

CERTIFIED UNIFIED PROGRAM AGENCY

Deficiency Progress Update Report 2

EVALUATION YEAR:	2016	REVIEW PERIOD:	October 2015 - February 2016	ISSUANCE DATE:	March 25, 2016
CUPA:	Kern County Environmental Health Division				
Post-EVALUATION TEAM MEMBERS:	CalEPA Team Lead	DTSC	Cal OES	State Water Board	CAL FIRE - OSFM
	Kareem Taylor	Kevin Abriol	Denise Gibson	Lisa Jensen	Jennifer Lorenzo
Deficiency Pending	1 – 5				
Deficiencies Corrected	6, 7				
Date Submitted	August 19, 2016				
Next Update Due by	November 21, 2016				

To complete the evaluation process, CUPAs submit Deficiency Progress Reports to CalEPA that explain their progress towards correcting the identified deficiencies. Deficiency Progress Reports are due quarterly after the evaluation date until all deficiencies have been corrected.

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

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<p>The CUPA is required to submit a Deficiency Progress Report every 90 days until all deficiencies have been acknowledged as corrected.</p> <p>Each Deficiency Progress Report must include a narrative stating the progress toward correction of <u>all</u> deficiencies identified in the Summary of Findings evaluation report.</p>	<p>Deficiency Progress Report submittal dates for the first year following the evaluation are as follows:</p> <p style="text-align: center;">Update 1: May 19, 2016 Update 2: August 19, 2016 Update 3: November 21, 2016 Update 4: February 21, 2017</p> <p style="text-align: center;">Each Deficiency Progress Report must be submitted to the CalEPA Team Lead.</p>
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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"> • Hazardous Materials Business Plan (HMBP): 194 (35%) out of 558 inspections have open violations. • Underground Storage Tank (UST): 66 (35%) out of 189 inspections have open violations. • Aboveground Petroleum Storage Act (APSA): 60 (51%) out of 117 inspections have open violations. • Hazardous Waste Generator (HWG): 81 (39%) out of 209 inspections have open violations. • Tiered Permit: 2 (100%) out of 2 inspections have open violations. <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"> • 4 in 2013 (1 Class I and 3 Class II violations); • 33 in 2014 (31 Class II and 2 Minor violations); and • 117 in 2015 (5 Class I, 101 Class II and 11 Minor violations). <p>Also, OSFM's review of CERS data shows that only 1 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</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"> • facility name, address, • CERS ID number, • Facility ID number (if applicable), • inspection and violation dates, • scheduled RTC date, • actual RTC date, • RTC qualifier and • follow-up actions. <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>

<p>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"> • 9 facilities have returned to compliance; • Formal enforcement was initiated against one facility; • SPCC Plans from 2 facilities are pending; • 1 facility's tanks will be reevaluated; and • Remaining 39 facilities are noted as the CUPA "working on RTC." 	
<p>Deficiency Progress Update 1:</p> <p>The CUPA has been diligently working on corrective actions and return to compliance since our last audit in 2012. Currently for FY 2013/2014 there are 32 open violations staff are working on. A total of 3,111 violations were cited. For FY 2014/2015 there are 189 open violations with a total of 2,564 cited violations. Staff is working on closing and completing follow up on their compliance with facilities. And as for the current FY 2015/2016 staff is continuously working to follow up with the businesses on RTCs. Currently there are 506 open violations and a total of 3,329 cited violations. As you review each fiscal year's RTCs, there are a few staff members that are behind on their follow ups. This has been made a priority and have been addressed with them. Attached are 6 reports, broken down by fiscal years. One set contains only open violations. The other is another report ran by fiscal year showing all cited violations.</p> <p>The CUPA is currently assessing the number of facilities that are out of compliance in APSA. In working with the facilities' RTCs, in particular with their SPCC's, our office has had several workshops and individual assistance with their plan. The CUPAs next step is to issue Administrative Enforcement Orders to those that have not complied with the cited violations related to APSA in particular the SPCC. Some of the APSA violations such as the incompatible tanks have been referred to Kern County Fire Department which is the local fire marshal that has authority (California Fire Code) on the permitting and installation of aboveground tanks. Kern County CUPA and the Fire Department has been working with the businesses on this issue.</p> <p>Evaluation Team Response 1 [CalEPA, DTSC, OSFM]:</p> <p>CalEPA: CalEPA acknowledges and accepts the facility violation lists and the CUPA's deficiency status update on the RTC follow-up activities.</p> <p><u>Action Items:</u></p>	

1. Using the facility lists with open violations, please followed-up with each listed facility to ensure RTC.
2. Along with the next progress report, please provide CalEPA with an updated version of the facility lists (open violations lists) that includes RTC dates or the appropriate enforcement actions taken against each facility that has not RTC.

DTSC: DTSC appreciates the efforts the CUPA has done in correcting this deficiency. DTSC reviewed CERS violation data in Kern County from 7/1/2013-3/31/2016 and concluded the following information: The percentage of minor violations in CERS with RTC is 173/201 (86%), the percentage of Class I and Class II violations in CERS with RTC is 803/1073 (71.4%), and the total percentage of all hazardous waste violations in CERS is 976/1274 (76.6%). Please continue your efforts in achieving RTC and we look forward to your next progress report.

OSFM: The OSFM appreciates the CUPA's efforts in holding workshops and providing individual assistance with the tank facilities' SPCC plan; however, this deficiency is still in the process of being corrected. A review of the CERS report generated on May 20, 2016, and the CUPA's RTC tracking documentation showed the following: 93% of APSA violations cited in FY 2013/2014 have RTC; 73% of APSA violations cited in FY 2014/2015 have RTC; and 70% of APSA violations cited in FY 2015/2016 have RTC. In addition, there are 52 tank facilities with no SPCC plans. Please continue to ensure that tank facilities with open violations return to compliance and prioritize those with no SPCC plans. For violations that have been referred to the fire department, please maintain communication and coordination with the fire department. On the next progress report, provide an updated RTC tracking documentation, including any graduated series of enforcement initiated by the CUPA. As a reminder, there is no statutory requirement to submit or upload SPCC plans into CERS. Therefore, please DO NOT request facilities to submit or upload SPCC plans into CERS.

Deficiency Progress Update 2: The CUPA has continued to follow up with open violations. As of today, August 19, 2016, the following violations are still open for their respective fiscal year: FY2013/2014: 37 violations which is 1% of the total cited violations. Some of these violations are the recalcitrant UST sites. FY2014/2015: 188 violations which is 7% of the total cited violations. FY2015/2016: 842 which is 21% of the total cited violations. See attached reports.

The CUPA had intentions of engaging enforcement related to the APSA facilities with no SPCC plans during this reporting quarter. However, due to the Erskine Fire, all CUPA staff and manager were tasked with damage assessments and removal of hazardous waste for debris removal for disaster recovery. The CUPA will issue Administrative Enforcement Orders this quarter for facilities with compliance related citations to SPCC.

Evaluation Team Response 2 [CalEPA, DTSC, OSFM]:

CalEPA: CalEPA acknowledges and accepts the facility violation lists that includes follow-up actions and the CUPA's deficiency status update on the RTC follow-up activities.

CalEPA reviewed the CUPA's CME data in CERS and found the following:

- In FY 2015/2016: 1183 (31%) of 3853 violations remain open.
- In FY 2014/2015: 252 (10%) of 2585 violations remain open.

- In FY 2013/2014: 42 (1%) of 3493 violations remain open.

The CUPA is making good progress following-up with facility that have open violations, particularly in FYs 2014/2015 and 2013/2014. Please continue to ensure compliance by following-up with all facilities with open violations.

Action Items:

1. Using the facility lists with open violations, please followed-up with each listed facility to ensure RTC and, along with the next progress report, provide CalEPA with an updated version of the facility lists (open violations lists) that includes RTC dates or the appropriate enforcement actions taken against each facility that has not RTC.
2. Along with the next progress report, please provide CalEPA with a copy of recent RTC documentation (i.e. re-inspection report, enforcement letter, RTC certification, etc.) for the following facilities CERS IDs: 10232062, 10234810, and 10233685.

DTSC: DTSC appreciates the efforts the CUPA has done in correcting this deficiency. DTSC reviewed CERS violation data in Kern County from 7/1/2013-8/26/2016 and has summarized the following information:

Fiscal Year	RTC/Total Violations	Minor RTC/Minor Violations	Class I & II RTC/Class I & II Violations
13/14	441/446 = 98.8%	94/94 = 100%	347/352 = 98.6%
14/15	358/412 = 86.8%	40/42 = 95.2%	318/370 = 85.9%
15/16	434/710 = 61.1%	75/85 = 88.2%	359/625 = 57.4%
Combined	1233/1568 = 78.6%	209/221 = 94.6%	1024/1347 = 76.0%

DTSC would also like to note that 123 of 221 (55.7%) minor violations returned to compliance within the 30-day regulatory timeframe.

Additionally, DTSC acknowledges the detailed information presented in the PDFs provided by the CUPA which includes RTC narratives of observations and documentation. DTSC will accept an updated version of these PDFs in lieu of the inspection reports requested as part of the corrective action. Please continue your efforts in achieving RTC and we look forward to your next progress report update.

OSFM: This deficiency continues to be in the process of being corrected. A review of the CERS APSA CME report generated on August 30, 2016, and the CUPA's RTC tracking documentation showed the following: 6 (4%) of 135 APSA violations cited in FY 2013/2014 have no RTC (remain open); 38 (22%) of 173 APSA violations cited in FY 2014/2015 have no RTC (remain open), and 154 (51%) of 304 APSA violations cited in FY 2015/2016 have no RTC (remain open).

CUPA is properly escalating to the fire department some of the open violations with no RTC. These include: 2 of the 6 open APSA violations for FY 2013/2014, 11 of the 38 open APSA violations for FY 2014/2015, and 27 of the 154 open APSA violations for FY 2015/2016.

CUPA has identified a strategy for escalating enforcement action via Administrative Enforcement Orders relative to the 44 tank facilities with open violations for no SPCC Plans.

The CUPA's RTC tracking documentation showed that most violations that were referred to the fire department had a Complied on Date set to 30 days after the violation issuance date and an RTC Qualifier of "Not Resolvable". Although the CUPA may have reached the end of their authority to pursue further effective enforcement on these violations, these violations should not be closed out in CERS. For violations that have been referred to the fire department, please maintain communication and coordination with the fire department. The CUPA should schedule and document follow-up communication with the fire department.

Please continue to ensure that tank facilities with open violations return to compliance and prioritize those with no SPCC plans. On the next progress report, provide an updated RTC tracking documentation, a narrative update on follow-up with the fire department in regards to the referred violations, and any graduated series of enforcement initiated by the CUPA, such as the AEOs for no SPCC Plan violations. Also provide the RTC documentation for these three facilities that recently came into compliance with APSA violations: 10231891, 10235188, and 10477123.

Deficiency Progress Update 3: [Enter Update Here](#)

Evaluation Team Response 3 [CalEPA, DTSC, OSFM]:

2.	DEFICIENCY:	CORRECTIVE ACTION:
	<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"> • Triennial UST secondary containment testing; • Annual UST monitoring certifications; • Tank and line integrity tests; and • Enhanced leak detection (ELD) certifications. <p>Below are some examples of facilities with missing testing information:</p> <ul style="list-style-type: none"> • 10230649 Sully's Chevron (Olive) 5201 Olive Dr. • 10230718 Flyers #223 2023 W Mettler Frontage Rd. • 10165907 7-Eleven Inc #22647 12916 Rosedale Hwy. 	<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 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</p>

		<p>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>Deficiency Progress Update 1:</p> <p>During the audit, the CUPA had already planned a workshop for both UST contractors and UST owner/operators. On March 10, 2016, the CUPA hosted our 3rd Annual UST Contractors workshop. There we addressed permitting related issues, testing procedures, equipment findings, installations, removals, modifications, certifications, and of course testing records. In all, a total of 11 different UST testing companies were present at the morning roundtable.</p> <p>That same afternoon, the CUPA hosted a UST workshop for owner/operators. The powerpoint that was presented during the workshop for the owner(s)/operators(s) is attached. Please see slide 98-100 for the section that addresses the necessary need to submit the necessary testing documents within 30 days.</p> <p>Also attached are both sign in sheets and agendas for the two workshops.</p>		
<p>Evaluation Team Response 1 [State Water Board]:</p> <p><u>State Water Board:</u> This deficiency is a work in progress.</p> <p>State Water Board acknowledges the CUPA's submittal of a comprehensive presentation informing owner/operators, contractors and Kern County Environmental Health CUPA staff of the components of a complete and accurate submittal. State Water Board also acknowledges the CUPA's submittal of attendance sheets for each of the two presentations provided and agendas.</p>		
<p>Deficiency Progress Update 2: The CUPA continues to ensure UST testing reports are submitted and saved into our archive.</p>		
<p>Evaluation Team Response 2 [State Water Board]:</p> <p><u>State Water Board:</u> This deficiency is a work in progress.</p> <p>State Water Board acknowledges CUPA statement UST test documentation is being submitted and archived by the CUPA. With the response to the next Progress Report Update, Update 3, November 21, 2016, State Water Board will provide CUPA list of five (5) facilities. With Update 4, February 21, 2017, the CUPA will provide to CalEPA the UST facility file documents, UST facility file documents, including annual UST compliance inspection reports, associated monitoring certifications, spill bucket testing, and any other necessary testing and compliance documentation not found in CERS for the five facilities listed.</p>		
<p>Deficiency Progress Update 3: Enter Update Here</p>		
<p>Evaluation Team Response 3 [State Water Board]:</p>		

3. DEFICIENCY:	CORRECTIVE ACTION:
<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 RFR application must be submitted to the State Water Board. The application can be found at: http://www.waterboards.ca.gov/ust/eld/index.shtml. 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>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 RFR application has not been submitted, the CUPA shall cite the owner/operator for a violation.</p>
Deficiency Progress Update 1: The CUPA sent letters to the (4) four UST facilities notifying them to submit their RFR's to the State Water Board on March 4, 2016. Attached are the 4 (letters).	
Evaluation Team Response 1 [State Water Board]: State Water Board: This deficiency is a work in progress. State Water Board acknowledges the CUPA's submittal of letters sent to the four facilities requiring ELD testing. To date two facilities Sage Mart and California City Airport have submitted, and received approval on, Requests for Reconsideration.	
Deficiency Progress Update 2: The CUPA has received 3 of the 4 approved RFR letters back from the SWB. Ridgecrest Mini Mart 207 N. China Lake Blvd., Ridgecrest is the only remaining UST facility left to send in their RFR letter. The facility is due for its annual monitoring certification in September. Our CUPA staff has been directed to assist the owner/operator in submitting the RFR letter. If by the annual inspection the RFR letter has not been submitted, a violation will be cited.	
Deficiency Progress Update 3: Enter Update Here	
Evaluation Team Response 3 [State Water Board]:	

4. DEFICIENCY:	CORRECTIVE ACTION:
<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"> Records missing Tank Installation dates; Records with no Tank Overfill Protection; and Records with double-wall product pipe missing the primary pipe information. <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>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"> 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; If the submittal is not corrected, staff will change the submittal status from "accepted" to "not accepted"; and How staff will determine if UST fields are complete and accurate. <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>Deficiency Progress Update 1: Amended CERS review protocol and Designated CERS Staff Protocol to indicate that when processing both "Accepted" or "Not Accepted" submittals elements, the status of the submittal will have a 30 day return to compliance for inaccuracies or incompleteness. See attached documents: Designated CERS Staff Protocol 4.2016 and CERS Review Protocol 4.2016.</p>	
<p>Evaluation Team Response 1 [State Water Board]: <u>State Water Board:</u> This deficiency is a work in progress.</p> <p>State Water Board acknowledges the CUPA's submittal of CERS Review Protocol 4.2016 and Designated CERS Staff Processing Protocol 4.2016. CERS Review Protocol states "the submittal status "Not Accepted" is selected for submittal element(s) that are incomplete and/or inaccurate.</p> <p>State Water Board acknowledges the CUPA's submittal of a comprehensive presentation informing owner/operators, contractors and Kern County Environmental Health CUPA staff of the components of a complete and accurate submittal. State Water Board also acknowledges the CUPA's submittal of attendance sheets for each of the two presentations provided and agendas.</p> <p>Review of CERS submittals accepted after 1 April 2016 indicates not all required fields in CERS are completed.</p>	

- CERS IDs 10157975, 10234141 and 10234756: CERS submittals accepted 16 May, have No selected for all forms of Overfill protection. A note from the CUPA states “Accepting Minimal Information to bring in Underground Storage Tank Data” without informing the owner/operator what data is missing, necessary corrective action or a timeline for correction.
- CERS ID 10207234: accepted CERS submittal does not include primary containment construction for double walled pipe.

Action Plan for the CUPA:

The CUPA will provide to CalEPA with the next Progress Report Update:

- Training documentation provided to CUPA staff on CERS Review Protocol 4.2016 and Designated CERS Staff Processing Protocol 4.2016. Training documentation will include, but not be limited to an outline of the training conducted and a list of the CUPA personnel attending training.

Deficiency Progress Update 2: See attached training documentation for CUPA staff reviewing and processing of CERS submittals. The training conducted was a sit down review of the process based off of the procedures and guideline of the documents. CERS training starts with each review staff going into CERS training and creating several businesses, submitting all program elements, and processing submittals in CIW.

In response to SWB Response 1 comment:

CERS ID 10157975 (Johnston Farms Packing and Cold Storage) the UST submittal was ACCEPTED on May 11, 2016 (not May 16, 2016) as indicated by SWB. The comment submitted to the facility was *“Please update the Tank Information pages. Under Overfill Protection, Tank #2 does have a Fill Tube Shut – Off Valve. Please make corrections and resubmit within 30 days. Laurel Funk -661-862-8763 – laurelf@co.kern.ca.us”*. The owner/operator was made aware of the necessary corrections. Facility resubmitted the information on August 16, 2016. The comment made by the SWB “Accepting Minimal Information to bring in Underground Storage Tank Data” was inaccurate for this facility.

CERS ID 10234141 (El Rancho No Got): UST submittal was ACCEPTED on May 16, 2016 and May 17, 2016 with comment: *“Accepting Minimal Information to bring in Underground Storage Tank Data due to the facility not having an owner or operator...it is an illegally abandoned UST facility that is being pursued by the SWB/FedEPA for compliance. Laurel Funk (661) 862-8763 laurelf@co.kern.ca.us”*. The contractor Redhorse Corporation assisted with the process to pump out the remaining residual fuel in UST systems.

CERS ID 10234756 (Taylor Automated Fuels): UST submittal was ACCEPTED on May 17, 2016 and May 17, 2016 with comment: *“Accepting Minimal Information to bring in Underground Storage Tank Data due to the facility not having an owner or operator...it is an illegally abandoned UST facility that is being pursued by the SWB/FedEPA for compliance. Laurel Funk (661) 862-8763 laurelf@co.kern.ca.us”*. The UST system is part of the ongoing EAR project with the Central Valley Regional Water Quality Control Board for removal.

CERS ID 10207234 (Chevron North America – Kern River Field): Submittal has been changed to Not Accepted. An email has been sent to the operator to make the changes by September 15, 2016.

Evaluation Team Response 2 [State Water Board]:

State Water Board: This deficiency is a work in progress.

State Water Board acknowledges the CUPA's submittal of a sign-in sheet for staff updated training for the review and processing of CERS submittals. The CUPA is on the right path and State Water Board recognizes addressing this item requires ongoing effort by the CUPA. The CUPA is to be commended for their focus and diligence in addressing this item. State Water Board acknowledges the CUPA's use of comments to inform the owner/operator of necessary corrective action, these comments do not always include a timeframe for return to compliance (RTC).

As an example of submittals since June 1, 2016 with a CUPA comment indicating required corrective action:

- CERS IDs: 10230568 (6/8/16), 10230634 (6/8/16), and 10234051 (6/9/16) include a comment of "Accepting minimal information prior to transferring to the new owner. The New Owner needs to update all information and upload all UST documents." with the name of the CUPA staff accepting and contact information. No RTC time frame is provided. State Water Board notes the UST tank information appears to be complete but each of these facilities is missing the necessary CERS submittals which may include the: Monitoring Site Plan, Certification of Financial Responsibility, Response Plan, Owner/Operator Written Agreement, Letter from Chief Financial Officer and the Owner Statement of Designated UST Operator Compliance.

Deficiency Progress Update 3: [Enter Update Here](#)

Evaluation Team Response 3 [State Water Board]:

5.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not properly reviewing, processing, and 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">• Authorize operation of the FTU;• Deny authorization of the FTU in accordance with Permit-by-Rule laws and regulations; or,• Notify the owner/operator that the notification submittal is inaccurate or incomplete.	<p>By May 19, 2016, the CUPA will review and 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>

<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>	<ul style="list-style-type: none"> • Has the Onsite Hazardous Waste Treatment Notification been submitted? • Has the CUPA reviewed, processed, and authorized the Onsite Hazardous Waste Treatment Notification? • Did the CUPA review the Onsite Hazardous Waste Treatment Notification within 45 days?
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Deficiency Progress Update 1:

All tiered submittals have been processed in CERS, but not in our Envision database through Decade's CIW. Unfortunately due to a technical issue with Decade, the CUPA is unable to bring in the tiered permitting program element without duplicating the program element per treatment unit. Decade has indicated that this is a bug and has it in their queue to fix. In the meantime, the CUPA has gone into CERS and directly processed the tiered submittal elements. The CUPA only has 4 legitimate facilities that have tiered treatment. The rest are facilities that have inaccurately chose "Yes" under the treatment process under their facility's activities page in CERS. Facilities that incorrectly indicated that they have such program have been notified and their submittals have been rejected accordingly.

CERS ID: 10232425 – Lone Star Frac and Isom: last submitted 2/1/2016; processed 3/1/2016;
CERS ID: 10230817 – Scaled Composites: last submitted 1/13/2016; processed 4/27/2016;
CERS ID: 10238251 – TSC LLC: last submitted 3/10/2016; processed 4/27/2016;
CERS ID: 10238275 – Lost Hills Utility District: last submitted 3/11/2015; processed 4/29/2016.

The following facilities indicated they have treatment of hazardous waste, but have done so incorrectly. Some have been addressed and there are a few that are still outstanding.

CERS ID: 10231054 – Rick G Pitts Ag Enterprises: resubmitted in CERS on 5/9/2016 and corrected facility status to indicate that they do not treat hazardous waste.
CERS ID: 10231501 – Containment Solutions: submittal is not correct and no longer treating resins.
CERS ID: 10231579 – Commodity Resources Environmental: resubmitted in CERS on 5/9/2016 and corrected facility status to indicate that they do not treat hazardous waste.
CERS ID: 10233754 – National Oilwell Varco: resubmitted in CERS on 5/6/2016 and corrected facility status to indicate that they do not treat hazardous waste.

Evaluation Team Response 1 [DTSC]:

DTSC: DTSC appreciates the efforts the CUPA has taken in correcting this deficiency. DTSC spoke with the CUPA regarding CERS ID: 10231054 – Rick G Pitts Ag Enterprises, because the facilities business activities

page says that they treat hazardous waste however the CUPA has marked tiered permitting not applicable on the summary page. The CUPA has agreed to follow-up with this facility in order to correct their business activities page. Additionally, CERS shows 9 self-identified on-site hazardous waste facilities in Kern County. The by the next progress report, the CUPA will follow-up with the remaining facilities to determine if they are treating hazardous waste on-site and will adjust their business activities page accordingly. Also by the next progress report, the CUPA will review any new tiered permitting submittals within 45-days.

CERSID	Facility Name
10152941	NAWS China Lake - Kern County
10230817	SCALED COMPOSITES
	COMMODITY
10231579	RESOURCES/ENVIRONMENTAL
10231054	RICK G PITTS AG ENTERPRISES
10232425	LONE STAR FRAC AND ISOM FACILITY
10233709	CLEAN HARBORS BUTTONWILLOW LLC
10238251	TSC, LLC
10238275	LOST HILLS UTILITY DISTRICT
10644943	AA MAINTENANCE AUTO REPAIR

Deficiency Progress Update 2:

CERS ID 10152941 NAWS China Lake: Resubmitted and indicated **NO** to Treating Hazardous Waste on site. Verified. Site has a Full Standardized permit with DTSC and no longer a PBR for their drum crushing unit.

CERS ID 10230817 Scaled Composites: Submitted TP 1/13/2016 and Accepted 4/27/2016.

CERS ID 10231579 Commodity Resources/Environmental: Resubmitted and indicated **NO** to Treating Hazardous Waste on site. Onsite verified.

CERS ID 10231054 Rick G Pitts AG Enterprises: Facility has been made "Not Applicable" by the CUPA for Reporting the TP requirements. Facility has yet to go into CERS to update their Business Activities page to indicate "NO" to treating hazardous waste. Facility does not treat waste. Will follow up again.

CERS ID 10232425 Lone Star Frac and Isom Facility: Submitted TP 2/1/2016 and Accepted 3/1/2016.

CERS ID 10233709 Clean Harbors Buttonwillow LLC: Facility has a Full Standardized permit with DTSC. Facility indicated Yes to this activity because they do treat hazardous waste on site. The CUPA made the activity "not applicable".

CERS ID 10238251 TSC, LLC: Submitted TP 4/27/2016 and Accepted 4/29/2016.

CERS ID 10238275 Lost Hills Utility District: Processed and unaccepted on 4/29/2016. Gave facility 30 days to resubmit. Facility has scheduled an appointment to come into the office on 8/26/2016 to complete. Will follow up.

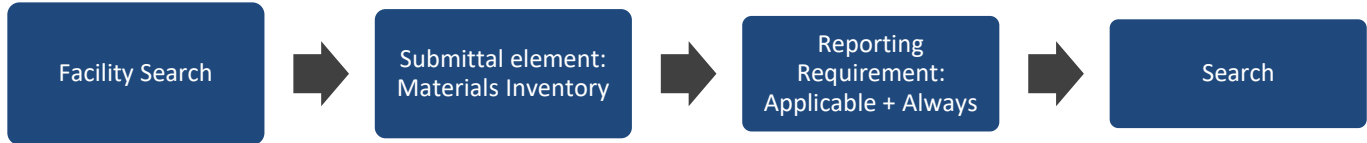
CERS ID 10644943 AA Maintenance Auto Repair: Is a duplicate facility. Facility has been made "Not Regulated". Active CERS ID for this business is: 10237990.

Evaluation Team Response 2 [DTSC]:

DTSC: DTSC appreciates the efforts the CUPA has taken in correcting this deficiency. With the next progress report, please update CalEPA with the status of **CERS ID 10231054 Rick G Pitts AG Enterprises** and **CERS ID 10238275 Lost Hills Utility District**. Additionally, if there are any new onsite hazardous waste treatment submissions made, please ensure they are reviewed within the 45-day regulatory timeframe.

Deficiency Progress Update 3: Enter Update Here		
Evaluation Team Response 3 [DTSC]:		
6.	DEFICIENCY: CORRECTED	CORRECTIVE ACTION: COMPLETED
	<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>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 actions against businesses that have not submitted a complete business plan within 30 days.</p> <p>With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance.</p>
<p>Deficiency Progress Update 1:</p> <p>The CUPA identified 873 facilities that had not updated their annual hazardous materials business plan with chemical inventory. A reminder letter was sent to those facilities on February 18, 2016 requesting compliance by March 18, 2016. See attached folder labeled HMBP Update Reminder Letter 2.18.2016. A total of 608 facilities came into compliance during this time frame.</p> <p>On March 23, 2016, the CUPA sent Notice of Violation letters out to 265 facilities that did not submit before the March 18, 2016 deadline. The notice required the facilities to come into compliance by April 8, 2016. A total of 189 facilities came into compliance after the notice of violation was issued. See attached folder labeled HMBP Update NOV Letter 3.23.2016.</p> <p>On April 14, 2016, the CUPA issued Administrative Enforcement Orders (AEO) to 76 facilities. Consent orders and office hearings were conducted at the end of April. Compliance on consent orders required facilities to submit their hazardous materials business plan in CERS and pay a penalty by May 6, 2016. The CUPA is processing the final orders and will provide CalEPA an update after completion. All consent orders and spreadsheet information can be located in the folder labeled HMBP AEO.</p>		
Evaluation Team Response 1 [Cal OES, OSFM]:		
<p>Cal OES: CalOES considers this deficiency corrected.</p>		

OSFM: The OSFM appreciates the CUPA's efforts toward correcting this deficiency. This deficiency is considered corrected. The CUPA sent reminders in February, which brought 608 facilities into compliance since then. The CUPA also sent 265 NOV letters in March and issued AEOs to 76 facilities in April. A review of the CERS report generated on May 23, 2016, shows that 3,187 (91.4%) of 3,485 facilities have current business plans in CERS. The search method in which OSFM used to retrieve data from CERS is shown below:



After removing duplicate entries, the report identified a total of 3,485 facilities subject to the hazardous materials business plan. In addition, the CERS report generated on May 23, 2016, indicates 42 facilities have never submitted any inventory.

No additional update is necessary. Please continue to ensure that facilities annually submit their inventory in CERS or initiate appropriate enforcement action when necessary.

7.	DEFICIENCY: CORRECTED 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.	CORRECTIVE ACTION: COMPLETED 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.
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Deficiency Progress Update:

See folder labeled "Deficiency 7 AEO Summaries". After further assessment, the CUPA only had 48 AEO summaries that had not been submitted. Previously, the CUPA created an enforcement page prematurely, in order to capture all administrative enforcement orders. However, after office hearings and department waivers due to technical issues related to CERS, or closure of the business, those consent orders were never finalized. Therefore, the number count in CERS was incorrect on the actual AEO's for the CUPA.

Currently the CUPA is processing the AEO's for non-submittals in CERS and will create an enforcement page once AEO's have been finalized.

Evaluation Team Response 1 [CalEPA]:

CalEPA: CalEPA acknowledges and accepts submittal of 48 formal enforcement summaries and the CUPA's assessment explanation for why only 48 formal enforcement summaries were required to be submitted. This deficiency is considered corrected.