

# **Tehama County Environmental Health Department CUPA**

## **Deficiency Progress Report – Update 7**

Report Submitted: September 29, 2016

**Evaluation Date:** January 28 and 29, 2014

### **Evaluation Follow-Up Team:**

Kareem Taylor, CalEPA  
Asha Arora, DTSC  
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Sean Farrow, State Water Board

**Corrected Deficiencies:** [1](#), [2](#), [3](#), [4](#), [5](#), [6](#), [7](#), [8](#), [9](#), [10](#), [11](#), [12](#)

[All deficiencies have been corrected.](#)

- 1. Deficiency:** The CUPA is not initiating civil or administrative penalties against Aboveground Petroleum Storage Tank (APSA) owners or operators that have not completed a required Spill Prevention Control and Countermeasure (SPCC) plan.

CalEPA observed three Notices to Comply (NTCs) in which the CUPA cited APSA facilities for not having an SPCC plan.

When an owner or operator of an APSA facility has not completed an SPCC plan (when required), it is considered a Class I or Class II violation and the owner or operator is liable for civil or administrative penalties.

**Corrective Actions:** By September 30, 2014, the CUPA will train inspectors and begin enforcing civil and/or administrative penalties of the APSA program. The CUPA will provide the following to CalEPA:

- APSA enforcement procedure
- list of inspectors trained
- training dates and topics
- enforcement documentation from at least three APSA facilities showing appropriate enforcement actions were taken.

**Status:** [Corrected.](#)

**CUPA's 1<sup>st</sup> Update:** All inspectors have passed the CSTI APSA training course. What other training is required?

There is only one AST facility in Tehama County known to currently be out of compliance, W.S. Heitman Drilling and Pumps. An office meeting was held on August 5, 2014 with Tehama County Environmental Health Department Director Tim Potanovic, Allan Fleming, REHS and Julie Benson in the Tehama County District Attorney Greg Cohen's office. W.S. Heitman Drilling and Pumps manager Tom Baker was present and owner Wes Heitman attended via telephone. The minutes of the meeting are attached. In a follow up telephone call to Mr. Baker on August 11, 2014, he indicated that he had made arrangements to have the SPCC prepared for his facility.

**CalEPA 1<sup>st</sup> Response:** The CSTI training is sufficient for inspectors to implement and enforce the APSA program. However, because the CUPA was deficient for not adequately enforcing HSC chapter 6.67 regarding SPCC plan violations, the CUPA must train its inspectors to take required enforcement actions for cited SPCC plan violations. Please email APSA certificates showing that inspectors successfully completed the CSTI APSA course. Also, have an internal training meeting with inspectors to ensure that they understand the enforcement protocol for SPCC plan violations. Email the training meeting agenda that includes the topics covered. Please include the sign-in sheet and APSA enforcement procedure. Additionally, please update CalEPA on the disposition of the case involving W.S. Heitman Drilling and Pumps.

**CUPA 2<sup>nd</sup> Update:** It was determined that W.S. Heitman is ag exempt from APSA.

**CalEPA 2<sup>nd</sup> Response:** Thank you for updating CalEPA on the disposition of W.S Heitman Drilling and Pumps. The CUPA did not provide APSA training certificates for all APSA inspectors, APSA CSTI training agenda, or an APSA enforcement procedure. Please email these to me as soon as possible.

**CUPA 3<sup>rd</sup> Update:** Find APSA training certificates attached.

**CalEPA 3<sup>rd</sup> Response:** The APSA training certificates for the two inspectors are acceptable. The CUPA has not provided APSA enforcement procedures or documentation indicating that internal APSA enforcement training was completed that covers the enforcement protocol for SPCC plan violations.

#### **Action Items:**

Within 30 days of receiving the State Evaluation Team response, please provide CalEPA with APSA enforcement procedures. Additionally, please conduct an internal APSA enforcement training meeting for all APSA inspectors and provide CalEPA with an agenda of the topics covered and a list of inspectors in attendance.

**CUPA 4<sup>th</sup> Update:** Draft of Enforcement Procedure emailed on 11/30/15. APSA enforcement training will be an in-house training during the week of 12/7/15 due to schedule conflicts.

**CalEPA 4<sup>th</sup> Response:** CalEPA acknowledges and accepts the CUPA's APSA enforcement procedure. Along with the next progress report, please provide the APSA enforcement training date, list of inspectors that attended the training, and an agenda of the topics covered.

**CUPA 5<sup>th</sup> Update:** Despite a great search effort, no outside training on APSA enforcement was found. An In-house training/review (see attached "Enforcement Procedure Review" and sign-in sheet) was conducted. This covered the 4 main programs in this County's CUPA, APSA included, and focused on enforcement consistency. Additionally, an Administrative Enforcement Order session was attended by L. Dilworth at the 2016 CUPA conference. Learning from this conference session was incorporated into the training/review.

**CalEPA 5<sup>th</sup> Response:** CalEPA acknowledges and accepts the CUPA's in-house training, training sign-in sheet, and the AEO training attended by Lauri at the 2016 CUPA conference. This deficiency is considered corrected.

2. **Deficiency:** CUPA staff have not maintained their health and safety training as specified in section 5192(e) title 8, California Code of Regulations. CUPA staff conducting hazardous waste generator (HWG) inspections did not complete an 8-hour HAZWOPER refresher course within the past two years.

**Corrective Actions:** By June 30, 2014, the CUPA will provide health and safety training to inspection staff. Due to the lapse in renewal of HAZWOPER training, inspection staff must complete the 24-hour HAZWOPER course to meet the health and safety training requirement.

**Status:** Corrected.

**CUPA's 1<sup>st</sup> Update:** Allan Fleming and Don Shelvock have completed the OSHA 24 hour HAZWOPER course. Copy for Allan Fleming attached, Don Shelvock's can be provided upon his return in September.

**CalEPA 1<sup>st</sup> Response:** Please refer to DTSC's response.

**DTSC 1<sup>st</sup> Response:** The CUPA provided 24 hour HAZWOPER course to their staff, and provided the training certificate of one of their staff to Cal EPA. DTSC will consider this deficiency corrected as soon as the CUPA provides training certificate of Don Shelvock's 24 hour HAZWOPER course to CalEPA.

**CalEPA Additional Response:** The CUPA provided Don Shevlock's HazWOPER training certification on December 14, 2014. This deficiency is considered corrected.

**3. Deficiency:** The CUPA is not consistently following-up on and/or documenting return to compliance (RTC) for businesses cited with violations in NTCs and inspection reports/Notices of Violation (NOVs). Below is a list of businesses cited for hazardous waste violations, but documentation of RTC or follow-up was not found:

- Aggressive Transport Ltd.  
HWY 36E, Red Bluff
- Triple R Gas  
Tyler Road and 99 East, Red Bluff

**Corrective Actions:** The CUPA will immediately start following-up with businesses cited for violations.

By June 30, 2014, the CUPA will follow-up with the businesses listed in this deficiency and provide a copy of the RTC documentation to CalEPA.

By September 30, 2014, the CUPA will submit two new examples of RTC documentation to CalEPA for businesses cited with violations.

**Status: Corrected.**

**CUPA's 1<sup>st</sup> Update:** Both of these businesses are in compliance. See attached deficiency #3.

**CalEPA 1<sup>st</sup> Response:** Please refer to DTSC's response.

**DTSC 1<sup>st</sup> Response:** DTSC appreciates the CUPA's efforts in correcting this deficiency. This deficiency is partially corrected. The CUPA made progress in correcting this deficiency by providing return to compliance documentation for the two facilities cited in the SOF. In addition provide two new inspection reports to Cal EPA that demonstrates RTC for businesses cited with hazardous waste generator violations with the next progress report.

**CUPA 2<sup>nd</sup> Update:** This is a work in progress. As CERS becomes more usable it will not be a problem. Please see submitted inspection reports for additional RTC's.

**CalEPA 2<sup>nd</sup> Response:** The CUPA has not provided two new examples of RTC documentation to CalEPA for businesses cited with violations. Please provide the two new examples as soon as possible. Royal Truck Wash Tire & Lube inspected on 5-1-15 had three HW violations that RTC. You may provide RTC documentation for this facility and one other.

**DTSC 2<sup>nd</sup> Response:** DTSC did not receive the two new inspection reports that was requested in the first update. Provide two new inspection reports to Cal EPA that

demonstrates RTC for businesses cited with hazardous waste generator violations with the next progress report in order to clear this deficiency.

**CUPA 3<sup>rd</sup> Update:** Documentation was provided on August 3, 2015. No comments were received from CalEPA or DTSC.

**CalEPA 3<sup>rd</sup> Response:** The CUPA submitted CERS inspection summaries for Royal Truck Wash Tire & Lube and Cardan Aircraft Services, Inc. on August 3, 2015. CalEPA accepts the inspection summaries for Royal Truck Wash Tire & Lube. Cardan Aircraft Services was not cited for HWG violations. The CUPA needs to provide RTC documentation for one additional facility cited for HWG violations. RTC documentation may include an inspection report, RTC certification, facility letter of RTC, RTC date on an inspection report.

**Action Item:**

Within 30 days of receiving the State Evaluation Team response, please provide CalEPA with one new example of RTC documentation for a business cited with HWG violations.

**CUPA 4<sup>th</sup> Update:** Example submitted 11/13/15 (Corning Union High School CERS: 10514071)

**CalEPA 4<sup>th</sup> Response:** CalEPA received an inspection report for Corning Union High School District on 11-13-15. However, there was no documentation showing that the facility return to compliance or that the CUPA followed-up with the facility. Along with the next progress report, please provide RTC or follow-up documentation for Corning Union High School District or another facility cited for HWG violations.

**DTSC 4<sup>th</sup> Response:** Example shows an inspection report conducted at the Corning Union High School on 5/4/15 and RTC documentation was not submitted. A review of CERS shows that RTC for the school occurred on 5/5/15. Please submit documentation for RTC for this inspection.

**CUPA 5<sup>th</sup> Update:** A more recent example submitted, "Deer Creek Farms." RTC form is available for Corning High, but at this point a more recent example seems more appropriate.

**CalEPA 5<sup>th</sup> Response:** CalEPA and DTSC acknowledges and accepts the CUPA's RTC certification for Deer Creek and Corning High. This deficiency is considered corrected.

4. **Deficiency:** The CUPA failed to ensure all hazardous materials handlers annually submit their inventory information or certification. Of the 18 business plans reviewed, nine were missing current inventories or certifications.

**Corrective Actions:** By June 30, 2014, the CUPA will develop and submit to CalEPA an action plan to ensure annual inventories are submitted into CERS. The plan should include a process to ensure proper follow-up and the initiation of appropriate enforcement against noncompliant handlers.

By January 29, 2015, the CUPA will have implemented the action plan and will submit a listing of handlers not in compliance with HSC section 25508(c), outlining the enforcement being taken to assure compliance.

**Status: Corrected.**

**CUPA's 1<sup>st</sup> Update:** All hazmat businesses were notified that they must submit their annual inventories in CERS. No further plan has been developed at present.

**CalEPA 1<sup>st</sup> Response:** On the next progress report, submit an action plan per the corrective action. Please refer to Cal OES's response.

**Cal OES 1<sup>st</sup> Response:** With the next quarterly report, the CUPA must outline what graduated enforcement actions are to be taken against handlers that fail to submit their information into CERS at the required time. The January 29, 2015 deadline for submitting a list of noncompliant handlers and the enforcement actions being taken still exists.

**CUPA 2<sup>nd</sup> Update:** We are continuing to work with hazmat business' to enter complete and accurate submittals into CERS.

**CalEPA 2<sup>nd</sup> Response:** The CUPA has not completed either of the corrective actions by the due date. CalEPA will schedule a phone conference to determine the correction status of this deficiency.

**Cal OES 2<sup>nd</sup> Response:** The CUPA still has not submitted an action plan, including enforcement options, to ensure that inventories are current for all handlers. A review of CERS shows that, as of July 1, 2015, there are at least 52 handlers without current inventories. Again, the January 29, 2015 deadline for submitting a list of noncompliant handlers and the enforcement actions being taken has passed, and no response from the CUPA has been received. With the next quarterly report, the CUPA must outline what graduated enforcement actions, specifically, are being taken against handlers that have failed to submit their information into CERS at the required time.

**CUPA 3<sup>rd</sup> Update:** We continue to help businesses with CERS.

**CalEPA 3<sup>rd</sup> Response:** The CUPA has not submitted an action plan to ensure annual inventories are submitted into CERS. The action plan is to include a process to ensure proper follow-up and the initiation of appropriate enforcement against noncompliant

handlers. Additionally, the CUPA has not submitted a listing of handlers that have not submitted a chemical inventory.

**Action Items:**

Within 30 days of receiving the State Evaluation Team response, please provide CalEPA with an action plan to ensure annual inventories are submitted into CERS. Additionally, please provide a listing of handlers that have not submitted a chemical inventory.

**Cal OES 3<sup>rd</sup> Response:** The CUPA still has not submitted an action plan, including enforcement options, to ensure that inventories are current for all handlers. The January 29, 2015 deadline for submitting a list of noncompliant handlers and the enforcement actions being taken has passed, and no response from the CUPA has been received. With the next quarterly report, the CUPA must outline what graduated enforcement actions, specifically, are being taken against handlers that have failed to submit their information into CERS at the required time.

**CUPA 4<sup>th</sup> Update:** 11/19/15 emailed Action Plan and list of noncompliant handlers

**Cal OES 4<sup>th</sup> Response:** The action plan submitted by the CUPA satisfies the requirements of the original corrective action, and Cal OES considers that part of the deficiency corrected. The listing of noncompliant handlers (which should be periodically refreshed) does not yet indicate enforcement actions being taken against these handlers, if any. Presumably, this is because they have not yet responded to the initial NOV, because the “comply by” date has not yet been reached. With the next quarterly update, please update the submitted spreadsheet with enforcement outcomes for each handler (returned to compliance, further enforcement, etc.). The CUPA has made major progress in correcting this deficiency, and Cal OES appreciates the effort.

**CUPA 5<sup>th</sup> Update:** Further progress on the above referenced list had to be postponed while dealing with a more serious issue. A data match between CERS and Envision revealed numerous facilities that had never reported anything in CERS. NOVs were issued, with most facilities returning to compliance (30 day notice). Further action was taken against those who did not comply after the 30 days (Notice of non-response- 15 days to comply). Those who still do not comply will be referred for AEO with penalties assessed. The list of those non-compliant handlers and an example of action is attached. Meanwhile, in January a list of handlers was created and a general outreach effort was made to inform them of the need to annually report their inventory (or business plan in general) in CERS; in February, a targeted outreach was made to handlers overdue in their inventory reporting. Attached is an up-to-date list of overdue handlers.

**Cal OES 5<sup>th</sup> Response:** From the spreadsheet submitted, the CUPA has a good handle on the non-compliant population of handlers. With the next quarterly update, please report your progress, including any enforcement activity, and supply an updated spreadsheet.

**CUPA 6<sup>th</sup> Update:** **This CUPA continues to work to bring the remaining non-compliant handlers current on their reporting. The updated version of the previously submitted list is attached.**

**Cal OES 6<sup>th</sup> Response:** While the CUPA has not yet achieved 100% compliance, the progress has been impressive, and enforcement has been taken and escalated on all deficient handlers. Cal OES considers this deficiency corrected.

5. **Deficiency:** The CUPA did not conduct a complete HWG oversight inspection at Bob's Tire Center on November 05, 2013. During the inspection, the inspector failed to:
- observe that satellite accumulation containers had not been labeled.
  - ask if the operator determined metallic dust (resulting from turning a brake rotor on a lathe) disposed into an unlabeled container was a hazardous waste.

**Corrective Actions:** By June 30, 2014, the CUPA will re-inspect Bob's Tire Center to determine whether the facility has RTC and will submit the re-inspection report or RTC certification to CalEPA.

**Status:** **Corrected.**

**CUPA's 1<sup>st</sup> Update:** Bob's Tire was re inspected on 5/7/14. They agreed to label and dispose of brake grindings as hazardous waste rather than having them tested. See attached deficiency #5.

**CalEPA 1<sup>st</sup> Response:** CalEPA and DTSC consider this deficiency corrected.

**DTSC 1<sup>st</sup> Response:** DTSC reviewed the inspection report provided by the CUPA. DTSC considers this deficiency corrected.

6. **Deficiency:** The CUPA's HWG inspection reports/NTCs do not consistently document details of all observations made at the business facility or site for all alleged violations. This includes the factual basis for alleged violations and any corrective actions that should be taken in order to correct the violations. Below is a list of such businesses:
- O' Reilly Auto Parts #2728  
510 S. Main St., Corning
  - Green Waste of Tehama  
19995 Plymire Rd., Red Bluff



- Aggressive Transport Ltd.  
HWY 36E, Red Bluff

**Corrective Actions:** By June 30, 2014, the CUPA will schedule inspection report training for their staff covering the required elements of a HWG inspection report, i.e. observation, factual basis of violations, and corrective actions.

Inspection Report Writing guidance for Unified Program Agencies is available on CalEPA's website: <http://www.calepa.ca.gov/CUPA/Documents/Inspection/InspectionRpt.pdf>

By September 30, 2014, the CUPA will provide CalEPA with a list of inspectors who attended the training, and a copy of the sign in sheet for the training.

**Status:** This deficiency is not corrected.

**CUPA's 1<sup>st</sup> Update:** No progress at present.

**CalEPA 1<sup>st</sup> Response:** On the next progress report, please update CalEPA on the status of the staff training. Please refer to DTSC's response.

**DTSC 1<sup>st</sup> Response:** The CUPA did not make any progress in correcting this deficiency. Please update Cal EPA with the next progress report.

**CUPA 2<sup>nd</sup> Update:** All inspection reports are now entered into EnvisionConnect siting the code section, class of violation, and corrective action required. See reports entered in CERS.

**CalEPA 2<sup>nd</sup> Response:** The CUPA has not provided documentation indicating that inspectors have attended HWG inspection report writing training. CalEPA will schedule a phone conference to determine the correction status of this deficiency.

**DTSC 2<sup>nd</sup> Response:** The CUPA started entering the required information into EnvisionConnect and CERS, however the CUPA did not provide training to their staff as stated in the Corrective Action language for this deficiency. On the next progress report, please update CalEPA on the status of the staff training.

**CUPA 3<sup>rd</sup> Update:** There is no change at this time.

**CalEPA 3<sup>rd</sup> Response:** The CUPA has not provided documentation indicating that inspectors have attended HWG inspection report writing training.

**Action Items:**

Within 30 days of receiving the State Evaluation Team response, please provide HWG inspection report writing training to all HWG inspection staff. This training may be formal or in-house. Additionally, send a list of inspectors who attended the training and a copy of the sign in sheet for the training.

**CUPA 4<sup>th</sup> Update:** HWG training information submitted 11/16/15.

**DTSC 4<sup>th</sup> Response:** DTSC received an internal sign-in sheet for HWG training. DTSC accepts this as interim and recommends that the CUPA staff take HWG inspection report training at the upcoming CUPA Conference. Please submit documentation of trainings attended to CalEPA along with the next progress report.

**CUPA 5<sup>th</sup> Update:** CalEPA Basic Inspector Academy Training, which includes Inspection Report writing element, submitted for inspector L Dilworth on 1/22/16. Only one inspector will be able to attend the CUPA conference (Dilworth) and sessions have already been signed up for (by date of this recommendation). With respect, the report training at the CUPA conference would be too similar to that given at the BIA to justify changing the schedule and not attending other valuable sessions. An internet search, including CUPA forum videos, has not yielded any training opportunities. Can DTSC supply any other known report writing training opportunities?

**DTSC 5<sup>th</sup> Response:** The CUPA has not provided documentation indicating that inspectors have attended HWG inspection report writing training.

Within 60 days of receiving this response, please provide HWG inspection report writing training to all HWG inspection staff. This training may be formal or in-house. Additionally, send a list of inspectors who attended the training and a copy of the sign in sheet for the training. Next CalEPA Basic Inspector Academy Training (BIA) classes are in Fresno on May 17<sup>th</sup> and in San Luis Obispo on June 14<sup>th</sup>.

**CUPA 6<sup>th</sup> Update:** HWG report writing training sign in sheet, brief outline and copy of material used was submitted to Diana Peebler on 6/13/16.

**DTSC 6<sup>th</sup> Response:** DTSC considers this deficiency corrected based on the information provided.

7. **Deficiency:** The CUPA is not ensuring Underground Storage Tank (UST) owners/operators perform the required enhanced leak detection (ELD) testing.

SWRCB records indicate that many of the notified UST facility owners/operators either never completed the required ELD testing or have not submitted a request for reconsideration to perform ELD testing.

SWRCB has provided the CUPA with copies of the formal notifications to implement ELD testing.

**Corrective Actions:** By June 30, 2014, the CUPA will contact UST facility owners/operators and inform them that ELD testing is required. The CUPA will copy CalEPA on this communication to document that notification has been accomplished.

Once ELD testing has occurred, the CUPA will inform CalEPA that testing is complete by providing copies of the test results upon receipt.

If a UST owner/operator believes they are not within 1,000 feet of a public drinking water well, a request for reconsideration to perform ELD testing must be submitted to the SWRCB. The reconsideration request form can be found at: <http://www.waterboards.ca.gov/ust/eld/index.shtml>. Once received from the UST owner/operator, SWRCB will make a final determination whether or not ELD testing is required.

**Status: Corrected.**

**CUPA's 1<sup>st</sup> Update:** All facilities were notified. All except Walmart Distribution Center have agreements with an ELD tester. As yet four have still not completed the testing. It was determined that the Walmart well in question was not a public drinking water supply. Update – One of the four remaining facilities completed ELD testing the week of 8/11/14.

**CalEPA 1<sup>st</sup> Response:** Please refer to SWRCB's response.

**SWRCB 1<sup>st</sup> Response:** SWRCB appreciates the CUPA's efforts towards correcting this deficiency. On the next progress report, please update CalEPA on the status of correction.

**CalEPA Additional Response:** The CUPA provided the requested ELD testing results. CalEPA and SWRCB consider this deficiency corrected.

- 8. Deficiency:** The CUPA has failed to ensure UST data submitted by businesses is accurate and correct.

SWRCB's file review indicates that the CUPA is accepting incomplete CERS submittals. Missing elements include:

- UST installation dates;
- Vent pipe information;
- Vapor pipe information;
- Electronic line leak detectors programmed rate;

Additional inaccuracies of CERS submittals include:

- ATG is indicated as being used to monitor a double walled tank;
- Tank integrity testing was indicated for a double walled UST;
- What is “pipe construction 2”?

**Corrective Actions:** Effective immediately, the CUPA will cease acceptance of incomplete or inaccurate CERS submittals.

By June 30, 2014, the CUPA will develop a policy to include in its Inspection and Enforcement (I and E) plan to ensure staff are aware that information submitted into CERS must be accurate and complete before it is accepted.

By July 30, 2014, the CUPA will submit this new policy to CalEPA for review.

By September 1, 2014, the CUPA will incorporate and implement the new policy as described above.

By September 30, 2015, the CUPA will conduct a self-audit and submit it to CalEPA. The self-audit will address the status of the new policy implementation and will identify any needed changes. The CUPA will also submit CERS screen shots from 10 UST facilities showing submitted UST data is accurate and complete.

**Status: Corrected.**

**CUPA’s 1<sup>st</sup> Update:** No new plans are being accepted that are not complete and correct.

**CalEPA 1<sup>st</sup> Response:** Please refer to SWRCB’s response.

**SWRCB 1<sup>st</sup> Response:** The CUPA did not submit the required policy as agreed upon in the corrective actions. The CUPA will update CalEPA on the next progress report with the agreed upon policy.

**CUPA 2<sup>nd</sup> Update:** This deficiency is not corrected

**CalEPA 2<sup>nd</sup> Response:** CalEPA will schedule a phone conference to determine the correction status of this deficiency. Please refer to SWRCB’s response.

**SWRCB 2<sup>nd</sup> Response:**

The correction for this deficiency requires the CUPA to:

1. Develop policies and procedures to ensure that staff accept accurate and complete CERS submittals,

2. Submitting the policies and procedures to CalEPA for review,
3. Implementing the policies and procedures, and
4. Submitting the CUPA's self-audit by September 30, 2015.

The CUPA's response of "This deficiency is not corrected" is an unacceptable response as the development and implementation of the policy should have been completed in 2014.

#### **Action Plan for the CUPA:**

Within thirty (30) days of receipt of the Evaluator Team response the CUPA will provide to CalEPA:

1. Policies and procedures regarding only allowing accurate and complete UST related fields and their maintenance as outlined in CERS 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".

CalEPA and the State Water Board will review and provide comments within 30 days of receiving required CUPA policies and procedures. Once the policies and procedures are approved, the CUPA shall immediately begin implementation.

**CUPA 3<sup>rd</sup> Update:** This deficiency is not corrected.

**CalEPA 3<sup>rd</sup> Response:** The CUPA has not submitted a policy to ensure that staff are aware that information submitted into CERS must be accurate and complete before it is accepted.

**SWRCB 3<sup>rd</sup> Response:** The CUPA has not complied with the Corrective Action.

State Water Resources Control Board (State Water Board) finds the CUPA's Update 3 response of "This deficiency is not corrected" unacceptable. This is the second consecutive update in which the CUPA reports to CalEPA, "This deficiency is not corrected". Additionally, in Update 2, State Water Board provided an Action Plan for the CUPA, which the CUPA failed to comply. The Action Plan identified resources, to help and provide direction on writing policies and procedures for staff when reviewing and either accepting or rejecting CERS submittals in addition to requiring the policy to be submitted within thirty (30) days receipt of the Evaluator Team response.

The Corrective Action for this deficiency requires the CUPA to:

1. By June 30, 2014, develop policies and procedures to ensure that staff accept accurate and complete CERS submittals,
2. By July 30, 2014, submit the policies and procedures to CalEPA for review,
3. By September 1, 2014, implement the policies and procedures, and

#### 4. Submitting the CUPA's self-audit by September 30, 2015.

State Water Board's unit staff Sean Farrow, in conjunction with Kareem Taylor of CalEPA and Jack Harrah of CalOES held a teleconference meeting Wednesday, September 9, 2015 with Tim Potanovic, Don Shelvock, and Lauri Dilworth regarding the unacceptable performance of the CUPA's progress of correcting noted deficiencies found during the 2014 CUPA evaluation. State Water Board and CalEPA provided feedback to the CUPA regarding its Update 3 response, "This deficiency is not corrected", which is considered unacceptable by both agencies. CalEPA and State Water Board reiterated to the CUPA that, policies and procedures regarding only allowing accurate and complete UST related fields and their maintenance in CERS are required to be developed and submitted to CalEPA in addition to the submittal of the CUPA's I & E Plan which is due September 30, 2015. State Water Board discussions identified that policies and procedures should be in line with the frequently asked questions 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" and pointed out that State Water Board is available to review draft policies prior to finalizing.

#### **Action Plan for the CUPA:**

With the CUPA's failure to comply with the Corrective Action Requirements and since the CUPA has not begun implementation of policies and procedures regarding this deficiency the State Water Board recognizes that it is not realistic for the CUPA to submit its Self-Audit on September 30, 2015. Therefore, State Water Board is amending the Corrective Action requirements for Deficiency 8 and requires the following:

1. By November 31, 2015, the CUPA will send to CalEPA policies and procedures for staff to accept accurate and complete CERS submittals.
2. By February 28, 2016, the CUPA will implement the policies and procedures developed to correct this deficiency.
3. By September 30, 2016, the CUPA will submit its self-audit addressing the implementation of the Corrective Action and identify if any changes are needed.
4. At the completion of the Self Audit and the CUPA identifies the Inspection and Enforcement Plan implementation is sufficient, the State Water Board will select and review ten (10) UST facilities to review for complete and accurate data fields. This deficiency will be considered corrected if the facilities reviewed are complete and accurate.

**CUPA 4<sup>th</sup> Update:** CUPA have reviewed and discussed this deficiency, and have a verbalized tentative plan but have not prepared a written plan. [The CUPA submitted procedure on 1-4-16 after the submittal of progress report 4.](#)

#### **State Water Board 4<sup>th</sup> Response:**

## **Deficiency is a work in progress.**

The statement provided by the CUPA “CUPA have reviewed and discussed this deficiency, and have a verbalized tentative plan but have not prepared a written plan” is and unacceptable response to the required corrective action. Therefore, on December 15, 2015, State Water Board, Leak Prevention Unit Chief Laura Fisher, Unit staff Sean Farrow and Lisa Jensen in conjunction with Kareem Taylor of CalEPA held a teleconference meeting with Tehama County Director of Environmental Health, Tim Potanovic and CUPA staff Lauri Dilworth and Allan Fleming. The meeting captured the CUPAs lack of progress towards correcting Deficiency 8, specifically the failure to develop and implement a policy that which ensures CERS UST accepted data elements are complete. The State Water Board offered to provide examples of policies to assist the CUPA with correcting Deficiency 8. Additionally, State Water Board provided assistance to the CUPA by advising new CUPA staff subscribe to the UST List Serv (Lyris) and point to additional resources such CERS FAQ’s and CERS goals quarterly report for program support.

On January 11, 2016, State Water Board received a CUPA update containing procedures for accepting CERS UST submittals and finds them acceptable. The procedures include language requiring ICC UST certification; reporting elements including what is field verified; referral to CERS FAQ “Setting “Accepted” Submittal Status”; and includes language for if a violation for non-compliance with reporting requirements is to be issued.

The CUPA should note that the State Water Board review of CERS finds there are 41 UST facilities with accepted UST data elements between the period of November 25, 2013 and December 7, 2015. For FY 2014/2015, our review finds the CUPA accepting 29 UST facility submittals. A random selection of six (6) accepted submittals finds the CUPA continues to accept incomplete or inaccurate UST data elements. The following are examples of accepted CERS UST data elements, which are incomplete or inaccurate:

1. CERS ID 10472446- One Stop Gas Station submittal is missing UST Owner/Operator Written Agreement. UST Certification of Financial Responsibility form is signed, but not dated. Owner Statement of Designated UST Operator Compliance ICC was expired when the submittal was accepted. UST Tank Information/Monitoring Plan shows “none” for riser pipe installation and the facility is constructed with double-wall suction product pipe. However, the Monitoring Plan shows the pipe is monitored with mechanical line leak detectors.
2. CERS ID 10206691- Warner Petroleum Red Bluff submittal is missing UST Monitoring Site Plan. In lieu of the site plan, State Form UPCF-D was submitted. UST Owner/Operator Written Agreement is missing from the submittal. In its place, the owner/operator submitted the Business Owner/Operator Identification Form (OES 2730). UST Certification of Financial Responsibility was signed and dated in 2009.

3. CERS ID 10459753- Guys Corner Market submittal is missing UST Owner/Operator Written Agreement. Instead, the Owner Statement of Designated UST Operator Compliance and UST Response Plan were submitted. UST Tank Information/Monitoring Plan for Tanks 1 and 3 shows, the riser pipe is constructed of fiberglass however; the riser pipe for Tank 2 is constructed of steel.
4. CERS ID 10487446- Arco AM/PM submittal is missing UST Owner/Operator Written Agreement. Instead, the Owner Statement of Designated UST Operator Compliance form was submitted. UST Tank Information/Monitoring Plan shows no riser pipe is installed and alarm fields are blank for pipe monitoring.

**CUPA 5<sup>th</sup> Update:** CUPA revised the above 4 UST submittal status in CERS, or a reviewed more recent submittal. Their environmental contact was informed of the change in status and need for corrections. CUPA understands that the self-audit is due by September 30, 2016.

**State Water Board 5<sup>th</sup> Response:**

**Deficiency is a work in progress.**

State Water Board acknowledges the CUPA's Deficiency Progress Update 5 regarding revising the submittal status of the four (4) CERS UST submittals identified in Update 4. Furthermore the CUPA acknowledges that its self-audit is due to CalEPA by September 30, 2016.

State Water Board review of five (5) CERS identification numbers where UST CERS submittals have been accepted by the CUPA since January 11, 2016, finds the CUPA initiating its procedures for accepting CERS UST submittals. CERS ID 10483642 accepted March 28, 2016, CERS ID 10155173 accepted March 22, 2016, and CERS ID 10165861 accepted January 1, 2016 respectively, contain all required uploads and the submitted data appears to be complete and accurate.

Please note the following which the CUPA should address by the next annual compliance inspection:

1. CERS ID 10440460 accepted February 8, 2016 has double-wall steel tanks with no corrosion; and
2. CERS ID 10459363 accepted January 22, 2016 is missing the Owner/Operator Written Agreement upload.

**CUPA 6<sup>th</sup> Update:** CUPA is reviewing 10440460 and 10459363 and will require the missing/incorrect information be remediated in CERS.

**State Water Board 6<sup>th</sup> Response:**



## **Deficiency is a work in progress.**

State Water Board acknowledges the CUPA's Deficiency Progress Update 6. The CUPA states it will require CERS ID's 10440460 and 10459363 UST information to be remediated in CERS.

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

Please note State Water Board anticipates reviewing accepted CERS UST information in the next Deficiency Progress Update as the CUPA's self-audit for FY 2015/2016 is due on or before September 30, 2016.

**CUPA 7<sup>th</sup> Update: CERS ID 10440460 has been remediated and the current submittal was accepted. CERS ID 10459363 submittal was not accepted as facility has not submitted owner/operator written agreement.**

**This CUPA has been more diligent in CERS UST submittal reviews, with some previously "accepted" submittals having their status changed to "not accepted." If a facility had an earlier, inaccurate/incomplete submittal that was "accepted" and later made another submittal that was "not accepted," the CUPA is not retroactively changing the status of the earlier submittal(s).**

**The CUPA self-audit for FY 2015-2016 was sent as an attachment with this update. Please refer to the UST section, item 5, for applicable portion which, in part, addresses this deficiency.**

**State Water Board 7<sup>th</sup> Response:** Deficiency is corrected.

State Water Board acknowledges the CUPA's Deficiency Progress Update 7. The CUPA submitted the FY 2015/2016 self-audit. Our review of the CUPA's FY 2015/2016 self-audit finds the CUPA addressing how the new procedures have helped with reviewing practices for CERS UST submittals. Furthermore, the CUPA includes language in the self-audit, stating there has been significant improvement in CERS UST submittals as a result of the new procedures. Therefore, State Water Board finds the CUPA addressing corrective action elements for the FY 2015/2016 self-audit.

Our review of CERS UST submittals between the period of 5/1/2016 and 9/30/2016 finds the CUPA continues to follow procedures for reviewing and accepting or not accepting CERS UST submittals. The following CERS identification (ID) numbers are examples resulting from CUPA personnel following procedures for reviewing and accepting or not accepting CERS UST submittals:

1. CERS ID 10611949 – Not accepted 9/29/16; CUPA comments include submittal contains inaccurate information.

2. CERS ID 10440460 – Accepted 9/28/2016; submittal contains accurate information.
3. CERS ID 10459363 – Not accepted 9/27/2016; CUPA comments include submittal contains inaccurate information.
4. CERS ID 10440457 – Accepted 9/21/2016; submittal contains accurate information.
5. CERS ID 10339333 – Accepted 7/6/2016; submittal contains accurate information.
6. CERS ID 10441180 – Accepted 6/20/2016; submittal contains accurate information.
7. CERS ID 10483852 – Accepted 5/19-/2016; submittal contains accurate information.
8. CERS ID 10207513 – Accepted 5/12/2016; submittal contains accurate information.

Please note the following CERS ID numbers, which the CUPA should address by the next annual UST compliance inspection:

1. CERS ID 10149241 accepted 9/27/2016; CERS shows tank and pipe interstitials are monitored by pressure. The CUPA confirms the tank and pipe interstitial monitoring is not accurate for this UST facility. The CUPA states the tank interstitials are filled with brine while pipe interstitials are open and dry; and
2. CERS ID 10471780 accepted 5/25/2016; vent and vapor piping secondary construction is not accurate for this UST facility. CERS shows “blanks” for vent and vapor piping secondary construction. If the vent and vapor pipe is single-wall, CERS should show “none” in lieu of “blanks” for vent and pipe secondary construction.

State Water Board finds the CUPA has made significant improvement with reviewing submitted CERS UST submittals and considers this deficiency corrected.

9. **Deficiency:** Emergency Response Plans/Procedures are being submitted without all of the required elements. The missing elements include:
- Mitigation;
  - Prevention;
  - Abatement of hazards to persons, property or environment;
  - Identification of areas of the facility and mechanical or other systems that require immediate inspection or isolation due to the vulnerability to earthquake related ground motion.

**Corrective Actions:** By June 30, 2014, the CUPA will submit an action plan to CalEPA explaining its process for ensuring all required elements of the Emergency Response Plans/Procedures are submitted into CERS.

By January 29, 2015, this plan will have been implemented. The CUPA will submit a listing of handlers not in compliance with 19 CCR 2731, and will outline enforcement being taken to assure compliance.

**Status: Corrected.**

**CUPA's 1<sup>st</sup> Update:** No new plans are being accepted without all required elements.

**CalEPA 1<sup>st</sup> Response:** On the next progress report, submit an action plan per the corrective action. Please refer to Cal OES's response.

**Cal OES 1<sup>st</sup> Response:** The CUPA's response was rather sparse. It may suffice if it is effective. Be aware of the January 29, 2015 timeline required by the corrective action and be prepared to outline enforcement actions being taken against noncompliant handlers.

**CUPA 2<sup>nd</sup> Update:** No new plans are being accepted without all required elements.

**CalEPA 2<sup>nd</sup> Response:** The CUPA has not completed either of the corrective actions by the due date. CalEPA will schedule a phone conference to determine the correction status of this deficiency.

**Cal OES 2<sup>nd</sup> Response:** The CUPA still has not submitted an action plan, including enforcement options, to ensure that business plans are complete and correct, including emergency response plans and training plans. The CUPA's response, "No new plans are being accepted without all required elements" only applies to new business plans. Does the CUPA include annual inventory submittals as "new" plans? In other words, is the CUPA ensuring that the entire business plan is complete and correct before approving the annual inventory submittal? Please clarify with the next quarterly report.

**CUPA 3<sup>rd</sup> Update:** Meeting is scheduled for September 9, 2015.

**CalEPA 3<sup>rd</sup> Response:** The CUPA has not submitted an action plan explaining its process for ensuring all required elements of the Emergency Response and Training Plans are submitted into CERS. Additionally, the CUPA has not submitted a list of handlers that have not submitted emergency response and training plans.

**Action Item:**

Within 30 days of receiving the State Evaluation Team response, please provide CalEPA with an action plan to ensure that businesses submit a complete Emergency Response and Training Plan into CERS. Additionally, please provide a listing of handlers that have not submitted a Emergency Response and Training Plan and include the enforcement actions being taken to assure compliance.

**Cal OES 3<sup>rd</sup> Response:** The CUPA still has not submitted an action plan, including enforcement options, to ensure that business plans are complete and correct, including emergency response plans and training plans. The CUPA's earlier response, "No new plans are being accepted without all required elements" only applies to new business plans. Actually, the CUPA's progress report 3 responses for deficiency 4 and 9 was "We continue to help businesses with CERS." For deficiency 9, please address the CUPA's progress report 3 response. Does the CUPA include annual certifications as "new" plans? In other words, is the CUPA ensuring that the entire business plan is complete and correct before approving the annual certification? How are these questions addressing the substance of the progress report 3 submission for deficiency 9? The deficiency is regarding emergency response and training plan submittals, not the annual inventory. Please clarify with the next quarterly report.

**CUPA 4<sup>th</sup> Update:** CUPA have reviewed and discussed this deficiency, and have a verbalized tentative plan but have not prepared a written plan. [The CUPA submitted an action plan on 1-4-16 after the submittal of progress report 4.](#)

**Cal OES 4<sup>th</sup> Response:** With the next quarterly update, please report your progress, including a listing of noncompliant handlers, with enforcement being taken, similar to the listing provided for deficiency #4. The procedure submitted by the CUPA on January 4th satisfies the requirements of the original corrective action for an action plan, and Cal OES considers that part of the deficiency corrected.

**CUPA 5<sup>th</sup> Update:** Processing priority was given to hazardous material handlers that have never reported in CERS at all. Now that that set is about finished, NOV's will be issued to those who are delinquent in meeting their ER/Contingency Plan reporting requirements. This will be handled concurrently with Inventory Reporting delinquency, as applicable. Please refer to deficiency # 4 comments and attachments.

**Cal OES 5<sup>th</sup> Response:** The CUPA is correct that this deficiency can be reported concurrent with deficiency #4, since all the data can be presented on the same spreadsheet. . With the next quarterly update, please report your progress, including any enforcement activity, and supply an updated spreadsheet (same one as in #4).

**CUPA 6<sup>th</sup> Update:** This CUPA continues to work with businesses that are delinquent in submitting complete Emergency Response Plans. The previously submitted list has been updated and attached, showing combined data from Deficiency #4.

**Cal OES 6<sup>th</sup> Response:** As in deficiency #4 above, the CUPA has either gotten complete and correct submittals or has taken and/or escalated enforcement against recalcitrant handlers. Cal OES considers this deficiency corrected.

**10. Deficiency:** The CUPA has not reviewed or updated its area plan within the past 36 months. The CUPA is required to certify to Cal OES once every three years that it has conducted a complete review of its area plan and has made any necessary revisions.

**Corrective Actions:** By September 30, 2014, the CUPA shall certify to Cal OES that it has conducted a complete review of its area plan, make any necessary revisions, and submit certification of review to Cal OES.

**Status:** **Corrected.**

**CUPA's 1<sup>st</sup> Update:** Area Plan is under revision. Due to low staffing it will most likely not be completed by September 30.

**CalEPA 1<sup>st</sup> Response:** Along with the next update, provide a target date for when the CUPA expects the Area Plan revision to be completed. Please refer to Cal OES's response.

**Cal OES 1<sup>st</sup> Response:** With the next quarterly report, please update Cal EPA and Cal OES on your progress. When the plan is finalized please forward a copy for review.

**CUPA 2<sup>nd</sup> Update:** We are in the process of seeking outside consulting. This work should be budgeted for FY 15/16.

**CalEPA 2<sup>nd</sup> Response:** The CUPA has not completed the corrective action by the due date. CalEPA will schedule a phone conference to determine the correction status of this deficiency.

**Cal OES 2<sup>nd</sup> Response:** With the next quarterly report, please update Cal EPA and Cal OES on your progress. When the plan is finalized please forward a copy for review.

**CUPA 3<sup>rd</sup> Update:** Lauri Dilworth, of our office is working on an Area Plan. The use of an outside consultant did not work out.

**CalEPA 3<sup>rd</sup> Response:** The CUPA has not completed their review and update of the area plan. No status has been given as to the progress made reviewing the area plan.

**Cal OES 3<sup>rd</sup> Response:** With the next quarterly report, please update Cal EPA and Cal OES on your progress. When the plan is finalized please forward a copy for review.

**CUPA 4<sup>th</sup> Update:** Revised Area Plan submitted via email on 11/2/15.

**Cal OES 4<sup>th</sup> Response:** This deficiency has been corrected.

**11. Deficiency:** The CUPA is not implementing it's I and E plan. With the exception of the UST program, the CUPA does not issue the relevant inspection checklist with the NTC form at the conclusion of each program element inspection. Observations noted in NTC forms are actually violations. Violations should always be cited as violations, regardless of whether they are corrected onsite.

**Corrective Actions:** By June 30, 2014, the CUPA will develop inspection report checklists for all program elements (other than the UST program) and submit copies to CalEPA.

By September 30, 2014, the CUPA will use the new inspection report checklists and submit one copy of a completed inspection report for each program element to CalEPA.

**Status: Corrected.**

**CUPA's 1<sup>st</sup> Update:** We have developed a checklist that meets our needs. We will continue to use it until CERS and Decade Envision become compatible.

**CalEPA 1<sup>st</sup> Response:** CalEPA believes that the multi-program inspection report provided is very basic in nature and may not capture core criteria to determine compliance. Each program inspection report should be able to capture enough information to determine compliance. A reviewer should be able to understand the details of each violation. This becomes important when the CUPA submits inspection, violation, and enforcement data into CERS. The CUPA will need more detailed violation descriptions so the appropriate violations may be selected in CERS. The descriptions may be fleshed out in the narrative section on the inspection report, but I think that the criteria for most of the programs represented need to be expanded. I will have the other agencies provide you with guidance.

My suggestion is that the CUPA consider using the inspection reports developed by CalCUPA Forum in coordination with Decade.

Please follow the link to the inspection reports:

[http://www.calcupa.net/technical/inspection\\_and\\_enforcement/icp/](http://www.calcupa.net/technical/inspection_and_enforcement/icp/)

If the CUPA decides to use tablet PCs, Envision inspection report checklists may be downloaded for electronic use from the CalCUPA web site.

Along with the next progress report, please update CalEPA on the status of the data exchange process between CERS and the CUPA's data management system. Will the CUPA be using the electronic Envision checklist after the data exchange process is completed?

**CUPA 2<sup>nd</sup> Update:** We are using the CUPA Forum checklists for reference during our inspections. Inspection reports to business detail violations, areas of concern, and corrective action required.

**CalEPA 2<sup>nd</sup> Response:** It is acceptable for the CUPA to use the CUPA Forum inspection checklists for reference while documents inspections on their preferred inspection report. Please ensure that all violations are clearly noted along with corrective actions and their due dates. CalEPA considers this deficiency corrected.

**12. Deficiency:** The CUPA did not report information correctly on its Annual Single Fee (Report 2), Annual Inspection (Report 3), and Annual Enforcement (Report 4) Summary Reports.

- Report 2 – For fiscal year (FY) 2012/2013, the total amount of surcharge billed is the exact same as the total amount of surcharge collected, and the total amount of collections remitted to the state. Generally, the amount of surcharge and single fee billed is higher than the amount collected.
- Report 3 and Report 4 – For FYs 2012/2013 and 2011/2012, some inspection and enforcement data are not consistent with self-audit data for the same FYs.
- Report 4 - For FYs 2012/2013, 2011/2012, and 2010/2011, the CUPA reported the number of violations per program element rather than the number of facilities with violations.

**Corrective Actions:** For future Report 2 submissions, the CUPA will ensure that single fee and surcharge billing information is reported correctly.

By July 30, 2014, the CUPA will have electronically submitted inspection, violation, and enforcement data to CERS.

By September 30, 2014, the CUPA will submit their FY 2013/2014 Report 2 to CalEPA.

**Status: Corrected.**

**CUPA's 1<sup>st</sup> Update:** Decade Envision and CERS are still not compatible. Reports 2, 3, and 4 generated by Envision do not appear to be accurate. We will not be able provide the necessary information by July 30.

**CalEPA 1<sup>st</sup> Response:** Inspection, violation, and enforcement data has not been submitted into CERS. On the next progress report, please update CalEPA on the status of the data exchange process implementation between CERS and the CUPA's data management system.

**CalEPA Additional Response:** The CUPA provided the requested FY 2013/2014 Single Fee Summary Report. The report was acceptable. The CUPA is reporting inspection,

violation, and enforcement information into CERS. CalEPA's review of reported inspection, violation, and enforcement data indicates that all FY 2013/2014 information has not been reported when compared to the Annual Inspection Summary Report. This deficiency will be considered corrected when all FY 2013/2014 inspection, violation, and enforcement information has been reported into CERS.

**CUPA 2<sup>nd</sup> Update:** This may not be possible as much of it was not electronically recorded. We should be able to provide all of FY 14/15.

**CalEPA 2<sup>nd</sup> Response:** The CUPA has been reporting inspection, violation, and enforcement data into CERS per the corrective action. CalEPA considers this deficiency corrected.