

# CERTIFIED UNIFIED PROGRAM AGENCY

## Deficiency Progress Update Report 7

<b>EVALUATION YEAR:</b>	<b>2016</b>	<b>REVIEW PERIOD:</b>	<b>May 13 – 17, 2016</b>	<b>ISSUANCE DATE:</b>	<b>August 19, 2016</b>
<b>CUPA:</b>	City of Hayward Fire Department				
<b>Post-EVALUATION TEAM MEMBERS:</b>	<b>CalEPA Team Lead</b>	<b>DTSC</b>	<b>Cal OES</b>	<b>State Water Board</b>	<b>CAL FIRE - OSFM</b>
	Christopher Moon	Kevin Abriol	Fred Mehr	Sean Farrow	Glenn Warner
<b>Deficiency Pending</b>	6, 10				
<b>Deficiencies Corrected</b>	1, 2, 3, 4, 5, 7, 8, 9, 11				
<b>Report Submitted on</b>	April 30, 2018				
<b>Next Update Report Due by</b>	July 30, 2018				

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 <b>Deficiency Progress Report every 90 days</b> until all deficiencies have been acknowledged as corrected.</p> <p>Each <b>Deficiency Progress Report</b> must include a narrative stating the progress toward correction of <u>all</u> deficiencies identified in the Summary of Findings evaluation report.</p>	<p><b>Deficiency Progress Report submittal dates for the following the evaluation are as follows:</b></p> <p style="text-align: center;"><b>Update 5: October 27, 2017</b>  <b>Update 6: January 29, 2018</b>  <b>Update 7: April 30, 2018</b>  <b>Update 8: July 30, 2018</b></p> <p style="text-align: center;"><b>Each Deficiency Progress Report must be submitted to the CalEPA Team Lead.</b></p>
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1. DEFICIENCY: <b>CORRECTED</b>	CORRECTIVE ACTION: <b>COMPLETED</b>
<p>The CUPA is not consistently ensuring all appropriate underground storage tank (UST) related information in the California Environmental Reporting System (CERS) is accurate and complete.</p> <p>State Water Resources Control Board (State Water Board) review of UST facility submittals in CERS finds CUPA personnel are accepting inaccurate and incomplete UST related information in CERS. The following are examples of inaccurate or incomplete information in CERS:</p> <ul style="list-style-type: none"> <li>• Tanks identified as missing installation dates: <ul style="list-style-type: none"> <li>○ CERS ID- 10313734 (Tanks 1, 2, 3, and 4);</li> <li>○ CERS ID- 10313887 (Tank 1);</li> <li>○ CERS ID- 10314496 (Tanks 1-2 AND 3-4);</li> <li>○ CERS ID- 10314517 (Tanks 1, 02, and 03); and</li> <li>○ CERS ID- 10315372 (Tanks 1, 2, and 3).</li> </ul> </li> <li>• Tanks identified as having “no” tank overfill prevention installed: <ul style="list-style-type: none"> <li>○ CERS ID- 10314799 (Tanks 02 and 03);</li> <li>○ CERS ID- 10458493 (Tanks 01, 02, and 03); and</li> <li>○ CERS ID- 10315108 (Tanks 01, 02, and 03).</li> </ul> </li> <li>• Tanks identified as having “no” fill components installed: <ul style="list-style-type: none"> <li>○ CERS ID- 10314493 (Tank 2);</li> <li>○ CERS ID- 10314796 (Tanks 06 and 07); and</li> <li>○ CERS ID- 10458493 (Tanks 01, 02, and 03).</li> </ul> </li> </ul>	<p>By October 27, 2016, the CUPA will revise, implement, and provide CalEPA with the Data Management Procedure, or other applicable procedure, to ensure CUPA personnel accept accurate and complete UST information. The CUPA will make necessary changes to the Data Management Procedure, or other applicable procedure based on feedback from State Water Board.</p> <p>The procedure will delineate the CUPA’s process for managing CERS submittals including:</p> <ul style="list-style-type: none"> <li>• A process for reviewing and not accepting CERS submittals; AND</li> <li>• A process for reviewing and accepting only accurate and complete CERS submittals; OR</li> <li>• A process for reviewing and accepting submittals with minor errors: <ul style="list-style-type: none"> <li>○ A condition is set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe;</li> <li>○ If the submittal is not corrected, CUPA personnel will change the submittal status from “accept” to “not accept.”</li> </ul> </li> </ul> <p><b>Status: Completed and submitted policy and procedures to CalEPA on 6/27/16 - See Policy #38.</b></p> <p>By January 27, 2017, the CUPA will implement and train CUPA personnel on the new Data Management Procedure, or other applicable procedure. The CUPA will provide training documentation to CalEPA. Training documentation will include, but not be limited to an outline of the training conducted and a list of CUPA personnel attending the training.</p> <p><b>Status: Completed training and submitted proof to CalEPA on 6/28/16.</b></p> <p>With respect to information already accepted in CERS, the CUPA will review UST related information and require accurate and complete submittals for each</p>

<ul style="list-style-type: none"> <li>• Piping identified as being pressurized pipe (minus emergency generators and siphon tanks) show “no” line leak detectors installed: <ul style="list-style-type: none"> <li>○ CERS ID- 10314865 (Tanks 87 and Diesel);</li> <li>○ CERS ID- 10315567 (Tanks 1 and 2); and</li> <li>○ CERS ID- 10315927 (Tanks 2, 3, and 4).</li> </ul> </li> <li>• Piping identified as double-wall show “none” or “missing/left blank” for secondary containment construction material: <ul style="list-style-type: none"> <li>○ CERS ID- 10314499 (Tank 1);</li> <li>○ CERS ID- 10314796 (Tanks 05, 06, and 07); and</li> <li>○ CERS ID- 10445521 (Tank 2 Unleaded-Reclaimed).</li> </ul> </li> <li>• Tanks identified as post July 1, 2004 show “yes” for periodic secondary containment testing: <ul style="list-style-type: none"> <li>○ CERS ID- 10123606 (Tanks 482-001, 482-002, and 482-003);</li> <li>○ CERS ID- 10152407 (Tank 01-003-10267); and</li> <li>○ CERS ID- 10315909 (Tanks 1, 2, and 3).</li> </ul> </li> </ul> <p>Note: Deficiency is based on State Water Board review of accepted CERS UST information.</p> <p>Note: The examples provided above were identified during the CUPA evaluation and may not represent all instances of this deficiency.</p> <p>Note: Please reference the following CERS FAQs: “General Reporting Requirements for UST’s”; “When to Issue a UST Operating Permit”; “Common CERS Reporting Errors”;</p>	<p>facility when the next submittal is made, but no later than the next annual UST compliance inspection.</p> <p>Status: This will be an ongoing work item. – Inspectors are reviewing each of the approximately 100 CERS UST submittals at time of next annual inspection between July 1, 2016 and June 30, 2017 for accuracy and completeness.</p>
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<p>“Setting Accepted Submittal Status”; and “Which Forms Require Uploading to CERS.”</p> <p>Note: Before the initial evaluation report was completed, the CUPA provided CalEPA with a Data Management Procedure and staff training documentation. The state agencies will review the procedure and training documentation and will provide feedback after CalEPA receives the CUPA’s Deficiency Progress Report 1 submission.</p>	
<p><b>Deficiency Progress Update 1:</b> [The Hayward Fire Department CUPA has completed and submitted the policies and procedure to CalEPA on 6/26/16. In addition, The CUPA has completed training and submitted training documentation to CalEPA on 6/27/2016. The CUPA has begun to implementation of the review process and is currently working through the list of UST facilities until the annual cycle has been completed. See also the detailed notes highlighted notes within the corrective actions for this deficiency.]</p>	
<p><b>Evaluation Team Response 1 [State Water Board]:</b> <b>State Water Board:</b> Deficiency is a work in progress.</p> <p>State Water Board acknowledges the CUPA’s Deficiency Progress Update 1. The CUPA has provided a policy identified as “Policy # 38 – Procedures for Acceptance of CERS Submittals” dated June 27, 2016 to address not consistently ensuring all appropriate UST related information in CERS is accurate and complete. State Water Board finds the CUPA’s policy acceptable as the CUPA addresses the following information for accepting CERS UST submittals:</p> <ol style="list-style-type: none"> <li>1. Requires ICC UST certified inspectors to review and accept, not accept, or accept with conditions, CERS UST submittals;</li> <li>2. Identifies an initial completeness review of a CERS UST submittal for required information;</li> <li>3. Identifies setting the CERS UST submittal status after completeness review. The ICC UST certified inspector(s) sets the status as; 1) accepted, 2) under review or 3) not accepted;</li> <li>4. Identifies site inspection verification of a CERS UST submittal to ensure submitted information is accurate; and</li> <li>5. Identifies setting the CERS UST submittal status as; 1) accepted with no conditions or 2) not accepted if the submittal is found to be deficient.</li> </ol> <p>State Water Board finds the CUPA providing a training log and outline of training conducted on the CUPA’s policy dated June 28, 2016.</p> <p>State Water Board considers this deficiency a work in progress. In the next Deficiency Progress Update, State Water Board will review accepted CERS UST submittals subsequent to the CUPA’s implementation and training. Our review will determine if the CUPA needs to; 1) provide additional training to ICC UST certified inspectors or 2) revise “Policy # 38 – Procedures for Acceptance of CERS Submittals.”</p>	

**Deficiency Progress Update 2:** Per our 1<sup>st</sup> Quarterly report the CUPA has implemented policy and provided training to staff ahead of schedule. The implementation is an ongoing work item. Inspectors are reviewing each of the approximately 100 CERS UST submittals at the time of next annual inspection between July 1, 2016 and June 30, 2017 for accuracy and completeness. They are half way through the implementation. To ensure more accurate submittals, the inspection staff is taking hardcopy equipment and monitoring information into field to help in the verification.

**Evaluation Team Response 2 [State Water Board]:**

**State Water Board:** Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 2. Our review of CERS finds 54 CERS UST submittals with some sort of action taken subsequent to the CUPA conducting training on "Policy # 38 – Procedures for Acceptance of CERS Submittals." Examples of our review finds the following:

1. CERS ID 10166173; accepted 7/1/2016. Submittal contains accurate and complete information.
2. CERS ID 10313740; accepted 12/9/2016. Submittal contains accurate and complete information.
3. CERS ID 10314271; accepted 12/29/2016. Submittal contains accurate and complete information.
4. CERS ID 10315750; accepted 8/15/2016. Submittal contains accurate and complete information.
5. CERS ID 10403809; accepted 1/20/2017. Submittal contains accurate and complete information.
6. CERS ID 10315207; accepted 8/4/2016. Submittal contains accurate and complete information.
7. CERS ID 10314493; accepted 10/31/2016. Submittal contains inaccurate and incomplete information. Tank 6 does not identify fill components being installed. The spill bucket, striker plate/bottom protection, and containment sump are marked as "no." The fill components need to reflect what is installed at the facility. Financial Responsibility shows the insurance coverage period from 8/21/2015 – 8/21/2016. Therefore, when the submittal was accepted, the policy was expired and needs updating.
8. CERS ID 10314799; accepted 7/6/2016. Submittal contains inaccurate and incomplete information. Submittal is missing the UST Response Plan and the UST Owner/Operator: Written Agreement. Tank 02 does not identify overfill protection being installed. All four (4) overfill mechanisms are marked as "no." Therefore, the overfill protection needs to reflect what is installed at the facility.
9. CERS ID 10315333; accepted 7/6/2016. Submittal contains inaccurate and incomplete information. Tank 2 is identified as having steel tank and piping. However, corrosion protection methods are marked "no." The facility needs to accurately reflect the method of corrosion protection used for the tanks and pipe. The UDC construction is identified as concrete; however, the monitoring method is identified as float and chain. The monitoring plan shows the manufacturer of the UDC as Bravo. Therefore, the UDC construction material is more than likely steel. The UDC construction needs to reflect what is installed at the facility.
10. CERS ID 10315567; accepted 7/18/2016. Submittal contains inaccurate and incomplete information. Tank 2 identifies the UDC as being double wall fiberglass. However, the monitoring plan shows the construction as single wall utilizing float and chain method to monitoring the UDC. The UDC construction need to reflect what is installed at the facility.

Our review of accepted CERS UST submittals in Deficiency Progress Update 2 finds, the CUPA continues to accept inaccurate and incomplete UST information subsequent to training ICC certified inspection

personnel on “Policy # 38 – Procedures for Acceptance of CERS Submittals.” Therefore, State Water Board considers this deficiency a work in progress.

#### Action Plan for the CUPA

1. By the next Deficiency Progress Update, the CUPA will provide additional training to ICC UST certified inspection personnel on the CUPA’s “Policy # 38 – Procedures for Acceptance of CERS Submittals.” The CUPA will provide to CalEPA, training documentation outlining the training conducted and a list of personnel attending the training. Training on the CUPA’s “Policy # 38 – Procedures for Acceptance of CERS Submittals” shall include, but not be limited to; a) reviewing CERS UST submittals so that the facility record is accurate and complete, b) accepting or rejecting incomplete or inaccurate CERS UST information which includes noting regulator comments, and c) identifying which documents are required to be submitted in CERS UST submittals.

**Deficiency Progress Update 3:** The CUPA provided the updated training on Policy #38 to the CUPA Staff on CERS UST submittals on April 25, 2017. Attached is the training documentation (Sign in sheet and what was covered in the training.) Of the facilities in as needing additional accuracy in Response #2 (i.e. 7, 8, 9 and 10) all have been updated. Facilities 8 and 9 are completed and approved. Facilities 7 and 10 will be receiving “Notices of Violation”.

#### Evaluation Team Response 3 [State Water Board]:

**State Water Board:** Deficiency is a work in progress.

State Water Board acknowledges the CUPA’s Deficiency Progress Update 3. The CUPA is noted as providing additional training on the CUPA’s Policy # 38 on April 25, 2017 covering topics such as:

1. What’s required to be included in a CERS UST submittal;
2. Reviewing CERS UST submittals for accuracy and completeness; and
3. Accepting or rejecting CERS UST submittals.

Our review of CERS identification (ID) numbers 10314493, 10314799, 10315333, and 10315567 (Deficiency Progress Update 2) finds the CUPA updating CERS or noting a Notice of Violation issuance is pending. The CUPA demonstrates following up with State Water Board review of CERS UST submittals from Deficiency Progress Update 2.

State Water Board review of CERS subsequent to the CUPA conducting additional training on April 25, 2017 finds four (4) CERS ID numbers with accepted UST submittals. Therefore, State Water Board will continue to review CERS UST submittals in the next Deficiency Progress Update to determine the CUPA’s demonstration for the correction of this deficiency.

**Deficiency Progress Update 4:** During the last quarter staff worked with the owners of the following two remaining facilities identified in our last quarterly update report to achieve return to compliance (RTC):

- Facility 7 CERS ID 10314493 (Double AA Corporation @ 390 Jackson Street, West) RTC on 5/16/17.
- Facility 10 CERS ID 10315567 (Sahoto Petroleum @ 30151 Industrial Parkway, SW) RTC on 4/28/17.

Inspection staff continues to work on ensuring significant compliance for all Underground Storage Tank submittals as well as working with owner/operators to refine the accuracy of the data submitted. As part

of the review the inspection staff continues to bring out to inspections copies of the CERS UST Equipment and Monitoring forms to field verify. We are requesting that this item be deemed as completed.

**Evaluation Team Response 4 [State Water Board]:**

Deficiency is considered corrected.

State Water Board acknowledges the CUPA's Deficiency Progress Update 4. Our review finds the CUPA reporting compliance for CERS ID's 10314493 and 10315567. Furthermore, our review finds CERS ID's 10314799 and 10315333 each with accepted CERS UST submittals.

State Water Board review of CERS finds 27 CERS UST submittals with some sort of action taken subsequent to Update 3. Examples of our review finds the following:

1. CERS ID 10315750; accepted July 31, 2017. CERS UST submittal is complete and accurate.
2. CERS ID 10199941; under review. The next annual UST compliance inspection is approximately August 2017. The CUPA is noted as following procedures.
3. CERS ID 10314319; accepted July 28, 2017. CERS UST submittal is complete and accurate.
4. CERS ID 10314283; accepted July 28, 2017. CERS UST submittal is complete and accurate.
5. CERS ID 10314286; accepted July 28, 2017. CERS UST submittal is complete and accurate.
6. CERS ID 10314274; accepted July 28, 2017. CERS UST submittal is complete and accurate.
7. CERS ID 10314586; accepted July 28, 2017. CERS UST submittal is complete and accurate.
8. CERS ID 10314493; accepted June 9, 2017. CERS UST submittal is complete and accurate.
9. CERS ID 10166173; accepted June 6, 2017. CERS UST submittal is complete and accurate.
10. CERS ID 10442305; accepted May 17, 2017. CERS UST submittal is complete and accurate.
11. CERS ID 10315255; accepted May 1, 2017. CERS UST submittal is complete and accurate.

As evidenced by the State Water Board review of CERS UST submittals, the CUPA is noted as following "Policy # 38 – Procedures for Acceptance of CERS Submittals." Therefore, State Water Board considers this deficiency corrected.

2.	<b>DEFICIENCY: CORRECTED</b>	<b>CORRECTIVE ACTION: COMPLETED</b>
	<p>The CUPA is not inspecting each facility subject to business plan requirements at least once every three years.</p> <p>Cal OES reviewed business plan program inspection information in CERS, self-audit reports, and the Single Fee Summary Reports and found that between 25% - 28% of business plan facilities were not inspected within the last three years.</p>	<p>By January 27, 2017, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each business plan facility is inspected at least once every three years. At minimum, the plan will include:</p> <ul style="list-style-type: none"><li>• A list of business plan facilities that have not been inspected within the last 3 years;</li></ul> <p>See the attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" which identified a sortable list of facilities that need to have all program elements inspected. Because of the various required dates within this evaluation all facilities have been put on one list.</p>



		<ul style="list-style-type: none"> <li>• A proposed schedule to inspect those facilities, by prioritizing the most delinquent inspections to be completed prior to any other business plan inspection; and</li> </ul> <p>Within the attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" there is a column set up called, "Inspect By Date". That is the proposed date that the facilities will be inspected.</p> <ul style="list-style-type: none"> <li>• Future steps to ensure that all business plan facilities will be inspected at least once every 3 years.</li> </ul> <p>The major cause of this and many deficiencies is insufficient staffing to implement the program. To that end the CUPA has reviewed its staffing needs, compared it with neighboring CUPA jurisdictions and submitted on April 26, 2016 a request for two additional positions (1 inspector and 1 clerical.) The CUPA has met with the Fire Chief and senior staff on August 11, 2016 and discussed its concerns and went over the state evaluation. Updated survey information was sent to the Chief on August 24, 2016. The CUPA participated in a citywide fee study which if approved will provide additional funding for positions. The study is going to the City Council this month for approval. After the approval we will again request staffing. We have also requested overtime for staff to help address deficiencies as well as to not detract from other ongoing program elements.</p> <p>With each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the business plan facility list to show inspections that have occurred during the previous quarter. See the attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" there is a column set up called, "Last Inspection Date". That is the last date the facilities have been inspected and will be used to document the last inspection date for the business plan.</p>
		<p><b>Deficiency Progress Update 1:</b></p> <p>[The Hayward Fire Department CUPA has attached the list of Business Plan facilities that have not been inspected in the last 3 years along with a proposed schedule to inspect those facilities. Finally, the CUPA has proposed additional staffing and has proposed a funding mechanism to get additional personnel to</p>



fully staff its program. See also the detailed notes highlighted notes within the corrective actions for this deficiency.]

**Evaluation Team Response 1 [Cal OES]:**

**Cal OES:** The CUPA did develop, and provide an action plan to ensure each business plan facility is inspected at least once every three years meeting the required minimums. Cal OES looks forward to following the CUPAs progress on inspections.

**Deficiency Progress Update 2:**

The Hayward Fire Department CUPA has attached the updated list of Business Plan facilities that have not been inspected in the last 3 years along with a proposed schedule to inspect those facilities. The Excel file is "3.0 Yr Inspection Schedule", refer to tab "BL HAZMAT - Modified" .

In the last quarter, we have reevaluated and refined the facility list and removed some facilities that are no longer CUPA facilities as well as inputted inspection and uploaded some inspections that were either not electronically inputted or not uploaded due to compatibility issue with the Envision Connect software.

We have worked with the City's Tech Services Department to have a "real time" standardized report available directly to the inspection staff sortable by area, address and last inspection date to prevent delays in getting updated information to them. We are using a temporary clerk to do regular updated inputs of information including last inspection date for our inspection staff. The Clerk is also inputting CERS ID Numbers for those facilities in MUNIS that do not have corresponding CERS ID numbers.

Finally, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and submitted on January 23, 2017, in hopes to get staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are finding that progress on this item has been hampered this quarter addressing the above and addressing other deficiencies as well as issues with the Envision/Connect Software.

**Evaluation Team Response 2 [Cal OES]:**

**Cal OES:** The CUPA is in the process of ensuring each business plan facility is inspected at least once every three years meeting the required minimums. Cal OES looks forward to following the CUPAs progress on inspections.

**Deficiency Progress Update 3:** Attached is the updated Excel spreadsheet list of Business Plan facilities that have not been inspected in the past 3 years. We intend during the next quarter to prioritize inspections of Business Plan facilities based on last inspection date.

**Evaluation Team Response 3 [Cal OES]:**

**Cal OES:** From the CUPAs spread sheet, the CUPA is in the process of ensuring each business plan facility is inspected at least once every three years meeting the required minimums. Cal OES looks forward to following the CUPAs progress on inspections.

**Deficiency Progress Update 4:** The Hayward Fire Department CUPA has attached the updated list of Business Plan facilities that have not been inspected in the last 3 years along with a proposed schedule to inspect those facilities. The Excel file is "7-27-17 Update 3.0 Yr Inspection Schedule", refer to tab "BL

HAZMAT - Modified” The CUPA continues to work on this list. In the past few quarters we have addressed some of the businesses, with priorities on facilities such as APSA, Tiered Permitting and Large Quantity Generators that have not been inspected in the past three years. We have also address the oldest facilities such as ones that were last inspected in 2010. During this quarter, we will prioritize the HMBP inspections that are also Hazardous Waste Generator inspections, with special emphasis on large quantity Hazardous Waste Generators.

Also, during the last quarter the Fire Department again requested and finally received approval through the City Council to hire an additional Hazardous Materials Investigator this fiscal year (2017/2018). We anticipate that the additional Hazardous Materials Investigator will be hired and on staff no later than January 1, 2018. This position will help with the backlog of inspections.

#### **Evaluation Team Response 4 [Cal OES]:**

**Cal OES:** Cal OES looks forward to following the CUPA correcting this deficiency with new staff. With the CUPAs next progress update, will the CUPA include total number of business and the number of businesses inspected.

#### **Deficiency Progress Update 5:**

The Hayward Fire Department CUPA has attached the updated list of Business Plan facilities that have not been inspected in the last 3 years along with the proposed schedule to inspect those facilities. The Excel file is “10-27-17 Update 3.0 Yr. Inspection Schedule”: refer to tab “BL HAZMAT – Modified”

In order to ensure adequate inspection staffing, we have advertised and conducted the 1<sup>st</sup> and 2<sup>nd</sup> interviews of prospective Hazardous Materials Inspector candidates. We anticipate the position will be filled with new staff on board in November of 2017.

#### **Evaluation Team Response 5 [Cal OES]:**

**Cal OES:** Cal OES looks forward to following the CUPA correcting this deficiency and expects new staff will help increase inspections frequency. With the CUPAs next progress update, will the CUPA include total number of business and the number of businesses inspected.

#### **Deficiency Progress Update 6:**

The Hayward Fire Department CUPA has attached the updated list of Business Plan facilities that have not been inspected in the last 3 years along with the proposed schedule to inspect those facilities. The Excel file is “Done – Def 2-6- CERS FacilityInspectionStatus (2) 1026-18.xlsx”: refer to tab “Master Deficiency List” which is color coded by column: green = in compliance, light orange = still needing inspection.

Update on staffing: We had a two-month delay in the anticipated hiring date of the new Hazardous Materials Inspector position. On January 10, 2018 the new Hazardous Materials Inspector started. The staff member is currently in training. We also had delays in getting clerical support. We anticipate another 2-3 month for that hiring to occur.

#### **Evaluation Team Response 6 [Cal OES]:**

**CalOES Response:** Congratulations on getting new staff on board. No spread sheet was attached. From a quick look in CERs, the CUPA has over 90% of the facilities inspected. Cal OES considers this deficiency corrected.

3. DEFICIENCY: <b>CORRECTED</b>	CORRECTIVE ACTION: <b>COMPLETED</b>
<p>The CUPA is not inspecting all Aboveground Petroleum Storage Act (APSA) tank facilities that store 10,000 gallons or more of petroleum at least once every three years. In addition, the CUPA is not inspecting all APSA tank facilities at least once every two years in accordance with their Inspection and Enforcement Program (I&amp;E) Plan.</p> <p>The OSFM found the following:</p> <ul style="list-style-type: none"> <li>• The 4 APSA facilities noted on the CUPA's list (with greater than 10,000 gallons) have not been inspected based on a review of the CERS APSA inspection, violation, and enforcement (CME) data.</li> <li>• 3 of the 4 APSA facilities had facility files provided for OSFM review. However, all 3 facility files lacked documentation of an APSA inspection.</li> <li>• OSFM found approximately 43 facilities subject to APSA based on CERS data. The CUPA did not inspect 38 (88%) of 43 APSA facilities within the last two fiscal years (FY) based on CERS APSA CME data.</li> </ul>	<p>By October 27, 2016, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure all APSA tank facilities, including those that store 10,000 gallons or more of petroleum, are inspected within the required timeframe. The plan will include the following:</p> <ul style="list-style-type: none"> <li>• Identification of all APSA tank facilities that have not been inspected within the required timeframe;</li> </ul> <p>See the attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" there is tab set up called, "APSA". Within that tab there is a last inspection date.</p> <ul style="list-style-type: none"> <li>• A proposed schedule to inspect those APSA tank facilities by December 27, 2017, by prioritizing the most delinquent inspections first. Also, the prioritization of inspections should be based on a risk analysis of all APSA facilities (i.e., large volumes of petroleum or proximity to navigable water); and</li> </ul> <p>Within the attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls". There is tab set up called, "APSA". Within that tab there is a column with the proposed date that the facilities will be inspected. We are inspecting these facilities by last inspection date as the main criteria since all have similar risk to waterway as Hayward is at the bay margin. Additionally, all have been inspected in the past to ensure structural containment.</p> <ul style="list-style-type: none"> <li>• Steps to ensure that all APSA tank facilities with 10,000 gallons or more of petroleum will be inspected at least once every three years and, for all other tank facilities, at least once every two years pursuant to the CUPA's I&amp;E Plan.</li> </ul> <p>The Hayward CUPA has submitted a proposal to increase staffing by two positions on April 26, 2016.</p>

		<p>This was to address overall understaffing and if approved will provide the personnel required to implement the CUPA program in Hayward and meet the inspection frequency for this deficiency. We have also changed the "Inspection and Enforcement" Plan to reduce the inspection frequency of APSA facilities from 2 years to 3 years to match state standards of once every three years. This was completed and submitted to CalEPA on June 27, 2016.</p> <p>With each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the APSA tank facility list to show inspections that have occurred during the previous quarter.</p> <p>For implementation it is important to get additional inspection staffing to implement this plan. We have reviewed each of our facilities and made a matrix as to their storage. There currently are about 61 listed APSA facilities that will need to be inspected utilizing the new inspection forms.</p> <p>By December 27, 2017, the CUPA will have inspected all APSA tank facilities, including those that store 10,000 gallons or more of petroleum, within the required timeframe.</p>
<p><b>Deficiency Progress Update 1:</b>  [The CUPA has attached the list of APSA facilities and a proposed schedule to inspect. The CUPA has reduced its frequency from 2 to 3 years in its "Inspection and Enforcement" Plan to match State standards. Finally, the CUPA has proposed additional staffing and has proposed a funding mechanism to get additional personnel to fully staff its program. See also the detailed notes highlighted notes within the corrective actions for this deficiency.]</p>		
<p><b>Evaluation Team Response 1 [OSFM]:</b>  <b>OSFM:</b> The CUPA's update generally addresses the October 27, 2016, corrective action requirements, but the list should include all APSA facilities. The APSA tab within the CUPA's Excel spreadsheet "2.5 Yr Inspection Schedule.xls" identifies the Last Inspection Date in column J, and the proposed "Inspect by Date" in column K- but only includes 42 APSA tank facilities. In contrast, CERS identifies 48 APSA=Applicable facilities as of November 1, 2016, while the CUPA currently observes 61 APSA facilities that will need to be inspected.</p>		

By the next progress report update, the CUPA will update the list of APSA facilities. The CUPA is encouraged to get CERS ID numbers established for any APSA facilities not in CERS, and include CERS ID data for all facilities in the CUPA's Excel spreadsheet "2.5 Yr Inspection Schedule.xls".

**Deficiency Progress Update 2:**

The CUPA has attached the updated list of APSA facilities. The Excel file is "3.0 Yr Inspection Schedule", refer to tab "APSA".

During this quarter the CUPA has gone through each APSA facility on CERS, reviewed their inventory and has reconciled it with our MUNIS list to provide a unified list. In the course of that review we have identified facility that are no longer in the program or have materials that only fall under the Federal List and therefore not under the State APSA program. Regarding the APSA facilities equal to or greater than 10,000 gallons. We found two facilities that are not complying with need to have an engineer prepare and stamp SPCC plan. Those facilities have been given a "Notices to Comply".

Because of the small volume of our overall facility list (approx. 55), the CUPA has prioritize this list higher than regular facility inspections in order to return to the 3-year inspection schedule. We anticipate by the next quarterly report that we will have returned to a 3-year inspection cycle for the APSA facilities.

Note: To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.

**Evaluation Team Response 2 [OSFM]:**

**OSFM:** The CUPA's update addressed the remaining October 27, 2016, corrective actions and is considered acceptable for this update. However, the following concerns exist. The "3.0 Yr Inspection Schedule" provided by the CUPA cannot be correlated to CERS to verify accuracy at the present time, primarily due to CME reporting discrepancies related to the recorded Last Inspection Date (25Jan2017 update-Col K). The CUPA has recorded twelve additional APSA inspection dates that are not documented in CERS, consisting of the following facilities: CERS ID 10314343, 10398019, 10314085, 10417294, 10314343, 10314754, 10443502, 10153991, 10165679, 10314037, 10626310, and 10688290. Additionally, the "Inspect by Date" in column L is blank for approximately 22 facilities that have not been inspected within the last three years or are overdue for an inspection.

Based on the CUPA's "3.0 Yr Inspection Schedule", approximately 34 (51%) APSA tank facilities have not been inspected within the last three years, including one of the four facilities that store 10,000 gallons or more of petroleum (CERS ID 10423600).

By the next progress report update, the CUPA will provide CalEPA with an updated version of the APSA tank facility list to show inspections that have occurred during the previous quarter. The CUPA will also provide proposed "Inspect by Dates" for all the APSA facilities that have not been inspected within the last three years or are overdue for an inspection.

**Deficiency Progress Update 3:** The CUPA has focused on the overall compliance of APSA facilities during this reporting period. Inspection staff has gone to 46 of the 52 APSA facilities in Hayward. All 8 APSA facilities that store 10,000 gallons or more have now been inspected within the three-year required inspection time frame. Of the remaining APSA facilities only 6 have not been inspected in the past 3 years. We anticipate these will be inspected within the next 21 days. Attached is the updated Excel spread sheet that includes the APSA facility list. Additionally, we have created and attached a more detailed chart of all our APSA facility that we have evaluated. In reevaluating the list of facilities, we have identified some businesses that should not have been APSA facilities either because they have closed, or are under the trigger quantities or have erroneously identified themselves as APSA facilities in California when they only fall under the Federal SPCC Program given the types of oils (cooking oil). We have also identified several new facilities. Finally, because we are a Fire Department we are addressing the complexity of fire protection and combustible liquids. We have worked with our Fire Protection Engineer to develop a "Rule of Thumb" chart to assist business that store combustible liquids and their maximum storage heights for APSA Facilities. This will help simplify in some areas maximum allowable storage heights as it relates to fire protection.

**Evaluation Team Response 3 [OSFM]:**

**OSFM:** The CUPA has aggressively performed APSA inspections at targeted facilities since the last update.

Based on the CUPA's "3.0 Yr Inspection Schedule", updated April 27, 2017, there are 52 active APSA tank facilities. Forty-seven (47) of the 52 facilities are current with inspections. The CUPA did not inspect only 5 (9.6%) of 52 APSA facilities within the last two years. As of May 4, 2017, CERS data indicate 15% (8) of the 52 total facilities are not current with their APSA inspections.

OSFM considers this deficiency corrected. OSFM encourages the CUPA to continue to inspect its APSA tank facilities at least once every three years per the state mandated frequency and the CUPA's inspection schedule.

**Deficiency Progress Update 4:** During the last quarter, the remaining five (5) APSA Facilities were inspected. All APSA facilities are now within the three-year inspection schedule. The CUPA has attached the updated list of APSA facilities. The Excel file is "10-27-17 Update 3.0 Yr Inspection Schedule", refer to tab "APSA". Also, attached is the updated internal APSA list provided last quarter. We are requesting that this item be deemed completed.

**Evaluation Team Response 4 [OSFM]:**

**OSFM:** The CUPA has aggressively performed APSA inspections at targeted facilities since the last update. OSFM considers this deficiency corrected.

4.	<b>DEFICIENCY: CORRECTED</b>	<b>CORRECTIVE ACTION: COMPLETED</b>
	<p>The CUPA is not consistently ensuring that site maps, emergency response plans and procedures, and training programs contain all of the required elements.</p> <p>3 of the 11 facility files reviewed by the state evaluation team were missing various</p>	<p>By October 27, 2016, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure that future business plan submittals are thoroughly reviewed and contain all the required elements, including their site maps, emergency response plans and procedures, and training programs.</p>

<p>elements in their recent business plan submittals.</p> <ul style="list-style-type: none"> <li>• USA Automotive (CERS ID 10610947) was missing several components on its 2015 site map; CUPA and Regional Water phone numbers, local medical assistance, evacuation information, and earthquake vulnerability information on the emergency response plan and procedures; and the inventory submittal was missing several elements.</li> <li>• DOH-Water Pollution Control Facility (CERS ID 10314343) was missing several components on its 2015 site map- including orientation, internal roads, adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas and locations of emergency response equipment.</li> <li>• BART Hayward Shop (CERS ID 10199941) was missing several components on its 2015 site map- including storm and sewer drains, emergency shutoffs, and evacuation staging areas.</li> </ul> <p>Note: The examples provided above were identified during the CUPA evaluation and may not represent all instances of this deficiency.</p>	<p>The action plan will include steps to follow-up with rejected or incomplete submittals.</p> <p><b>As part of our “Data Management” Policies we are requiring staff to fully review all HMBP’s thoroughly and reject those that are incomplete.</b></p> <p>By January 27, 2017, the CUPA will provide a list of facilities that have recently submitted business plans that have been reviewed and not accepted. For each facility on the list, the CUPA will include follow-up actions, including any formal enforcement.</p> <p><b>Per the Corrective Action the list will be provided in January 27, 2017 that include recently submitted business plans that have been reviewed and not accepted. Staff is currently rejecting and approving business plans per our “Data Management” Policies.</b></p> <p>With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance and provide it to CalEPA.</p> <p>By December 27, 2017, the CUPA will have ensured that each regulated business has submitted all of the required elements for a business plan or appropriate actions were taken to enforce this requirement.</p>
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#### **Deficiency Progress Update 1:**

[Historically our office was reviewing CERS hazardous materials business plan including maps primarily to a level to ensure that gross information had been submitted into CERS. This was a technique also suggested by the State. Our focus was to get as many people to submit into CERS while trying to maintain other required programmatic elements and duties with our reduced staff. We have revised our “Data Management” Policies and staff is now reviewing submittals more thoroughly and rejecting those that do not meet State standards including newer requirements under SB-1261. Regarding “Not Accepted” submittals we will be tracking them and conducting progressive enforcement. Associated with this particular item we have also requested overtime to address the increased review time and backlog to help ensure these submittals by businesses are being thoroughly reviewed by staff in a timely manner.]

#### **Evaluation Team Response 1 [Cal OES, OSFM]:**

**OSFM:** The CUPA’s update addresses the October 27, 2016, corrective action requirements. OSFM awaits the next progress report update at which the CUPA will provide a list of facilities with recently submitted



business plans that were reviewed and not accepted, including follow-up actions and any formal enforcement.

**Cal OES:** The CUPA has developed, and provided an action plan to ensure that future business plan submittals are thoroughly reviewed and contain all the required elements. Cal OES looks forward to following the CUPAs progress.

**Deficiency Progress Update 2:**

Attached is the updated list of facilities and their compliance status. Including a list of “Not Accepted” submittals called, “Not Accepted Facility Reporting.xlsx”. As part of review all rejections are given a 30-day return to compliance notice. Additionally, we have gotten internal approval for some overtime for staff to assist staff in reviewing CERS submittals.

Note: To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.

**Evaluation Team Response 2 [Cal OES, OSFM]:**

**Cal OES:** The CUPA is in the process ensuring that future business plan submittals are thoroughly reviewed and contain all the required elements. Cal OES looks forward to following the CUPAs progress.

**OSFM:** The CUPA’s update addresses the January 27, 2017, corrective actions. OSFM awaits the next progress report update at which the CUPA will provide CalEPA with an updated list including the status of business compliance.

**Deficiency Progress Update 3:** Attached is the updated Excel spreadsheet list which includes the status of business plan compliance. During this reporting period, our request for additional staffing for the Mid-Year budget period was not approved. Additionally, during this period, we met with the Fire Chief and Senior Officers of the Hayward Fire Department to discuss the structural staffing deficiencies. The Fire Chief will again request additional staffing during the annual budgeting process that will take effect July 1, 2017.

**Evaluation Team Response 3 [Cal OES, OSFM]:**

**Cal OES:** The CUPA is in the process ensuring that future business plan submittals are thoroughly reviewed and contain all the required elements. Cal OES looks forward to following the CUPAs progress as staff becomes available.

**OSFM:** The CUPA’s update addresses the April 27, 2017, corrective actions. OSFM awaits the next progress report at which the CUPA will provide CalEPA with an updated list including the status of business compliance.

**Deficiency Progress Update 4:** Attached is the updated Excel spreadsheet list “7-27-17 Update 3.0 Yr Inspection Schedule” that includes the status of business plan compliance tab “BL-HAZMAT – Modified”. The inspection staff is ensuring that all new submittals are meeting the higher standards of SB 1261 sec. 25505(a).

Also, during the last quarter the Fire Department again requested and finally received approval through the City Council to hire an additional Hazardous Materials Investigator this fiscal year (2017/18). We anticipate that the additional Hazardous Materials Investigator will be hired and on staff no later than January 1, 2018. We anticipate that this will increase ongoing compliance as the Inspectors will have more time to review business plans for completeness and accuracy of all the required elements.

We are requesting that this item be deemed completed.

#### **Evaluation Team Response 4 [Cal OES, OSFM]:**

**CAL OES:** The CUPA has created an action plan, has hired new staff to implement and has taken enforcement action to correct this deficiency, Cal OES's portion of this deficiency has been corrected.

**OSFM:** The CUPA's business plan compliance "BL-HAZMAT – Modified" spreadsheet primarily documents inspection dates, rather than facilities with recently submitted business plans that have been reviewed and not accepted. OSFM observed that the CUPA has been active in not accepting submittals with missing elements.

A CERS Submittal Element Processing report generated on August 1, 2017, identified that the CUPA reviewed HMBP submittals and did not accept approximately 60 submittals from March 16, 2017 to July 19, 2017. OSFM has provided the CUPA with the CERS report.

OSFM considers this deficiency a work in process. The CUPA should continue ensuring that business plan submittals are thoroughly reviewed and contain all the required elements. On the next progress report, please provide a narrative of the CUPA's progress toward correcting this deficiency. Provide a list of facilities that have recently submitted business plans that have been reviewed and not accepted and for each facility on the list, identify follow-up actions, including any formal enforcement.

#### **Deficiency Progress Update 5:**

Attached is the updated Excel spreadsheet list "10-27-17 Update 3.0 Yr Inspection Schedule" that includes the status of business plan compliance tab "BL-HAZMAT – Modified". The inspection staff is ensuring that all new submittals are meeting the higher standards of SB 1261 sec. 25505(a).

As part of this submittal and per our conversation with the Office of the State Fire Marshal, we have identified those facilities that are below the State threshold but are regulated by the Fire Department's thresholds and classified by Hayward Fire Department as (mini-storage) Range 1A. This list is identified on the attached OSFM list for this section, highlighted in light blue. The CUPA has consistently reviewed all CERS submittals including the site map, emergency response plans and training programs to ensure accuracy in all the required CERS elements.

We are requesting that this deficiency be deemed corrected.

#### **Evaluation Team Response 5 [OSFM]:**

The CUPA has implemented a program that addresses the corrective actions. The CUPA reviews new business plan submittals for completeness and rejects submittals for inaccuracy, incompleteness or information update required. CUPA staff work with the facility to get the proper information submitted into CERS.

OSFM generated a CERS submittal search report documenting acceptance history for HMBP submittal elements between July 20, 2017, and November 1, 2017. The CUPA accepted over 87 inventory/site map submittals.

OSFM generated a CERS submittal search report documenting history for HMBP submittal elements that were not accepted between July 20, 2017, and November 1, 2017. The CUPA did not accept approximately 24 inventory/site map submittals.

OSFM's review of CERS shows the following:

- Sampling of some submittals that were not accepted demonstrated the CUPA didn't accept site maps that did not contain all the required elements and informed businesses of the missing elements.
- Sampling of some accepted submittals demonstrated the CUPA accepted site maps that contain all the required elements.

OSFM considers this deficiency to be corrected.

5. DEFICIENCY: <b>CORRECTED</b>	CORRECTIVE ACTION: <b>COMPLETED</b>
<p>The CUPA is not ensuring that all businesses electronically submit a complete hazardous materials business plan (HMBP) annually to the statewide information management system.</p> <p><u>Cal OES Data Review</u> Cal OES review of HMBP information in CERS found that 48% have not submitted a complete chemical inventory within the past 12 months. Approximately 50% of businesses in CERS were missing emergency response and employee training plans.</p> <p><u>OSFM Data Review</u> Of the 808 regulated facility records in CERS, OSFM found that 48% have not submitted a complete chemical inventory within the past 12 months. The total of 48% consists of:</p> <ul style="list-style-type: none"> <li>• Approximately 195 facilities (24.1%) that did not have a current inventory and site map submittal, but previously made a submittal.</li> <li>• An additional 193 facilities (23.9%) that have never made a CERS inventory and site map submittal.</li> </ul> <p>Of the 808 regulated facility records in CERS, OSFM found that 50% have not submitted an emergency response and employee</p>	<p>By October 27, 2016, the CUPA will develop and provide a list to CalEPA, of all regulated businesses that have not annually submitted a complete HMBP.</p> <p><b>See attached lists in "Def 5" folder.</b></p> <p>With each Deficiency Progress Report, the CUPA will update the list with the status of business compliance.</p> <p>By January 27, 2017, the CUPA will follow-up with each regulated business identified on the list to ensure a complete HMBP is submitted.</p> <p>By April 27, 2017, the CUPA will initiate appropriate enforcement action(s) against non-compliant businesses.</p> <p>By September 27, 2017, the CUPA will ensure that each regulated business has submitted a complete business plan or that appropriate actions were taken to enforce this requirement.</p>

<p>training plans within the past 12 months. The total of 50% consists of:</p> <ul style="list-style-type: none"> <li>• Approximately 196 facilities (24.3%) that did not have a current emergency response plan and training plan submittal, but previously made a submittal.</li> <li>• An additional 210 facilities (26.0%) that have never made a CERS emergency response plan and training plan submittal.</li> </ul>	
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#### Deficiency Progress Update 1:

[The CUPA has begun notification process. These include businesses that have not submitted renewal within the past year or have not submitted at all. Attached are lists requested along with our mail merge letters. Note the list include tracking of enforcements. Please also see comments to Deficiency 4 for completeness review.]

#### Evaluation Team Response 1 [Cal OES, OSFM]:

**OSFM:** The CUPA's progress with the notification process is encouraging, including the use of the two e-mail merged letters.

The CUPA's update generally addresses the October 27, 2016 corrective action requirements, but CUPA's lists of all regulated businesses that have not annually submitted a complete HMBP are incomplete, and need to be updated.

The CUPA's update includes two lists of regulated businesses that have not annually submitted a complete HMBP. One list represents delinquent businesses; the other list represents businesses that have never submitted HMBP. The CUPA has generated these lists using the CERS Facility Reporting Status report, which understates the number of facilities subject to HMBP reporting requirements. OSFM utilizes (and recommends the CUPA to use) the CERS Facility Search capability (see graphic below), including downloading the "FacilityListing(Details)" spreadsheet using the Export to Excel (Details) command.

The illustration below provides visibility as to how the Facility Search Listing report is initiated in CERS.



Using the Facility Search Listing report, OSFM has identified approximately 149 facilities that have never submitted a complete HMBP and are not included in CUPA's lists.

By the next progress report update, the CUPA will update the list of all regulated businesses that have not annually submitted a complete HMBP, and will follow-up with each regulated business identified on the list.

**Cal OES:** The CUPA has developed and provided a list of all regulated businesses that have not annually submitted a complete HMBP. Cal OES looks forward to following the CUPAs progress.

#### **Deficiency Progress Update 2:**

The CUPA has submitted notification to all noncompliant CERS facilities by the January 27 due date. The HFD CUPA has already begun enforcement by issuing "Notices of Violation" to those facilities that have not updated their CERS submittal in the past year (approximately 105) ahead of the April 27, 2017 due date (see file "Delinquent HMBPs over 1 Yr 2016.xlsx"). Additionally, the HFD CUPA has sent out notification to all business that have not made submittals into CERS. (see file "HMBP\_Notice 2". We will issue "Notices of Violation" to those facility during the next quarterly reporting period. We have also coordinated with the Alameda County District Attorney's Office to identify an enforcement process with them for those remaining those noncompliant facilities. Finally, we have made provisions to assist businesses if necessary in our Tech Services Computer conference room. We also have a temporary Clerk that will be able to in the next quarter work with businesses on an individual basis to get people started with CERS submittals.

**Note:** To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.

#### **Evaluation Team Response 2 [Cal OES, OSFM]:**

**Cal OES:** The CUPA is in the process of ensuring that each business is annually submitting a complete HMBP. Cal OES looks forward to following the CUPAs progress.

**OSFM:** The CUPA's update successfully addresses the January 27, 2017, corrective actions. Improvement has been observed in HMBP submittals in CERS, as documented in a CERS Facility Listing report generated on January 30, 2017, summarized below.

Of the 851 regulated facility records in CERS, OSFM found that 39% have not submitted a complete chemical inventory within the past 12 months. The total of 39% consists of:

- Approximately 147 facilities (17%) that did not have a current inventory and site map submittal, but previously made a submittal.
- An additional 183 facilities (22%) that have never made a CERS inventory and site map submittal.

Of the 851 regulated facility records in CERS, OSFM found that 40% have not submitted an emergency response and employee training plans within the past 12 months. The total of 40% consists of:

- Approximately 154 facilities (18%) that did not have a current emergency response plan and training plan submittal, but previously made a submittal.
- An additional 187 facilities (22%) that have never made a CERS emergency response plan and training plan submittal.

By the next progress report update, the CUPA will provide to CalEPA an updated list of all regulated businesses that have not annually submitted a complete HMBP, including the status of business compliance.

**Deficiency Progress Update 3:** The CUPA has received a substantial number of submittal responses from the CERS facilities which the inspection staff is working on reviewing. The inspection staff also continues to work on these not only during business hours but on an overtime basis. Staff is also working with businesses that need assistance with their submittals. During this quarter, we worked through the list of facilities that are delinquent in CERS reporting and annual permitting. We have attempted to contact them either by phone or by site visit to determine if they are active facilities or if their contact information has changed. During this period, we sent out additional notices to a list of facilities discovered that had not been notified. We anticipate more progress on enforcement in the next reporting period. Attached is the Excel spread sheets for HMBP facilities that have not annually submitted.

**Evaluation Team Response 3 [Cal OES, OSFM]:**

**Cal OES:** The CUPA is ensuring that each business is annually submitting a complete HMBP with around 80% businesses updated in CERS. Cal OES looks forward to following the CUPAs progress of getting all of their business updated in CERS.

**OSFM:** A CERS report generated on May 4, 2017, identified that 224 (27%) of 836 facilities do not have a current inventory. There were 74 facilities that had delinquent submittals and 150 facilities that had no submittal history at all. The CERS report also identified 235 (28%) of 834 facilities that do not have a current emergency response and employee training plan. There were 83 facilities that had delinquent submittals and 152 facilities that had no submittal history at all.

OSFM has provided the CUPA with the report generated using CERS on May 4, 2017, documenting the inventory and emergency response and employee training plan submittal analysis.

CERS data demonstrate that the CUPA's corrective action efforts (emailing and following up with NOV issuance) are effective in achieving compliance; progress is being made to correct this deficiency.

By the next progress report, the CUPA will update the list of all regulated businesses that have not annually submitted a complete HMBP and will follow-up with each regulated business identified on the list.

**Deficiency Progress Update 4:** During the past quarter the CUPA has made contact by phone with all the remaining businesses on the first list of facilities that had not resubmitted there CERS submittals in the past year after sending out the final "Notice of Violation". Some of the facilities contacted had moved or had new owners. Many of the non-respondents were new to their positions and staff worked with them to get identified as lead users and helped them to submit. Currently only 8 have not complied out of an original 232 facilities. During the next quarter if they fail to comply a final notice will be sent out and a referral made to the District Attorney for an administrative hearing.

Additionally, a Notice of Violation (NOV) will be sent out by September 15, 2017 after our annual billing to the remaining combined 2<sup>nd</sup> and 3<sup>rd</sup> group of approximately 236 out of the original 333 facilities have not responded to the last notice.

Hazardous Materials Investigators continue to work overtime hours to review and process the submittals. During this quarter, we lost our clerical support that was on loan from Fire Administration. We are hoping to restore that person by October 2017 to help contact and assist businesses with their CERS submittals.

**Evaluation Team Response 4 [Cal OES, OSFM]:**

**Cal OES:** From my recent check in CERS you all are around 70%, keep up the good work!

**OSFM:** The CUPA did not provide an updated list of all regulated businesses that have not annually submitted a complete HMBP, but has continued limited enforcement efforts and made plans for future enforcement efforts. A CERS report was generated on August 1, 2017. OSFM's review of CERS shows the following:

- 199 (24%) of 843 facilities without current inventory submittals
- 220 (26%) of 841 facilities without current emergency response and training plans submittals

OSFM has provided the CUPA with the CERS report. On the next progress report, please provide a narrative of the CUPA's progress toward correcting this deficiency. Include an updated list of all regulated businesses that have not annually submitted a complete hazardous materials business plan, including follow-up and any enforcement actions taken against non-compliant or recalcitrant businesses.

#### **Deficiency Progress Update 5:**

Attached is the updated list called, "NOV Facs 30OCT2017 State Table.xlsx". During the past quarter, the CUPA has again made contact by phone with all the remaining businesses on the first list of facilities that had not resubmitted their CERS submittals in the past year after sending out the final "Notice of Violation". This first list of 232 businesses who failed to submit in the last year have now met the submittal compliance.

A Notice of Violation (NOV) is currently being sent out by Certified Mail to an additional 204 facilities that have never submitted into CERS but were previously contacted by email. This second list of 204 facilities includes 133 CUPA Facilities and 71 Hayward Fire Department mini-storage range 1A Facilities. This list is down from our original 333 facilities. The next step of progressive enforcement is to refer the remaining nonresponsive facilities to the District Attorney. We have calendared in perpetuity an annual mail out to businesses that are not in compliance with CERS on February 1<sup>st</sup> each year.

Hazardous Materials Investigators continue to work overtime hours to review and process the CERS submittals. During this quarter, we lost our part-time clerical support that was on loan from Fire Administration. We are hoping to restore that person by November 2017 to help contact and assist businesses with their CERS submittals.

During the past few quarters we have demonstrated progressive enforcement and successfully getting facilities to submit their CERS information. We are requesting that this deficiency be deemed corrected.

#### **Evaluation Team Response 5 [Cal OES, OSFM]:**

**OSFM:** The CUPA provided an updated list of all regulated businesses that have not annually submitted a complete HMBP. The updated list reflected local ordinances that require some regulated businesses with hazardous waste inventory quantities less than HMBP threshold requirements to report inventory to CERS, thereby creating an artificially larger number of CERS inventory-applicable facilities. The CUPA has started enforcement activities targeting non-compliant businesses.



A CERS report was generated on October 31, 2017. OSFM adjusted CERS data to remove facilities that are not required to make annual HMBP inventory submittals, but are classified as CERS inventory-applicable due to local ordinances. OSFM's review of CERS shows the following:

- 238 (29%) of 825 facilities without current inventory and site map submittals
- 253 (31%) of 823 facilities without current emergency response and training plan submittals

OSFM has provided the CUPA with the CERS report. On the next progress report, please provide a narrative of the CUPA's progress toward correcting this deficiency. Include an updated list of all regulated businesses that have not annually submitted a complete HMBP, including follow-up and any enforcement actions taken against non-compliant or recalcitrant businesses.

**CAL OES:** The CUPA has created an action plan, has staff working overtime to ensure each regulated business has submitted a complete business plan or has taken enforcement action to correct this deficiency; Cal OES's portion of this deficiency has been corrected.

#### **Deficiency Progress Update 6:**

In a recent conversation with Glenn Warner of the Office of the State Fire Marshal, we noted that in order to correct this deficiency the State had originally forwarded a list of facilities that were out of compliance with the CERS HMBP submittal requirement, and that we were to work on bringing those facilities listed into compliance. Glenn confirmed that the original intention was for this CUPA to work from that list, and it was that list which was to be the basis for determining our progress toward correcting the deficiency. During this 90-day report period, however, we came to realize that rather than the list remaining static, each reporting period presented us with a newly updated list, which included new facilities that have since come out of compliance. Realizing this, we were able to go back to the original list and determine our progress toward gaining compliance with those "original" facilities, which we believe was the original intent of the State.

After a thorough review and correlation of CERS and City of Hayward data, we were able to isolate the following statuses of the 808 businesses on the original list provided by Glenn Warner of the Office of the State Fire Marshal (See Tab "Original OSFM Non-Comply List" in Table "Done – Def 5 29Jan2018.xlsx" attached):

- Facilities that are still out of compliance (47)
- Facilities that are in compliance (588)
- Facilities that were actually not in the jurisdiction of the City of Hayward (2)
- Facilities that have come into compliance and fallen back out again since the original list was developed. In other words, over a year had passed since they gained compliance. (18)
- Facilities that are now inactive. (94)
- Facilities that are currently going through active enforcement (i.e., NOV-issued facilities). (59)

A review of the above reveals that we have properly addressed all the listed facilities, with the exception of the 47 remaining out-of-compliance facilities. In other words, we have properly addressed 94% (761/808) of the originally listed facilities.

Tab "Group2&3NOVs" of the same table gives an update on our enforcement efforts of non-compliant facilities. (Please note that the facilities on our NOV list are not necessarily on the original OFSM list of 808 facilities identified above.) A Notice of Violation (NOV) was sent out by Certified Mail to an additional 204 facilities that have never submitted into CERS but were previous contacted by email. This list is down from the original 333 facilities identified as having never submitted CERS elements. Out of this list of 204 facilities 73 submitted into CERS. Leaving 131 facilities, of which 8 facilities are inactive. Of those remaining facilities a 2<sup>nd</sup> notice of violation will be sent out on February 28, 2018.

This CUPA will begin our annual progressive enforcement process on March 30, 2018, at which time we will notify all out-of-compliance CERS facilities.

Additionally, we are looking at ways to increase efficiency and reduce the staff workload:

1. At the suggestion of Glenn Warner of the OSFM, we have begun conversations with our Tech Services Department to figure out a way to automatically notify facilities of their next CERS submittal requirement prior to the due date.
2. We will be determining whether to require continuous annual CERS updates for those facilities that are in CERS, but fall below the State reporting thresholds.
3. We continue to work towards obtaining clerical staff to assist in duties, including CERS submittals.

#### Evaluation Team Response 6 [OSFM]:

**OSFM:** The CUPA provided an updated list of all regulated businesses that have not annually submitted a complete HMBP.

A CERS report was generated on January 26, 2018. OSFM's review of CERS shows the following:

- 99 (12%) of 808 facilities without current inventory and site map submittals
- 116 (14%) of 808 facilities without current emergency response and training plans submittals

OSFM considers their portion of this deficiency to be corrected.

6.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not inspecting all hazardous waste generator (HWG) facilities with the inspection frequency reported in the I&amp;E Plan for the HWG program.</p> <p>The CUPA's I&amp;E Plan states that the CUPA will inspect HWG facilities at least once every 2 years.</p> <p>The CUPA inspected 229/578 (39.6%) HWG facilities between July 1, 2013 and June 30,</p>	<p>By January 27, 2017, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each HWG facility is inspected within the required timeframe. The plan will include at minimum:</p> <ul style="list-style-type: none"> <li>• A sortable HWG inspection tracking spreadsheet for each HWG facility that has not been inspected within the required timeframe. At minimum, the spreadsheet will include facility name, address, CERS ID number, Facility ID number (if applicable), and last routine inspection date;</li> </ul>

<p>2015, indicating that the CUPA has fallen short of their 2 year HWG inspection frequency goal by ~60%.</p> <ul style="list-style-type: none"> <li>• The CUPA's self-audit from fiscal year (FY) 2013/2014 indicates 130 HWG inspections of 578 HWG facilities.</li> <li>• The CUPA's self-audit from FY 2014/2015 indicates 99 HWG inspections of 578 HWG facilities.</li> </ul>	<p>See the attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" there is tab set up called, "HWG". The spreadsheet includes the items requested.</p> <ul style="list-style-type: none"> <li>• A proposed schedule to inspect those facilities by prioritizing the most delinquent inspections to be completed prior to any other HWG inspection; and</li> </ul> <p>The attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" includes a tab set up called, "HWG". Within that tab there is a column with the proposed date that the facilities will be inspected.</p> <ul style="list-style-type: none"> <li>• Future steps to ensure that all HWG facilities will be inspected within the required timeframe.</li> </ul> <p>The major cause of this and many deficiencies is insufficient staffing to implement the program. To that end the CUPA has reviewed its staffing needs, compared it with neighboring CUPA jurisdictions and submitted on April 26, 2016 a request for two additional positions (1 inspector and 1 clerical.) The CUPA has met with the Fire Chief and senior staff on August 11, 2016 and discussed its concerns and went over the state evaluation. Updated survey information was sent to the Chief on August 24, 2016. The CUPA participated in a citywide fee study which if approved will provide additional funding for positions. The study is going to the City Council this month for approval. After the approval we will again request staffing. We have also requested overtime for staff to help address deficiencies as well as to not detract from other ongoing program elements.</p> <p>We have also changed our "Inspection and Enforcement" Plan to reflect that inspections are once every three years instead of one every 2 years and to help deal with the increased workload. Completed on June 27, 2016.</p> <p>By April 27, 2017, and with each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the HWG inspection tracking spreadsheet to show inspections that have occurred during the previous quarter.</p>
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		By June 27, 2018, the CUPA will have inspected each HWG facility within the required timeframe.
<b>Deficiency Progress Update 1:</b> [Attached are the lists and information requested. We have also decreased our inspection frequency from 2 years to 3 years to match state minimum. We have also requested additional staff to meet these standards. See also comments in the Corrective Action. ]		
<b>Evaluation Team Response 1 [DTSC]:</b> <b>DTSC:</b> DTSC has received the Excel spreadsheet titled “2.5 Yr Inspection Schedule,” the “Inspection Frequency Rational” Word document, and a revised I&E Plan stating HWGs will be inspected every 3 years. The 2.5 Yr Inspection Schedule in includes the last inspection date for HWG facilities and an “Inspect By” date for each facility. In the next progress report, please provide CalEPA and DTSC with an updated hazardous waste generator inspection spreadsheet indicating which facilities were inspected since the previous progress report (updating the “Last Insp Date” column will be sufficient). Also, please keep CalEPA and DTSC updated on the status of any new hires within the CUPA.		
<b>Deficiency Progress Update 2:</b> We have submitted our list and plan during the 1 <sup>st</sup> quarter ahead of the January 27, 2017 date. We are now in the early stages of our implementation of Hazardous Waste Generator Inspections. Attached is the updated lists of Hazardous Waste Generators. The Excel file is “3.0 Yr Inspection Schedule”, refer to tab “HWG”.  Note: To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.		
<b>Evaluation Team Response 2 [DTSC]:</b> <b>DTSC:</b> Based on a review of CERS inspection data, the CUPA has completed 54 HWG inspections since the issuance of this Summary of Findings on August 19, 2016 and completed 34 HWG inspections since the last progress report update on October 27, 2016. With the next progress report, please provide CalEPA with an updated inspection tracking spreadsheet.		
<b>Deficiency Progress Update 3:</b> Attached is the updated Excel spreadsheet list of Hazardous Waste Generator facilities that have not been inspected in the past 3 years. We intend during the next quarter to prioritize inspections of Hazardous Waste Generator facilities based on last inspection date.		
<b>Evaluation Team Response 3 [DTSC]:</b> <b>DTSC:</b> Based on a review of CERS inspection data, the CUPA has conducted 28 routine HWG inspections since the last progress report update on January 27, 2017.  According to the “3.0 Yr Inspection Schedule – 4-27-17” Excel workbook, the CUPA Reports 568 HWG in the “BL – HAZMAT – Modified” spreadsheet with 243 HWG inspections since 4/27/2014 (a 43% inspection		

rate). The HWG spreadsheet indicates a total of 529 HWG, 212 of which have been inspected since 4/27/2017 (a 40% inspection rate).

Please prioritize RCRA LQGs when scheduling overdue HWG inspections. With the next progress report, please provide CalEPA with an updated inspection tracking spreadsheet.

**Deficiency Progress Update 4:** Attached is the updated list of Hazardous Waste Generators. The Excel file is "7-27-17 Update 3.0 Yr Inspection Schedule", refer to tab "HWG".

In the past few quarters the CUPA has inspected some of the Hazardous Waste Generator facilities with priorities for facilities such as APSA, Tiered Permitting and Large Quantity Generators that have not been inspected in the past three years. We have also addressed the oldest facilities such as ones that were last inspected in 2010. During this quarter, we will prioritize the Hazardous Waste Generator inspections with special emphasis on large quantity generators.

Also, during the last quarter the Fire Department again requested and finally received approval through the City Council to hire an additional Hazardous Materials Investigator this fiscal year (2017/2018). We anticipate that the additional Hazardous Materials Investigator will be hired and on staff no later than January 1, 2018. This position will help with the backlog of inspections.

#### **Evaluation Team Response 4 [DTSC]:**

**DTSC:** Based on a review of CERS inspection data, the CUPA has conducted 28 routine HWG inspections since the last progress report update on April 27, 2017.

A review of the "HWG" spreadsheet within the "7-27-17 Update 3.0 Yr Inspection Schedule" workbook indicates that there have not been any HWG inspections.

With the next progress report, please provide CalEPA with an updated inspection tracking spreadsheet.

#### **Deficiency Progress Update 5:**

Attached is the updated list of Hazardous Waste Generators. The Excel unfiltered data is in attached file "10-27-17 Update 3.0 Yr Inspection Schedule", refer to tab "HWG".

During this quarter, we prioritized the Hazardous Waste Generator inspections with special emphasis on large quantity generators. As of this date using CERS we found that we have 261 hazardous waste generators in our inventory. Of that only 12 hazardous waste generators have not been inspected within the past 3-year (5 RCRA Large Quantity Generators and 7 other Hazardous Waste Generators). We will prioritize these last facilities in the next quarter to return to a 3-year inspection frequency for hazardous waste generators (See attached CERS Excel spreadsheet of hazardous waste generator facilities that have been filtered to remove duplicate, closed and annual UST facilities. See attached file "Haz Waste Filtered List 10-27-2017.xlsx").

We request that this deficiency be deemed corrected.

#### **Evaluation Team Response 5 [DTSC]:**

**DTSC Response:** Deficiency is a work in progress. Your response indicates that you have 261 generators in your jurisdiction. Based on the information below, this is incorrect. If the CUPA has additional documentation to support the number of HWG facilities, please submit with the next progress report update.

DTSC reviewed the CUPA's attached "10-27-17 Update 3.0 Yr Inspection Schedule", the CUPA's attached "Haz Waste Filtered List 10-27-2017", and CERS CME Inspection data. DTSC notes the following:

- 10-27-17 Update 3.0 Yr Inspection Schedule (HWG Oct 27, 2017 Spreadsheet) – 568 HWG facilities with 246 inspections conducted between 10/1/2014-10/6/2017.
- 10-27-17 Update 3.0 Yr Inspection Schedule (HWG Spreadsheet – note – the date on this spreadsheet is June 2017) – 529 HWG facilities
- Haz Waste Filtered List 10-27-2017 (inspection data from CERS) – 244 HWG facilities (duplicates removed) with an inspection conducted between 10/1/2014-10/25/2017
- CERS CME Inspection data – 582 individual facilities who submitted facility page indicating they are HWGs - 250 facilities with inspections conducted between 10/27/2014-10/27/2017.

With 582 self-identified HWG facilities, a 36-month inspection frequency, a corrective action completion date of 6/27/2018, and 208 HWG facilities with a routine inspection in CERS since 6/27/2015, the CUPA should be conducting an average of  $(582-208)/36=10.38$  HWG inspections per month. After catching up, the CUPA should be conducting an average of  $582/36=16.16$  HWG inspections per month.

Please continue your inspection efforts in correcting this deficiency.

#### **Deficiency Progress Update 6:**

We continue to work on this item. Attached is the updated list of Hazardous Waste Generators. The Excel unfiltered data is in attached file "Done – Def 2-6- CERS FacilityInspectionStatus (2) 1026-18.xlsx", refer to tab "Master Deficiency List".

We prioritized large quantity generator which have now all been inspected. This quarter we focused on Hazardous Waste Generator. The goal is to inspect by oldest to latest inspection date.

Staffing Issue. On January 10, 2018 the CUPA hired an additional inspector. We anticipate a dip next quarter in number of inspection due to training of new staff/CUPA Conference/focus on CERS enforcement and annual notification.

#### **Evaluation Team Response 6 [DTSC]:**

**DTSC response:** Deficiency is a work in progress. The CUPA has inspected 31 HWG inspections between 11/1/2017-2/2/2018 averaging 10.3 inspections/month. Please continue your inspection efforts in correcting this deficiency.

**Deficiency Progress Update 7:**

This quarter we focused on Hazardous Waste Generators with Return to Compliance issues. During the next quarter we will continue to work on inspecting facilities by oldest to latest inspection date. To keep pace with progress on inspection frequency during this quarter we first inspected those large quantity generator facilities and Tiered Permit Facilities that became due for their three-year inspection.

Update on Staffing. This is our most critical issue:

- New inspector Hazardous Materials Inspector - Has completed most of initial training and will attend additional formal Fire Code Training this quarter. Inspector has begun taking on workload including: Review backload of CERS submittals, plan checking new project, working on comparison activities between MUNIS and CERS list. Staff will be targeting facilities that are unpermitted this quarter.
- The clerical position – This position was not filled by administration due to limited pool of qualified candidates. List had expired. Temporary staff in place. Unknown if this person will be available to assist us. The job will be re-advertised. Additionally, we are looking with Fire Management at a way to hire a dedicated temporary clerical staff position through other funding sources.

**Evaluation Team Response 7 [DTSC]:**

**DTSC response:** Based on of CERS inspection data, the CUPA has inspected 31 HWG facilities since the last progress report update. Please continue your efforts towards correcting this deficiency.

**Deficiency Progress Update 8:**

Enter CUPA Response Here

**Evaluation Team Response 8 [DTSC]:**

7.	<b>DEFICIENCY: CORRECTED</b>	<b>CORRECTIVE ACTION: COMPLETE</b>
	<p>The CUPA is not inspecting all tiered permitted (TP) facilities with the inspection frequency mandated by state law.</p> <p>Pursuant to statute the CUPA shall inspect all TP facilities within the first two years of operations and every three years thereafter. However, the CUPA's I&amp;E Plan states a two year inspection frequency for all TP facilities.</p> <ul style="list-style-type: none"> <li>• The CUPA inspected 7/25 (28%) TP facilities between July 1, 2013 and June 30, 2015, indicating that the CUPA has fallen short of their 2 year TP inspection frequency goal by ~72%.</li> </ul>	<p>By January 27, 2017, the CUPA will develop, implement, and provide CalEPA with an action plan to ensure each TP facility is inspected within the mandated timeframe. The plan will include at minimum:</p> <ul style="list-style-type: none"> <li>• A sortable TP inspection tracking spreadsheet for each TP facility that has not been inspected within the mandated timeframe. At minimum, the spreadsheet will include facility name, address, CERS ID number, Facility ID number (if applicable), and last routine inspection date;</li> </ul> <p>See the Attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" there is tab set up called, "TP". Within that tab there are columns with the</p>



<ul style="list-style-type: none"> <li>○ The CUPA's self-audit from FY 2013/2014 indicates 1 TP inspection of 26 TP facilities.</li> <li>○ The CUPA's self-audit from FY 2014/2015 indicates 6 TP inspections of 25 TP facilities.</li> </ul>	<p>information requested including last inspection date.</p> <ul style="list-style-type: none"> <li>● A proposed schedule to inspect those facilities by prioritizing the most delinquent inspections to be completed prior to any other TP inspection; and</li> </ul> <p>Within the attached Excel spreadsheet "2.5 Yr Inspection Schedule.xls" there is tab set up called, "TP". Within that tab there are columns with the dates of the last inspection and the proposed inspection date.</p> <ul style="list-style-type: none"> <li>● Future steps to ensure that all TP facilities will be inspected within the mandated timeframe.</li> </ul> <p>The major cause of this and many deficiencies is insufficient staffing to implement the program. To that end the CUPA has reviewed its staffing needs, compared it with neighboring CUPA jurisdictions and submitted on April 26, 2016 a request for two additional positions (1 inspector and 1 clerical.) The CUPA has met with the Fire Chief and senior staff on August 11, 2016 and discussed its concerns and went over the state evaluation. Updated survey information was sent to the Chief on August 24, 2016. The CUPA participated in a citywide fee study which if approved will provide additional funding for positions. The study is going to the City Council this month for approval. After the approval we will again request staffing. We have also requested overtime for staff to help address deficiencies as well as to not detract from other ongoing program elements.</p> <p>We have also changed the "Inspection and Enforcement" Plan to reflect that inspections are once every three years instead of one every 2 years to help deal with the increased work load. Completed on June 27, 2016.</p> <p>By April 27, 2017, the CUPA will provide CalEPA with an updated version of the TP inspection tracking spreadsheet to show inspections that have occurred during the previous quarter.</p>
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		<p>We anticipate a completion date of December 31, 2016 for this deficiency to be corrected.</p> <p>By December 27, 2017, the CUPA will have inspected each TP facility at least once within the first two years of operations and every three years thereafter.</p> <p>There are no new TP facilities that meet this criterion.</p>
<p><b>Deficiency Progress Update 1:</b></p> <p>[Attached are the lists and information requested. We have also decreased our inspection frequency from 2 years to 3 years to match state minimum. We have also requested additional staff to meet these standards. See also comments in the Corrective Action. See Comments in the Corrective Action.]</p>		
<p><b>Evaluation Team Response 1 [DTSC]:</b></p> <p><b>DTSC:</b> DTSC has received the Excel spreadsheet titled “2.5 Yr Inspection Schedule,” the “Inspection Frequency Rational” Word document, and a revised I&amp;E Plan stating onsite hazardous waste treatment facilities will be inspected every 3 years. The 2.5 Yr Inspection Schedule in includes the last inspection date for onsite hazardous waste treatment facilities and an “Inspect By” date for each facility. In the next progress report, please provide CalEPA and DTSC with an updated TP inspection spreadsheet indicating which facilities were inspected since the previous progress report (updating the “Last Insp Date” column will be sufficient). Also, please keep CalEPA and DTSC updated on the status of any new hires within the CUPA.</p>		
<p><b>Deficiency Progress Update 2:</b></p> <p>The CUPA submitted their list and plan during the 1<sup>st</sup> Quarter update on October 27, 2017 ahead of the January 27, 2017 due date. The Excel file is “3.0 Yr Inspection Schedule”, refer to tab “TP” is attached. All eleven tiered permitted facilities have been inspected and are within the 3-year required inspection schedule ahead of the December 27, 2017 due date. We believe this item is complete.</p> <p>Note: To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.</p>		
<p><b>Evaluation Team Response 2 [DTSC]:</b></p> <p><b>DTSC:</b> DTSC appreciates the efforts the CUPA has made in correcting this deficiency. DTSC has reviewed CERS inspection data and the CUPA inspection spreadsheet and notes the following:</p> <ul style="list-style-type: none"> <li>• PROTEUS DIGITAL HEALTH, INC. (CERSID: 10315438) is listed in CERS as having a CA inspection however the CUPA inspection spreadsheet does not detail this facility as being in the TP program.</li> <li>• PENTAGON TECH (CERSID: 10152405) is listed in CERS as having a HWLQG inspection but is missing data for a TP inspection.</li> <li>• THERMIONICS METAL PROCESSING (CERSID: 10315759) is listed in CERS as having a HWLQG inspection but is missing data for a TP inspection.</li> </ul>		

Please ensure that PROTEUS DIGITAL HEALTH, INC. (CERSID: 10315438) is listed in your internal data management system as a TP facility, and also enter TP inspection data into CERS for PENTAGON TECH (CERSID: 10152405) and THERMIONICS METAL PROCESSING (CERSID: 10315759). This deficiency is considered corrected on the basis that all TP facilities have been inspected within the last 3 years.

Note: Env though item 7 has been consider corrected the CUPA has gone back and updated the data management system for Proteus Digital Health and has entered Tiered Permitting data into CERS for Pentagon Technology and Thermionics Metal Process.

8.	DEFICIENCY: <b>CORRECTED</b>	CORRECTIVE ACTION: <b>COMPLETE</b>
	<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 forty-five (45) calendar days of receiving it.</p> <p>During the 45-day review process the CUPA must:</p> <ol style="list-style-type: none"> <li>1. Authorize operation of the FTU;</li> <li>2. Deny authorization of the FTU in accordance with Permit-by-Rule laws and regulations; or,</li> <li>3. Notify the owner/operator that the notification submittal is inaccurate or incomplete.</li> </ol> <p>CERS data indicates that 15 of 20 Onsite Hazardous Waste Treatment Notifications were not reviewed by the CUPA within 45 days.</p>	<p>By October 27, 2016, the CUPA will provide staff with TP training regarding how to review, process, and authorize Onsite Hazardous Waste Treatment Notifications. The CUPA will document and provide CalEPA with proof of completion of the training course for each inspector.</p> <p>On October 6, 2016 Tiered Permitting training was conducted with staff on how to review, process and authorize Onsite Hazardous Waste Treatment notifications. Attached is a copy of the "Tiered Permit Training" sign in log for this training.</p> <p>By October 27, 2016, the CUPA will review and process all pending Onsite Hazardous Waste Treatment Notifications in CERS and notify CalEPA of their progress.</p> <p>By October 5, 2016, the CUPA reviewed and processed all its pending on-site Haz-waste Treatment Notifications in CERS. A review of this CUPA's records has identified a total of # eleven (11) Haz-waste treatment facilities. The CUPA has targeted completing the inspections of all eleven facilities by December 31, 2016.</p> <p>By January 27, 2017, the CUPA will have reviewed each Onsite Hazardous Waste Treatment Notification to ensure that annual notification submittals are done accurately and represent the actual waste treatment systems used at that facility.</p> <p>The CUPA has targeted this by December 31, 2016.</p>

Deficiency Progress Update 1:

[Attached is the training information requested. See also comments in the Corrective Action. We are targeting completion of this deficiency by December 31, 2016.]

**Evaluation Team Response 1 [DTSC]:**

**DTSC:** DTSC has received the CUPA submitted sign-in sheet provided to CalEPA. DTSC also reviewed CERS regarding timely review of TP submittals. While two TP submittals have not yet been completely processed, they are within the 45-day regulatory timeframe. Please continue to review TP submittals in a timely manner.

**Deficiency Progress Update 2:**

The CUPA is reviewing the CERS submittal with the 45-day time frame and has reviewed each onsite Hazardous Waste Treatment Notification for accuracy. We believe we are completed with this item.

Note: To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.

**Evaluation Team Response 2 [DTSC]:**

**DTSC:** DTSC has reviewed CERS TP submittal data and notes the following:

- Between August 19, 2016 and October 27, 2016, 5 TP notifications were submitted and 3 were reviewed within the 45-day regulatory timeframe.
- Between October 27, 2016 and February 3, 2017, 7 TP notifications were submitted. 4 were reviewed with the 45-day regulatory timeframe, one is marked "Under Review" after 130 days, and one is marked as "Submitted" but is within the 45-day regulatory timeframe.

With the next progress report update, please ensure that PROTEUS DIGITAL HEALTH, INC. (CERSID 10315438) and PLATRON CO WEST (CERSID 10153603) are reviewed.

**Deficiency Progress Update 3:** Proteus Digital Health, Inc and Platron Co West have been reviewed and inspected. Attached is the Excel spreadsheet for the Tiered Permitting facilities. The CUPA believes we have completed this deficiency item.

**Evaluation Team Response 3 [DTSC]:**

**DTSC:** DTSC appreciates the efforts Hayward CUPA has made in correcting this deficiency. The CUPA has completed all corrective actions and DTSC considers this deficiency corrected.

9.	DEFICIENCY: <b>CORRECTED</b>	CORRECTIVE ACTION: <b>COMPLETED</b>
	The CUPA is not consistently following-up and documenting return to compliance (RTC) for facilities cited with violations in Notices to Violation (NOV) or inspection reports.	By October 27, 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: <ul style="list-style-type: none"><li>• Facility name and address;</li><li>• CERS ID number;</li></ul>

	<p>CERS data review shows high percentages of violations that have not RTC:</p> <p><u>FY 2014/2015</u></p> <ul style="list-style-type: none"> <li>• HMBP: Out of 109 violations, 65 have not RTC (60%)</li> <li>• Underground Storage Tank (UST): Out of 13 violations, 4 have not RTC (31%)</li> <li>• Hazardous Waste Generator (HWG): Out of 41 violations, 23 have not RTC (56%)</li> </ul> <p><u>FY 2013/2014</u></p> <ul style="list-style-type: none"> <li>• HMBP: Out of 1 violation, 1 has not RTC (100%)</li> <li>• UST: Out of 6 violations, 1 has not RTC (17%)</li> <li>• HWG: Out of 1 violation, 1 has not RTC (100%)</li> </ul> <p>The CUPA's internal records show high percentages of Notice to Complies (NTC) that have RTC:</p> <ul style="list-style-type: none"> <li>• FY 2014/2015: Out of 35 NTCs, 9 (26%) have not RTC.</li> <li>• FY 2013/2014: Out of 26 NTCs, 6 (23%) have not RTC.</li> <li>• FY 2012/2013: Out of 27 NTCs, 12 (44%) have not RTC.</li> </ul>	<ul style="list-style-type: none"> <li>• Facility ID number (if applicable);</li> <li>• Inspection and violation dates;</li> <li>• Scheduled RTC date;</li> <li>• Actual RTC date;</li> <li>• RTC qualifier; and</li> <li>• Follow-up actions.</li> </ul> <p>See attachment folder "Def 9" which contains the list of the identified outstanding violations which will be address in future reports. Note some violations have already been cleared.</p> <p>By January 27, 2017, and with each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the RTC tracking spreadsheet. The CUPA will also provide CalEPA with a copy of RTC documentation for 10 facilities requested by the state agencies during the previous quarter.</p>
<p><b>Deficiency Progress Update 1:</b></p> <p>[Attached are the lists and information requested. See Comments in the Corrective Action. This will ongoing until complete.]</p>		
<p><b>Evaluation Team Response 1 [CalEPA, Cal OES, DTSC, State Water Board]:</b></p> <p><b>CalEPA:</b> CalEPA acknowledges and accepts the CUPA's lists of facilities (by FY and program element) with open violations. Please follow-up with all listed facilities that have open violations.</p> <p><u>Action Items for the next Deficiency Progress Report:</u></p> <ol style="list-style-type: none"> <li>1. Please provide CalEPA with the previously submitted RTC tracking spreadsheets updating the RTC date or noting the enforcement actions taken by the CUPA for each listed facility with open violations.</li> <li>2. Please provide CalEPA with a copy of RTC documentation for 10 facilities requested by the state agencies below.</li> </ol>		

**DTSC:** DTSC has received the CUPAs CERS CME data download (10/25/2016) and reviewed CERS violation data between 7/1/13 -10/18/16. DTSC noted the following:

Total Violations In CERS	113	32 with RTC
Total Minor Violations	87	25 with RTC
Total Class I & Class II Violations	26	7 with RTC

Please continue your efforts in correcting this deficiency. With the next progress report, please provide RTC documentation (inspection reports with RTC noted, Certificate of Compliance, or photos/email correspondence) for the following facilities: Penske Truck Leasing 10174459, Alphabet Energy, Inc 10404244, Electro Plating Specialties 10152325, Grand Gas/Grand Petroleum 10313740, Hayward Union 76 10314829, HUSD- Maintenance Yard 10314865, Jaco Environmental 10486144, Koch Biological Solutions, LLC DBA Mendel Biological Solutions LLC 10315150, Quick Tune and Brake 10315471, SJ Valley Plating, DBA Farben 10315636

**State Water Board:** Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 1. State Water Board finds the CUPA providing an initial spreadsheet for all Unified Programs identifying open and closed violations. Our review of the UST program data finds there are 70 violations out of 113 with no RTC ranging from 11/25/2014 – 6/29/2016.

State Water Board selects the following ten (10) UST facilities which the CUPA will provide documentation of RTC:

1. CERS ID 10315750
2. CERS ID 10314517
3. CERS ID 10314304
4. CERS ID 10315567
5. CERS ID 10166173
6. CERS ID 10315567
7. CERS ID 10315333
8. CERS ID 10314496
9. CERS ID 10313839
10. CERS ID 10314520

#### **Deficiency Progress Update 2:**

##### **Cal EPA –**

1)Attached is the updated RTC spreadsheet called "Def 9 Audit 1-27-2017". The CUPA is attempting to address all of the deficiencies in the report and is progressing on reducing the number of RTC identified in this spreadsheet.

2)Attached is the information requested on the list 20 facilities. The majority have supporting RTC documentation. Several facilities will need to be re-inspected in the next quarter.

**DTSC** – See attached list of RTC for the 10 facilities identified. (Note: one facility, Jaco Environmental CERS ID #10486144 has been closed so only 9 files were submitted)

**SWRCB** – See attached list files the 10 facilities identified. (Note: CERS #10315567 is a duplicate so only 9 files were submitted)

Note: To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.

**Evaluation Team Response 2 [CalEPA, Cal OES, DTSC, State Water Board]:**

**CalEPA:** CalEPA acknowledges and accepts the CUPA's spreadsheet with the lists of facilities (by program element) with open violations. According to lists provided, the CUPA has the following open violations by program element:

- HMBP: 202 (73%) out of 273 violations remain open with no follow-up actions documented.
- HWG: 88 (73%) out of 120 violations remain open with no follow-up actions documented.

**Action Items for the next Deficiency Progress Report:**

1. Please continue to follow-up with the listed facilities that have open violations.
2. Please provide CalEPA with the previously submitted RTC tracking spreadsheets with updated RTC dates or with the appropriate enforcement actions noted for each listed facility with open violations.

**DTSC:** DTSC received the files requested with the last progress report update except for Hayward Union 76 10314829 and Quick Tune and Brake 10315471 (No RTC in CERS). With the next progress report update, please provide CalEPA with RTC documentation for the facilities listed above and also RTC documentation for the hazardous waste tank assessment violation at Penske Trucking 751 Sandoval Way. Additionally, please update CERS with RTC documentation for Grand Gas / Grand Petroleum at 25757 SOTO Rd for violations that occurred on 12/1/2015.

**State Water Board:** State Water Board portion of the deficiency is corrected.

State Water Board acknowledges the CUPA's Deficiency Progress Update 2. Our review of the CUPA's RTC spreadsheet finds all violations from the CUPA's original spreadsheet in Update 1 either have RTC, are pending issuance of an NOV, referrals and pending referrals to the District Attorney, or pending review of rejected CERS UST submittal which is due 3/3/2017.

Furthermore, our review of CME Reports for FYs identified in the deficiency finds the following:

- FY 2013/2014; all violations with RTC.
- FY 2014/2015; four (4) violations with no RTC; the RTC numbers are unchanged.

However, when comparing CME Report for FY 2014/2015 to CUPA's RTC tracking spreadsheet, our review finds the four (4) violations with no RTC, either have RTC, language pending referral to District Attorney, or



pending review of rejected CERS UST submittal which is due 3/3/2017. Therefore, the CUPA demonstrates documenting RTC for UST violations.

Our review of selected UST facility files finds the CUPA providing RTC information addressing cited violations.

Therefore, State Water Board considers its portion of the deficiency corrected.

**Deficiency Progress Update 3:** Attached is the Excel spreadsheet list of RTCs for CalEPA and DTSC.

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

**CalEPA:** CalEPA acknowledges and accepts the CUPA's spreadsheet with the lists of facilities (by program element) with open violations. According to lists provided, the CUPA has the following open violations by program element:

- HMBP: 76 (34%) out of 226 violations remain open with no follow-up actions documented.
- HWG: 32 (38%) out of 85 violations remain open with no follow-up actions documented.

According to violation information for 2013 through 2016 reported in CERS, the CUPA has the following open violations by program element:

- HMBP: 172 (63%) out of 271 violations remain open with no follow-up actions documented.
- HWG: 69 (55%) out of 126 violations remain open with no follow-up actions documented.

The differences in percentages between the CUPA's spreadsheet and CERS indicate either a CME reporting issue or that all of the open violations are not represented in the CUPA's spreadsheet. Which of these is the issue?

**Action Items for the next Deficiency Progress Report:**

1. Please continue to follow-up with the listed facilities that have open violations.
2. Please provide CalEPA with the previously submitted RTC tracking spreadsheets with updated RTC dates or with the appropriate enforcement actions noted for each listed facility with open violations.

**DTSC:** DTSC has received the excel workbook titled "DEF 9 Audit Spreadsheet Updated 2017-0427" and acknowledges that the CUPA has either ensured that facilities with violations have returned to compliance or will be issued an NOV by 5/30/17. Additionally the CUPA will issue one facility with an AEO. DTSC will continue to monitor the CUPA's efforts in ensuring facilities RTC. With the next progress report, please send an updated spreadsheet of HWG violations with RTC or follow-up actions taken.

**Deficiency Progress Update 4:** Attached is the Excel spreadsheet list "Def 9 Audit 7-27-2017 Update" of RTCs for CalEPA and DTSC. Of those, staff has focused on underground storage tanks, APSA and tiered permitting inspections.

Also, during the last quarter the Fire Department again requested and finally received approval through the City Council to hire an additional Hazardous Materials Investigator this fiscal year (2017/2018). We

anticipate that the additional Hazardous Materials Investigator will be hired and on staff no later than January 1, 2018. This position will help with the enforcement follow up.

#### **Evaluation Team Response 4 [CalEPA, DTSC]:**

**CalEPA:** CalEPA acknowledges and accepts the CUPA's spreadsheet with the lists of facilities (by program element) with open violations. According to lists provided, the CUPA has the following open violations by program element:

- HMBP: 107 (39%) out of 275 violations remain open with no follow-up actions documented.
- HWG: 50 (42%) out of 120 violations remain open with no follow-up actions documented.

According to violation information for 2013 through 2016 reported in CERS, the CUPA has the following open violations by program element:

- HMBP: 106 (39%) out of 271 violations remain open with no follow-up actions documented.
- HWG: 54 (43%) out of 126 violations remain open with no follow-up actions documented.

CalEPA commends the CUPA on bringing in another staff member and anticipates additional improvements in RTC timing.

#### **Action Items for the next Deficiency Progress Report:**

1. Please continue to follow-up with the listed facilities that have open violations.
2. Please provide CalEPA with the previously submitted RTC tracking spreadsheets with updated RTC dates or with the appropriate enforcement actions noted for each listed facility with open violations.

**DTSC:** According to CERS CME Violation data, the CUPA has issued 198 HWG+TP violations since 07/01/2013 with 119 of those violations having RTC (60% rate of RTC). Please continue your efforts in ensuring facilities with open violations RTC.

#### **Deficiency Progress Update 5:**

Attached is the updated Excel spreadsheet list "Def 9 Audit 10-27-2017 Update" of RTCs for CalEPA and DTSC.

During this last quarter, we have advertised and conducted the 1<sup>st</sup> and 2<sup>nd</sup> interviews of prospective Hazardous Materials Investigator candidates. We anticipate the position will be filled with new staff on board in November of 2017. Additionally, we anticipate a part-time permanent clerical position. These positions will help with the tracking and clearing of outstanding violations.

#### **Evaluation Team Response 5 [CalEPA, DTSC]:**

**CalEPA:** CalEPA acknowledges and accepts the CUPA's spreadsheet with the lists of facilities (by program element) with open violations. According to lists provided, the CUPA has the following open violations by program element:

- HMBP: 74 (27%) out of 273 violations remain open with no follow-up actions documented.
- HWG: 36 (30%) out of 120 violations remain open with no follow-up actions documented.

According to violation information for 2013 through 2016 reported in CERS, the CUPA has the following open violations by program element:

- HMBP: 153 (44%) out of 348 violations remain open with no follow-up actions documented.
- HWG: 91 (53%) out of 173 violations remain open with no follow-up actions documented.

CalEPA commends the CUPA on bringing in staff members and anticipates additional improvements in RTC timing.

Action Items for the next Deficiency Progress Report:

1. Please continue to follow-up with the listed facilities that have open violations.
2. Please provide CalEPA with the previously submitted RTC tracking spreadsheets with updated RTC dates or with the appropriate enforcement actions noted for each listed facility with open violations.

**DTSC:** According to CERS ViolationListing data (Violation Compliance Tab in CERS), the CUPA has issued 186 HWG+TP violations between 07/01/2013-8/24/2017 with 98 of those violations having RTC (53% rate of RTC). Please continue your efforts in ensuring facilities with open violations RTC. Note that DTSC finds this violation analysis more accurate than the CME violation analysis conducted in Progress Report Update 4 as some duplication occurs with CME violations.

**Deficiency Progress Update 6:**

We are still working on this item. Attached is the Excel spreadsheet list "Done – Def 9 Audit 1-29-2018.xlsx" of RTCs for CalEPA and DTSC.

Envision Connect is still a challenge. Inspections are going up to CERS, but we are finding that the final RTC dates where facilities have returned to compliance are not showing in CERS. We will be working with the software provider to hopefully resolve this problem during the next reporting period.

**Evaluation Team Response 6 [CalEPA, DTSC]:**

**CalEPA:** CalEPA accepts the CUPA's spreadsheet with the lists of facilities (by program element) with open violations. According to lists provided, the CUPA has the following open violations by program element:

- HMBP: 74 (35%) out of 210 violations remain open with no follow-up actions documented.
- HWG: 24 (30%) out of 84 violations remain open with no follow-up actions documented.

According to violation information for 2013 through May of 2016 reported in CERS, the CUPA has the following open violations by program element:

- HMBP: 73 (35%) out of 210 violations remain open with no follow-up actions documented.
- HWG: 24 (30%) out of 84 violations remain open with no follow-up actions documented.

CalEPA no longer observes a discrepancy with the CUPA provided spreadsheet and CERS.

Action Items for the next Deficiency Progress Report:

3. Please continue to follow-up with the listed facilities that have open violations.
4. Please provide CalEPA with the previously submitted RTC tracking spreadsheets with updated RTC dates or with the appropriate enforcement actions noted for each listed facility with open violations.

**DTSC response:** This deficiency is a work in progress. DTSC has received CME violation data for HWG and RCRA/LQGs. DTSC also notes that CERS violation data shows that 108 of 176 (61%) violations have RTC. Please continue your efforts in correcting this deficiency.

#### **Deficiency Progress Update 7:**

The CUPA has targeted this deficiency during the review period. Inspection staff visited and conducted regular inspections at these Hazardous Waste Generator sites with outstanding violations. Of those, we have cleared out older violations where we found compliance and issued 30-day notices to comply for new violation(s).

For the 15 HMBP delinquent RTC facilities we have reached out either on inspection or by phone to some facilities on the list. Two facilities are receiving NOV for their HMBP violations. The ones that had received an NOV previously by mail were also sent out a second notice of violation by registered mail on April 24, 2018 and in some cases, have also been given notices on inspection during this reporting quarter.

We believe that this deficiency has progressed to the point where we have demonstrated sufficient follow up to remove this deficiency from the list.

#### **Evaluation Team Response 8 [CalEPA, DTSC]:**

**CalEPA response:** According to lists provided, the CUPA has the following open violations by program element:

- HMBP: 52 (24%) out of 215 violations remain open with only one facility having no follow-up actions documented.
  - 45 violation where the facility was issued a second NOV.
  - 4 violations (1 facilities) still need to be followed up with. CUPA stated as currently issuing NOV.
- HWG: 2 (2%) out of 84 violations remain open and were re-inspected on April 17, 2018 and were given 30 days to RTC.

According to violation information for 2013 through May of 2016 reported in CERS, the CUPA has the following open violations by program element:

- HMBP: 50 (23%) out of 215 violations remain open.
- HWG: 5 (6%) out of 90 violations remain open.

CalEPA has determined that the CUPA has demonstrated satisfactory follow-up and RTC documentation for violations cited during the Evaluation Period. However, current efforts for following up and documenting RTC for facilities with violation occurring after the evaluation period are not satisfactory, or is reflective of a CME reporting problem, and will be noted in a future evaluation if still observed. Please refer to DTSC for further comments and recommendations.

As the CUPA has completed all required corrective actions this deficiency has been cleared. No further corrective actions are required.

**DTSC response:** The CUPA has complied with the corrective actions. No further corrective actions are required. However, DTSC notes the following: the RTC spreadsheet submitted by the CUPA only contains violations issued between 1/1/2013-5/31/2016. A review of CERS Violation Listing Data between 3/30/2015-3/30/2018 shows 35 facilities with open violations. DTSC recommends the CUPA document follow-up actions with these 35 facilities and any new facilities cited with violations prior to the next triennial evaluation. Follow-up actions should be documented in the facility file. Follow-up actions include: follow-up inspection, e-mail, phone calls, mail to determine compliance. Sending facilities a Notice of Failure to Return to Compliance stating that uncorrected violations may be subject to enforcement action resulting in fines and/or other penalties would also suffice as a follow-up action.

10.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA did not consistently and correctly report CME data to CERS.</p> <p>A comparison of information in the CUPA's facility files, administrative documents, and CERS shows that CME data was not reported consistently and correctly.</p> <p><u>FY 2014/2015</u></p> <ul style="list-style-type: none"> <li>HMBP: 133 inspections were reported in the self-audit report. However, 123 inspections were reported in CERS.</li> <li>California Accidental Release Prevention (CalARP): 2 inspections were reported in the self-audit report. However, 0 inspections were reported in CERS.</li> <li>UST: 92 inspections were reported in the self-audit report. However, 35 inspections were reported in CERS.</li> <li>APSA: 7 inspections were reported in the self-audit report. However, 3 inspections were reported in CERS.</li> <li>HWG: 99 inspections were reported in the self-audit report. However, 70 inspections were reported in CERS.</li> </ul> <p><u>FY 2013/2014</u></p> <ul style="list-style-type: none"> <li>HMBP: 114 inspections were reported in the self-audit report. However, 15 inspections were reported in CERS.</li> </ul>	<p>By October 27, 2016, the CUPA will revise, implement, and provide CalEPA with the Data Management Procedure or other applicable procedure to ensure CUPA personnel consistently and correctly report CME information to CERS. The CUPA will make necessary changes to the Data Management Procedure, or other applicable procedure based on feedback from the state agencies.</p> <p><b>Status: Completed and submitted to CalEPA on 6/27/16. See Policies # 34, 35, 36, 37.</b></p> <p>By January 27, 2017, the CUPA will implement and train CUPA personnel on the new Data Management Procedure or other applicable procedure. The CUPA will provide training documentation to CalEPA. Training documentation will include, but not be limited to an outline of the training conducted and a list of CUPA personnel attending the training.</p> <p><b>Completed and submitted proof of training to CalEPA on 6/28/16.</b></p> <p>By January 27, 2017, the CUPA will begin reporting CME information to CERS that was not reported since July 1, 2013 and remove all duplicate CME data in CERS.</p> <p>By July 27, 2017, the CUPA will have reported all prior CME information to CERS that was not reported since July 1, 2013. Additionally, the CUPA will have removed all duplicate CME data in CERS.</p>

<ul style="list-style-type: none"> <li>• CalARP: 1 inspection was reported in the self-audit report. However, 0 inspections were reported in CERS.</li> <li>• UST: 86 inspections were reported in the self-audit report. However, 15 inspections were reported in CERS.</li> <li>• APSA: 5 inspections were reported in the self-audit report. However, 1 inspection was reported in CERS.</li> <li>• HWG: 130 inspections were reported in the self-audit report. However, 13 inspections were reported in CERS.</li> </ul> <p>Additionally, there are 17 duplicate inspections reported in CERS.</p> <p>In the FY 2014/2015 self-audit report, the CUPA acknowledged that Envision Connect, the CUPA's data management system, has not been fully integrated into CERS.</p> <p><u>HWG Program</u></p> <p>CME data reported in CERS does not always accurately represent the inspections conducted.</p> <ul style="list-style-type: none"> <li>• Container Management Services LLC CERSID: 10153599 21301 Cloud Way <ul style="list-style-type: none"> <li>○ CME data for Inspection on 8/28/14 is missing from CERS</li> </ul> </li> <li>• Electro Plating Specialties CERSID: 10152325 2436 American Avenue <ul style="list-style-type: none"> <li>○ CME data for Inspection on 7/17/13 is missing from CERS</li> </ul> </li> <li>• Depot Auto Wreckers CERSID: 1034442 3764 Depot Road <ul style="list-style-type: none"> <li>○ CME data for Inspections on 10/31/13 and 12/5/13 is missing from CERS</li> </ul> </li> <li>• Kleen Blast CERSID: 10315012 30028 Industrial Parkway</li> </ul>	<p>By July 27, 2017, the CUPA will provide CalEPA with annual UST compliance inspection reports for twenty (20) UST facilities selected by State Water Board. In addition, the CUPA will provide CalEPA with associated monitoring certifications, and spill bucket testing results if not available in CERS for the twenty (20) UST facilities selected by State Water Board. State Water Board will verify whether CUPA personnel are following the Data Management Procedure or other applicable procedure.</p> <p>With each Deficiency Progress Report, State Water Board will review UST CME information in CERS for routine inspections conducted after the previous Deficiency Progress Report, and select UST facilities. The CUPA will provide copies of; 1) annual UST compliance inspection reports, 2) annual UST monitoring certifications, and 3) spill bucket testing results for the facilities selected by the State Water Board.</p>
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	<ul style="list-style-type: none"> <li>○ CME data for Inspections on 12/13/13 and 12/17/2014 is missing from CERS</li> </ul> <p><u>UST Program</u></p> <p>State Water Board review of UST CME information in CERS, Semi-Annual Report 6, and annual UST compliance inspection reports prepared as part of the annual UST compliance inspection, finds the following:</p> <ul style="list-style-type: none"> <li>• UST violation and enforcement information is not consistently and correctly reported in CERS as CME.</li> <li>○ Annual UST compliance inspection reports prepared as part of the annual UST compliance inspection show the CUPA issuing UST violations. However, for the following CERS ID numbers and inspection dates, violation and enforcement information is not reflected in CERS as CME: <ul style="list-style-type: none"> <li>▪ CERS ID- 10442305 inspection date 6/11/14;</li> <li>▪ CERS ID- 10315567 inspection date 5/14/14;</li> <li>▪ CERS ID- 10315198 inspection date 3/11/13;</li> <li>▪ CERS ID- 10314730 inspection date 12/2/14; and</li> <li>▪ CERS ID- 10314586 inspection date 7/8/15.</li> </ul> </li> </ul> <p><u>APSA Program</u></p> <p>Of the 10 facility files reviewed, the OSFM observed the following:</p> <ul style="list-style-type: none"> <li>• Pacific Coast Petroleum (CERS ID 10184995) – Inspection report (3/3/14) states, “Complete SPCC Spill Control Plan – complete SPCC/APSA template.” No APSA CME data in CERS.</li> <li>• A100 US, LLC (CERS ID 10313767) – Inspection report (1/7/15) page 1</li> </ul>	
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	<p>states, "Site contact states fuel present in tanks but they are unable to demonstrate monitoring...Two large trailer generators equipped w/ secondary containment that was not properly setup. Material was a plastic sheeting type materials. Site contacts were not aware of SPCC documents or requirements." Page 2 of the inspection report states for requirements due at reinspection, "(2) Demonstrate that interstitial leak detection is functional" and other items noted during inspection, "(1) Trailers containing fuel noted onsite. Amend SPCC Plan...Provide SPCC Plan to Hayward Fire." Reinspection report of final permit conditions and final permit clearance replacement generators (2/27/15) states, "Operator tested/pulled interstitial sensor/alarm indicators on panels...Eventually will be monitored remotely...to verify if SPCC amended to include add'l storage." No APSA CME data were found in CERS.</p> <ul style="list-style-type: none"> <li>• Caltrans San Mateo Hayward Bridge (CERS ID 10000909) – Inspection report (9/24/13) page 4 states, "Aboveground storage tank shows signs of leaking, staining. Repair" and page 5 states for aboveground fueling tanks, "anti-siphon valve shows signs of leak-staining. Repair." Inspection report (9/22/14) page 3 states observations for aboveground fueling tanks. Inspection report (9/24/15) page 1 states observations for aboveground fueling tanks. No violations were noted for the aboveground tanks. No APSA CME data for the 2013 and 2014 inspections were found in CERS.</li> </ul> <p>Note: Before the initial evaluation report was completed, the CUPA provided CalEPA with a Data Management Procedure and</p>	
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<p>staff training documentation. The state agencies will review the procedure and training documentation and will provide feedback after CalEPA receives the CUPA's Deficiency Progress Report 1 submission.</p> <p>Note: Please reference the following CERS FAQs: "How to Enter Red Tag Information"; "Creating a Valid CERS Report 6"; "Reporting Re-Inspections"; "How to Report Non-Inspection Related Violations"; "How to Report Multi-Day Inspections in CERS"; "Citations for Failure to Report Unified Program Information"; and "Reporting Multiple Identical Violations in CERS."</p>	
<p><b>Deficiency Progress Update 1:</b></p> <p>[The Hayward Fire Department CUPA has completed and submitted the policies and procedure to CalEPA on 6/26/16. In addition, The CUPA has completed training and submitted training documentation to CalEPA on 6/27/2016. Because of the understaffing going back to enter information may a problematic item to achieve unless more personnel can be obtained by the CUPA. The CUPA has requested two additional staff. A plan for funding through increased fees has been approved and is scheduled for adoption in October 2016.]</p>	
<p><b>Evaluation Team Response 1 [CalEPA, DTSC, State Water Board, OSFM]:</b></p> <p><b>CalEPA:</b> CalEPA acknowledges and accepts the CUPA's data management procedures, training, and training documentation to ensure CUPA personnel consistently and correctly report CME information to CERS. In Policy 34 "Procedures for Inputting CME Data Into Envision Connect" Item I regarding the use of "Generic Roll Up code," when there is not a corresponding violation in Envision Connect, please ensure that the Envision Connect violation library is up-to-date and consistent with the CERS violation library.</p> <p><b>DTSC:</b> DTSC has received the CUPAs PG NO. 0034/35/36/37 and proof of training completed by CUPA staff. With the next progress report, please update CalEPA on the progress made in reporting CME data in CERS from inspections dating back to July 1, 2013 including the facility inspections listed in this deficiency.</p> <p><b>OSFM:</b> The OSFM appreciates the CUPA's efforts toward correcting this deficiency. On the next progress report update, please provide an update on the status of this deficiency.</p> <p><b>State Water Board:</b> Deficiency is a work in progress.</p> <p>State Water Board acknowledges the CUPA's Deficiency Progress Update 1. State Water Board finds the CUPA providing the following policies to address not consistently and correctly reporting CME data to CERS:</p> <ol style="list-style-type: none"> <li>1. Policy 34 – Procedures for Inputting CME Data Into Envision Connect dated June 24, 2016;</li> <li>2. Policy 35 – Procedures for Linking Enforcement Actions to Violations in Envision Connect dated June 24, 2016;</li> </ol>	

3. Policy 36 – Procedures for Uploading CME Into CERS dated June 24, 2016; and
4. Policy 37 – Procedures for Inputting Non-inspection Violation Into Envision Connect dated June 27, 2016.

Our review finds the CUPA's policies include language where the CUPA pulls inspection reports from Envision Connect and facility files for inspections conducted between 7/1/2013 – present. The CME information from these inspections is to be entered into Envision Connect, reviewed, and then uploaded to CERS using the CERS integration wizard. The CUPA also includes language where future CME is to be entered into CERS within thirty (30) days of each completed quarter during the year.

State Water Board recommends the CUPA revise "Policy 37 – Procedures for Inputting Non-inspection Violation Into Envision Connect" dated June 27, 2016. The revision should address the item regarding utilizing "generic roll up code" in Envision Connect if there is no corresponding violation. State Water Board recommends the CUPA include language to refer to the Unified Program Violation Library in CERS prior to utilizing the "generic roll up code" when entering violations as this may lead to an additional deficiency in the future regarding the CUPA reporting "general" and/or "general-local ordinance" violations in CERS.

State Water Board finds the CUPA providing a training log on and outline of training conducted on the CUPA's policies dated June 28, 2016.

In the next Deficiency Progress Update, please provide to CalEPA, a revised "Policy 37 – Procedures for Inputting Non-inspection Violation Into Envision Connect" addressing the State Water Board recommendations.

#### **Deficiency Progress Update 2:**

The CUPA is ahead of the time frame in the original findings and have completed policies request prior the end of the review process on June 28 2016 prior to the October 27, 2016 due date. Staff also was trained and began implementing the procedures as of June 28, 2016 prior to the January 27, 2017 due date. We have gotten confirmation on the policies and had a recommendation on Policy 37 during the 1<sup>st</sup> Quarter review comments. Attached is the updated Policy 37 as recommended. We have discussed this change with all staff.

We have re-inspected some of those facilities on the identified State lists during their subsequent 3-year inspection cycle for those facilities and have entered in the current CME data. The CUPA sees that this will be difficult to go back and re-enter old information without negatively affecting the forward progress of our program.

Note: To ensure sustainability of the program element covered in this deficiency, the CUPA has updated our April 26, 2016 proposal for an additional Inspector and a full time clerk and resubmitted it on January 23, 2017, in hopes of getting staffing approved during the midyear budget process. We have also worked on a City-wide fee study that is more representative of the time and costs for our program. These fee study were approved during this quarterly reporting period. We are currently using a part time temporary clerk to assist us in our efforts.

**Evaluation Team Response 2 [CalEPA, DTSC, OSFM, State Water Board]:**

**CalEPA:** CalEPA acknowledges and accepts the CUPA's plan to hire an additional inspector and a full time clerk to assist with reporting CME data to CERS that was not reported since July 1, 2013 and removing all duplicate CME data in CERS. Please continue to update CalEPA on the CUPA's progress toward correcting this deficiency.

**DTSC:** Please refer to CalEPAs response.

**OSFM:** The OSFM appreciates the CUPA's efforts toward correcting this deficiency. On the next progress report update, please provide an update on the status of this deficiency, including progress made related to the reporting of APSA CME information to CERS that was not reported since July 1, 2013.

**State Water Board:** Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 2. Our review of CERS finds no changes in the number of routine UST inspections reported for FY's 2013/2014 and 2014/2015. In addition, our review of violation and enforcement information in CERS for identified UST facilities in the deficiency, finds no new information. Therefore, there is no evidence of the CUPA beginning to report UST CME information to CERS which was not reported since 7/1/2013 per the corrective action requirements.

Our review finds the CUPA providing a revised Policy 37, "Procedures for Inputting Non-Inspection Violations into Envision Connect" with a revision date of 1/25/2017. The CUPA's revision includes language for inspection personnel to review the current CERS Violation Library before utilizing and reporting general violation codes for violations not found in Envision Connect. Therefore, State Water Board finds Policy 37 acceptable.

In the next Deficiency Progress Update, please provide CalEPA a narrative update regarding beginning to report UST CME information to CERS which was not reported since 7/1/2013.

**Deficiency Progress Update 3:** Per discussions with this Kareem Taylor the Hayward Fire Department was not able to secure addition staffing for the CUPA during the midyear budget process. The City of Hayward overall only added only one staff position Citywide in total. We will again try to get the additional positions added during annual budget process for the upcoming Fiscal Year starting July 1, 2017. We have met with our Fire Chief and the Senior Staff of the Hayward Fire Department to discuss our needs. The Chief has assured us that he will be pushing for the needed staff. In the interim we have alerted Kareem Taylor and discussed our overall program priorities and our priorities to address the deficiencies given our work load and present staffing levels.

The Hayward Fire Department CUPA firmly believes that it would be imprudent for us to prioritize going back and entering old data into CERS to 2013 as a higher priority than any other item in the deficiencies or to prioritize this item ahead of current safety or facility compliance items. Furthermore, entering old information from a time in our program's evolution where we had initial startup problems with implementing the Envision Connect software and trying now to match up changes to the violation dictionary will likely will result in many inaccuracies and potentially misleading information in CERS.

The Hayward Fire Department does currently have a lean staff but it is an excellent CUPA team. We are moving forward and are attempting to get additional staff positions. We will keep this on our list but we are respectfully requesting a reconsideration of the need or value of staff to expend time going back to address this item. We are anxious to continue moving forward in our program. Thank you in advance for your consideration of our request.

**Evaluation Team Response 3 [CalEPA, DTSC, OSFM, State Water Board]:**

**CalEPA:** CalEPA acknowledges the CUPA's plan to hire an additional staff in order to meet the needs of the CUPA. CalEPA also acknowledges that, because of reduced staffing, the CUPA has placed a higher priority on safety and compliance items over reporting past CME data that has not been reported since July 2013. Please continue to update CalEPA on the CUPA's progress toward correcting this deficiency. During the evaluation, this topic was discussed by the evaluation team lead with CalEPA management. The CalEPA management decision that was conveyed to Hayward Fire Department CUPA is that any CUPA that has a deficiency for not reporting past CME information must correct the deficiency by reporting all prior CME information to CERS that was not previously reported since July 1, 2013. CalEPA management maintains this position and requires the CUPA to report all prior CME information to CERS that was not previously reported since July 1, 2013 and remove any duplicative information. If the CUPA is unable to report all of the past CME information and remove duplicative information by the due date, then the CUPA should state that in the next Deficiency Progress Report and when the CUPA anticipates the corrective action will be completed.

Action Items for the next Deficiency Progress Report:

1. Please report all prior CME information to CERS that was not reported since July 1, 2013. Additionally, please remove all duplicate CME data in CERS.

**DTSC:** Please refer to CalEPAs response.

**OSFM:** The OSFM appreciates the CUPA's efforts toward correcting this deficiency. On the next progress report, please provide an update on the status of this deficiency.

**State Water Board:** Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 3. State Water finds the following while reviewing CERS on May 4, 2017:

1. FY 2013/2014 – no change in the number of routine inspections conducted;
2. FY 2014/2015 – one (1) additional routine inspection being added to CERS bringing the total to 36 routine inspections; and
3. CERS shows there are currently three (3) UST facilities with duplicative routine inspections. The three (3) facilities are identified as CERS IDs: 10156043, 10314229, and 10314499.

Per the corrective actions, State Water Board selects the following UST facilities which the CUPA will provide the most recent documentation if not already in CERS; 1) annual UST compliance inspection reports, 2) associated monitoring certifications, and 3) spill bucket testing results.

1. CERS ID 10152223
2. CERS ID 10165679

3. CERS ID 10202287
4. CERS ID 10313734
5. CERS ID 10313839
6. CERS ID 10314229
7. CERS ID 10314232
8. CERS ID 10314496
9. CERS ID 10314772
10. CERS ID 10315078
11. CERS ID 10315198
12. CERS ID 10315255
13. CERS ID 10315333
14. CERS ID 10315399
15. CERS ID 10315474
16. CERS ID 10315537
17. CERS ID 10315615
18. CERS ID 10411657
19. CERS ID 10411678
20. CERS ID 10411750

**Deficiency Progress Update 4:** Attached is the UST folder "UST Audit Follow Up 2017-0727" which includes the 20 requested State Water Board Facilities and their respective Inspections and Monitoring/Spill Bucket Certifications.

Also, during the last quarter the Fire Department again requested and finally received approval through the City Council to hire an additional Hazardous Materials Investigator this fiscal year (2017/2018). We anticipate that the additional Hazardous Materials Investigator will be hired and on staff no later than January 1, 2018. This position will help with entering in CME Data.

With regard to the removal of duplicate CME data, we have had discussions with the software provider, and we have been informed that there is a minimum cost of \$10,000.00 for this issue to be addressed, with no guarantee of a positive resolution without further costs beyond the initial \$10,000.00. We continue to explore other options with Accela. In the interim, we also request guidance and help from CalEPA and SWRCB on how to fix these duplicate items.

The proposed corrective action for this deficiency is an impediment to our main goal of bringing our program and the associated permitted facilities up to date and into compliance as quickly and efficiently as possible. Therefore, we continue with our primary focus of completing the remaining corrective actions as a higher priority, which will facilitate public safety, and we will work on this corrective action as time permits.

We appreciate CalEPA's authority. However, we do not understand the management decision for requiring the input of going back and entering old data during the time in which our interface system was being developed. It is important for us to work forward. The CUPA communicated this during our evaluation. At present if CalEPA continues to require this old suspect data be entered we ask that they provide the statute in which entering old data is required to help us to justify additional overtime and

staffing. At this point, we request an extension to July 27, 2018 when we will be staffed with an additional Inspector.

**Evaluation Team Response 4 [CalEPA, DTSC, OSFM, State Water Board]:**

**CalEPA:** CalEPA appreciates the CUPA's determination in addressing CERS CME data reporting deficiencies and anticipates that the new inspector will focus on entering CME data into CERS. The due date extension the CUPA has requested to correct the following action item has been accepted. The law requiring CUPAs to report CME information is in CCR, Title 27, Section 15290(b).

**Action Item due by July 27, 2018**

1. Please report all prior CME information to CERS that was not reported since July 1, 2013. Additionally, please remove all duplicate CME data in CERS.

**DTSC:** Please refer to CalEPA's response.

**OSFM:** The CUPA has not yet updated CERS with CME data related to the missing 4 APSA inspections from FY 2014/2015. Seven inspections were reported in the self-audit report; however, 3 inspections were reported in CERS. The CUPA has also not yet updated CERS with missing CME data observed during facility file review (at these three APSA facilities: CERS ID 10484995, 10313767 and 10000909).

OSFM encourages the CUPA to review, update (if not reported since July 1, 2013) and correct CME data, including any duplicate data, as part of the ongoing APSA inspection process on a facility by facility basis going forward. OSFM considers this deficiency a work in progress. On the next progress report, please provide a narrative of the CUPA's progress toward correcting this deficiency.

**State Water Board:** Deficiency is a work in progress.

State Water Board acknowledges the CUPA's Deficiency Progress Update 4. State Water finds no change in the UST information in CERS as identified in the deficiency language for FY's 2013 – 2015 subsequent to Update 3.

Our review of UST information the CUPA provided for select UST facility files finds three (3) out of the 20 files, where information is not consistent between the annual UST monitoring certification (AMC), annual spill bucket test (ASB), associated annual UST compliance inspection report (report), and CERS. Below are examples:

1. CERS ID 10313839; AMC dated February 1, 2017, notes the floats and chains for under dispenser containment (UDC) 3/4 (87 and 89 product) did not trigger the shear valve to stop the flow of product. The AMC also notes the floats, arm, and chain needs to be replaced and the UDC needs to be cleaned. However, the CUPA's report and CERS routine inspection dated February 1, 2017 do not identify this failure(s). The UST monitoring plan in CERS identifies float and chain assemblies as the only method for monitoring UDC's for 87 and 89 product. The CUPA's report and CERS should reflect the failures as a violation(s).
2. CERS ID 10315399; ASB dated March 13, 2017, notes the diesel SB failed testing due to drain valve failure. The ASB also notes the drain valve being replaced and passing testing. The CUPA's report



dated March 13, 2017, identifies the failure as a violation and shows the violation being corrected on site. However, the violation is not reported in CERS as being corrected on site during the AMC and annual UST compliance inspection. The CUPA should have reported the violation in CERS and identified the violation as being corrected the same day.

3. CERS ID 0411678; AMC dated January 13, 2017, notes the transition sump sensor being replaced. However, the CUPA's report and CERS routine inspection dated January 13, 2017 do not identify a violation or comment regarding the replacement of the transition sump sensor. The CUPA's report and CERS should reflect the failure as a violation even though the violation was corrected the same day.

Per the corrective actions, State Water Board selects the following UST facilities which the CUPA will provide the most recent documentation if not already in CERS; 1) annual UST compliance inspection reports, 2) associated monitoring certifications, and 3) spill bucket testing results.

1. CERS ID 10127248
2. CERS ID 10315297
3. CERS ID 10127242
4. CERS ID 10398016
5. CERS ID 10401673
6. CERS ID 10314517
7. CERS ID 10419139
8. CERS ID 10314493
9. CERS ID 10314799
10. CERS ID 10314373

**Deficiency Progress Update 4:** Attached is the files for the 10 UST facilities requested by the State Water Resources Control Board and their respective Inspections and Monitoring/Spill Bucket Certifications.

In reference to the removal of duplicate CME data, as well as issues with CME data again not being able to be transferred up to CERS, a joint meeting was held with several of the CUPAs in the area with our software provider to discuss our concerns that have been hampering our use of the product and compliance with State requirements. Out of the meeting, we worked with experienced staff from the software provider to correct the data that was unable to be pushed up to the state. Unfortunately, some of the duplicate data is not transferring up into CERS. We are awaiting a solution by our software provider. Also, out of the meeting the provider discussed several changes to the software. After the meeting, we found that the software provider had been sold to another company. We are monitoring the situation.

During this last quarter, we have advertised and conducted the 1<sup>st</sup> and 2<sup>nd</sup> interviews of prospective Hazardous Materials Investigator candidates. We anticipate the position will be filled with new staff on board in November of 2017. Though our request for a full time clerical position was not acted on we anticipate some part time clerical assistance will be available in November of 2017.

During the next quarter, we anticipate uploading of the three-requested data for the facilities that are in the aboveground storage tanks (AST) program.

At this point, we have calendared July 27, 2018 to complete putting in old inspection data in CERS but have put it at our lowest priority.

**Evaluation Team Response 5 [CalEPA, DTSC, OSFM, State Water Board]:**

**CalEPA:** CalEPA appreciates the CUPA's proactive efforts by meeting with other CUPA's having similar EDT issues and discussing these issues with the software vendor. For the next progress report update please provide a narrative response summarizing the CUPA's status for meeting their proposed goal to report all prior CME information to CERS that was not reported since July 1, 2013 and have removed all duplicate CME data in CERS.

**DTSC:** Please refer to CalEPA's response.

**State Water Board**

State Water Board portion of this deficiency is corrected.

State Water Board acknowledges the CUPA's Deficiency Progress Update 5. The CUPA is noted as providing requested annual UST compliance inspection reports and associated leak detection testing documents for select UST facilities. Our review of the provided information finds two (2) UST facilities out of ten (10) where CERS information is not consistent with the associated monitoring certification or the annual UST compliance inspection report. Below are the examples of inconsistent information:

1. CERS ID 10314373 – annual UST compliance inspection dated June 1, 2017. CERS shows multiple UST violations cited. However, the following CERS violations are not included in the CUPA's annual UST compliance inspection report; 1) financial responsibility and 2) audio and visual alarms. In addition, the associated monitoring certification shows the service technician replacing the sump sensor for the new oil tank and subsequently retesting the sensor and noting passing results. However, this sensor failure is not included in the CUPA's annual UST compliance inspection report or in CERS.
2. CERS ID 10314799 – annual UST compliance dated June 7, 2017. CERS shows the CUPA citing a violation for failure of the line leak detectors. This violation is consistent with the associated monitoring certification. However, the CUPA's annual UST compliance inspection report shows no violations cited for the line leak detector failures.

As evidenced by State Water Board review of provided UST facility information, the CUPA demonstrates the improvement of consistently and correctly reporting CME data to CERS. Therefore, State Water Board considers its portion of the Deficiency corrected.

For the two (2) UST facilities with identified inconsistencies, State Water Board recommends the CUPA utilize the State Water Board findings as a training opportunity where improvement can be made.

**OSFM:** This deficiency is a work in progress. OSFM encourages the CUPA to begin reporting CME data to CERS that were not reported since July 1, 2013. The CUPA has not yet updated CERS with CME data related to the missing 4 APSA inspections from FY 2014/2015 and the missing 4 APSA inspections from FY

2013/2014. The CUPA has also not yet updated CERS with missing CME data observed during facility file review at these three APSA facilities: CERS ID 10484995, 10313767 and 10000909.

A CERS APSA CME report generated on October 31, 2017, identifies 57 APSA regulated facilities and documents the activity totals shown below:

- FY 2013/2014 records include 1 inspection, 0 violations and 0 enforcements
- FY 2014/2015 records include 3 inspections, 0 violations and 0 enforcements
- FY 2015/2016 records include 4 inspections, 1 violation and 1 enforcement
- FY 2016/2017 records include 53 inspections, 36 violations and 23 enforcements

In future progress reports, OSFM requests the CUPA identify when they have completed the corrective action to report all APSA CME data to CERS that were not reported since July 1, 2013.

#### **Deficiency Progress Update 6:**

This is a work in progress.

One area of concern is we continue to have issues with the successful uploading of CME information to CERS from Envision Connect. During this reporting period we have begun to explore other interface software options. We had a meeting and demonstration of Digital Health Department software. Digital Health Department is owned by Tyler Systems which is the provider of MUNIS, the municipal software platform used by the City of Hayward where our CUPA stores its internal data related to businesses, permits, billing, state surcharge, etc.

Related to inputting older data, we again would like CalEPA to reconsider requiring the CUPA to input old data into CERS for the reasons we have mentioned in previous quarterly reports and during our evaluation meetings.

“The proposed corrective action for this deficiency is an impediment to our main goal of bringing our program and the associated permitted facilities up to date and into compliance as quickly and efficiently as possible. Therefore, we continue with our primary focus of completing the remaining corrective actions as a higher priority, which will facilitate public safety, and we will work on this corrective action as time permits.

We appreciate CalEPA’s authority. However, we do not understand the management decision for requiring the input of going back and entering old data during the time in which our interface system was being developed. It is important for us to work forward.”

Therefore, as an option we request that the State identify that older data was not fully entered into CERS, and we would ask that the State consider converting this deficiency to an observation given our previous rationale and our progress.

#### **Evaluation Team Response 6 [CalEPA, DTSC, OSFM]:**

**CalEPA response:** CalEPA acknowledges the CUPA’s position on this matter and understands the CUPA’s circumstances as well as the commitment to its mission. The CUPA maintains an effective program, and

these findings are not intended to be a representation of the CUPA's performance as a whole. Additionally, CalEPA is required to obtain CME data in CERS going back to July 1, 2013 because it is still relevant for data analytics and for fulfilling CalEPA's reporting requirements to the USEPA. This requires a complete database to ensure accurate reporting and results.

The Hayward 2016 evaluation assessment findings were considered final at the time of the 2016 Exit Briefing and the evaluation report that includes the final Summary of findings was issued on August 19, 2016. Therefore, CalEPA will not consider converting the CME deficiency to an observation at this point. Additionally, CalEPA review of CME data currently reported in CERS indicates that there has been little progress toward correcting this deficiency since the conclusion of the 2016 evaluation. This deficiency will continue to be open until the CUPA demonstrates that CERS CME submissions have been completed. Also, the CUPA previously stated that their plan for completing this task was slated for the July 27, 2018. It was expected that the CUPA would provide a status update for meeting this proposed deadline, however, the CUPA did not describe their status for meeting the proposed time of completion, nor is there a new date proposed.

Below are a comparison of the CUPA's Self-Audit Reports and a CERS report generated on February 22, 2018.

#### FY 2014/2015

- HMBP: 133 inspections were reported in the self-audit report. However, 123 inspections were reported in CERS.
- California Accidental Release Prevention (CalARP): 2 inspections were reported in the self-audit report. However, 0 inspections were reported in CERS.
- UST: 92 inspections were reported in the self-audit report. However, 36 inspections were reported in CERS.
- APSA: 7 inspections were reported in the self-audit report. However, 3 inspections were reported in CERS.
- HWG: 99 inspections were reported in the self-audit report. However, 66 inspections were reported in CERS.

#### FY 2013/2014

- HMBP: 114 inspections were reported in the self-audit report. However, 15 inspections were reported in CERS.
- CalARP: 1 inspection was reported in the self-audit report. However, 0 inspections were reported in CERS.
- UST: 86 inspections were reported in the self-audit report. However, 15 inspections were reported in CERS.
- APSA: 5 inspections were reported in the self-audit report. However, 1 inspection was reported in CERS.
- HWG: 130 inspections were reported in the self-audit report. However, 13 inspections were reported in CERS.

Additionally, there are 30 duplicate inspections reported in CERS between FY 2013/2014 and 2015/2016.

For the next progress report, please report on any progress the CUPA makes for entering data into CERS from July 1, 2013, and a proposed new date for completing the submission if the July 28, 2018 no longer allows for enough time.

**DTSC:** Please refer to CalEPA's response.

**OSFM:** OSFM review demonstrates the CUPA is consistently and correctly reporting current CME data to CERS. OSFM recognizes the difficulty in entering CME information related to past inspections in FY 2013/14 and FY 2014/2015.

Since the CUPA is current with APSA inspection requirements, for future APSA facility inspections OSFM encourages the CUPA to review past inspection notes for any non-documented violations, taking special care to verify current compliance, including issuance of new violations when observed.

OSFM considers its portion of this deficiency corrected.

**Deficiency Progress Update 7:**

Per previous comments this is still lowest priority. Still issues with staffing specifically related to clerical. See also response to Deficiency 6. For now, we are pushing this forward to October 27, 2018.

**Evaluation Team Response 7 [CalEPA]:**

**CalEPA response:** CalEPA acknowledges the CUPA's plan to address this deficiency by October 27, 2018. For the next progress report, please report on any progress the CUPA makes for entering data into CERS from July 1, 2013.

Once the CUPA states that all CME uploads to CERS for missing data is complete, CalEPA will review the data in CERS and compare with data sated in the self-audit reports.

**Deficiency Progress Update 8:**

Enter CUPA Response Here

**Evaluation Team Response 8 [CalEPA]**

11.	DEFICIENCY: <b>CORRECTED</b>	CORRECTIVE ACTION: <b>COMPLETE</b>
	<p>The CUPA is not annually reviewing and updating the I&amp;E Plan. Additionally, the I&amp;E Plan has inaccurate or incomplete information or is missing required components.</p> <p>The plan has a revision date of March 2010.</p> <p>The following information in the I&amp;E Plan is either inaccurate or incomplete:</p> <ul style="list-style-type: none"><li>• There are many incorrect citations (Many HSC 6.95 citations are incorrect).</li></ul>	<p>By October 27, 2016, the CUPA will review, revise, and provide CalEPA with a copy of the I&amp;E Plan.</p> <p>(Completed and submitted revised I&amp;E Plan to CalEPA on 6/27/16)</p>

	<ul style="list-style-type: none"> <li>• Erroneous references to State Enforcement Response Policy when the policy is no longer valid.</li> <li>• Erroneous references to Annual Summary Reports 3 and 4 submittal requirements when both reports are no longer required.</li> <li>• Missing provisions for addressing complaints including, but not limited to, the receipt, investigation, enforcement, and closure of a complaint.</li> <li>• Pg. 5 – Outdated number of businesses under the “Aboveground Storage Tank Facilities.” Data is from 2006 and 2009. Also, “Aboveground Storage Tank Facilities” should include the word “petroleum” for clarity.</li> <li>• Pg. 6 – The mandated inspection frequency for “Aboveground Storage Tank Facilities” is incorrectly shown as “None.” The I&amp;E Plan should include the APSA inspection frequency.</li> <li>• Pg. 13 – Under the RTC section, APSA program is incorrectly shown as, “Not applicable. Referral to RWQCB.” RTC is applicable to the CUPA since the CUPA, not the Regional Water Quality Control Board (RWCQB), implements the APSA Program.</li> <li>• Pg. 28 – There are incorrect references to the 2001 California Fire Code (CFC) and 2002 Hayward Fire Code. The correct fire code reference is the 2013 CFC.</li> <li>• Pg. 36 – The matrix of enforcement options does not include the APSA Program. The CUPA enforces the APSA Program. Therefore, the matrix of enforcement options should include the APSA Program.</li> <li>• Pg. 37 – The following statement shows, “No enforcement is taken by the CUPA against aboveground storage tanks facilities. If the facility does not</li> </ul>	
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	<p>have an SPCC, the Hazardous Materials Office makes a referral to the Regional Board.” The CUPA, not the RWCQB, enforces the APSA Program. Therefore, the I&amp;E Plan should include enforcement options applicable to the APSA Program. Also, the Uniform Fire Code (UFC) is incorrectly referenced when the correct fire code reference is 2013 CFC.</p> <ul style="list-style-type: none"> <li>• Pg. 41 – Under Program-Specific Enforcement Violations for “SPCC Facilities,” the statement is shown, “No enforcement action is taken against a facility with violations of the Spill Prevention Control and Countermeasure Plan (SPCC). Referral is made to the appropriate Regional Board.” The CUPA, not the RWCQB, enforces the APSA Program. Therefore, the I&amp;E Plan should include enforcement options applicable to the APSA Program.</li> <li>• Appendix G – The second page of the UST inspection checklist for double-walled systems incorrectly references the UFC. The correct fire code reference is the 2013 CFC.</li> <li>• The APSA program inspection checklist is not included in the appendix of program inspection checklists.</li> <li>• Appendix N – The fire code inspection checklist incorrectly references the 2007 CFC. The correct fire code reference is the 2013 CFC.</li> <li>• Appendix O – The inspection report summary incorrectly references the UFC. The correct fire code reference is the 2013 CFC.</li> </ul> <p>Note: Before the initial evaluation report was completed, the CUPA provided CalEPA with a revised I&amp;E Plan. The state agencies will review the revised I&amp;E Plan and will provide feedback after CalEPA receives the</p>	
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	CUPA's Deficiency Progress Report 1 submission.	
<b>Deficiency Progress Update 1:</b> [The CUPA has reviewed the items needing updating as well as other items and has updated and submitted it "Inspection and Enforcement" Plan to CalEPA on 6/27/16.]		
<b>Evaluation Team Response 1 [CalEPA, Cal OES, DTSC, OSFM]:</b> <b>CalEPA:</b> The CUPA reviewed their I&E plan and addressed all of the items that needed to be revised. CalEPA considers this deficiency corrected.  <b>OSFM:</b> The CUPA's updated I&E plan has been reviewed. OSFM observes that APSA checklists have been included in Appendix M. OSFM considers their portion of this deficiency corrected.  The CUPA is encouraged to reference and consider utilizing the 2016 CUPA Forum Board set of four APSA checklists once published.		