341529

With the next Progress Report, provide an updated spreadsheet, indicating the status of each UST facility listed above obtaining compliance. If appropriate steps have not been taken by the UST owner(s) or operator(s) to remedy the construction violations, the CUPA will apply enforcement. The CUPA will provide CalEPA with documentation of the applied enforcement.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

CUPA Response 3:

The facilities with CERS IDs 10066630, 10066396, 10070869, and 10897885 have completed a CERS submittal reflecting that a fill tube shut-off valve has been installed. The used oil tank was removed at the facility with CERS ID 10063678.

The facilities with CERS IDs 10065466, 10341529, 10066027, and 10838962 have installed a fill tube shut-off valve, but the information submitted in CERS needs to be updated. A violation has been cited for "Failure to submit a complete and accurate UST Monitoring Plan."

The facility with CERS ID 10065502 has a permit approved to install a fill tube shut-off valve. The facility with CERS ID 10341334 installed a fill tube shut-off valve on 06/21/2025 and it is pending testing.

Lastly, the facilities with CERS IDs 10064050 and 10066051 were issued a Potential AEO letter on 05/16/2025 and 05/15/2025, respectively; however, they are still out of compliance. The County will continue with the enforcement process for those sites.

Evaluation Team Response 3 [State Water Board]:

Review of the provided summary finds all facilities identified above have been addressed to either correct the information in CERS, install correct overfill, or have been issued enforcement actions. This Incidental Finding is considered closed. In the next evaluation, the State Water Board will review facilities issued enforcement orders to ensure compliance has been achieved.

4. INCIDENTAL FINDING: CLOSED

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

Review of the UST Facility/Tank Data Download and the UST Facility Search reports obtained from CERS on May 18, 2023, finds the following:

- UST monitoring and construction information is incorrect for the following single-walled USTs:
 - 20 of 86 (23%) list "Yes" for continuous electronic tank monitoring
 - 5 of 16 (31%) list mechanical line leak detectors for pressurized piping
 - 16 of 16 (100%) are without pipeline integrity testing for pressurized piping
 - 3 of 3 (100%) with gravity piping installed on or before July 1, 1987, do not have pipeline integrity testing every 24 months
 - 12 of 32 (38%) listed piping as "Yes" for continuous secondary monitoring.
 - 6 of 11 (55%) steel USTs are not marked as "Steel+Internal Lining" or "Steel + Bladder" under "Tank Construction."

- 149 inconsistent uses of the "Type of Action" reporting element for tanks that have changed ownership. The following are examples:
 - CERS ID 10130410 and CERS ID 10836580 are listed as "Split Facility," however, both facilities list the following USTs:
 - CERS UST tank ID 10130410-001, -002, -003

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

- CERS ID 10066147 is listed as “Confirmed/Updated Information” and CERS ID 10890004 is listed as “Split Facility,” however, both facilities list the following USTs:
 - CERS UST tank ID 10066147-001, -002, -003
- CERS ID 10065691 is listed as “Confirmed/Updated Information” and CERS ID 10901719 is listed as “New Permit,” however, both facilities list the following USTs:
 - CERS UST tank ID 10065691-001, -002, -003, -004
- CERS ID 10121845 and CERS ID 10741978 are located at the same address with the following USTs:
 - CERS UST tank ID 10121845-001, -002, -003
 - Installed January 1, 1997, closed August 16, 2017
 - Facility is listed as “UST Permanent Closure on Site”
 - CERS UST tank ID 10741978-001, -002, -003
 - Installed January 1, 1997
 - Facility is listed as “Confirmed/Updated Information”
- USTs are reported as “Confirmed/Updated Information” with an accepted closure date in CERS:
 - CERS UST tank ID 10066633-007
 - Closed January 24, 2015
 - CERS UST tank ID 10066534-004
 - Closed August 28, 2019
- UST facilities are reporting as “Applicable” at the same address:
 - CERS ID 10899046
 - CERS ID 10066525

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

Note: This Incidental Finding was identified as a deficiency in the 2018 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

Note: The following CERS Frequently Asked Questions (FAQs) guidance documents and State Water Board correspondence may be referenced, and are available in CERS and at www.waterboards.ca.gov/ust/cers/faqs.html:

- Common CERS Reporting Errors
- Setting Accepted Submittal Status
- General Reporting Requirements for USTs
- Which Forms Require Uploading to CERS
- When to Review Underground Storage Tank (UST) Records, dated November 29, 2016

CITATION:

CCR, Title 23, Sections 2636(a)(3) and (e), 2634(d)(2), 2641(g) and (h), 2662(c), and 2711(d) [State Water Board]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

RESOLUTION: COMPLETED

By the 1st Progress Report, the CUPA will review, and revise as necessary, the Data Management Procedure, or other applicable procedure, to ensure establishment of a process for UST inspection staff to review CERS UST submittal information regarding construction monitoring requirements for accuracy and completeness before being accepted in CERS. The procedure will, at minimum, include the following:

- When CERS UST submittal information is identified as correct, the submittal will be accepted;
- When CERS UST submittal information is identified as incorrect, the submittal will be:
 - accepted with minor errors using a condition set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe or;
 - not accepted with comments provided requiring resubmittal within a specified time.
 - When CERS UST submittal information is not corrected and resubmitted within the timeframe specified, enforcement will be applied per the I&E Plan.
- Resolving duplicate USTs due to Applicability and reporting status.

The CUPA will provide the revised Data Management Procedure, or other applicable procedure to CalEPA. The CUPA will contact the State Water Board for any assistance needed.

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

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

By the 4th Progress Report, and with each subsequent Progress Report until considered corrected, the State Water Board will review five UST submittals accepted by the CUPA in

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

CERS after UST inspection staff receive training on the revised or amended Data Management Procedure, or other applicable procedure.

CUPA Response 1:

Internal Policy No: UST-01 describes the process for UST inspection staff to review CERS UST submittal information regarding construction monitoring requirements for accuracy and completeness before being accepted in CERS. This policy also discusses the procedures for closing USTs and how to deal with ownership changes to avoid duplicate tank records. This policy has been provided for reference.

Evaluation Team Response 1 [State Water Board]:

The provided Internal Policy No: UST-01 is acceptable. With the next Progress Report, train UST inspection staff and implement the revised policy. The State Water Board will review five UST submittals accepted by the CUPA in CERS after UST inspection staff receive training on the revised or amended Data Management Procedure, or other applicable procedure.

CUPA Response 2:

On October 09, 2024, CUPA staff was trained on implementing Internal Policy Nos. UST-01. Training records have been submitted to CalEPA.

Evaluation Team Response 2 [State Water Board]:

Review of UST CERS submittals accepted after October 9, 2024, finds UST construction and monitoring information to be accurate. No instances of the "Split Facility" or "UST Permanent Closure on Site" Tank type of action was recorded in this time. Considering the length of time required to record an instance of ownership change in CERS, this deficiency is considered closed but not corrected. During the next evaluation, confirmation that consistent tank type of actions are in use, will be reviewed.

5. INCIDENTAL FINDING: RESOLVED

The CUPA is not consistently classifying APSA Program violations properly.

Review of CERS CME information between July 1, 2017, and June 30, 2022, indicates the following non-minor violations were classified as minor violations in the following instances:

- Not having, or failure to prepare, a Spill Prevention, Control, and Countermeasure (SPCC) Plan was cited as a minor violation. Facilities that operate without an SPCC Plan present a significant threat to human health or the environment and may benefit economically from noncompliance either by reduced costs or by competitive advantage. This does not meet the definition of a minor violation as defined in HSC, Section 25404(a)(3). In addition, classifying a violation for not having an SPCC Plan as minor is inconsistent with, and less stringent, than the U.S. EPA.
 - FY 2017/2018 through FY 2021/2022: 7 violations

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

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

Note: This incidental finding was identified as a deficiency in the 2018 CUPA Performance Evaluation and was corrected during the Evaluation Progress Report process.

CITATION:

HSC, Chapter 6.11, Sections 25404(a)(3), 25404.2(a)(3)-(4)

HSC, Chapter 6.67, Sections 25270.4.1(c),
25270.4.5(a) CCR, Title 27, Section 15200(a)
[OSFM]

RESOLUTION: COMPLETED

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

- 2020 Violation Classification Guidance for Unified Program Agencies (<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/06/Violation-Classification-Guidance-Document-accessible.pdf>), and
- “U.S. EPA Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998,” which specifies that a no SPCC Plan violation is not considered minor (<https://19january2017snapshot.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998.html>).

CUPA Response 1:

Staff was trained on APSA violation classification on March 20, 2024. The PowerPoint and roster for that training has been provided.

Evaluation Team Response 1 [OSFM]:

The training documents are acceptable. This Incidental Finding is considered resolved.

6. INCIDENTAL FINDING: RESOLVED

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

The following Unified Program administrative procedures are incomplete:

- Public Participation
 - Procedure to coordinate, consolidate, and make consistent locally required public hearings and notices related to any Unified Program element.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

- The “Public Participation” procedure, included within the annual Self-Audit Report, only addresses public notices related to the CalARP Program. The section of the report does not identify a procedure for coordinating, consolidating, and making consistent locally required public hearings and notices related to any Unified Program element.
- Records Maintenance
 - Identification of records maintained
 - The CUPA has not identified the following documents as being retained for the minimum retention time of five years: all records related to hazardous waste enforcement actions from the date the enforcement action is resolved, detailed records used to produce the summary reports submitted to the state, surcharge billing and collection records following the closure of any billing period, and training records required by CCR, Title 27, Section 15260.
 - Proper disposal methods
 - The “San Mateo CUPA Document Retention” procedure does not identify disposal methods.

The following Unified Program administrative procedures have components that are inaccurate:

- Information, Collection, Retention and Management
 - The Data Management Procedure document is inaccurate as follows:
 - Page 1 states: “Per CCR 15185(c) the CUPA shall retain copies of self- audits, inspection reports, enforcement files and UPCFs for a minimum of five years.”
 - The correct citation is 15185(b)
 - Page 2 states: “Per CCR 15185(f) the CUPA does not collect any locally required supplemental information, at this time.”
 - The correct citation is 15185(e)(3)

CITATION:

CCR, Title 27, Sections 15180(e), 15185(b) and (f), 15190, 15210 and 15220 [CalEPA]

RESOLUTION: COMPLETED

During the evaluation, the CUPA revised the following incomplete and inaccurate components of the Unified Program administrative procedures:

- Records Maintenance
- Information, Collection, Retention and Management

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

By the 2nd Progress Report, if amendments to the revised Unified Program administrative procedures, 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. Once training is complete, the CUPA will implement the revised Unified Program administrative procedures.

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

CUPA Response 1:

Internal Policy No: CUPA-10 addresses the public participation requirements and has been attached.

Evaluation Team Response 1 [CalEPA]:

Internal Policy No.: CUPA-10 includes methods the CUPA uses to distribute and post public notices, which include posting on the website, sending emails, physical mailers, posting on social media, newspaper ads, etc., for all Unified Program elements. However, the Internal Policy No.: CUPA-10 does not adequately discuss how the CUPA coordinates, consolidates, and makes consistent locally required public hearings related to any Unified Program element.

CUPA Response 2:

Internal Policy No: CUPA-10 has been revised to address the public participation requirements and has been submitted to CalEPA.

Evaluation Team Response 2 [CalEPA]:

Internal Policy No.: CUPA-10 has been revised to discuss how the CUPA coordinates, consolidates, and makes consistent locally required public hearings. This incidental finding is considered resolved.

7. INCIDENTAL FINDING: RESOLVED

The CUPA is not consistently ensuring RTC is obtained for cited HWG Program violations within 30 days.

Review of CERS CME information between January 1, 2020, and December 31, 2022, finds:

- RTC was not obtained within 30 days of being cited for the following minor violations:
 - 2,284 obtained RTC over 35 days
 - 1,708 obtained RTC over 90 days
 - CERS ID 10647262
 - Inspection dated December 23, 2020, cites violations.
 - The facility did not obtain RTC.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

- No follow-up actions are noted in the data management system or facility file.
- CERS ID 10071769
 - Inspection dated November 20, 2020, cites violations.
 - CERS indicates RTC was obtained on November 15, 2021, which is beyond the scheduled RTC timeframe.
 - No follow-up actions are noted in the data management system or facility file.
- CERS ID 10064008
 - Inspection dated December 20, 2020, cites violations.
 - CERS indicates RTC was obtained on April 9, 2021, which is beyond the scheduled RTC timeframe.
 - No follow-up actions are noted in the data management system or facility file.

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

CITATION:

HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25187.8(b) and (g)

HSC, Chapter 6.7, Section 25288(d)

HSC, Chapter 6.11, Section 25404.1.2(c)

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

[DTSC]

RESOLUTION: COMPLETED

By the 1st Progress Report, and with each subsequent Progress Report until considered corrected, the CUPA will provide CalEPA with a sortable spreadsheet obtained from the CUPA's data management system or CERS that includes at minimum the following information for each HWG facility with an open violation (no RTC) cited between January 1, 2020, and December 31, 2022:

- Facility name;
- CERS ID;
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date (when applicable);
- RTC qualifier; and
- In the absence of obtained RTC, a narrative of any applied enforcement or follow-up activity to ensure the facility obtains RTC. The CUPA is encouraged to ensure the I&E Plan is implemented to pursue compliance at facilities.

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

CUPA Response 1:

A spreadsheet listing the violations requested and the follow up activities and enforcement status has been provided. We will continue to work on closing all violations and following enforcement according to our Enforcement plan.

Evaluation Team Response 1 [DTSC]:

The provided spreadsheet includes all requested elements, as well as follow-up actions taken by the CUPA to ensure facilities obtain RTC. The CUPA's efforts to close open violations is acknowledged. With the next Progress Report, provide an updated spreadsheet.

CUPA Response 2:

An updated spreadsheet listing the requested violations, follow-up activities, and enforcement status has been submitted to CalEPA. We will continue to work on closing all violations and following enforcement according to our Enforcement plan.

Evaluation Team Response 2 [DTSC]:

Review of CERS CME information on December 12, 2024, finds that 5,160 of 5,446 (95%) violations cited between January 1, 2020, and December 31, 2022, have returned to compliance.

The provided spreadsheet includes follow-up actions taken by the CUPA to ensure facilities obtain RTC, along with each facility's enforcement status. This incidental finding is considered resolved.

8. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The 2021 area plan is missing required elements.

Review of the 2021 area plan finds the following required elements are missing:

- Provisions for training of emergency response personnel in the following areas:
 - Emergency procedures for first response to pesticide drift exposure incidents
 - Procedures for access to mutual-aid resources
 - Identification of medical facilities capable of providing treatment appropriate for hazardous material incidents, to include pesticide drift exposure incidents
 - Evacuation plans and procedures
 - First-aid procedures for hazardous material incidents, including pesticide exposure
 - Informing the public during emergencies.
- Provisions for evacuation plans that provide for in the following areas:
 - Properties of hazardous materials, such as quantity, concentration, vapor pressure, density, and potential health effects.
 - Possible release scenarios.
 - Facility characteristics, topography, meteorology, and demography of potentially affected areas.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

CITATION:

HSC, Chapter 6.95, Section 25503(c)
CCR, Title 19, Sections 2640 and 2642 through 2648
[CalEPA]

RESOLUTION: COMPLETED

An updated area plan was provided that included the missing required elements. This Incidental Finding is considered resolved.

9. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The California Accidental Release Prevention (CalARP) Dispute Resolution Process is missing a required element.

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

- Procedures that require the CUPA to render a written decision within 120 days after the owner or operator of a stationary source initiates the dispute resolution process.

CITATION:

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

RESOLUTION: COMPLETED

An updated area plan was provided that included the missing required elements. This Incidental Finding is considered resolved.

10. INCIDENTAL FINDING: RESOLVED DURING EVALUATION

The Self-Audit Reports for FYs 2019/2020, 2020/2021, and 2021/2022, are missing a required component.

The following component is missing:

- The annual review and update of the fee accountability program as required by CCR, Title 27, Section 15220
 - The "Summary of the Fee Accountability Annual Review" section of the Self-Audit Reports for the last three FYs contains information that is not specific to each FY. This section should include a discussion of the annual review and update of the fee accountability program specific to the previous FY.

CITATION:

CCR, Title 27, Section 15280
[CalEPA]

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CERTIFIED UNIFIED PROGRAM AGENCY
EVALUATION PROGRESS REPORT #3

RESOLUTION: COMPLETED

During the evaluation, the CUPA provided CalEPA with the Self-Audit Report for FY 2022/2023 which includes all required components, including the annual review and update of the fee accountability program. This Incidental Finding is considered resolved.