



Edmund G. Brown Jr.  
Governor

Matthew Rodriguez  
Secretary for Environmental Protection

Certified Mail: 7015 1730 0001 0036 5223

March 25, 2016

Mr. Matthew Constantine, Director  
Kern County Environmental Health Services  
2700 M Street, Suite 300  
Bakersfield, California 93301

Dear Mr. Constantine:

On February 19, 2016, the California Environmental Protection Agency (CalEPA), the Department of Toxic Substances Control, the California Office of Emergency Services, the CAL FIRE - Office of the State Fire Marshal, and the State Water Resources Control Board completed a Unified Program evaluation of the Kern County Environmental Health Services Department Certified Unified Program Agency (CUPA). The evaluation comprised of remote assessment and oversight inspections.

Upon closing of the evaluation, the Unified Program Evaluation Team (team) developed a preliminary Summary of Findings, which identified program deficiencies and provided corrective actions with timeframes for correction. Program observations, recommendations and examples of outstanding implementation were also noted.

Enclosed, please find the final Summary of Findings. Based upon review and completion of the evaluation, the implementation and performance of the Unified Program by the CUPA is considered to be satisfactory with improvements needed.

Deficiency Progress Reports are due every 90 days from the completion of the evaluation to document progress of the CUPA towards correcting identified deficiencies. The first Deficiency Progress Report is due May 19, 2016. Submittal of Deficiency Progress Reports is required until all identified deficiencies have been corrected. Each Deficiency Progress Report should be emailed as a Microsoft Word document file to the team lead, [kareem.taylor@calepa.ca.gov](mailto:kareem.taylor@calepa.ca.gov).

The final Summary of Findings and Deficiency Progress Reports will be posted at:

<http://cersapps.calepa.ca.gov/Public/Directory/CUPAEvaluationDocuments>

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During the evaluation, CalEPA also noted the CUPA has worked to bring about a number of local program innovations, including the use of an electronic return-to-compliance dashboard and a Performance Incentive Program.

Thank you for your continued commitment to the protection of public health and the environment through the implementation of the Unified Program.

If you have any questions or need further assistance, please contact the team lead, Kareem Taylor, at (916) 327-9557 or John Paine, Unified Program Manager, at (916) 327-5092.

Sincerely,

Original signed by Jim Bohon

Jim Bohon  
Assistant Secretary for Local Program Coordination and Emergency Response

Enclosure

cc's sent via email

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Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

Mr. Kareem Taylor  
Unified Program Evaluation Team Lead  
California Environmental Protection Agency

## CERTIFIED UNIFIED PROGRAM AGENCY

### FINAL SUMMARY OF FINDINGS

<b>EVALUATION YEAR:</b>	<b>2016</b>	<b>REVIEW PERIOD:</b>	<b>October 2015 - February 2016</b>	<b>ISSUANCE DATE:</b>	<b>March 25, 2016</b>
<b>CUPA:</b>	Kern County Environmental Health Division				
<b>EVALUATION TEAM MEMBERS:</b>	<b>CalEPA Team Lead</b>	<b>DTSC</b>	<b>Cal OES</b>	<b>State Water Board</b>	<b>CAL FIRE - OSFM</b>
	Kareem Taylor	Asha Arora	Denise Gibson	Lisa Jensen	Jennifer Lorenzo

This **FINAL SUMMARY OF FINDINGS** includes:

- deficiencies identified during the evaluation
- program observations and recommendations
- examples of outstanding program implementation

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA are considered to be:

### **Satisfactory with improvements needed**

Questions or comments regarding this evaluation should be directed to **Kareem Taylor**.

The CUPA is required to submit a **Deficiency Progress Report every 90 days** from the date the evaluation is completion, until all deficiencies have been acknowledged as corrected.

Each **Deficiency Progress Report** must include a narrative stating the correction of *all* deficiencies identified in the Summary of Findings evaluation report.

**Deficiency Progress Report submittal dates for the first year following the evaluation are as follows:**

**Update 1: May 19, 2016**

**Update 2: August 19, 2016**

**Update 3: November 21, 2016**

**Update 4: February 21, 2017**

**Each Deficiency Progress Report must be submitted to the CalEPA Team Lead.**

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## CERTIFIED UNIFIED PROGRAM AGENCY

### EVALUATION: **FINAL SUMMARY OF FINDINGS**

#### DEFICIENCIES IDENTIFIED DURING EVALUATION

1.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not consistently following-up and documenting return to compliance (RTC) for facilities cited with violations in Notices to Comply, Notices of Violation, or inspection reports.</p> <p>CalEPA's review of compliance , monitoring, and enforcement data in the California Environmental Reporting System (CERS) shows that, for fiscal year (FY) 2014/2015, there is a high percentage of routine inspections that have open violations.</p> <ul style="list-style-type: none"><li>• Hazardous Materials Business Plan (HMBP): 194 (35%) out of 558 inspections have open violations.</li><li>• Underground Storage Tank (UST): 66 (35%) out of 189 inspections have open violations.</li><li>• Aboveground Petroleum Storage Act (APSA): 60 (51%) out of 117 inspections have open violations.</li><li>• Hazardous Waste Generator (HWG): 81 (39%) out of 209 inspections have open violations.</li><li>• Tiered Permit: 2 (100%) out of 2 inspections have open violations.</li></ul> <p>The FY 2014/2015 violation data provided by the CUPA shows that 620 or 26% of 2377 violations remain open. 1757 violations are closed.</p> <p>The CUPA is not consistently following-up and documenting RTC for APSA tank facilities cited with violations. OSFM's review of CERS data shows that 154 (41%) out of 369 APSA violations did not have an RTC date documented:</p> <ul style="list-style-type: none"><li>• 4 in 2013 (1 Class I and 3 Class II violations);</li><li>• 33 in 2014 (31 Class II and 2 Minor violations); and</li><li>• 117 in 2015 (5 Class I, 101 Class II and 11 Minor violations).</li></ul> <p>Also, OSFM's review of CERS data shows that only 1</p>	<p>By May 19, 2016, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of the total number of facilities that have open violations. At minimum, the spreadsheet will include:</p> <ul style="list-style-type: none"><li>• facility name, address,</li><li>• CERS ID number,</li><li>• Facility ID number (if applicable),</li><li>• inspection and violation dates,</li><li>• scheduled RTC date,</li><li>• actual RTC date,</li><li>• RTC qualifier and</li><li>• follow-up actions.</li></ul> <p>By August 19, 2016, and with each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the RTC tracking spreadsheet.</p> <p>By November 21, 2016, the CUPA will provide CalEPA with a copy of RTC documentation for (3) facilities requested by each state agency during the previous quarter.</p>

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<p>formal enforcement (administrative) was initiated in 2015 for a facility cited for a Class II violation in 2014. This facility (CERS ID Number 10234990) returned to compliance on January 21, 2016. Other than issuing Notices of Violations, no other enforcement actions were initiated against the other facilities cited for Class I and ongoing Class II violations.</p> <p>Of the APSA tank facilities with open violations, 52 facilities were cited for not having a Spill Prevention Control and Countermeasure (SPCC) Plan. Additional information provided by the CUPA in January 2016 indicated the status of the 52 facilities with no SPCC Plans:</p> <ul style="list-style-type: none"><li>• 9 facilities have returned to compliance;</li><li>• Formal enforcement was initiated against one facility;</li><li>• SPCC Plans from 2 facilities are pending;</li><li>• 1 facility's tanks will be reevaluated; and</li><li>• Remaining 39 facilities are noted as the CUPA "working on RTC."</li></ul> <p><b>CITATION:</b></p> <p>CCR, Title 27, Section 15200(a) CCR, Title 27, Section 15185(a) and (c) [CalEPA, DTSC, OSFM]</p>	
<p><b>2. DEFICIENCY:</b></p> <p>The CUPA is not consistently requiring facilities to submit UST testing and leak detection documents.</p> <p>The following documents, which are required to be submitted within 30 days of testing, could not be found by State Water Resources Control Board (State Water Board) in CERS or submitted files. The following are examples of a few missing documents:</p> <ul style="list-style-type: none"><li>• Triennial UST secondary containment testing;</li><li>• Annual UST monitoring certifications;</li><li>• Tank and line integrity tests; and</li><li>• Enhanced leak detection (ELD) certifications.</li></ul> <p>Below are some examples of facilities with missing</p>	<p><b>CORRECTIVE ACTION:</b></p> <p>From this point forward, in accordance with regulation, the CUPA will require owners and operators to submit the appropriate UST testing and leak detection documents. In accordance with regulation, the CUPA will also require owners and operators to comply with timely submittal of these documents.</p> <p>By May 19, 2016, the CUPA will develop outreach program materials and submit them to CalEPA for approval. In the submittal to CalEPA, the CUPA will outline how and when it will provide the outreach materials to the</p>

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<p>testing information:</p> <ul style="list-style-type: none"> <li>• 10230649 Sully's Chevron (Olive) 5201 Olive Dr.</li> <li>• 10230718 Flyers #223 2023 W Mettler Frontage Rd.</li> <li>• 10165907 7-Eleven Inc #22647 12916 Rosedale Hwy.</li> </ul> <p><b>CITATION:</b></p> <p>CCR, Title 23, Section 2637(e)  CCR, Title 23, Section 2638(d)  CCR, Title 23, Section 2643(g)  CCR, Title 23, Section 2644.1(a)(5) [State Water Board]</p>	<p>regulated community (both owners/operators and testers). The outreach materials must explain the requirement to submit the appropriate UST testing and leak detection documents in the timeframe required by Regulation.</p> <p>By August 19, 2016, the CUPA will have completed the distribution of outreach materials so the regulated community is notified of the requirements to submit appropriate UST testing and leak detection documents. The CUPA shall send CalEPA a final copy of the outreach program materials and a list of businesses the materials were sent to.</p> <p>This Deficiency will be considered corrected once there is consistent documentation over a one-year period showing the appropriate documents are being submitted, submitted in a timely manner, reviewed by International Code Council (ICC) certified staff, and retained by the CUPA.</p>
<p><b>3. DEFICIENCY:</b></p> <p>The CUPA is not requiring UST facilities to implement periodic ELD testing or enforcing the Request for Reconsideration (RFR) due to proximity to public drinking water wells.</p> <p>State Water Board records show that 4 out of 75 notified UST facilities did not conduct and submit documentation for the required ELD testing or submit an RFR application.</p> <p>State Water Board has provided the CUPA with copies of the formal notification letters and noncompliance letters to implement required ELD testing.</p> <p>Note: If a UST owner/operator believes they are not within 1,000 feet of a public drinking water well, an</p>	<p><b>CORRECTIVE ACTION:</b></p> <p>By May 19, 2016, the CUPA will notify UST facility owners/operators and inform them that ELD testing or submission of the RFR application is required. The notification letters shall include language stating noncompliance may lead to administrative or other formal enforcement measures. The CUPA will copy CalEPA on this communication to document that notification has been accomplished for all identified facilities.</p> <p>In addition to the notification letters, during the next annual UST compliance inspection, if ELD testing has not been implemented or the</p>

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<p>RFR application must be submitted to the State Water Board. The application can be found at: <a href="http://www.waterboards.ca.gov/ust/eld/index.shtml">http://www.waterboards.ca.gov/ust/eld/index.shtml</a>. Once received from the UST owner/operator, the State Water Board will make a final determination whether or not ELD testing is required.</p> <p><b>CITATION:</b> HSC, Chapter 6.7, Section 25292.4 and 25292.5 CCR, Title 23, Section 2644.1 <b>[State Water Board]</b></p>	<p>RFR application has not been submitted, the CUPA shall cite the owner/operator for a violation.</p>
<p><b>4. DEFICIENCY:</b></p> <p>The CUPA is not following-up with UST owners/operators that have submitted incomplete or inaccurate UST information in CERS.</p> <p>State Water Board review of CERS submittals finds, the CUPA is accepting incomplete or inaccurate UST related fields. A few examples of incomplete or inaccurate data fields accepted are as follows:</p> <ul style="list-style-type: none"> <li>Records missing Tank Installation dates;</li> <li>Records with no Tank Overfill Protection; and</li> <li>Records with double-wall product pipe missing the primary pipe information.</li> </ul> <p>In accordance with the State Water Board published guidance "Setting Accepted Submittal Status," the accepted submittals have complete regulator comments on what needs to be revised but it appears the CUPA is not following up and ensuring the owner/operator resubmits this information.</p> <p><b>CITATION:</b> CCR, Title 27, Section 15185(a) CCR, Title 27, Section 15188(c) HSC, Chapter 6.11, Section 25404(a)(1)(C) <b>[State Water Board]</b></p>	<p><b>CORRECTIVE ACTION:</b></p> <p>By May 19, 2016, the CUPA will revise, implement, and submit to CalEPA, a procedure to ensure only accurate and complete UST information is submitted in CERS prior to acceptance. The procedure will include, but not be limited to, the following steps for accepting CERS submittals:</p> <ul style="list-style-type: none"> <li>If staff "accept" submittals with minor errors, a condition is set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe;</li> <li>If the submittal is not corrected, staff will change the submittal status from "accepted" to "not accepted"; and</li> <li>How staff will determine if UST fields are complete and accurate.</li> </ul> <p>With respect to data already submitted to CERS and accepted by the CUPA, the CUPA will review UST related fields and require complete and accurate submittals for each facility no later than the due date of the next annual UST compliance inspection.</p>
<p><b>5. DEFICIENCY:</b></p> <p>The CUPA is not properly reviewing, processing, and</p>	<p><b>CORRECTIVE ACTION:</b></p> <p>By May 19, 2016, the CUPA will review and</p>



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<p>authorizing each annual Onsite Hazardous Waste Treatment Notification for facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.</p> <p>During the 45-day review process, the CUPA must:</p> <ul style="list-style-type: none"> <li>• Authorize operation of the FTU;</li> <li>• Deny authorization of the FTU in accordance with Permit-by-Rule laws and regulations; or,</li> <li>• Notify the owner/operator that the notification submittal is inaccurate or incomplete.</li> </ul> <p>CERS data indicates that 1 of 2 Onsite Hazardous Waste Treatment Notifications were not reviewed by the CUPA within 45 days.</p> <p>Out of the 11 facility submittals reviewed in CERS, DTSC identified 7 facilities that indicated on their CERS activity page they are conducting treatment of hazardous wastes, however there was no Onsite Hazardous Waste Treatment Notification submitted to the CUPA. According to the CUPA, several facilities have incorrectly reported in CERS as Onsite Hazardous Waste Treatment. The actual number of Onsite Hazardous Waste Treatment facilities is 5.</p> <p><b>CITATION:</b></p> <p>CCR, Title 22, Section 67450.3(c)(1) CCR, Title 22, Section 67450.2 (b)(4) <b>[DTSC]</b></p>	<p>process all pending Onsite Hazardous Waste Treatment Notifications in CERS and notify CalEPA of their progress. The CUPA will also follow-up with all facilities required to submit an Onsite Hazardous Waste Treatment Notification.</p> <p>By August 19, 2016, the CUPA will update CalEPA on the status of each facility required to submit an annual Onsite Hazardous Waste Treatment Notification into CERS. The update will include the following for each facility:</p> <ul style="list-style-type: none"> <li>• Has the Onsite Hazardous Waste Treatment Notification been submitted?</li> <li>• Has the CUPA reviewed, processed, and authorized the Onsite Hazardous Waste Treatment Notification?</li> <li>• Did the CUPA review the Onsite Hazardous Waste Treatment Notification within 45 days?</li> </ul>
<p><b>6. DEFICIENCY:</b></p> <p>The CUPA is not ensuring that all businesses electronically submit a complete hazardous materials business plan annually to the statewide information management system.</p> <p>The OSFM's review of CERS shows that 1,008 (30%) of 3,419 hazardous materials facilities do not have a current chemical inventory and 84 (2%) do not have any chemical inventory submittal.</p>	<p><b>CORRECTIVE ACTION:</b></p> <p>By May 19, 2016, the CUPA will develop, and submit to CalEPA, a list of all regulated businesses that have not submitted their complete business plan annually.</p> <p>By February 21, 2017, the CUPA will follow-up with each regulated business identified on the list to ensure a complete business plan is submitted or initiate appropriate enforcement</p>

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		actions against businesses that have not submitted a complete business plan within 30 days.
	<b>CITATION:</b>	
	HSC, Chapter 6.95, Section 25508(a) 2013 CFC, Chapter 50, Section 5001.5.2 [Cal OES, OSFM]	With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance.
<b>7.</b>	<b>DEFICIENCY:</b>	<b>CORRECTIVE ACTION:</b>
	The CUPA did not submit formal enforcement summaries for each formal enforcement case that received a final judgment. The CUPA did not submit a formal enforcement summary for 52 Administrative Enforcement Order cases reported in CERS.  Before completion of the evaluation report, the CUPA submitted 14 enforcement summaries to CalEPA.	By May 19, 2016, the CUPA will determine the number of formal enforcement cases that the CUPA has not submitted a formal enforcement summary for. The CUPA will provide CalEPA with a formal enforcement report for each of those cases.
	<b>CITATION:</b>	
	CCR, Title 27, Section 15290(c) [CalEPA]	

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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### EVALUATION: **FINAL SUMMARY OF FINDINGS**

#### OBSERVATIONS AND RECOMMENDATIONS

*The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.*

<b>1. OBSERVATION:</b>  On February 2 and 3, 2016, State Water Board witnessed the Kern County CUPA conduct 2 annual UST compliance inspections. On February 2, 2016, the inspection took place at U.S. Hendy Oil, INC. located at 16825 Highway 14, Mojave. On February 3, 2016, the inspection took place at Freeway Express Mart located at 1061 Mettler Frontage Road W, Bakersfield.  The CUPA's attention to detail and knowledge of statute and regulations regarding UST design, construction, and operation, resulted in complete and thorough annual UST compliance inspections. The State Water Board asked questions regarding inspection preparation, closing out inspections, and citing violations and finds that CUPA staff are consistently implementing the inspection procedures.  <b>RECOMMENDATION:</b>  State Water Board recommends the CUPA continue its training process so that staff continue to maintain consistency in implementing of the Unified Program.
<b>2. OBSERVATION:</b>  State Water Board review of the CUPA's revised "Inspection Performance Standards (Excluding CalARP)" document dated "1.2016" finds conflicting procedures for conducting facility inspections (page 9). One sentence states, "During this inspection, the inspector must request the owner/operator open the various components of the UST system for the routine inspection." The very next sentence states, "If the inspector has reason to suspect that there are problems with the UST system, then they are to request and coordinate with the facility owner/operator an ICC Certified Service Technician to meet them at the facility to expose the UST system for inspection at the earliest convenience."  <b>RECOMMENDATION:</b>  State Water Board recommends the CUPA revise the section regarding "facility inspections" on page 9 so that the procedures for UST routine inspections are consistent whether or not an inspector suspects a problem with the UST system.
<b>3. OBSERVATION:</b>  DTSC reviewed HWG and Tiered Permit inspection reports and finds that the CUPA is not documenting the facility Environmental Protection Agency identification (EPA ID) number on all inspection reports.  <b>RECOMMENDATION:</b>  DTSC recommends that the CUPA include the facility EPA ID number on all HWG and Tiered Permit inspection reports.

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### EVALUATION: **FINAL SUMMARY OF FINDINGS**

#### OBSERVATIONS AND RECOMMENDATIONS

<b>4.</b>	<p><b>OBSERVATION:</b></p> <p>Based on DTSC's file review, some CUPA staff do not take photographs to document all violations during inspections.</p> <p><b>RECOMMENDATION:</b></p> <p>DTSC strongly recommends that the CUPA staff take photographs to support violations noted.</p>
<b>5.</b>	<p><b>OBSERVATION:</b></p> <p>DTSC witness the CUPA conduct 2 HWG inspections with 2 different inspectors. For both inspections, the inspectors were well-prepared, developed rapport with facility staff, obtained consent, documented findings and conducted a thorough inspection. Both inspectors were very knowledgeable and seasoned professionals.</p> <p>The first inspection was at Lone Star Frac, a Tiered Permit facility. The company takes natural gas and refines it into butane for industrial applications and propane for retail distribution. This facility has a Conditional Authorization Treatment permit for the neutralization of an acid waste stream. The inspector conducted a thorough records review and noted 1 tank assessment violation.</p> <p>The second facility inspected was at Taft Manufacturing, a Large Quantity Generator that produces Acroline for agricultural and industrial uses. The inspector conducted a thorough records review and site walk through. The inspector documented part of the inspection using photographs with detailed notes. There were no violations noted during this inspection.</p> <p><b>RECOMMENDATION:</b></p> <p>DTSC recommends that the CUPA use experienced inspectors, such as the two inspectors witnessed by DTSC, to mentor newer staff to ensure consistency of inspections and to provide institutional knowledge of the HWGs regulated. Kern County has a diverse group of facility types and can benefit from experienced inspectors sharing their experiences inspecting very complex facilities.</p>
<b>6.</b>	<p><b>OBSERVATION:</b></p> <p>The CUPA's APSA website and the CUPA's "SPCC Matrix &amp; Templates" document contain incorrect information and invalid website links to other resources. The CUPA's APSA inspection checklist also contains incorrect information.</p> <ul style="list-style-type: none"><li>On the CUPA's APSA website, recertification information for facilities required to have an SPCC Plan certified by a professional engineer is incorrect.</li><li>Qualified facility criteria are incorrect on the CUPA's website, "SPCC Matrix &amp; Templates" document, and APSA checklist.</li><li>The link to the US EPA Tier I Qualified Facility SPCC Plan template is incorrect on both the CUPA's APSA website and the CUPA's "SPCC Matrix &amp; Templates" document.</li><li>The link to the Tier II Qualified Facility SPCC Plan template on the CUPA's SPCC Matrix &amp;</li></ul>

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#### OBSERVATIONS AND RECOMMENDATIONS

Templates document is also not valid.

- List of exemptions on the CUPA's SPCC Matrix & Templates document is incorrect.

All SPCC Plans are required to be reviewed and evaluated at least once every five years. Completion of the 5-year review and evaluation must also be documented. Re-certification of the SPCC Plan by a professional engineer is not required unless the 5-year review and evaluation necessitate a technical amendment of the SPCC Plan.

The "qualified facility" criteria are based on the federal SPCC rule. APSA does not define a "qualified facility." Under the federal SPCC rule, an APSA facility must not have had discharges to navigable waters or adjoining shorelines, as described below, in the three years before the SPCC Plan is certified or since becoming subject to the SPCC rule if the facility has been in operation for less than three years:

- A single discharge of oil to navigable waters or adjoining shoreline greater than 1,000 gallons, **OR**
- Two discharges of oil to navigable waters or adjoining shorelines each greater than 42 gallons within any 12-month period.

The phrase "within any 12-month period" applies to the two discharges of oil greater than 42 gallons only. Because the "qualified facility" criteria are based on the federal SPCC rule, all oils (not just petroleum) are considered in the facility's total storage capacity determination. All oil containers (not just petroleum containers) subject to the federal SPCC rule are taken into consideration. All oil discharges (not just petroleum) to navigable waters or adjoining shorelines are considered. Also, a Tier I qualified facility has no individual aboveground oil storage container with a capacity greater than 5,000 U.S. gallons; however, a Tier II qualified facility may have one or more containers greater than 5,000 gallons.

Under APSA, conditionally exempt sites (farms, nurseries, logging or constructions sites) are exempt only from having to prepare and implement an SPCC Plan provided they meet certain conditions. Aboveground storage tanks attendant to oil and gas production are not subject to APSA requirements. Likewise, aboveground storage tanks that are located on an oil-production facility and are not attendant to oil and gas production are subject to APSA.

#### **RECOMMENDATION:**

The OSFM recommends that the CUPA update its APSA website, "SPCC Matrix & Templates" document and APSA inspection checklist for accuracy. Also, update the website links to the SPCC Plan templates found on the CUPA's APSA website and the "SPCC Matrix & Templates" document.

#### **7. OBSERVATION:**

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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Based on a review of the APSA documentation data in CERS, the CUPA is accepting SPCC Plans from APSA tank facilities (CERS ID Numbers 10157283, 10190572, and 10230697).

Based on the CUPA's "CERS Review Protocol," the CUPA allows tank facilities to upload either the SPCC Plan or tank facility statement in CERS, or choose other options ("Stored at Facility" or "Provided Elsewhere in CERS-Hazardous Materials Inventory").

In addition, a tank facility statement with a map denoting the exact location of the tank (CERS ID Number 10152941) and a map of the tank locations of a facility (CERS ID Number 10154991) were also uploaded as APSA documents in CERS.

The APSA documentation user interface in CERS is for the APSA state reporting requirement to file the annual tank facility statement. The tank facility may satisfy this requirement by either uploading a tank facility statement or submitting a hazardous materials business plan in CERS. If the tank facility uses their business plan to meet the APSA tank facility statement, on the APSA documentation user interface in CERS, the tank facility must select the "Provide Elsewhere in CERS" Document Option, select "Hazardous Materials Inventory" option, and save.

The SPCC Plan is not required to be uploaded into CERS and, therefore, SPCC Plans should not be uploaded into CERS.

Instructions are provided on the APSA documentation user interface in CERS. In the CERS Business Portal Help Materials section, there are also two frequently asked questions (FAQ) regarding the filing of SPCC Plans in CERS and the aboveground petroleum tank reporting. OSFM has also written articles in the Unified Program newsletter published by CalEPA regarding this information.

#### **RECOMMENDATION:**

The OSFM recommends that the CUPA, including the inspectors and staff, who review and accept submittals in CERS, review the instructions on the APSA documentation user interface and the two APSA-related FAQs in CERS and update/incorporate the information in the CUPA's "CERS Review Protocol."

Health and Safety Code Section 25270.6(a)(1) requires the location of each aboveground petroleum storage tank exceeding 10,000 gallons in capacity to be provided as part of the tank facility statement. However, consistent with the intent of the Health and Safety Code, Chapter 6.95, Section 25509(b) of the hazardous materials business plan program, CUPAs should ensure that site maps or descriptions that provide the precise location of petroleum storage not be made available to the public.

#### **8. OBSERVATION:**

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## CERTIFIED UNIFIED PROGRAM AGENCY

### EVALUATION: **FINAL SUMMARY OF FINDINGS**

#### OBSERVATIONS AND RECOMMENDATIONS

	<p>The Kern County CUPA's website has a list of California Accidental Release Prevention (CalARP) facilities that includes the name, city, and list of regulated substances found at each site. For a few facilities, the location of the regulated substances within the stationary source is also identified. The location of regulated substances within stationary sources should not be readily available to the public on the CUPA's website.</p>
	<b>RECOMMENDATION:</b>
	<p>Cal OES recommends that the CUPA remove the specific location of regulated substances within the stationary source. Instead, the CUPA may post a statement on their website saying that the public may request information regarding any CalARP facility by contacting the CUPA office.</p>

# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

## CERTIFIED UNIFIED PROGRAM AGENCY

### EVALUATION: **FINAL SUMMARY OF FINDINGS**

#### EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

- 1. Performance Incentive Program** – The CUPA has established a Performance Incentive Program (PIP), which is a voluntary program available to facilities within Kern County that handle hazardous materials. The PIP was developed and implemented to give businesses an incentive to reduce the number of violations at their facilities and, thereby, the risk imposed on the community and environment. Only facilities that store and utilize moderate or extremely hazardous materials are eligible for the PIP. Because of PIP, facilities in FY 2014/2015 had a total permit savings of \$347,325.00, of which 149 facilities qualified for a reduced permit fee and reduced inspection frequency based on their compliance and safety record.
- 2. RTC Dash Board** – The CUPA created an electronic dash board to enable inspection staff and the CUPA manager to quickly assess the current status of both inspections and RTC. The dash board data is obtained directly from the CUPA's database, Envision, and placed into each inspector's homepage. Not only does the dash board provide easy access to the Envision database to view open violations, but it is also a reminder to ensure compliance with those facilities with outstanding violations. Each inspector is also able to determine how they are doing on inspections in the fiscal year. The dash board also displays the number of facilities with open violations that are past 30 days, 60 days, and 1 year old.
- 3. Inspection Frequency** – The CUPA inspects facilities that utilize moderate or extremely hazardous materials at a frequency greater than what is required by law. The mandated inspection frequency for most Unified Programs, except the UST program (annually), is 1 inspection every 3 years. The CUPA inspects facilities that store and utilize moderate or extremely hazardous materials biennially or annually, depending on the volume and type of material. The CUPA's increased inspections ensures that these facilities remain in compliance and are less of a risk to the community and the environment.
- 4. Evaluation Beta Test Participation** – Kern CUPA was 1 of 4 CUPAs to participate in the CalEPA beta test of the new evaluation process. The new evaluation process requires the CUPA to electronically submit, not only the traditionally requested information, but also facility file documents for the facilities selected by the state agencies. Under the new evaluation process, state agencies now review all evaluation information remotely rather than conducting an office visit. CalEPA sent an evaluation notification to the CUPA in October 2015 with a special request for evaluation information to be submitted to CalEPA within 30 days. Per title 27, the CUPA is required to provide requested information within 60 days. However, the CUPA complied with the special request and provided all of the requested information by November 6, 2015 which was within 30 days. The CUPA mailed several thumb drives with the requested information to CalEPA. The thumb drives were segregated by state agency, with each thumb drive containing the information requested by the individual state agency. The CUPA was very cooperative with the beta testing process and provided additional evaluation information that was not originally requested in the evaluation notification. Additional information provided by the CUPA included CalARP facility file



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#### EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

documents and responses to State Water Board evaluation form questions. The CUPA used a web storage application called “Drop Box” to provide additional information. The state agencies accessed Drop Box using a web link provided by the CUPA. CUPA provided useful feedback to help improve the new evaluation process including discussions about:

- The cost incurred to scan evaluation documents; and
- Evaluators’ request for facility file information should have a specific time range (i.e. Information from 2010 through 2015).

5. **Unified Program Resource** – The CUPA has participated in many of Unified Program committees, workshops, and trainings in order to coordinate, consolidate, and make consistent the Unified Program.
- ***CERS 3.0 steering committee meetings*** – The CUPA worked with CalEPA, several state agencies, and the CERS Business User Group to identify project priorities and necessary changes/enhancements to make CERS more efficient and user-friendly. Two CUPA staff worked on this project for approximately 7 months and provided the final proposal to the Data Steering Committee.
  - ***CERS Training with First Responders*** - The CUPA manager provides annual training to local first responders to ensure they are knowledgeable in the use and familiarity of CERS.
  - ***CERS Monthly Workshops*** – The CUPA holds CERS informational workshops for regulated businesses every second Tuesday of the month. This workshop provides an overview of CERS, login, submittal requirements, documents, and the workshop also offers one-on-one assistance for those that need the extra guidance. Additional onsite assistance and outreach workshops have also been conducted throughout the county.
  - ***Annual UST Roundtable Workshop*** - The CUPA has conducted annual UST roundtable workshops for contractors and regulators to convey important information such as upcoming regulations and requirements, testing failures, inconsistencies, constructions, violations, etc.
  - ***Local Emergency Planning Committee (LEPC)*** - The CUPA Manager is involved with the LEPC to ensure active engagement and involvement with planning and training with the community and other first responders in the region. The CUPA hosts the California Specialized Training Institute’s hazardous materials training that is available to 7 counties and their respective first responding agencies (Kern, Tulare, Kings, Fresno, Merced, Madera, and Mariposa).
  - ***Refinery Task Force – Safety Forum Meetings*** - The CUPA has been heavily involved with the new language and structure for the new regulations coming up for the refineries. The CUPA has hosted a number of safety forum workshops providing the community and local refineries with updates together with CalEPA in the central region. The CUPA’s feedback regarding refineries is invaluable because refineries in Kern County are smaller and often times independent. Therefore, Kern refineries have a number of varying and different concerns unrelated to the major refineries in the state.

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#### EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

- ***CalARP Workshop*** - The CUPA facilitated and presented a CalARP workshop for Risk Management Professionals. Stakeholders representing approximately 100 regulated facilities. Topics of interest included commonly cited violations and updates to the CalARP regulations that include the new refinery regulations.
- ***Hazardous Waste Training*** - The CUPA hosted a 2-day hazardous waste training course that was presented by Lion Technology Training. The training was for industry and regulatory agencies and was provided as a result of an enforcement settlement.
- ***Central Valley Chemical Safety Day*** - The CUPA has been involved with the planning and organization of the Central Valley Chemical Safety Day annually since its inception. CUPA staff obtain guest speakers, coordinate with industry, regulating agencies, and first responders. This event is hosted annually to provide chemical safety training to the region's high risk chemical facilities and first responders. Approximately 800 individuals attend this event annually.