

CERTIFIED UNIFIED PROGRAM AGENCY

**Deficiency Progress Update Report 2**

<b>EVALUATION YEAR:</b>	<b>2016</b>	<b>SUMMARY OF FINDINGS ISSUANCE DATE:</b>	<b>April 8, 2016</b>		
<b>CUPA:</b>	Merced County Department of Public Health				
<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>
	Katrina Valerio	Kevin Abriol	Fred Mehr	Sean Farrow Lisa Jensen	Jenna Yang
<b>Deficiency Pending</b>	1, 2, 3, 5, 6, 7, 8				
<b>Deficiencies Corrected</b>	4, 9- these deficiencies do not require further corrective action.				
<b>Next Update Due by</b>	December 8, 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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The CUPA is required to submit a **Deficiency Progress Report every 90 days** from the last day the evaluation is conducted, until all deficiencies have been acknowledged as corrected. Due to a delay in the final report, CalEPA will require the first update to be submitted 60 days after the issuance of the final report and every 90 days thereafter.

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:                 June 8, 2016**
- Update 2:                 September 8, 2016**
- Update 3:                 December 8, 2016**
- Update 4:                 March 8, 2017**

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

1. DEFICIENCY:	CORRECTIVE ACTION:
<p>The CUPA's local reporting portal is unable to transfer or exchange electronic data submitted by regulated businesses to California Electronic Reporting System (CERS).</p> <p>Currently, the CUPA receives over 50% of submittal elements through the local portal, and has identified "mapping" issues between the local portal, CERS Integration Wizard, and CERS.</p> <p>The CUPA's data management system is unable to transfer "batches" of submittals into CERS, each submittal and each attachment must be uploaded to CERS from EnvisionConnect individually. The CUPA is working to correct this deficiency and meets regularly with representatives from their vendor, and has been using the resources available to strive towards compliance with the data exchange requirements.</p> <p>Additionally, DTSC's review of CERS and facility files provided by the CUPA found that inspection and enforcement information was not consistently reported for Hazardous Waste Generators (HWG). For instance:</p> <ul style="list-style-type: none"> <li>• Quik Stop Mkt #163 CERS ID 10419967 HWG Inspection date 09/03/2014 <ul style="list-style-type: none"> <li>○ CERS violation details list 4 Class I violations.</li> <li>○ However, no Class I violations were cited in the inspection report.</li> </ul> </li> <li>• 99 Cents Only Stores #151 CERS ID 10449568 HWG Inspection Date 08/28/2014 <ul style="list-style-type: none"> <li>○ CERS violation details list 4 Class I violations.</li> <li>○ However no Class I violations were cited in the inspection report.</li> </ul> </li> <li>• Sun Power Powder Coating 788 E. Childs Ave., Merced, CA 95340 Inspection Date 07/25/2014 <ul style="list-style-type: none"> <li>○ Facility not in CERS.</li> <li>○ Inspection not in CERS.</li> <li>○ Seven violations were cited during the inspection.</li> </ul> </li> </ul>	<p>By June 8, 2016, the CUPA will review and edit the violations, inspections, and facility information the three HWG facilities listed in this deficiency and ensure the data represented in CERS is accurate. The CUPA will determine if these are simple typographic errors or part of a larger CME data transfer issue.</p> <p>By September 8, 2016, the CUPA will develop and implement an action plan and timeline for correction of this deficiency, and submit them to CalEPA. The plan will detail the steps necessary to ensure that submittal elements and attachments received by the CUPA via the local portal are uploaded to CERS. The CUPA will also work with its vendor and CalEPA to determine the CME data transfer issue. The timeline will estimate the dates of transfer for submittals and CME data, and an approximate date by which all submittals received in the portal will be uploaded to CERS.</p> <p>Beginning December 8, 2016, and with each successive update, the CUPA will provide a narrative detailing their progress in implementing the action plan. The CUPA will also submit a revised action plan and/or timeline if modifications are made.</p>

## Deficiency Progress Update 1:

### MC CUPA Response Update #1 – Edited Violations for the three facilities.

MC CUPA has reviewed the violations for the three facilities that were noted on this evaluation. The class 1 that was noted for Quik Stop and for the 99 cent Only Store #151 were incorrect. MC CUPA staff incorrectly designated the class 1 violation on these two inspection reports. Sun Power Powder Coating facility information and inspection report was uploaded into California Environmental Report System (CERS). All violations classifications have been corrected and have returned to compliance. Please see the 3 CERS Violation Search print screens attachments.

### MC CUPA Response Update #1 – Local Portal

MC CUPA is exploring options to resolve this issue. One option was mentioned during the evaluation was that CalEPA was willing to set up a meeting with all CUPA's who have the same portal vendor (who are having the same issues of uploading information into CERS) with Decade/Accela to discuss solutions that will resolve this matter. MC CUPA has not been contacted on the status of this viable option.

A local contract amendment with Accela/Envision will include transitioning from the local portal to only CERS in Fiscal Year 16/17.

- Accela Responsibilities:
  - Provide up to 180 hours of overall Accela project management and support to include:
    - Scripted data clean-up for facility submittal upload/CME upload
    - CUPA Configuration consulting
    - Data management conventions consulting
    - Assist the client with getting submissions approved in the portal, then moved to CERS
- Agency Responsibilities:
  - Establish and execute a communications plan to include at minimum:
    - Cal/EPA
    - Participating Agencies
    - Businesses
    - Vendors and Other Stakeholders
  - Workflows:
    - Redirect Businesses and CUPAs to use CERS directly for submittals, reviews, and approvals.
    - Direct First Responders to use CERS Directly.
    - Direct staff to use CERS Web Site or the CERS Integration Wizard (CIW) to process approved submittals.
- Accela will provide read-only access license to the Portal for the period July 2016 to June 2017.

Currently, MC CUPA may be uploading a portal update from ECompliance, portal vendor for Decade/Accela. Hopefully, this will resolve the mapping issues from the portal into EC and eventually into CERS. MC CUPA staff has been directed to inform new and existing clients to enter all CUPA information directly into CERS.

### Evaluation Team Response:

The outline provided by the CUPA for amending the local data management contract will provide a good starting point as the CUPA develops an action plan and timeline for correcting this deficiency. The CalEPA team lead has requested that CalEPA IT staff contact the CUPA to discuss issues, and the assistance CalEPA may be able to provide.

MC CUPA will input the Business Activities and Business Owner/Operator Identification submission for each business facility from the local portal into CERS. Accela will be required to upload all hazardous material inventories,

Contingency Plan, site maps and all UST submissions into CERS.

DTSC has reviewed the inspection reports and corresponding CERS information for the facilities listed in this deficiency. DTSC acknowledges the CERS edits to the inspections completed for Quik Stop Mkt #163 and 99 Cents Only Stores #151. In reviewing CERS information for Sun Power Powder Coating we note that there is no information for a hazardous waste inspection that was conducted on 6/9/2014. The inspection report that we have for this date cites 7 hazardous waste violations. By the next progress report, please ensure that these violations are recorded in CERS. Additionally, DTSC reviewed the [Merced County CUPA Inspection Discrepancy Findings](#) and did not see Sun Power Powder Coating on this list.

**Deficiency Progress Update 2 for Deficiency #1 (September 8, 2016 Response):**

The Sun Powder Coating inspection has been entered into CERS and all 7 violations have returned to compliance on 7/25/14. The inspection report, a CERS screenshot and a revised Merced County CUPA Inspection Discrepancy Finding are attached. Please see “D1” attachments for all Deficiency one (D1) items (D1 Sun Power Coating – 06 09 2014 Inspection, D1 Sun Power Powder Coating - 06 19 2014 – CERS, and D1Revised Merced County CUPA Inspections Discrepancy Findings).

Currently, nearly all of the CME data are uploading into CERS. One issue regarding “Violation ID is not in the library” has prevented MC CUPA from uploading a few of the CME data into CERS. A screen shot has been sent to Accela on August 26, 2016 for resolution and MC CUPA is waiting for a response.

The Merced County CUPA Supervisor has contacted CERS IS staff to discuss the Violation ID is not in the Library, CIW upgrade and other CERS issues. CERS IS staff (John Miller) has identified that our current CIW version (1.3.17.403) as the potential problem why we are having issues with our data transfer. MC CUPA will need to upgrade CIW to the newest version (v1.3.18). Accela has been contacted and MC CUPA is waiting for a response.

MC CUPA has developed a plan that will ensure that submittal elements and attachments received by the CUPA via the local portal are uploaded to CERS. Please see the [D1 MC CUPA – Migrating CUPA Facility Information into CERS](#) attachment.

**Evaluation Team Response:**

**CalEPA Response**

CalEPA finds the CUPA’s action plan for Migrating CUPA Faculty Information into CERS the CUPA’s proposal to complete the task of moving from a local portal to direct use of CERS by July 1, 2017 is ambitious. The CUPA is on target to meet its first goal of ensuring all UST facilities have submittals in CERS by December 2016. CalEPA’s review of CERS finds that 110 of 111 UST facilities have uploaded submittals to CERS. This is an increase in nearly 30 facilities within the last month. Please continue to update CalEPA on the process of implementing the action plan or if any revisions are made over the next quarter. Please note deficiency remains in progress; however, the DTSC specific portion of this deficiency has been corrected.

**DTSC Response**

DTSC appreciates the efforts the CUPA has made in order to correct this deficiency. DTSC has verified that all hazardous waste violations cited on 6/9/2014 at Sun Powder Coating were properly entered into CERS. DTSCs portion of this deficiency is considered corrected.

2. DEFICIENCY:	CORRECTIVE ACTION:
<p>The CUPA is not collecting, retaining, and managing information necessary to implement the Unified Program. Information reviewed in CERS, Self Audit Reports, and the Semi-annual UST Program Report (Report 6) was inconsistent.</p> <p>CalEPA found 116 inspection discrepancy between routine inspection numbers uploaded to CERS and those disclosed in the CUPA’s annual Self Audit Reports for Fiscal Years (FY) 2013/2014 and 2014/2015. State Water Board’s review of Report 6, CERS, and annual Self Audit Reports found that the CUPA is not consistently reporting annual UST compliance inspections.</p> <p><u>FY 2013/2014</u></p> <ul style="list-style-type: none"> <li>● Hazardous Materials Business Plan (Business Plan) <ul style="list-style-type: none"> <li>○ CERS identifies 378 routine inspections.</li> <li>○ Self Audit Report identifies 396 routine inspections.</li> </ul> </li> <li>● California Accidental Release Prevention (CalARP) <ul style="list-style-type: none"> <li>○ CERS identifies 28 routine inspections.</li> <li>○ Self Audit Report identifies 16 routine inspections.</li> </ul> </li> <li>● Underground Storage Tank (UST) <ul style="list-style-type: none"> <li>○ Report 6 identifies 109 inspections conducted,</li> <li>○ CERS identifies 98 routine inspections, and</li> <li>○ Self Audit Report identifies 84 routine inspections.</li> </ul> </li> <li>● Aboveground Petroleum Storage Act (APSA) <ul style="list-style-type: none"> <li>○ CERS identifies 66 inspections.</li> <li>○ Self Audit Report identifies 63 inspections.</li> </ul> </li> <li>● Hazardous Waste Generator (HWG) <ul style="list-style-type: none"> <li>○ CERS identifies 271 inspections.</li> <li>○ Self Audit Report identifies 287 inspections.</li> </ul> </li> </ul> <p><u>FY 2014/2015</u></p> <ul style="list-style-type: none"> <li>● Business Plan <ul style="list-style-type: none"> <li>○ CERS identifies 310 routine inspections.</li> <li>○ Self Audit Report identifies 331 routine inspections.</li> </ul> </li> <li>● CalARP – No Discrepancy</li> </ul>	<p>By September 8, 2016, the CUPA will perform a thorough analysis of the program and conclude why reported inspection numbers are not consistent between the different reporting formats. The CUPA will provide formal findings of the analysis to CalEPA.</p> <p>By December 8, 2016, the CUPA will develop and submit to CalEPA, written procedures for inspection staff. The procedures will include but not be limited to:</p> <ul style="list-style-type: none"> <li>● Collecting, retaining, managing, and reporting inspection information.</li> <li>● How staff report inspection information at the local level.</li> <li>● How inspection information is reported to state agencies.</li> </ul> <p>By March 1, 2017, the CUPA will submit an accurate Semi-Annual Report 6 for July through December 2016 to State Water Board.</p> <p>By March 8, 2017, the CUPA will amend and implement the procedure, if required to do so by state evaluators and submit the amended procedure to CalEPA for review and approval.</p> <p>Additionally, by September 1, 2017, the CUPA will review the Semi-Annual Report 6 for January through June 2017 and submit an accurate report to State Water Board.</p>

<ul style="list-style-type: none"> <li>• Underground Storage Tank (UST) <ul style="list-style-type: none"> <li>○ Report 6 identifies 148 inspections conducted,</li> <li>○ CERS identifies 102 routine inspections, and</li> <li>○ Self Audit Report identifies 113 routine inspections.</li> </ul> </li> <li>• Aboveground Petroleum Storage Act (APSA) <ul style="list-style-type: none"> <li>○ CERS identifies 51 inspections.</li> <li>○ Self Audit Report identifies 55 inspections.</li> </ul> </li> <li>• Hazardous Waste Generator (HWG) <ul style="list-style-type: none"> <li>○ CERS identifies 253 inspections.</li> <li>○ Self Audit Report identifies 274 inspections.</li> </ul> </li> </ul> <p>During the evaluation, the CUPA identified possible reasons for these discrepancies including lag in data entry for hard copy inspection reports, and permitting inspections mislabeled as routine inspections.</p>	
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**Deficiency Progress Update 1:**

**MC CUPA Response Update #1 Deficiency #2**

Merced County (MC) CUPA on April 19, 2016 identified a combined total of 109 inspections (FY2013/2014 = 56 and FY2014/2015=53) that were not uploaded into CERS from the six CUPA programs. The facilities are listed in the attached document named "[Merced County CUPA Inspection Discrepancy Findings.](#)" The majority of the discrepancies were caused by the difficulties of not being able to upload and/or troubleshoot CME data into CERS. A few facilities have closed and these inspections were not uploaded into CERS but were recorded as an inspection in MC CUPA inspection count. The closed facilities totals are four HMBP, six HWG and two UST inspections for a total of 12 individual CUPA inspections. The difference between the CalEPA total of 116 to the MC CUPA 109 count was caused by the time difference when the reports were generated. MC CUPA generated the CERS CME inspection report on April 19, 2016 and compared this report to the inspection data from an Envision Connect (EC) report #8201 that was created by Decade/Accela. Also, MC CUPA throughout the evaluation process resolved a few of the CME data uploading issues and uploaded CME data into CERS. To prevent double entries in Envision Connect (EC), the majority of these CME inspection data were entered directly into CERS. MC CUPA has and will continue to work with Decade/Accela staff to resolve the electronic data transfer (EDT) issues.

MC CUPA updated CERS by inputting 97 (12 closed facilities were not entered) of the 109 inspections directly into CERS. Please see attached [Merced County CUPA Inspection Discrepancy Findings](#) spreadsheet report.

MC CUPA will either enter the CME data from these inspections directly into CERS or will manually enter these inspections into Envision Connect Report (ECR) and upload CME data into CERS on or before September 8, 2016. MC CUPA will provide a copy of an Excel Spreadsheet from CERS documenting these inspection entries.

To prohibit future discrepancies, please see the attach "Electronic CUPA Inspection Procedures."

**MC CUPA Response Update #1 CUPA UST Report 6**

**The discrepancies were caused by the use of two different EC reports. CUPA Staff was using one EC report #3505 and the CUPA Supervisor was using another EC Report #8201.**

**Solution**

**MC CUPA has corrected this issue. Please see the attachment titled "CUPA Report 6 Policy and Procedures."**

**Evaluation Team Response:**

**CalEPA**

CalEPA's review of CERS supports the CUPA's update in that the CUPA has uploaded additional inspection data. The additional data makes information available in CERS more consistent with the CUPA's self-audit report for FY 2014/2015. Based on the CUPA's Inspection Discrepancy Findings is likely that inspections for FY 2013/2014 were underreported in the CUPA's Annual Self-Audit Report.

Program Element	FY 2013/2014		FY 2014/2015	
	CERS	Self Audit Report	CERS	Self Audit Report
Business Plan	379	396	332	331
CalARP	29	16	No discrepancy	
UST	100	84	113	113
APSA	70	63	55	55
HWG	286	287	273	274

CalEPA appreciates the thoroughness of the CUPA's Discrepancy Findings spreadsheet, and accepts the CUPA's analysis of the issue leading to the discrepancy with the exception of the dates each query report was run. The number of inspections for any year should be static once the reporting period for the year is complete. For each fiscal year included in the deficiency, the reporting deadline (July 30<sup>th</sup>) had passed.

As the CUPA continues its quality assurance/quality control efforts, please confirm all violations have been included in the data entry (see DTSC's example below).

**State Water Board**

Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 1. The CUPA's analysis of why reported inspection numbers are not consistent includes; 1) CUPA inspection personnel and supervisor using differing reports from the CUPA's Envision Connect database, 2) reporting inspections for closed facilities while not reporting the closed facilities as being regulated, and 3) the time difference between the reports.

State Water Board accepts "CUPA Report 6 Policy and Procedures" as the CUPA identifies the following:

1. CUPA supervisor will collect monthly inspection information from individual inspectors;
2. Compare CERS, Envision Connect, and monthly inspection information;
3. Determine accurate counts of regulated UST facilities; and
4. Prior to submitting Report 6 to State Water Board, ensuring inspection numbers are consistent.

State Water Board considers this deficiency a work in progress as all corrective actions remain to be completed.

**DTSC**

DTSC appreciates the efforts the CUPA has taken in order to correct this deficiency, however DTSC questions the completeness of the Merced County CUPA Inspection Discrepancy Findings due to the fact that the deficiency regarding Sun Power Powder Coating hazardous waste inspection conducted 6/9/2014 and the 7 cited hazardous waste violations are still missing in CERS. With the next progress report update, please ensure that the Sun Power Powder Coating inspection and enforcement information is entered into CERS.

**Deficiency Progress Update 2 for Deficiency #2 (September 8, 2016 Response):**

MC CUPA has performed the analysis of why the inspection numbers are not consistent.

Merced County (MC) CUPA on April 19, 2016 identified a combined total of 109 inspections (FY2013/2014 = 56 and FY2014/2015=53) that were not uploaded into CERS from the six CUPA programs. The facilities are listed in the attached document entitled "Merced County CUPA Inspection Discrepancy Findings." The majority of the discrepancies were caused by the difficulties of not being able to upload and/or troubleshoot CME data into CERS. Five facilities have closed and 12 inspections were not uploaded into CERS and were recorded as an inspection in MC CUPA inspection count. The closed facilities totals are four HMBP, six HWG and two UST inspections for a total of 12 individual CUPA inspections. The difference between the CalEPA total of 116 to the MC CUPA 104 count was caused by the time difference when the reports were generated. MC CUPA generated the CERS CME inspection report on April 19, 2016 and compared this report to the inspection data from an Envision Connect (EC) report #8201 that was created by Decade/Accela on April 19, 2016. Also, MC CUPA throughout the evaluation process resolved the CME data uploading issues and uploaded CME data into CERS. To prevent double entries in Envision Connect (EC), the majority of these CME inspection data were entered directly into CERS. MC CUPA has and will continue to work with Decade/Accela staff to resolve the electronic data transfer (EDT) issues.

The Sun Powder Coating inspection has been entered into CERS and all 7 violations have returned to compliance on 7/25/14. The inspection report, a CERS screenshot and a revised Merced County CUPA Inspection Discrepancy Finding are attached. Please see "D2" attachments for all Deficiency two (D2) items (D2 Sun Power Coating – 06 09 2014 Inspection, D2 Sun Power Powder Coating - 06 19 2014 – CERS, and D2 Revised Merced County CUPA Inspections Discrepancy Findings).

MC CUPA is also providing a copy of CUPA 6 Report for January –June 2016. The CUPA 6 report was submitted to SWRCB on September 1, 2016. Please see D2 CUPA 6 report attachment.

MC CUPA is requesting that this CUPA 6 report be received in lieu of the March 1, 2017 CUPA 6 report submission.

**Evaluation Team Response:**

**CalEPA**

The CUPA has completed the first portion of the corrective action. CalEPA finds that the CUPA has performed a thorough analysis of CME data discrepancies and has entered the missing inspections. With the next progress report please submit the written procedures staff follow to ensure CME data is consistently uploaded. Additionally, the State Water Board has found that the reporting formats for the UST program are still discrepant, please revise the State Water Board's response for additional information specific to the UST program.

**DTSC**

DTSC appreciates the efforts the CUPA has taken in correcting this deficiency. DTSC's portion of this deficiency is considered corrected.

## State Water Board

Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 2. Our initial review of UST inspection numbers between the CUPA's Report 6 and CERS for the period of January – June 2016, finds the following:

- Report 6 (January – June 2016) – 42 inspections;
- CERS (January – June 2016) – 44 routine inspections.

Furthermore, our review of CERS for the period of January – June 2016, finds three (3) UST facilities with multiple routine inspections. If the multiple routine inspections are subtracted from reported CERS inspections, the reported number of inspections continues to not match between Report 6 and CERS.

State Water Board concludes the number of inspections, the CUPA reports for the period of January – June 2016, do not match.

On September 16, 2016, State Water Board notes receiving an email from the CUPA regarding revising Report 6 and CERS information. State Water Board acknowledges the CUPA revising the identified multiple routine inspections in CERS and submitting a revised Report 6 for the period of January – June 2016, subsequent to the phone conversation between State Water Board and the CUPA on September 14, 2016.

The CUPA requests the submittal of Report 6 for the period of January – June 2016 be considered in lieu of submitting Report 6 for the period of July – December 2016. This request cannot be accommodated as the corrective action has not been complied with as continued reporting of inspection numbers still differ between Report 6 and CERS. Therefore, a copy of Report 6 for the periods of July – December 2016 and January – June 2017 are required.

### 3. DEFICIENCY:

The CUPA is not consistently following-up and documenting return to compliance (RTC) for facilities cited with minor violations in Notices to Comply or inspection reports.

#### HWG

DTSC's review of CERS shows that 18% of HWG facilities cited with minor violations have not return to compliance. The following three facility files reviewed by DTSC did not contain return to compliance:

- Super Mac Food & Gas
  - CERS ID 10498750
  - Inspected 7/24/2014 and 7/12/2015.
- United States Penitentiary-Atwater
  - CERS ID 10497124
  - Inspection on 11/05/2013, 11/6/2014, and 11/3/2015.

### CORRECTIVE ACTION:

By June 8, 2016, the CUPA will follow-up with the facilities listed in this deficiency and provide CalEPA with a copy of RTC documentation for each one. In the absence of RTC documentation, the CUPA will document follow-up activity and report to CalEPA their progress with ensuring compliance with each facility.

By September 8, 2016 the CUPA will perform a thorough analysis of their enforcement program and continue to work with its vendor to analyze its data management process and conclude why RTC rates are low in CERS. The CUPA will provide formal findings of the analysis to CalEPA.

By September 8, 2016, the CUPA will provide CalEPA with a RTC tracking spreadsheet that is sortable by program element, and lists the facilities that have open minor violations for each program element. At minimum, the spreadsheet will include:

<ul style="list-style-type: none"> <li>• Los Banos ARCO AMPM 83466 <ul style="list-style-type: none"> <li>○ CERS ID 10454311</li> <li>○ Inspection on 7/30/2014, and 7/30/2015.</li> </ul> </li> </ul> <p>The following two HWG facilities did not return to compliance within the 35-day statutory timeframe.</p> <ul style="list-style-type: none"> <li>• Quik Stop Mkt #163 <ul style="list-style-type: none"> <li>○ CERS ID 10419967</li> <li>○ Inspection on 9/03/2014</li> <li>○ RTC on 9/02/2015</li> </ul> </li> <li>• Greenway <ul style="list-style-type: none"> <li>○ CERS ID 10498294</li> <li>○ Inspection on 3/12/2014</li> <li>○ RTC on 1/13/2015</li> </ul> </li> </ul> <p><u>APSA</u> OSFM’s review of CERS found that 95 of 251 (38%) facilities cited with minor violations during an APSA inspection have not returned to compliance, and are beyond the RTC timeframe.</p> <p><u>UST</u> State Water Board review of CERS finds, RTC dates for cited UST violations are not consistently uploaded, or the CUPA is not enforcing UST requirements upon facilities requiring violations to be corrected.</p> <p>The following FY’s show low rates of return to compliance for cited UST violations:</p> <ul style="list-style-type: none"> <li>• FY 2013/2014 <ul style="list-style-type: none"> <li>○ CERS shows 39% of cited violations did not have a return to compliance date.</li> </ul> </li> <li>• FY 2014/2015 <ul style="list-style-type: none"> <li>○ CERS shows 52% of cited violations did not have a return to compliance date.</li> </ul> </li> </ul> <p>This deficiency was also cited in 2013 evaluation, but considered corrected during the update reporting process.</p> <p>The CUPA has identified that field mapping may be an issue in syncing data as it is uploaded to CERS. Merced County CUPA has contacted its vendor to identify, and repair problem and to create a report to identify the next inspection dates.</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, and</li> </ul> <p>By December 8, 2016, and with each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the RTC tracking spreadsheet. The CUPA will also provide CalEPA with a copy of RTC documentation for facilities requested by the evaluation team during the previous quarter.</p> <p>For any UST facility for which RTC documentation is requested, the CUPA will also include the most current Annual UST monitoring certification test results and associated inspection report.</p> <p>For facilities where RTC activities are not successful, the CUPA will pursue progressive enforcement, which includes permit revocation.</p>
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**Deficiency Progress Update 1:**

All CUPA facilities that were noted in this deficiency have returned to compliance. The returned to compliance dates were noted in CERS. Please see attached screen shots.

**Evaluation Team Response:****CalEPA**

The first update report required a deliverable for the HWG Program Element only. The CUPA provided screenshots from CERS, however did not provide the RGC documentation or re-inspection reports for the facilities listed in the deficiency. In addition to the spreadsheet required to be submitted with the next progress update, please also submit the RTC documentation of each of the facilities listed in the deficiency.

**DTSC**

DTSC has reviewed CERS inspection information for the facilities listed in the deficiency and while we see that these facilities have documented returned to compliance in CERS. The corrective action requires that the CUPA also submit a copy of RTC demonstrating that these facilities have returned to compliance. The CUPA provided screenshots of CERS RTC only. Please submit copies of documented RTC or re-inspection reports with the next Deficiency Progress Update.

**OSFM**

OSFM looks forward to the CUPA's next progress report update. Please provide the RTC tracking spreadsheet as requested in the corrective action.

**State Water Board**

Deficiency is a work in progress.

State Water Board acknowledges no update is due this progress report regarding the UST program.

**Deficiency Progress Update 2 for Deficiency #3 (September 8, 2016 Response):**

MC CUPA is providing RTC documentation for the 3 hazardous waste facilities that are listed in this deficiency. Please see "D3" attachments (D3 Los Banos ARCO AMPM RTC, and D3 Super MAC Food and Gas RTC, D3 US Pent RTC).

MC CUPA is providing CalEPA with a tracking spreadsheet of open minor violations. This spreadsheet is sortable by program elements with the requested column headings. Please see "D3 MC CUPA Spreadsheet Open Minor Violations" attachment.

Regarding our data management analysis, currently, all of the CME data are uploading into CERS except the 1 issue regarding "Violation ID is not in the library." A screen shot has been sent to Accela on August 26, 2016 and MC CUPA is waiting for a response. MC CUPA will continue to work with Accela if new CME data transfer problems occur, and will monitor the RTC data transfer in CERS.

The Merced County CUPA Supervisor has contacted CERS IS staff (August 26, 2016) to discuss our CERS issues. CERS IS staff (John Miller) has identified that our current CIW version (1.3.17.403) is too old and needs to be upgraded to version v1.3.18. This may be the cause why we are having issues with our data transfer. MC CUPA will need to upgrade CIW to the newest version (v1.3.18). Accela has been contacted on August 29, 2016, and MC CUPA is waiting for their response when we will be upgraded. On August 31, 2016, I submitted a request for the upgrade through the Accela "Customer Community Login."

## Evaluation Team Response:

### OSFM

The CUPA provided a spreadsheet showing 81 open APSA violations. A review of CERS on 09/13/2016 shows that 106 (36%) of 294 minor APSA violations do not have RTC. The CUPA has provided an analysis of their data management and their continued work with Accela to correct all CME data reporting issues. The CUPA should also analyze their enforcement program to consider allotting more staff time, once vacancies are filled, to follow-up with the facilities with open violations, taking a graduated series of enforcement against recalcitrant violators, etc., to achieve compliance. On the next progress report, provide an updated RTC tracking spreadsheet that has the follow-up action or status for each open violation. Also, as requested in the corrective action, provide the RTC documentation for the following facilities that recently came into compliance with APSA violations:

#### CERS ID Numbers

- CERS ID 10495780,
- CERS ID 10499194, and
- CERS ID 10492207.

### DTSC

DTSC has received Certificates of Compliance for Los Banos Arco, Super MAC Food, and US Penitentiary. DTSC has also confirmed that RTC has been entered into CERS. While the total RTC rate for hazardous waste violations is 92.4% (1409 violations with RTC / 1525 total violations), 58% (739 violations with RTC greater than 35 days / 1272 total minor violations) of minor violations are not coming into compliance within the regulatory timeframe. Please continue to ensure RTC for facilities with open minor violations before the "Comply By (Scheduled RTC) Date" as indicated in the "MC CUPA Spreadsheet Open Minor Violations." DTSC will continue to monitor minor violations and RTC timeframes with each progress report. With the next report please provide RTC documentation for the following HWG facilities:

- CERS ID 10496578; Inspection date 9/19/2016
- CERS ID 10498126; Inspection date 9/9/2016, and
- CERS ID 10497526; Inspection date 8/29/2016.

### State Water Board

Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 2. The CUPA confirms the Envision CIW tool used to transfer inspection, violation, and enforcement information from Envision to CERS is currently out of date; as the reason why RTC rates are low in CERS. The CUPA notes on August 29 and 31, 2016, requesting Accela to upgrade the Envision CIW tool currently installed and is waiting for the new version of Envision CIW tool to be installed.

State Water Board review of the CUPA's attachment "D3 MC CUPA Spreadsheet Open Minor Violations" finds there are 146 open minor violations for the UST program between the period of 2013 and 2016. We will continue to monitor the CUPA's progress subsequent to this Deficiency Progress Update for RTC for open violations.

State Water Board considers this deficiency a work in progress as the CUPA is currently working with Accela to upgrade the Envision CIW tool and correct data transfer issues.

In the next Deficiency Progress Update, please provide CalEPA with a copy of RTC documentation, which includes the most current Annual UST monitoring certification test results and associated inspection report for the following UST facilities (pulled from the CUPA's attachment "D3 MC CUPA Spreadsheet Open Minor Violations"):

1. CERS ID – 10494973; inspection date April 13, 2016
2. CERS ID – 10618210; inspection date April 7, 2016, and
3. CERS ID – 10662835; inspection date March 31, 2016

<b>4.</b>	<b>DEFICIENCY: CORRECTED</b>	<b>CORRECTIVE ACTION: COMPLETE</b>
	<p>The CUPA has not updated their Inspection and Enforcement (I &amp; E Plan) as necessary.</p> <p>Issues observed include:</p> <ul style="list-style-type: none"> <li>• Graduated series of enforcement actions and formal enforcement procedures do not reflect the CUPA's practice.</li> <li>• Provisions for addressing complaints were not included.</li> <li>• Incorrect references were maintained:             <ul style="list-style-type: none"> <li>○ Page 18, incorrect reference to HSC 25270.5.</li> <li>○ Page 27, incorrect reference to the Water Board for AST violations.</li> </ul> </li> </ul>	<p>By June 8, 2016, the CUPA will review the formal enforcement, and graduated series of enforcement sections of their I &amp; E Plan and revise those sections to reflect the CUPA's processes. The CUPA will submit a copy of the revised I &amp; E Plan to CalEPA.</p> <p>During the evaluation process, the CUPA revised their I &amp; E Plan and corrected most of the issues listed in the deficiency including provisions for addressing complaints and corrections references listed in the deficiency.</p>

**Deficiency Progress Update 1:**  
**MC CUPA Response Update #1 – Graduated Enforcement**  
 MC CUPA has revised the 2015 Inspection and Enforcement Plan to reflect the revisions for Graduated Enforcement.

MC CUPA has previously revised the 2015 Inspection and Enforcement Plan to address complaints and the California Health and Safety references. CalEPA has accepted these revisions as stated in the above "Corrective Action."

**Evaluation Team Response:**

The Evaluation Team considers this deficiency corrected. No further corrective action is necessary.

**OSFM:**  
 OSFM considers their portion of this deficiency corrected. The current I & E Plan contain the correct APSA references listed in the deficiency. Please continue to annually review and update the I & E Plan to ensure it has correct and current information.

**DTSC:**  
 DTSC has reviewed the CUPAs changes to the I&E Plan regarding their formal enforcement procedures. DTSC considers this deficiency to be corrected.

**Deficiency Progress Update 2: N/A. Deficiency is corrected.**

**Evaluation Team Response: N/A. No further corrective action required.**

<p><b>5. DEFICIENCY:</b></p> <p>The CUPA is not ensuring that each business annually submits complete hazardous materials business plan information to the statewide information management system.</p> <p>A combined review of CERS and a report from the CUPA's local portal shows that approximately 436 of 1074 (41%) of HMBP facilities have not submitted a business plan within the last year.</p>	<p><b>CORRECTIVE ACTION:</b></p> <p>By June 8, 2016, and with each Deficiency Progress Report, the CUPA will identify the number of businesses that have not submitted business plan information in the previous 12 months. The CUPA will notify each business of the requirement to submit a business plan, and report the number of those businesses to CalEPA.</p> <p>By December 8, 2016, the CUPA will have initiated appropriate enforcement actions against businesses that that have not submitted complete business plan information to CERS within the past 12 months. The CUPA will provide CalEPA with a report of the number of enforcement actions taken.</p> <p>By March 1, 2017 the CUPA will have ensured that all businesses have submitted complete hazardous materials business plan information electronically within the last year.</p>
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**Deficiency Progress Update 1:**

**MC CUPA Response Update #1 – Annual HMBP Submissions**

MC CUPA has identified all hazardous material business plan (HMBP) facilities that have not submitted an updated HMBP, or review and certify that the information in their previously submitted HMBP in the statewide information management system is complete, accurate, and in compliance with Section 11022 of Title 42 of the United States Code. Each business is notified at the time of annual invoicing and/or noted in the routine inspection report as a violation if the facility has not complied with the annual reporting requirement within the last year.

As of May 12, 2016, 591 of 1174 (50%) of the facilities have either not submitted an updated HMBP into CERS or the local portal within the past 12 months. As of August 1, 2016, these businesses will be sent an email or letter directing them to comply within 30 days and annually thereafter. Failure to comply with this directive will lead to the issuance of a Notice of Violation and an administrative fee of \$118/hour to recover cost for time spent.

Businesses who failed to comply will be sent a Notice of Violation with an invoice for the administrative fee and directing them to comply within 14 days. Failure to comply will lead to progressive graduated enforcement.

MC CUPA has plans to reserve the computer room located at the Merced County Library in Merced to assist businesses with their submissions. There are 15 computer stations. One or two MC CUPA staff will be there to assist the businesses. There will be two different classes. One class will be reserved for businesses that have existing HMBP submittals in CERS and will need to review, revise or certify their HMBP. The other will be for businesses that will need to submit their HMBP into CERS. Businesses that have made reservations to attend the class sessions will not be subject to progressive graduated enforcement action as long as they come into compliance.

**Evaluation Team Response:**

**OSFM**

OSFM acknowledges the effort the CUPA is taking to correct this deficiency. A review of CERS shows that about 28% of the facilities reporting to CERS have an updated HMBP submittal. On the next progress report, the CUPA should send a submission summary of the facilities that have reported through the CUPA's portal. Also provide a narrative update of the CUPA's progress towards correcting this deficiency including a list of all the facilities that received the HMBP notification letter and the effectiveness of the letter, NOV, and CERS class sessions.

**Cal OES**

Cal OES looks forward to following the CUPAs progress on updating the HMBPP information. The CUPA has created a plan that will lead to all businesses to submit or review and certify that the information in their previously submitted HMBP in the statewide information management system is complete, and accurate.

**Deficiency Progress Update 2 for Deficiency #5 (September 8, 2016 Response):**

MC CUPA has revised its plans to resolve this deficiency. To stay consistent with the Inspection and Enforcement Plan, MC CUPA will send a series of 3 letters where non-compliance is documented. The first letter will be the "Notice to Comply", followed by a "Notice of Violation" and lastly a "Show Cause" letter (See D5 – NTC HMBP Certification Letter, D5 – NOV HMBP Certification Notification Letter, D5 Show Cause Letter and D5 Consent Order HMBP). This process adheres to progressive enforcement when citing a "Minor, a Class 2 and finally a Class 1" violation. An administrative penalty of \$118 will be assessed to facilities that did not comply with the Notice to Comply. Facilities that did not comply to the Notice of Violation directive will be sent a show cause letter. A Consent Order ordering compliance with a specified penalty settlement will be sent to each non-compliant facility. The penalty will be consistent with the Administrative Enforcement Order (AEO) penalty matrix for Hazardous Material Business Plan (HMBP) violations. MC CUPA will upload documents (D5 Attachments - D5 CERS Business User Guide, D5 CERS Workshop Power Point, D5 Annual Hazardous Materials Inventory Certification, and the D5 CERS Consultants) to the Merced County website ([www.co.merced.ca.us](http://www.co.merced.ca.us)) that will assist the facilities with their certification and/or HMBP submission into CERS. A list of consultants will also be provided to assist facilities with their certifications and submissions (See D5 attachments). Other than providing copies of their previously submitted HMBP, direction to the Merced County website for Environmental Health, and/or providing facilities with a consultant list, MC CUPA current staffing will not be able to provide direct assistance. MC CUPA is pondering the possibility of utilizing a Power Point presentation but no direct assistance will be provided. MC CUPA staff will be busy designating "users" and reviewing submissions. This plan will eliminate the number of submissions that were previously submitted into the local portal that will need to be transferred into CERS.

Currently, approximately 570 of 1187 HMBP facilities have not entered, reviewed, revised and/or certified their HMBP inventories. See D5 CUPA Facilities Count – 08 15 2016.

**Evaluation Team Response:**

**OSFM**

The CUPA should continue with their enforcement plan to achieve compliance with HMBP submittals. On the next progress report, provide a narrative update of the CUPA's progress towards correcting this deficiency. Include an updated list of all facilities that have a current HMBP submitted in CERS and the local portal and a list of non-compliant facilities that have received notices or show cause letter for not submitting an HMBP annually.

**Cal OES**

Cal OES looks forward to following the CUPAs progress on updating the HMBPP information. The CUPA has created a plan that will lead to all businesses to submit or review and certify that the information in their previously submitted HMBP in the statewide information management system is complete, and accurate. From the last CERS review, the CUPA is reaching close to 80% compliance.

<b>6.</b>	<b>DEFICIENCY:</b>	<b>CORRECTIVE ACTION:</b>
	<p>The CUPA is not ensuring all appropriate UST related fields in CERS are properly completed by businesses.</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 fill components installed; and</li><li>• Records with no line leak detectors installed on pressurized pipe.</li></ul> <p>Note: Refer to State Water Board published guidance-FAQs “General Reporting Requirements for UST’s”, “When to Issue a UST Operating Permit”, “Common CERS Reporting Errors”, “Setting Accepted Submittal Status”, and “Which Forms Require Uploading to CERS”.</p>	<p>By June 8, 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 set 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>

**Deficiency Progress Update 1:**

MC CUPA has reviewed the “General Reporting Requirements for UST’s”, “When to Issue a UST Operating Permit”, “Common CERS Reporting Errors”, “Setting Accepted Submittal Status”, and “Which Forms Require Uploading to CERS” guidance documents from the Stater Water Resource Control Board and will implement these guidelines in our electronic review of each UST facility submissions. MC CUPA International Code Council (ICC) Underground Storage Tanks (UST) Certified staff has reviewed all of the electronic UST files and has contacted these UST owners/operators. The ICC UST Certified staff has and will be working with these UST owners/operators to enter the deficient data into CERS. ICC UST Certified staff will revise each “accepted submission “to” not accepted” in CERS for each UST facility that are not in compliance with their UST information. Using these guidance documents, any future UST submissions will not be accepted until they are in full compliance.

**Evaluation Team Response:**

**State Water Board**

Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 1. State Water Board finds attachment "CERS Submittal Review- UST" acceptable as the CUPA identifies the following:

1. Only ICC UST certified personnel will review and accept CERS UST information.
2. All CERS UST information is subject to site inspection verification.
3. Personnel will use the following submittal status language; a) under review, b) not accepted, and c) accepted.
4. Once site inspection verification is complete, personnel will revise submittal status; a) from accepted to not accepted if errors are found, noting site verification date and b) if accepted and no errors are found, noting the date of site verification.

State Water Board considers this deficiency a work in progress. In the next Deficiency Progress Update, State Water Board will review accepted CERS UST submittals subsequent to the CUPA's revision and implementation of "CERS Submittal Review- UST." Our review will determine if the CUPA needs to; 1) provide additional training to ICC UST certified personnel or 2) revise "CERS Submittal Review- UST."

**Deficiency Progress Update 2 for Deficiency #6 (September 8, 2016 Response):**

MC CUPA ICC UST staff has reviewed all of the UST facilities for compliance and determined which facilities have not returned to compliance with previously cited UST violations and those who have not complied with all elements of their CERS submissions. MC CUPA ICC UST staff will revise these facilities previously "accepted" submissions to "not accepted" with email citing reasons for the reversal after on-site verification. Currently, there are 10 facilities identified in CERS that have outstanding violations.

Due to the sudden loss of MC CUPA ICC UST staff to 3 months of approved leave, MC CUPA was not able to completely initiate the "CERS Submittal Review- UST" plan. MC CUPA ICC UST staff is currently working with these facilities to bring them all into compliance. Please see D6 CERS UST Facilities with Violations Spreadsheet.

All CUPA inspection staff including the CUPA Program Supervisor will be required to obtain and maintain an ICC Certification from this point in time moving forward to provide qualified UST staffing at all times.

**Evaluation Team Response:**

**State Water Board**

Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 2. Our review of CERS finds the CUPA accepting submittals for 37 UST facilities subsequent to June 8, 2016.

State Water Board review of selected UST facilities where the CERS UST submittals have been accepted subsequent to June 8, 2016 finds the following errors:

- CERS ID 10662835 – Accepted September 14, 2016; UST submittal contains inaccurate information. The UST system is identified as installed February 6, 1991. The UST system is required to have vapor recover pipe installed for regular and premium unleaded fuel. CERS shows there is no vapor recovery pipe installed.
  - According to the CUPA’s spreadsheet identified as “D6 CERS UST Facilities with Violations Spreadsheet,” this facility does not have open violations.
- CERS ID 10492171 – Accepted September 12, 2016; UST submittal contains inaccurate information. The UST system is identified as installed June 1, 1999. CERS shows the piping is double-wall flexible pipe where the annular is monitored by pressurized methods. The CUPA confirms pipe annular is not monitored with pressurized methods.
  - According to the CUPA’s spreadsheet identified as “D6 CERS UST Facilities with Violations Spreadsheet,” this facility does not have open violations.
- CERS ID 10494973 – Accepted September 6, 2016; UST submittal contains inaccurate and incomplete information. The UST system is identified as installed August 1, 1980. The tank monitoring information is incomplete as there is no tank gauging to monitor the tanks. Furthermore, piping is identified as both gravity and pressure where the gravity pipe has a mechanical line leak detector installed. The CUPA confirms the pipe identified as gravity is in fact pressurized pipe.
  - According to the CUPA’s spreadsheet identified as “D6 CERS UST Facilities with Violations Spreadsheet,” this facility does not have open violations.
- CERS ID 10497328 – Accepted August 23, 2016; UST submittal contains inaccurate and incomplete information. Tank 87 is identified as installed October 6, 2008 while the Tank 91 installation date is blank. CERS shows Tanks 87 and 91 as split, however, the tank configuration is identified as stand-alone. Tanks are required to have overfill protection installed and Tank 87 shows no overfill installed in CERS.
  - According to the CUPA’s spreadsheet identified as “D6 CERS UST Facilities with Violations Spreadsheet,” this facility does not have open violations.
- CERS ID 10449169 – Accepted August 16, 2016; UST submittal contains inaccurate and incomplete information. CERS shows piping is double-wall pressurized pipe with no mechanical or electronic line leak detectors. Pressurized pipe is required to have either mechanical or electronic line leak detectors installed. CERS shows all three (3) tanks do not have striker plates / bottom protectors installed. The installation of striker plates / bottom protectors is required. Primary construction of vapor pipe is blank. CERS shows no diesel product stored onsite; therefore, all three (3) tanks are required to have primary construction for vapor pipe.
  - According to the CUPA’s spreadsheet identified as “D6 CERS UST Facilities with Violations Spreadsheet,” this facility does not have open violations.

State Water Board finds this deficiency a work in progress as accepted UST submittals contain inaccurate information.

**Action Plan for the CUPA:**

By the next Deficiency Progress Update, the CUPA will conduct additional training regarding the CUPA’s “CERS Submittal Review- UST” procedures. The CUPA will provide to CalEPA, training documentation outlining the training conducted and a list of personnel attending the training. Training on the CUPA’s “CERS Submittal Review- UST” procedures shall include, but not be limited to; a) reviewing CERS UST submittals so that the facility record is accurate and complete and b) accepting or rejecting inaccurate and incomplete CERS UST information.

7.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not requiring UST facilities to implement periodic enhanced leak detection (ELD) testing due to proximity to public drinking water wells.</p> <p>State Water Board records show there are six (6) UST facilities, which have neither completed the required ELD testing nor submitted a request for reconsideration (RFR) to perform ELD testing 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: <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>By June 8, 2016, the CUPA will notify UST facility owners/operators and inform them ELD testing is required. The notification letters shall include language stating noncompliance may lead to administrative or other formal enforcement measures. In addition to the notification letters, during the next annual UST compliance inspection, if ELD testing has not been implemented the CUPA shall cite the owner/operator for violation of Title 23, California Code of Regulations, Section 2644.1 for failure to implement ELD testing.</p> <p>The CUPA will copy CalEPA on this communication to document notification has been accomplished for all identified facilities.</p> <p>Once ELD testing has occurred, the CUPA will provide CalEPA with copies of the test results.</p>

**Deficiency Progress Update 1:**

**MC CUPA Response Update #1 - ELD Testing**  
MC CUPA has submitted by email an update with attachments to Lisa Jensen, SWRCB. All six facilities have submitted their ELD test results, submitted their "Request for Reconsideration," and/or provided documents of UST closure. One facility has scheduled their ELD test for June 22, 2016. MC CUPA will submit to CalEPA the results upon receipt from UST owner/operator. Copies of the ELD tests, ELD test dates, UST Closure information, and Request for Reconsiderations were delivered/sent by email and are attached with this update.

**Evaluation Team Response:**

**State Water Board**  
Deficiency is a work in progress.  
State Water Board acknowledges the CUPA's Deficiency Progress Update 1. State Water Board identifies having received the following from the CUPA:

1. A copy of a Request for Reconsideration Application for 28960 Gonzaga Road. (State Water Board Note: No official record of the Request for Reconsideration Application has been received by the State Water Board from the Owner/Operator);
2. ELD test results for 381 Joseph Gallo Drive and 1405 Davis Street;
3. Tank closure information for 301 13<sup>th</sup> Street;
4. Approved Request for Reconsideration letter from the State Water Board for 28991 Gonzaga Road; and

5. Hand written notes on a purchase order for “Donlee Pump Company” identifying ELD is scheduled for June 22, 2016 for 1419 Crowell Street. (State Water Board Note: ELD scheduling has been verified as “tentative” by CGRS, INC., as CGRS, INC. has not sent out the scheduling notice for this facility as of June 21, 2016.)

As evidenced by items 1 and 5 above, ELD implementation remains for 28960 Gonzaga Road and 1419 Crowell Street. Therefore, State Water Board considers this deficiency a work in progress.

In the next Deficiency progress Update, the CUPA will provide to CalEPA, documentation showing the CUPA has notified the facility located at 28960 Gonzaga Road, requiring the owner/operator to submit an Request for Reconsideration Application to the State Water Board. In addition, the CUPA will provide an update regarding ELD implementation for 1419 Crowell Street. If ELD testing has been completed by the next Deficiency Progress Update, the CUPA will provide the test results to State Water Board.

**Deficiency Progress Update 2 for Deficiency #7 (September 8, 2016 Response):**

MC CUPA is providing an updated copy of the Forebay Chevron Request for Reconsideration (RFR) to comply with the Enhanced Leak Detection requirement. The UST Owner/Operator indicates he cannot find the original RFR and he does not remember sending it to SWRCB. MC CUPA is in possession of the original RFR. An ELD test was performed on the All Star Food and Gas in Livingston UST system on July 20, 2016. CGRS performed the test. Due to non-payment, the ELD test report has not been submitted to MC CUPA. Correspondence was sent to the owner of the UST system demanding the ELD test report on August 22, 2016. Please see D7 attachments (D7 Forebay Chevron RFR, D7 CGRS email All Star Livingston ELD, and D7 All Star late ELD letter) for a copy of Forebay Chevron RFR, and a copy of the correspondence and CGRS email. MC CUPA will proceed with progressive enforcement action until the ELD test reports are submitted. MC CUPA will submit a copy of the ELD test report when received.

MC CUPA is requesting that this deficiency be designated “Deficiency CORRECTED – Corrective Action COMPLETE.”

**Evaluation Team Response:**

**State Water Board**

Deficiency is a work in progress.

State Water Board acknowledges the CUPA’s Deficiency Progress Update 2. The CUPA did not provide CalEPA with documentation, showing the CUPA notifying Chevron Forebay and requiring this facility to submit a Request for Reconsideration application to the State Water Board. In lieu of providing this documentation to CalEPA, the CUPA provided CalEPA with a copy of the original Request for Reconsideration application form. In order for State Water Board to process a Request for Reconsideration application, State Water Board must receive the Request for Reconsideration application from the owner/operator, not the CUPA, thus the requirement in Deficiency Progress Update 1 for the CUPA to provide documentation requiring the owner/operator to submit a Request for Reconsideration application to the State Water Board. To date, State Water Board has not received a Request for Reconsideration application from the owner/operator of Chevron Forebay.

State Water Board review of the CUPA’s Notice To Comply letter dated August 22, 2016 for All Star Food and Gas finds, incorrect references and California Code of Regulation citations for implementing and submitting ELD test results. The CUPA’s Notice to Comply letter, references submitting test results for a secondary containment system and the associated California Code of Regulation for secondary containment testing and submitting of test results. The correct reference for implementing ELD testing and submitting ELD test results is California Code of Regulations, title 23, section 2644.1(a)(5). While the UST system might be secondarily contained, ELD testing requirements are different from secondary containment testing; and test results provided to the CUPA and State Water Board follow a separate requirement as well.

Furthermore, the CUPA requests, State Water Board to consider this deficiency corrected as corrective action items are complete. State Water Board finds there are two (2) UST facilities identified as Forebay Chevron and All Star Food and Gas, who either need to: 1) provide a Request for Reconsideration application to the State Water Board, 2) implement ELD testing, or 3) provide ELD test results. Therefore, corrective actions have not been completed as indicated by the CUPA. The correction action of this deficiency identifies ELD test results must be provided to State Water Board in addition to submitting Request for Reconsideration applications.

This deficiency is a work in progress for the following reasons; 1) a Request for Reconsideration application has not been received from the facility owner/operator of Forebay Chevron and 2) ELD test results have not been received by the CUPA and State Water Board for All Star Food and Gas.

**Action Plan for the CUPA**

1. In the next Deficiency progress Update, the CUPA will provide to CalEPA, documentation showing the CUPA has notified Forebay Chevron, requiring the owner/operator to submit a Request for Reconsideration application to the State Water Board.
2. In the next Deficiency Progress Update, the CUPA will provide to CalEPA, with a copy of a revised and re-issued Notice to Comply letter for All Star Food and Gas. This revised and re-issued Notice to Comply letter will reflect correct California Code of Regulation citations for implementing ELD. In addition, if the CUPA receives ELD test results for All Star Food and Gas, the CUPA will provide a copy of the test results to CalEPA.

<b>8.</b>	<b>DEFICIENCY:</b>	<b>CORRECTIVE ACTION:</b>
	<p>The CUPA is issuing Unified Program Facility Permits, which includes the UST operating permit, to facilities not in compliance with UST Program requirements.</p> <p>The CUPA confirms UST operating permits are issued to facilities when cited minor violations have not been corrected.</p> <p>Note: Refer to State Water Board published guidance- FAQs “When to Issue a UST Operating Permit”.</p>	<p>By June 8, 2016, the CUPA will amend and submit to CalEPA, its procedures for issuing UST operating permits. The procedures will be amended to identify how CUPA inspectors, managers, and support staff confirm UST facility compliance before UST operating permits are issued.</p> <p>With respect to UST operating permits already issued to UST facilities not in compliance, the CUPA will require violations to be corrected within 30 calendar days or start progressive enforcement, which includes permit revocation for UST facilities that fail to return to compliance.</p> <p>Sixty (60) days after the next permit issuance cycle, the CUPA will submit to CalEPA, a copy of the UST operating permit, testing and maintenance records along with any other necessary records to determine compliance for 10 UST facilities selected by State Water Board.</p>

**Deficiency Progress Update 1:**

**MC CUPA Response Update #1 UST Permit Issuance**

MC CUPA has identified 10 UST facilities with outstanding violations that have been issued UST permits to operate in 2016. Another 9 UST facilities with outstanding violations were not issued permits to operate. Please see document titled “UST facilities with Outstanding Violations.”

MC CUPA has reviewed the FAQ's "When to Issue a UST Operating Permit" guidance from the Stater Water Resource Control Board. MC CUPA will send a letter by certified mail on July 15, 2016 to each UST facilities owner/operator with outstanding violations to comply within 30 days or have their permits revoked. If these facilities do not comply, MC CUPA ICC Certified staff will proceed to officially close the UST operation prohibiting all fuel dispensing to the public, fueling generators, and added storage of petroleum waste into their UST. Those facilities that were not issued an UST permit to operate will also be officially closed prohibiting all fuel dispensing to the public, fueling generators, and added storage of petroleum waste to their UST. All non-compliant UST facilities will remain closed until compliance is achieved. MC CUPA will proceed to initiate progressive enforcement action. Furthermore, MC CUPA staff will "red tag" each non-compliant unpermitted UST prohibiting future fuel deliveries. If these facilities do not comply, MC CUPA will proceed to initiate progressive enforcement/AEO process actions as required for non-compliant UST facilities. MC CUPA will not re-issue the UST permit or remove the Red Tags until the UST owner/operator has fully complied and the AEO process is final.

**Evaluation Team Response:**

**State Water Board**

Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 1. State Water Board finds attachment "Underground Storage Tank (UST) Facilities with Outstanding Violation Procedures and Process," acceptable as the CUPA identifies the roles of the following personnel:

1. Clerical staff responsibilities include the following; a) utilizing certified mail when mailing Potential Permit Revocation letters to UST facility owner(s)/operator(s), and b) issuing annual UST permits once the CUPA supervisor gives consent.
2. ICC UST certified staff responsibilities include the following; a) reviewing UST facility files as part of the annual UST compliance inspection which includes CERS to ensure all required UST information has been submitted, b) issuing violations for missing required UST information, c) following up with issued UST violations within 60-days for electronic reporting and for cited UST violations identified during the annual UST compliance inspection, d) preparing Potential Permit Revocation letters, and e) preparing issuance of UST Red Tags.
3. CUPA supervisor responsibilities include the following; a) prior to annual UST permit renewals, reviewing the CUPA's database for violations which have no RTC, b) giving consent to clerical staff to mail Potential Permit Revocation letters, c) commencing with the AEO process for outstanding UST violations, and d) giving consent to clerical staff to issue annual UST permits.

State Water Board also acknowledges the CUPA's attachment, "Failure to Comply with UST Requirements" letter. The CUPA identifies it will begin mailing this letter to UST facility owner/operators identified as being issued an UST permit to operate without having RTC on July 15, 2016. Our review finds attachment, "Failure to Comply with UST Requirements" acceptable as the CUPA identifies the following:

1. Health and Safety Code and California Code of regulation requirements;
2. UST violation(s) which have no RTC (currently a place holder; specific to each facility);
3. Compliance due date; and
4. Language for progressive enforcement.

State Water Board considers this deficiency a work in progress. In the next Deficiency Progress Update, please provide CalEPA an update regarding the mailing of the "Failure to Comply with UST Requirements" letters. In addition, please provide an update regarding RTC for outstanding UST violations or if permits have been revoked due to non-compliance.

**Deficiency Progress Update 2 for Deficiency #8 (September 8, 2016 Response):**

Due to the sudden loss of MC CUPA ICC UST staff as 3 months of approved leave, MC CUPA was not able to initiate the original plans. MC CUPA will proceed with its original plan starting August 15, 2016 with the return of ICC UST staff to conduct another review of the current status of the 19 UST facilities. Preliminary plans are to send a letter by certified mail in September 2016 to each UST facilities owner/operator with outstanding violations to comply within 30 days or have their permits revoked. MC CUPA will follow the plan as outlined in "Deficiency Progress Update 1." See attachments D8 Failed to Comply UST Permit Revocation Letter, D8 UST Facilities with Open UST Violations.

**State Water Board Response:**

Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 2. The CUPA indicates the "Failure to Comply with UST Requirements" letter was not sent out as planned due to sudden loss and approved leave for CUPA personnel for an extended period of time. The CUPA also indicates CUPA personnel have returned back to work and will begin reviewing information for the following; 1) facilities identified as receiving permits while not in compliance and 2) facilities not receiving permits due to non-compliance and follow up with these facilities as necessary.

State Water Board review of attachment D8 "Failed to Comply UST Permit Revocation" letter finds the letter contains the following language; 1) identifies language from Health and Safety Code regarding permit revocation for open violations, 2) identifies facilities failing to correct open violations, 3) identifies fourteen (14) days to correct open violation, and 4) identifies commencement of AOE for non-compliance.

State Water Board notes the CUPA's attachment D8 "UST Facilities with Open UST Violations." Attachment D8 identifies ten (10) facilities who received permits when not in compliance as well as nine (9) facilities who did not receive permits due to non-compliance.

State Water Board considers this deficiency a work in progress as the following is in process of being completed by the CUPA; 1) follow-up for facilities issued permits when not in compliance and 2) providing permits along with necessary documentation to CalEPA.

In the next Deficiency Progress Update, please provide CalEPA with the following information; 1) status of mailing the "Failure to Comply with UST Requirements" letters, 2) status of permit revocation for identified facilities, and 3) status of enforcement for identified facilities with open violations.

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9.	<p><b>DEFICIENCY: CORRECTED</b></p> <p>The CUPA assessed an incorrect amount for the California Accidental Release Prevision (CalARP) program element surcharge during FY 2013/2014 and FY 2014/2015.</p> <p>CalARP facilities were invoiced a surcharge of \$273 instead of \$270. The CUPA identified the \$3 overcharge in the FY 2013/2014 invoices and included a \$3 credit with their FY 2014/2015 invoices.</p> <p>CalARP facilities were again invoiced \$273 in FY 2014/2015, and FY 2015/2016 invoices included a \$3 credit.</p>	<p><b>CORRECTIVE ACTION: COMPLETE</b></p> <p>This deficiency was corrected during the evaluation.</p> <p>After the January 26, 2016, initial meeting to discuss potential deficiencies, the CUPA provided FY 2015/2016 invoices that demonstrated that all overages had been credited to overcharged CalARP facilities and that the invoice system had been corrected to reflect the accurate \$270 surcharge.</p> <p>No further corrective action is necessary.</p>
<p><b>Deficiency Progress Update 1: N/A – Deficiency is corrected.</b></p>		
<p><b>Evaluation Team Response: N/A – No further action required.</b></p>		