

CERTIFIED UNIFIED PROGRAM AGENCY

Deficiency Progress Update Report 6

EVALUATION YEAR:	2016	REVIEW PERIOD:	October 2015 - February 2016	ISSUANCE DATE:	March 25, 2016
CUPA:	Kern County Environmental Health Division				
Post-EVALUATION TEAM MEMBERS:	CalEPA Team Lead	DTSC	Cal OES	State Water Board	CAL FIRE - OSFM
	Kareem Taylor	Kevin Abriol	Denise Gibson	Lisa Jensen	Glenn Warner
Deficiency Pending	2				
Deficiencies Corrected	1, 3, 4, 5, 6, 7				
Date Submitted	May 19, 2017				
Next Update Due by	November 22, 2017				

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

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

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<p>The CUPA is required to submit a Deficiency Progress Report every 90 days until all deficiencies have been acknowledged as corrected.</p> <p>Each Deficiency Progress Report must include a narrative stating the progress toward correction of <u>all</u> deficiencies identified in the Summary of Findings evaluation report.</p>	<p>Deficiency Progress Report submittal dates for the first year following the evaluation are as follows:</p> <p style="text-align: center;"> Update 5: May 22, 2017 Update 6: August 22, 2017 Update 7: November 22, 2017 Update 8: February 22, 2018 </p> <p style="text-align: center;">Each Deficiency Progress Report must be submitted to the CalEPA Team Lead.</p>
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1. DEFICIENCY: CORRECTED	CORRECTIVE ACTION: COMPLETED
<p>The CUPA is not consistently following-up and documenting return to compliance (RTC) for facilities cited with violations in Notices to Comply, Notices of Violation, or inspection reports.</p> <p>CalEPA's review of compliance , monitoring, and enforcement data in the California Environmental Reporting System (CERS) shows that, for fiscal year (FY) 2014/2015, there is a high percentage of routine inspections that have open violations.</p> <ul style="list-style-type: none"> • Hazardous Materials Business Plan (HMBP): 194 (35%) out of 558 inspections have open violations. • Underground Storage Tank (UST): 66 (35%) out of 189 inspections have open violations. • Aboveground Petroleum Storage Act (APSA): 60 (51%) out of 117 inspections have open violations. • Hazardous Waste Generator (HWG): 81 (39%) out of 209 inspections have open violations. • Tiered Permit: 2 (100%) out of 2 inspections have open violations. <p>The FY 2014/2015 violation data provided by the CUPA shows that 620 or 26% of 2377 violations remain open. 1757 violations are closed.</p> <p>The CUPA is not consistently following-up and documenting RTC for APSA tank facilities cited with violations. OSFM's review of CERS data shows that 154 (41%) out of 369 APSA violations did not have an RTC date documented:</p> <ul style="list-style-type: none"> • 4 in 2013 (1 Class I and 3 Class II violations); • 33 in 2014 (31 Class II and 2 Minor violations); and • 117 in 2015 (5 Class I, 101 Class II and 11 Minor violations). <p>Also, OSFM's review of CERS data shows that only 1 formal enforcement (administrative) was initiated in 2015 for a facility cited for a Class II violation in 2014. This facility (CERS ID Number 10234990) returned to compliance on January 21, 2016. Other than issuing</p>	<p>By May 19, 2016, the CUPA will provide CalEPA with a sortable RTC tracking spreadsheet of the total number of facilities that have open violations. At minimum, the spreadsheet will include:</p> <ul style="list-style-type: none"> • facility name, address, • CERS ID number, • Facility ID number (if applicable), • inspection and violation dates, • scheduled RTC date, • actual RTC date, • RTC qualifier and • follow-up actions. <p>By August 19, 2016, and with each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the RTC tracking spreadsheet.</p> <p>By November 21, 2016, the CUPA will provide CalEPA with a copy of RTC documentation for (3) facilities requested by each state agency during the previous quarter.</p>

<p>Notices of Violations, no other enforcement actions were initiated against the other facilities cited for Class I and ongoing Class II violations.</p> <p>Of the APSA tank facilities with open violations, 52 facilities were cited for not having a Spill Prevention Control and Countermeasure (SPCC) Plan. Additional information provided by the CUPA in January 2016 indicated the status of the 52 facilities with no SPCC Plans:</p> <ul style="list-style-type: none"> • 9 facilities have returned to compliance; • Formal enforcement was initiated against one facility; • SPCC Plans from 2 facilities are pending; • 1 facility's tanks will be reevaluated; and • Remaining 39 facilities are noted as the CUPA "working on RTC." 	
<p>Deficiency Progress Update 1:</p> <p>The CUPA has been diligently working on corrective actions and return to compliance since our last audit in 2012. Currently for FY 2013/2014 there are 32 open violations staff are working on. A total of 3,111 violations were cited. For FY 2014/2015 there are 189 open violations with a total of 2,564 cited violations. Staff is working on closing and completing follow up on their compliance with facilities. As for the current FY 2015/2016, staff is continuously working to follow up with the businesses on RTCs. Currently there are 506 open violations and a total of 3,329 cited violations. As you review each fiscal year's RTCs, there are a few staff members that are behind on their follow ups. This has been made a priority and have been addressed with them. Attached are 6 reports, broken down by fiscal years. One set contains only open violations. The other is a report run by fiscal year showing all cited violations.</p> <p>The CUPA is currently assessing the number of facilities that are out of compliance in APSA. In working with the facilities' RTCs, in particular with their SPCC's, our office has conducted several workshops and provided individual assistance with their plan. The CUPA's next step is to issue Administrative Enforcement Orders to those that have not complied with the cited violations related to APSA, particularly the SPCC. Some of the APSA violations such as the incompatible tanks have been referred to Kern County Fire Department which is the local fire marshal that has authority (California Fire Code) on the permitting and installation of aboveground tanks. Kern County CUPA and the Fire Department has been working with the businesses on this issue.</p>	
<p>Evaluation Team Response 1 [CalEPA, DTSC, OSFM]:</p> <p>CalEPA: CalEPA acknowledges and accepts the facility violation lists and the CUPA's deficiency status update on the RTC follow-up activities.</p> <p><u>Action Items:</u></p>	

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

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

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

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

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

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

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

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

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

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

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

Action Items:

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

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

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

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

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

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

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

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

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

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

Deficiency Progress Update 3:

Response to CalEPA's request #1: Attached with this report you'll find the remaining open violations report for FY 2013-2014; FY 2014-2015; and FY 2015-2016. Currently FY 2013-2014 remains 30 open violations. This is 0.9% of the cited violations for the FY. 15 of those cited violations are unable to be closed at this time. 8 of those facilities are currently recalcitrant UST owner/operators and have currently do not have an operating permit with the CUPA. They are also in the process of working with the State WaterBoard and FedEPA to get their tanks removed. FY 2014-2015 remains 142 open violations. This is 5.5% of the cited violations for the FY. FY 2015-2016 remains 572 open violations 14.9% of the cited violations for the FY.

Response to CalEPA's request #2: Attached are the follow up return to compliance documents and comments related to the closure of the violations. CERS ID: 10232062 has one violations still open. The facility has applied for an EPA ID# but has yet to provide the CUPA the #. They are still waiting to hear back from DTSC. CERS ID: 10234810 submitted the required testing results and documentation to indicate repair work had been completed on their cited UST violations. CERS ID: 10233685 resubmitted missing information in CERS and provided an active EPA ID #. Violations were closed on 5/16/2016.

Response to OSFM: This CUPA does not have the California Fire Code (CFC) authority nor does it permit the ASTs. These violations were previously cited particularly by one inspector because the CUPA were identifying USTs being used as ASTs and water tanks being used as ASTs storing fuel. The CUPA continues to refer facilities with these tank issues to the local fire department for follow up. The fire department has been working to address these issues as they are referred to them. The fire department and the CUPA has been working with the Farm Bureau to assist with a consistent approach on getting the appropriate tanks installed at noncompliant facilities. Attached is the spreadsheet the CUPA shares with the fire department on referred tanks.

The CUPA has initiated administrative enforcement order (AEO) on the 25 facilities on October 28, 2016. A show cause letter was sent out to those operating facilities to submit a copy of their SPCC or an AEO is going to be issued out. Correspondences and office hearings have been successful on many of them and some SPCCs have been submitted. AEO's will be sent out to Monday, November 21st to those that have not provided any correspondences or documentation to satisfy compliance with a submittal of a SPCC plan. Attached is a working spreadsheet of those facilities we are actively engaging in this matter. Facilities

highlighted in Green are in compliance and an enforcement order will not be sent. Also attached are the show case letters sent to each of the 25 businesses.

RTC documentation for the following CERS ID facilities: 10231891, 10235188, and 10477123 are attached.
CERS ID: 10231891 – Facility submitted a photo of the tanks being labeled. Photo attached. There is one violation left pending. The inspector is following up for the appropriate closure of this violation.
CERS ID: 10235188 – Facility submitted SPCC Tier I on 7/20/2016. See attached.
CERS ID: 10477123 – Facility was inspected on 5/26/2016 and was found to be in compliance. See photo and inspection report.

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

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

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

- In FY 2015/2016: 572 (15%) of 3834 violations remain open.
- In FY 2014/2015: 142 (6%) of 2564 violations remain open.
- In FY 2013/2014: 30 (1%) of 3111 violations remain open.

The CUPA is making good progress following-up with facility that have open violations, particularly in FYs 2015/2016 since the last progress report. Please continue to ensure compliance by following-up with all facilities with open violations.

CalEPA acknowledges and accepts the CUPA RTC information requested for 3 facilities.

Action Items:

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

DTSC: DTSC appreciates the efforts the CUPA has made in correcting this deficiency. DTSC has received the PDFs requested in the previous progress report update response.

DTSC reviewed CERS violation data in Kern County from 7/1/2013-11/23/2016 and has summarized the following information:

Fiscal Year	RTC/Total Violations	Minor RTC/Minor Violations	Class I & II RTC/Class I & II Violations
13/14	442/446 = 99.1%	94/94 = 100%	348/352 = 98.9%
14/15	379/412 = 92%	42/42 = 100%	337/370 = 91.1%
15/16	556/711 = 78.2%	81/85 = 95.3%	475/626 = 75.9%
7/1/16 - Present	64/121 = 52.3%	8/12 = 66.7%	56/109 = 51.4%

7/1/13 - Present	1441/1690 = 85.2%	225/233= 96.6%	1216/1457= 83.5%
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DTSC would also like to note that of the 12 minor violations that have been cited since 7/1/16, 7 of these 12 (58.3%) minor violations returned to compliance within the 30-day regulatory timeframe.

With the next progress report, please provide CalEPA with a narrative update on the continual progress the CUPA is making to ensure hazardous waste generators cited with violations return to compliance in a timely manner. DTSC's portion of this deficiency will be considered corrected when the CUPA can demonstrate the continued timely RTC of cited violations.

OSFM: OSFM appreciates the CUPA's efforts toward correcting this deficiency. OSFM also acknowledges the detailed information and documentation provided by the CUPA. The CUPA has made substantial progress since the last update. A review of the CERS APSA CME report generated on November 22, 2016, showed the following:

FY 2013/2014 – 3 (2%) of 135 APSA violations have no RTC (2 open violations in CUPA's list)
FY 2014/2015 – 20 (12%) of 173 APSA violations have no RTC (17 open violations in CUPA's list)
FY 2015/2016 – 84 (28%) of 304 APSA violations have no RTC (70 open violations in CUPA's list)

The CUPA initiated AEOs against 25 APSA tank facilities with no SPCC Plans. A few facilities have come into compliance since receiving the show cause letter. In addition to the CUPA's list of 25 facilities with no SPCC Plans, these nine facilities were also shown to have no SPCC Plans based on the CERS APSA CME report: CERS ID 10159829, 10231549, 10231708, 10231873, 10232278, 10232614, 10233823, 10236586, and 10238455.

For facilities that are required to prepare and implement an SPCC Plan and have one or more non-compliant tanks (such as USTs being used as ASTs), the CUPA should continue to refer non-compliant tanks to the fire department. In this case, the CUPA has the authority to ensure that a tank facility owner/operator **does not** use a container/tank unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature (pursuant to HSC 25270.4.5(a) with a reference to 40CFR112.8(c)(1), CERS violation type # 4030012). This violation should remain open until the facility comes into compliance. Therefore, the CUPA is encouraged to maintain communication and coordination with the fire department for these types of tank facilities.

However, if the facility is conditionally exempt from having to prepare an SPCC Plan pursuant to HSC 25270.4.5(b) and has a non-compliant tank, then CERS violation type # 4030012 is not applicable to the facility. The CUPA should continue to refer non-compliant tanks to the fire department. In this situation, any remaining open violations for conditionally exempt tank facilities should be closed with the RTC qualifier "not resolvable."

Please continue your efforts to ensure that APSA tank facilities with open violations return to compliance and prioritize those with no SPCC Plans, including the abovementioned nine facilities. On the next progress report, provide an updated RTC tracking documentation, a narrative update on follow-up with the fire department in regard to the referred violations (for tank facilities that are required to prepare and

implement and SPCC Plan) and any graduated series of enforcement initiated by the CUPA. The CUPA should also review non-compliant tank violations (CERS violation type # 4030012) and ensure that such violations cited for conditionally exempt tank facilities are closed, while violations for tank facilities that are required to prepare and implement an SPCC Plan remain open until their tanks are compliant.

Deficiency Progress Update 4:

Response to CalEPA & DTSC: Attached with this report you'll find the remaining open violations report for FY 2013-2014; FY 2014-2015; and FY 2015-2016. Currently only 23 open violations remain in FY 2013-2014. Of the 23 violations, 15 of those are unable to be closed at this time. Eight (8) of those facilities are currently recalcitrant UST owner/operators that do not have an operating permit with the CUPA. They are also in the process of working with the State Water Board and Federal EPA to remove their tanks. In FY 2014-2015, only 115 open violations remain. FY 2015-2016 has 464 open violations. (See attachment for detailed information as well as inspector notes in regards to returning to compliance).

Response to OSFM: The CUPA continues to refer facilities with tank issues to the local Fire Department for follow up. Kern County Fire and Environmental Health have agreed to prepare a shared spreadsheet documenting referred facilities. In the future the Fire Department will migrate all their permitting activities to the Acela program, which has a referral and a tracking system for both Kern County Fire and Environmental Health to use. Until then, the Fire Department will continue to address these referred issues.

Please find below an OSFM list of facilities and the actions to address their SPCC violation in CERS.

CERS ID		Result
10159829	CalTrans Bakersfield Maintenance Station	Inspected on 09/30/2016. Facility corrected violation on 11/22/2016 and stores SPCC plan at the facility.
10231549	Linn Operating, Inc., Hill Property	Oil production facility, non-production related aboveground tanks below 1320 threshold. Violation closed 01/03/2017.
10231708	Wallace Reimer	Farming exemption (violation closed 10/28/2016)
10231873	Kroeker Ag	Farming exemption (violation closed 10/28/2016)
10232278	Buttonwillow Land and Cattle	Farming exemption (violation closed 11/08/2016)
10232614	Valley West Farms	Farming exemption (violation closed 01/03/2017)
10233823	Monache Meadows Farming LLC	Farming exemption (violation closed 10/28/2016)
10236586	Starrh Family Farms – West Side	Farming exemption (violation closed 01/03/2017)
10238455	Pond Heifer #2	Farming exemption (violation closed 01/03/2017)

The CUPA sent out administrative enforcement orders (AEO) to 14 facilities on Monday, November 21st to those who did not provide correspondences or documentation to satisfy compliance in submitting an SPCC plan. Attached is a working spreadsheet of the facilities which received AEOs. Facilities highlighted in Green contacted Kern County Environmental Health to schedule a hearing to discuss their AEO. This progress update also includes the AEOs sent to each of these 14 businesses.

Evaluation Team Response 4 [CalEPA, DTSC, OSFM]:

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

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

- In FY 2015/2016: 471 (12%) of 3857 violations remain open.
- In FY 2014/2015: 121 (5%) of 2585 violations remain open.
- In FY 2013/2014: 29 (1%) of 3493 violations remain open.

The CUPA has made great progress following-up with facility that have open violations. CalEPA's portion of the deficiency is considered corrected.

DTSC: DTSC appreciates the efforts the CUPA has made towards correcting this deficiency. DTSC reviewed CERS violation information in Kern county and notes the following: between 7/1/2013-12/28/2016, the CUPA has issued 1822 total violations and ensured 1558 of those violations have RTC (a total compliance rate of 85.5%). With the next progress report, please provide CalEPA with a narrative update on the continual progress the CUPA is making to ensure hazardous waste generators cited with violations return to compliance in a timely manner. DTSC's portion of this deficiency will be considered corrected when the CUPA can demonstrate the continued timely RTC of cited violations.

OSFM: OSFM considers their portion of this deficiency corrected. A review of the CERS APSA CME report generated on March 3, 2017, showed the following:

FY 2013/2014 – 2 (1.5%) of 134 APSA violations have no RTC

FY 2014/2015 – 10 (6%) of 171 APSA violations have no RTC

FY 2015/2016 – 48 (16%) of 303 APSA violations have no RTC

The CUPA is appropriately elevating violations. Please continue to follow-up with non-compliant facilities and pursue appropriate enforcement action to obtain compliance. Also, please continue to coordinate with the Fire Department regarding referrals and documenting compliance.

Deficiency Progress Update 5:

Response to DTSC: Attached with this report you'll find the remaining open violations report for FY 2013-2014; FY 2014-2015; and FY 2015-2016. Currently only 18 open violations remain in FY 2013-2014. Of the 18 violations, 15 of those are unable to be closed at this time. Eight (8) of those facilities are currently recalcitrant UST owner/operators that do not have an operating permit with the CUPA. They are also in the process of working with the State Water Board and Federal EPA to remove their tanks. In FY 2014-2015, only 63 open violations remain. FY 2015-2016 has 328 open violations. (See attachment for detailed information as well as inspector notes in regards to return to compliance). The CUPA is encouraging its inspectors to begin enforcement proceedings on all past due violations.

Evaluation Team Response 5 [DTSC]:

DTSC: DTSC appreciates the efforts the CUPA has made towards correcting this deficiency. Based on the analysis below, DTSC recommends the following to the CUPA: 1) Encourage facilities to correct violations before the conclusion of the inspection (close lid, fill out label, etc.), 2) Encourage inspectors to follow-up with facilities cited with minor violations in a timely manner via phone call, email, or follow-up inspection

(in <30 days), 3) Escalate violations that are not corrected by the facility in a timely manner to Class II or Class I, and 4) begin enforcement proceedings on past due violations.

DTSC reviewed CERS violation information in Kern County and notes the following:

Percentage of HW and TP Violations in CERS 13/14 without RTC: 0.00%
Percentage of HW and TP Violations in CERS 14/15 without RTC: 5.02%
Percentage of HW and TP Violations in CERS 15/16 without RTC: 13.54%
Percentage of HW and TP Violations in CERS 16/17 without RTC: 44.36%

Percentage of HW and TP Class I Violations in CERS 13/14 without RTC: 0.00%
Percentage of HW and TP Class I Violations in CERS 14/15 without RTC: 3.70%
Percentage of HW and TP Class I Violations in CERS 15/16 without RTC: 22.22%
Percentage of HW and TP Class I Violations in CERS 16/17 without RTC: 72.73%

Percentage of HW and TP Class II Violations in CERS 13/14 without RTC: 0.00%
Percentage of HW and TP Class II Violations in CERS 14/15 without RTC: 5.73%
Percentage of HW and TP Class II Violations in CERS 15/16 without RTC: 14.29%
Percentage of HW and TP Class II Violations in CERS 16/17 without RTC: 44.21%

With the next progress report, please provide CalEPA with a narrative update on the continual progress the CUPA is making to ensure hazardous waste generators cited with violations return to compliance in a timely manner.

Deficiency Progress Update 6: Attached with this report you'll find the remaining open hazardous waste violations report for FY 2014-2015; FY 2015-2016; and FY 2016-2017. Currently only 6 open violations remain in FY 2014-2015. Of the 6 violations, one of the facilities had received a formal notice of violation and the others were close to being closed out. In FY 2015-2016, 33 open violations remain. Eight of those violations involve having an inactive EPA ID#. The facilities have submitted the paperwork to DTSC to reactivate their IDs but no response or reactivation has been achieved. Three facilities received formal notice of violations. FY 2016-2017 has 113 open violations. (See attachment for detailed information as well as inspector notes in regards to return to compliance). The CUPA is encouraging its inspectors to begin enforcement proceedings on all past due violations. Formal notice of violations will be followed by administrative enforcement order for noncompliant/no cooperative facilities.

Evaluation Team Response 6 [DTSC]:

DTSC: The CUPA has continuously shown incremental improvements with ensuring facilities return to compliance. DTSC acknowledges that the CUPA is documenting follow-up actions within their data management system and that inspectors have begun calling and emailing the facilities within a reasonable amount of time to follow-up after issuing the violation. According to CERS, the CUPA has ensured that 89.34% of all violations issued since 7/1/2013, and 86.54% of all violations issued since 7/1/2014 have returned to compliance. Additionally, the CUPA has ensured that 94% of facilities with a HWG inspection have RTC. DTSC encourages the CUPA to continue their efforts described in the CUPA Update 6 in anticipation of their next triennial evaluation. DTSC considers this deficiency corrected.

2. DEFICIENCY:	CORRECTIVE ACTION:
<p>The CUPA is not consistently requiring facilities to submit UST testing and leak detection documents.</p> <p>The following documents, which are required to be submitted within 30 days of testing, could not be found by State Water Resources Control Board (State Water Board) in CERS or submitted files. The following are examples of a few missing documents:</p> <ul style="list-style-type: none"> • Triennial UST secondary containment testing; • Annual UST monitoring certifications; • Tank and line integrity tests; and • Enhanced leak detection (ELD) certifications. <p>Below are some examples of facilities with missing testing information:</p> <ul style="list-style-type: none"> • 10230649 Sully's Chevron (Olive) 5201 Olive Dr. • 10230718 Flyers #223 2023 W Mettler Frontage Rd. • 10165907 7-Eleven Inc #22647 12916 Rosedale Hwy. 	<p>From this point forward, in accordance with regulation, the CUPA will require owners and operators to submit the appropriate UST testing and leak detection documents. In accordance with regulation, the CUPA will also require owners and operators to comply with timely submittal of these documents.</p> <p>By May 19, 2016, the CUPA will develop outreach program materials and submit them to CalEPA for approval. In the submittal to CalEPA, the CUPA will outline how and when it will provide the outreach materials to the regulated community (both owners/operators and testers). The outreach materials must explain the requirement to submit the appropriate UST testing and leak detection documents in the timeframe required by Regulation.</p> <p>By August 19, 2016, the CUPA will have completed the distribution of outreach materials so the regulated community is notified of the requirements to submit appropriate UST testing and leak detection documents. The CUPA shall send CalEPA a final copy of the outreach program materials and a list of businesses the materials were sent to.</p> <p>This Deficiency will be considered corrected once there is consistent documentation over a one-year period showing the appropriate documents are being submitted, submitted in a timely manner, reviewed by International Code Council (ICC) certified staff, and retained by the CUPA.</p>
<p>Deficiency Progress Update 1: During the audit, the CUPA had already planned a workshop for both UST contractors and UST owner/operators. On March 10, 2016, the CUPA hosted our 3rd Annual UST Contractors workshop. There we addressed permitting related issues, testing procedures, equipment findings, installations, removals, modifications, certifications, and of course testing records. In all, a total of 11 different UST testing companies were present at the morning roundtable.</p>	

That same afternoon, the CUPA hosted a UST workshop for owner/operators. The powerpoint that was presented during the workshop for the owner(s)/operators(s) is attached. Please see slide 98-100 for the section that addresses the necessary need to submit the necessary testing documents within 30 days.

Also attached are both sign in sheets and agendas for the two workshops.

Evaluation Team Response 1 [State Water Board]:

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

State Water Board acknowledges the CUPA's submittal of a comprehensive presentation informing owner/operators, contractors and Kern County Environmental Health CUPA staff of the components of a complete and accurate submittal. State Water Board also acknowledges the CUPA's submittal of attendance sheets for each of the two presentations provided and agendas.

Deficiency Progress Update 2: The CUPA continues to ensure UST testing reports are submitted and saved into our archive.

Evaluation Team Response 2 [State Water Board]:

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

State Water Board acknowledges CUPA statement UST test documentation is being submitted and archived by the CUPA. With the response to the next Progress Report Update, Update 3, November 21, 2016, State Water Board will provide CUPA list of five (5) facilities. With Update 4, February 21, 2017, the CUPA will provide to CalEPA the UST facility file documents, UST facility file documents, including annual UST compliance inspection reports, associated monitoring certifications, spill bucket testing, and any other necessary testing and compliance documentation not found in CERS for the five facilities listed.

Deficiency Progress Update 3: Nothing to update at this time. The CUPA awaits the 5 UST facilities to be provided by the State Waterboard.

Evaluation Team Response 3 [State Water Board]:

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

With the next progress report update, the CUPA will provide to CalEPA the UST facility file documents, UST facility file documents, including annual UST compliance inspection reports, associated monitoring certifications, spill bucket testing, and any other necessary testing and compliance documentation not found in CERS for the five facilities listed below:

- CERS ID 10232782: FLYING J TRAVEL PLAZA #613, BAKERSFIELD
- CERS ID 10233298: SHAFTER CHEVRON, INC, SHAFTER
- CERS ID 10233775: K & S Food Store, BAKERSFIELD
- CERS ID 10234633: Wonder Acres Market, Mojave
- CERS ID 10234750: STALLION SPRINGS GENERAL STORE, TEHACHAPI

Deficiency Progress Update 4: See attachment for all facility file documents.

Evaluation Team Response 4 [State Water Board]:

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

State Water Board acknowledges the CUPA's submittal of UST facility file documentation not otherwise found in CERS for the requested facilities. State Water Board review of UST facility documentation in Deficiency Progress Update 4 finds the CUPA requiring facilities to submit UST testing and leak detection documents subsequent to a comprehensive presentation informing owner/operators, contractors and Kern County Environmental Health CUPA staff of the components of a complete and accurate submittal.

With the next progress report update, the CUPA will provide to CalEPA the UST facility file documents, including annual UST compliance inspection reports, associated monitoring certifications, spill bucket testing, and any other necessary testing and compliance documentation not found in CERS for the five facilities listed below:

CERS ID 10175659: #7704 FASTRIP #38, Mojave

CERS ID 10197259: Circle K Store #2700010, Tehachapi

CERS ID 10231816: Sun Coast Materials Co., BAKERSFIELD

CERS ID 10234102: DONS LIQUOR MART, FRAZIER PARK

CERS ID 10234984: COUNTY LINE CHEVRON, DELANO

Deficiency Progress Update 5: See attachment for all facility file documents.

Evaluation Team Response 5 [State Water Board]:

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

State Water Board acknowledges the CUPA's submittal of UST facility file documentation not otherwise found in CERS for the requested facilities. State Water Board review of the submitted documentation finds the following:

- CERS ID 10231816: Sun Coast Materials Co., BAKERSFIELD – documentation is acceptable. Please note, a violation for inaccurate or incomplete CERS data noted during inspection did not return to compliance within 30-day timeframe designated by the CUPA. Submittals subsequent to the inspection appear to have corrected the violation, however, this return to compliance is not noted by the CUPA.
- CERS ID 10175659: #7704 FASTRIP #38, Mojave – documentation acceptable
- CERS ID 10197259: Circle K Store #2700010, Tehachapi– documentation acceptable, violation noted during inspection corrected within designated time.
- CERS ID 10234102: DONS LIQUOR MART, FRAZIER PARK– documentation acceptable
- CERS ID 10234984: COUNTY LINE CHEVRON, DELANO– documentation is acceptable.

With the next progress report update, the CUPA will provide to CalEPA the UST facility file documents, including annual UST compliance inspection reports, associated monitoring certifications, spill bucket testing, and any other necessary testing and compliance documentation not found in CERS for the five facilities listed below:

- CERS ID: 10155633: Sierra Gateway Sporting Good/Fuel
- CERS ID: 10175753: #9917 Mariachi Gas & Liquor
- CERS ID: 10234780: E-Z TRIP
- CERS ID: 10235089: EAFB - MAIN BASE FACILITIES
- CERS ID: 10235818: PRINCE SHELL PALACE

Deficiency Progress Update 6: See attachment for all facility file documents as well as the word document with notes for each facility.

Evaluation Team Response 6 [State Water Board]:

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

State Water Board acknowledges the CUPA's submittal of UST facility file documentation not otherwise found in CERS for the requested facilities. Further, State Water Board acknowledges the CUPA's provision of notes regarding the UST files requested with this update. This is the third of four reviews of UST facility file information. State Water Board review of the submitted documentation finds the submittals not acceptable. Review results follow:

- CERS ID: 10155633: Sierra Gateway Sporting Good/Fuel
 - Response plan in accepted CERS submittal (April 17, 2017) does not include pages 1 or 2. Page 3 of the Response plan is signed and dated June 20, 2008.
- CERS ID: 10175753: #9917 Mariachi Gas & Liquor
 - 2017 annual monitoring certification test and secondary containment testing postponed due to physical modification of the facility. Notification provided by CUPA of the postponement of testing.
 - The facility owner/operator may either put the facility into temporary closure or continue to operate as usual. The first option includes the appropriate inspections, oversight, and testing required with temporary closure. The second option includes performing all required testing within the required time frame.
- CERS ID: 10234780: E-Z TRIP
 - Not found: secondary containment testing, annual monitoring certification, including spill bucket, test results for tanks T4, T4, T6, T7, or BioTank.
 - Review of CERS CME finds no violations associated with the annual compliance inspection dated June 15, 2017. In addition, the inspection report for the June 15, 2017 does not identify any violations.
 - The monitoring site plans in the accepted CERS submittal (October 25, 2016), the annual monitoring certification (June 15, 2017, and submitted CERS submittal (April 7, 2017) do not match each other and do not identify the tanks as identified in CERS.
- CERS ID: 10235089: EAFB - MAIN BASE FACILITIES
 - Documentation acceptable
- CERS ID: 10235818: PRINCE SHELL PALACE
 - Violations noted on inspection report and in CERS for not performing annual monitoring certification or secondary containment testing within the required time frame. The annual monitoring certification test was completed within the time frame required in the corrective action, secondary containment testing has not been completed within the required time frame.
 - No documentation escalating the violation has been provided by the CUPA to CalEPA.

With the next progress report update, the CUPA will provide to CalEPA the documentation not found as identified above, all notices of violation provided to facility owner/operators regarding outstanding violations, an action plan for achieving compliance for those facilities remaining out of compliance. This

includes documentation for CERS ID 10175753 to either be in temporary closure with the appropriate inspections, oversight, and testing or have performed all required testing.

In addition, with the next progress report update, the CUPA will provide to CalEPA the UST facility file documents, including annual UST compliance inspection reports, associated monitoring certifications, spill bucket testing, and any other necessary testing and compliance documentation not found in CERS for the five facilities listed below:

- CERS ID: 10175673, #7792 FASTLANE FASTRIP #49
- CERS ID: 10230568, THE BARN INYOKERN
- CERS ID: 10231342, FLYERS #222
- CERS ID: 10232797, ROZIS LIQUOR
- CERS ID: 10235674, CHEVRON STATION 308264

Deficiency Progress Update 7: Enter Information Here

Evaluation Team Response 7 [State Water Board]:

3. DEFICIENCY: CORRECTED	CORRECTIVE ACTION: COMPLETE
<p>The CUPA is not requiring UST facilities to implement periodic ELD testing or enforcing the Request for Reconsideration (RFR) due to proximity to public drinking water wells.</p> <p>State Water Board records show that 4 out of 75 notified UST facilities did not conduct and submit documentation for the required ELD testing or submit an RFR application.</p> <p>State Water Board has provided the CUPA with copies of the formal notification letters and noncompliance letters to implement required ELD testing.</p> <p>Note: If a UST owner/operator believes they are not within 1,000 feet of a public drinking water well, an RFR application must be submitted to the State Water Board. The application can be found at: http://www.waterboards.ca.gov/ust/eld/index.shtml. Once received from the UST owner/operator, the State Water Board will make a final determination whether or not ELD testing is required.</p>	<p>By May 19, 2016, the CUPA will notify UST facility owners/operators and inform them that ELD testing or submission of the RFR application is required. The notification letters shall include language stating noncompliance may lead to administrative or other formal enforcement measures. The CUPA will copy CalEPA on this communication to document that notification has been accomplished for all identified facilities.</p> <p>In addition to the notification letters, during the next annual UST compliance inspection, if ELD testing has not been implemented or the RFR application has not been submitted, the CUPA shall cite the owner/operator for a violation.</p>

Deficiency Progress Update 1:

The CUPA sent letters to the (4) four UST facilities notifying them to submit their RFR's to the State Water Board on March 4, 2016. Attached are the 4 (letters).

Evaluation Team Response 1 [State Water Board]:

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

State Water Board acknowledges the CUPA's submittal of letters sent to the four facilities requiring ELD testing. To date two facilities Sage Mart and California City Airport have submitted, and received approval on, Requests for Reconsideration.

Deficiency Progress Update 2: The CUPA has received 3 of the 4 approved RFR letters back from the SWB. Ridgecrest Mini Mart 207 N. China Lake Blvd., Ridgecrest is the only remaining UST facility left to send in their RFR letter. The facility is due for its annual monitoring certification in September. Our CUPA staff has been directed to assist the owner/operator in submitting the RFR letter. If by the annual inspection the RFR letter has not been submitted, a violation will be cited.

Deficiency Progress Update 3: The remaining UST facility needs to submit their RFR. Attached is the inspection report for the UST facility with the cited violations from their annual routine inspection.

Evaluation Team Response 3 [State Water Board]:

State Water Board: This deficiency is corrected.

State Water Board acknowledges the CUPAs update and submission of the annual compliance inspection report for the Ridgecrest Mini Mart. State Water Board notes the State Water Board response 2 was inadvertently removed from the document provided to the CUPA thus preventing the CUPA from knowing the expectations from State Water Board.

State Water Board has received an RFR from the Ridgecrest Mini Mart, performed the appropriate investigation and provided the facility owner/operator with Conditional Approval on their request. With this request and conditional approval, this deficiency is now corrected.

4.	DEFICIENCY: CORRECTED	CORRECTIVE ACTION: COMPLETE
	<p>The CUPA is not following-up with UST owners/operators that have submitted incomplete or inaccurate UST information in CERS.</p> <p>State Water Board review of CERS submittals finds, the CUPA is accepting incomplete or inaccurate UST related fields. A few examples of incomplete or inaccurate data fields accepted are as follows:</p> <ul style="list-style-type: none">• Records missing Tank Installation dates;• Records with no Tank Overfill Protection; and• Records with double-wall product pipe missing the primary pipe information.	<p>By May 19, 2016, the CUPA will revise, implement, and submit to CalEPA, a procedure to ensure only accurate and complete UST information is submitted in CERS prior to acceptance. The procedure will include, but not be limited to, the following steps for accepting CERS submittals:</p> <ul style="list-style-type: none">• If staff "accept" submittals with minor errors, a condition is set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe;

	<p>In accordance with the State Water Board published guidance "Setting Accepted Submittal Status," the accepted submittals have complete regulator comments on what needs to be revised but it appears the CUPA is not following up and ensuring the owner/operator resubmits this information.</p>	<ul style="list-style-type: none"> • If the submittal is not corrected, staff will change the submittal status from "accepted" to "not accepted"; and • How staff will determine if UST fields are complete and accurate. <p>With respect to data already submitted to CERS and accepted by the CUPA, the CUPA will review UST related fields and require complete and accurate submittals for each facility no later than the due date of the next annual UST compliance inspection.</p>
<p>Deficiency Progress Update 1: Amended CERS review protocol and Designated CERS Staff Protocol to indicate that when processing both "Accepted" or "Not Accepted" submittals elements, the status of the submittal will have a 30 day return to compliance for inaccuracies or incompleteness. See attached documents: Designated CERS Staff Protocol 4.2016 and CERS Review Protocol 4.2016.</p>		
<p>Evaluation Team Response 1 [State Water Board]: <u>State Water Board:</u> This deficiency is a work in progress.</p> <p>State Water Board acknowledges the CUPA's submittal of CERS Review Protocol 4.2016 and Designated CERS Staff Processing Protocol 4.2016. CERS Review Protocol states "the submittal status "Not Accepted" is selected for submittal element(s) that are incomplete and/or inaccurate.</p> <p>State Water Board acknowledges the CUPA's submittal of a comprehensive presentation informing owner/operators, contractors and Kern County Environmental Health CUPA staff of the components of a complete and accurate submittal. State Water Board also acknowledges the CUPA's submittal of attendance sheets for each of the two presentations provided and agendas.</p> <p>Review of CERS submittals accepted after 1 April 2016 indicates not all required fields in CERS are completed.</p> <ul style="list-style-type: none"> • CERS IDs 10157975, 10234141 and 10234756: CERS submittals accepted 16 May, have No selected for all forms of Overfill protection. A note from the CUPA states "Accepting Minimal Information to bring in Underground Storage Tank Data" without informing the owner/operator what data is missing, necessary corrective action or a timeline for correction. • CERS ID 10207234: accepted CERS submittal does not include primary containment construction for double walled pipe. <p><u>Action Plan for the CUPA:</u> The CUPA will provide to CalEPA with the next Progress Report Update:</p> <ul style="list-style-type: none"> • Training documentation provided to CUPA staff on CERS Review Protocol 4.2016 and Designated CERS Staff Processing Protocol 4.2016. Training documentation will include, but not be limited to an outline of the training conducted and a list of the CUPA personnel attending training. 		

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

In response to SWB Response 1 comment:

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

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

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

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

Evaluation Team Response 2 [State Water Board]:

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

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

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

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

Deficiency Progress Update 3: The 3 UST facilities and their submittals were accepted on 6/9/2016 because there were a change of ownership. In order to push the transition through, the CUPA “Accepted” the UST elements because all elements were to be submitted by the new owner. Staff is aware of the necessary language to be added to the CER review. The issue has been addressed with staff to ensure that return to compliance or a 30 day resubmission language must accompany submittal reviews “Accepted” with minor issues and “Not Accepted” submittals. UST Facility 10230568 submitted new information on 8/29/2016 and was reviewed and accepted on 11/11/2016. UST Facility 10230634 submitted new information on 8/29/2016 and was reviewed and accepted on 11/14/2016. UST Facility 10234051 submitted new information on 10/19/2016 and was reviewed and accepted on 10/20/2016.

Evaluation Team Response 3 [State Water Board]:

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

State Water Board acknowledges the CUPA’s status update and the training taking place. State Water Board further acknowledges the progress on the CUPA’s part in getting CERS submittals into an accurate and complete state.

State Water Board review of CERS submittals accepted after 10/1/2016 indicates staff not consistently providing information to facility owner/operators regarding changes which need to be addressed. Examples follow:

- CERS ID 10231816: accepted 11/2/2016 CUPA informs facility owner/operator tank 1 does not list any tank overfill protection and provides 30 days for corrective action.
- CERS ID 10155179: accepted 10/13/16 identifies some, but not all, of the missing information for the facility owner operator and provides 30 days for corrective action.
- CERS ID 10155187: accepted 11/23/16 contains no Regulator Comment. All tanks have double-wall pressurized piping, tanks 1 and 4 do not list either MLLD or ELLD, tanks 2 and 3 list MLLD.
- CERS ID 10175739: accepted 11/7/16 contains no Regulator Comment. All tanks have double-wall pressurized piping, tank 2 does not list either MLLD or ELLD, tanks 1, 3 and 4 list MLLD.

Deficiency Progress Update 4: Below please find an explanation to each submittal referenced above.

- **CERS ID 10231816 Sun Coast Materials Co.:** *Accepted 11/2/2016, CUPA informs facility owner/operator tank 1 does not list any tank overfill protection and provides 30 days for corrective action. (State’s Comments)*
 - **CUPA Response:** Facility completed a new submittal on 12/15/2016. The requested information was **NOT** corrected and the entire submittal was Not Accepted on 12/19/2016.

The facility has not resubmitted. The designated operator (CERS User) was contacted on 1/26/2017 about correcting the submittal.

- **CERS ID 10155179 Travel Centers of America #160:** *accepted 10/13/16 identifies some, but not all, of the missing information for the facility owner operator and provides 30 days for corrective action. (State's Comments)*
 - **CUPA Response:** Facility completed a new submittal on 11/11/2016 and addressed all of the missing information that was indicated. This submittal was accepted on 12/6/2016. The only missing information that has now been noted are the UST Certifications of Installation/Modification for the new tanks and the city's name for the UST Property Owner is misspelled. The submitting party was contacted by phone on 1/26/2017 and informed of the needed corrections. He will resubmit by next week. Lisa Jensen with the SWRCB was contacted on 1/24/2017 to confirm what missing information they were referring to. She stated that she would get back to us by next week.
- **CERS ID 10155187 The Filling Station:** *accepted 11/23/16 contains no Regulator Comment. All tanks have double-wall pressurized piping, tanks 1 and 4 do not list either MLLD or ELLD, tanks 2 and 3 list MLLD. (State's Comments)*
 - **CUPA Response:** Tank 1 is manifolded with Tank 2, and Tank 4 is manifolded with Tank 3. The piping directly connected to Tanks 1 and 4 is siphon (not suction and not gravity).

Product / Waste Piping Construction

Piping Construction <input type="radio"/> Single-walled <input checked="" type="radio"/> Double-walled <input type="radio"/> Other	Primary Containment <input type="radio"/> Steel <input checked="" type="radio"/> Fiberglass <input type="radio"/> Flexible <input type="radio"/> Rigid Plastic <input type="radio"/> None <input type="radio"/> Unknown <input type="radio"/> Other	Secondary Containment <input type="radio"/> Steel <input checked="" type="radio"/> Fiberglass <input type="radio"/> Flexible <input type="radio"/> Rigid Plastic <input type="radio"/> None <input type="radio"/> Unknown <input type="radio"/> Other	Piping/Turbine Containment Sump <input checked="" type="radio"/> Single-walled <input type="radio"/> Double-walled <input type="radio"/> None
Piping System Type <input checked="" type="radio"/> Pressure <input type="radio"/> Gravity <input type="radio"/> Conventional Suction <input type="radio"/> 23 CCR §2636(a)(3) Suction			

Tanks 1 and 4 do not have turbines installed and do not have a place to install Line Leak Detectors. Lisa Jensen with the SWRCB was contacted on 1/24/2017 to confirm how the SWRCB wants this type of piping reported. She stated that she would get back to us next week.

- **CERS ID 10175739 #9901 FASTRIP #43:** *accepted 11/7/16 contains no Regulator Comment. All tanks have double-wall pressurized piping, tank 2 does not list either MLLD or ELLD, tanks 1, 3 and 4 list MLLD. (State Comments)*
 - **CUPS Response:** Tank 2 is manifolded with Tank 1. The piping directly connected to Tanks 2 is siphon (not suction and not gravity, see above). Tanks 2 does not have a turbine installed and does not have a place to install a Line Leak Detector. Lisa Jensen with the SWRCB was contacted on 1/24/2017 to confirm how the SWRCB wants this type of piping reported. She stated that she would get back to us next week.

Evaluation Team Response 4 [State Water Board]:

State Water Board: This deficiency is considered corrected.

State Water Board acknowledges the CUPA's status update. State Water Board review of Accepted CERS submittals subsequent to December 1, 2017 indicate the CUPA is consistent in accepting accurate and complete submittals as well as providing instructive feedback to facility owner/operators for those submittals which have minor errors.

5. DEFICIENCY: CORRECTED	CORRECTIVE ACTION: COMPLETE
<p>The CUPA is not properly reviewing, processing, and authorizing each annual Onsite Hazardous Waste Treatment Notification for facilities with a Fixed Treatment Unit (FTU) within 45 calendar days of receiving it.</p> <p>During the 45-day review process, the CUPA must:</p> <ul style="list-style-type: none"> • Authorize operation of the FTU; • Deny authorization of the FTU in accordance with Permit-by-Rule laws and regulations; or, • Notify the owner/operator that the notification submittal is inaccurate or incomplete. <p>CERS data indicates that 1 of 2 Onsite Hazardous Waste Treatment Notifications were not reviewed by the CUPA within 45 days.</p> <p>Out of the 11 facility submittals reviewed in CERS, DTSC identified 7 facilities that indicated on their CERS activity page they are conducting treatment of hazardous wastes, however there was no Onsite Hazardous Waste Treatment Notification submitted to the CUPA. According to the CUPA, several facilities have incorrectly reported in CERS as Onsite Hazardous Waste Treatment. The actual number of Onsite Hazardous Waste Treatment facilities is 5.</p>	<p>By May 19, 2016, the CUPA will review and process all pending Onsite Hazardous Waste Treatment Notifications in CERS and notify CalEPA of their progress. The CUPA will also follow-up with all facilities required to submit an Onsite Hazardous Waste Treatment Notification.</p> <p>By August 19, 2016, the CUPA will update CalEPA on the status of each facility required to submit an annual Onsite Hazardous Waste Treatment Notification into CERS. The update will include the following for each facility:</p> <ul style="list-style-type: none"> • Has the Onsite Hazardous Waste Treatment Notification been submitted? • Has the CUPA reviewed, processed, and authorized the Onsite Hazardous Waste Treatment Notification? • Did the CUPA review the Onsite Hazardous Waste Treatment Notification within 45 days?

Deficiency Progress Update 1:

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

under their facility's activities page in CERS. Facilities that incorrectly indicated that they have such program have been notified and their submittals have been rejected accordingly.

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

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

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

Evaluation Team Response 1 [DTSC]:

DTSC: DTSC appreciates the efforts the CUPA has taken in correcting this deficiency. DTSC spoke with the CUPA regarding CERS ID: 10231054 – Rick G Pitts Ag Enterprises, because the facilities business activities page says that they treat hazardous waste however the CUPA has marked tiered permitting not applicable on the summary page. The CUPA has agreed to follow-up with this facility in order to correct their business activities page. Additionally, CERS shows 9 self-identified on-site hazardous waste facilities in Kern County. The by the next progress report, the CUPA will follow-up with the remaining facilities to determine if they are treating hazardous waste on-site and will adjust their business activities page accordingly. Also by the next progress report, the CUPA will review any new tiered permitting submittals within 45-days.

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

Deficiency Progress Update 2:

CERS ID 10152941 NAWS China Lake: Resubmitted and indicated NO to Treating Hazardous Waste on site. Verified. Site has a Full Standardized permit with DTSC and no longer a PBR for their drum crushing unit.
CERS ID 10230817 Scaled Composites: Submitted TP 1/13/2016 and Accepted 4/27/2016.

<p>CERS ID 10231579 Commodity Resources/Environmental: Resubmitted and indicated NO to Treating Hazardous Waste on site. Onsite verified.</p> <p>CERS ID 10231054 Rick G Pitts AG Enterprises: Facility has been made “Not Applicable” by the CUPA for Reporting the TP requirements. Facility has yet to go into CERS to update their Business Activities page to indicate “NO” to treating hazardous waste. Facility does not treat waste. Will follow up again.</p> <p>CERS ID 10232425 Lone Star Frac and Isom Facility: Submitted TP 2/1/2016 and Accepted 3/1/2016.</p> <p>CERS ID 10233709 Clean Harbors Buttonwillow LLC: Facility has a Full Standardized permit with DTSC. Facility indicated Yes to this activity because they do treat hazardous waste on site. The CUPA made the activity “not applicable”.</p> <p>CERS ID 10238251 TSC, LLC: Submitted TP 4/27/2016 and Accepted 4/29/2016.</p> <p>CERS ID 10238275 Lost Hills Utility District: Processed and unaccepted on 4/29/2016. Gave facility 30 days to resubmit. Facility has scheduled an appointment to come into the office on 8/26/2016 to complete. Will follow up.</p> <p>CERS ID 10644943 AA Maintenance Auto Repair: Is a duplicate facility. Facility has been made “Not Regulated”. Active CERS ID for this business is: 10237990.</p>		
<p>Evaluation Team Response 2 [DTSC]: DTSC: DTSC appreciates the efforts the CUPA has taken in correcting this deficiency. With the next progress report, please update CalEPA with the status of CERS ID 10231054 Rick G Pitts AG Enterprises and CERS ID 10238275 Lost Hills Utility District. Additionally, if there are any new onsite hazardous waste treatment submissions made, please ensure they are reviewed within the 45-day regulatory timeframe.</p>		
<p>Deficiency Progress Update 3: CERS ID 10231054 Rick G Pitts Ag Enterprises resubmitted their Business Activities page to indicate “NO” to treatment of hazardous waste on-site. That submittal was submitted on 8/24/2016 and accepted on 8/24/2016.</p> <p>CERS ID 10238275 Lost Hills Utility District resubmitted their information in CERS in regards to their Tiered Treatment process on 8/30/2016. The review of the submittal was accepted on 8/31/2016.</p>		
<p>Evaluation Team Response 3 [DTSC]: DTSC: DTSC acknowledges the corrections made to the Business Activities page for CERS ID 10231054 Rick G Pitts Ag Enterprises and the timely acceptance of the tiered permit submittal from CERS ID 10238275 Lost Hills Utility District. DTSC considers this deficiency corrected. Please continue your efforts in ensuring tiered permit submittals are reviewed for completion within the 45-day regulatory timeframe.</p>		
6.	<p>DEFICIENCY: CORRECTED</p> <p>The CUPA is not ensuring that all businesses electronically submit a complete hazardous materials business plan annually to the statewide information management system.</p> <p>The OSFM’s review of CERS shows that 1,008 (30%) of 3,419 hazardous materials facilities do not have a</p>	<p>CORRECTIVE ACTION: COMPLETED</p> <p>By May 19, 2016, the CUPA will develop, and submit to CalEPA, a list of all regulated businesses that have not submitted their complete business plan annually.</p> <p>By February 21, 2017, the CUPA will follow-up with each regulated business identified on the</p>

	current chemical inventory and 84 (2%) do not have any chemical inventory submittal.	<p>list to ensure a complete business plan is submitted or initiate appropriate enforcement actions against businesses that have not submitted a complete business plan within 30 days.</p> <p>With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance.</p>
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Deficiency Progress Update 1:

The CUPA identified 873 facilities that had not updated their annual hazardous materials business plan with chemical inventory. A reminder letter was sent to those facilities on February 18, 2016 requesting compliance by March 18, 2016. See attached folder labeled HMBP Update Reminder Letter 2.18.2016. A total of 608 facilities came into compliance during this time frame.

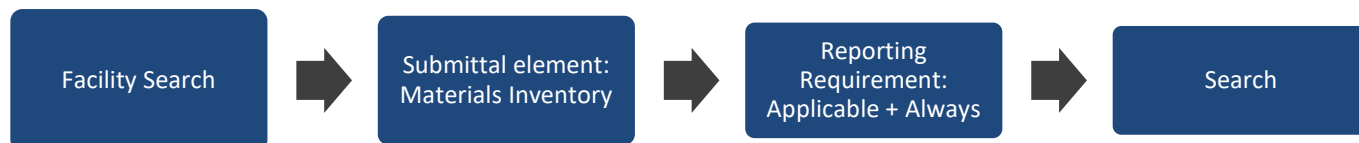
On March 23, 2016, the CUPA sent Notice of Violation letters out to 265 facilities that did not submit before the March 18, 2016 deadline. The notice required the facilities to come into compliance by April 8, 2016. A total of 189 facilities came into compliance after the notice of violation was issued. See attached folder labeled HMBP Update NOV Letter 3.23.2016.

On April 14, 2016, the CUPA issued Administrative Enforcement Orders (AEO) to 76 facilities. Consent orders and office hearings were conducted at the end of April. Compliance on consent orders required facilities to submit their hazardous materials business plan in CERS and pay a penalty by May 6, 2016. The CUPA is processing the final orders and will provide CalEPA an update after completion. All consent orders and spreadsheet information can be located in the folder labeled HMBP AEO.

Evaluation Team Response 1 [Cal OES, OSFM]:

Cal OES: CalOES considers this deficiency corrected.

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



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

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

7.	DEFICIENCY: CORRECTED The CUPA did not submit formal enforcement summaries for each formal enforcement case that received a final judgment. The CUPA did not submit a formal enforcement summary for 52 Administrative Enforcement Order cases reported in CERS. Before completion of the evaluation report, the CUPA submitted 14 enforcement summaries to CalEPA.	CORRECTIVE ACTION: COMPLETED By May 19, 2016, the CUPA will determine the number of formal enforcement cases that the CUPA has not submitted a formal enforcement summary for. The CUPA will provide CalEPA with a formal enforcement report for each of those cases.
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Deficiency Progress Update:

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

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

Evaluation Team Response 1 [CalEPA]:

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