

CERTIFIED UNIFIED PROGRAM AGENCY  
**Evaluation Progress Report 3**

**EVALUATION YEAR: 2018 REVIEW PERIOD: March 19 – April 3, 2018**

**ISSUANCE DATE: July 13, 2018**

**CUPA: Solano County Environmental Health**

**EVALUATION TEAM MEMBERS:**

<b>CalEPA Team Lead</b>	<b>DTSC</b>	<b>Cal OES</b>	<b>State Water Board</b>	<b>CAL FIRE - OSFM</b>
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**Deficiencies Pending: 2, 3, 4, 5, 6, 7**

**Deficiencies Corrected: 1, 7**

**This Update Report Submitted On: [January 24, 2019](#)**

**Next Update Report Due by: April 15, 2019**

To complete the evaluation process, CUPAs submit Evaluation Progress Reports to CalEPA that explain their progress towards correcting the identified deficiencies and incidental findings.

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

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The CUPA is required to submit an Evaluation Progress Report every 90 days from the receipt of the Evaluation Report, until all deficiencies and incidental findings have been acknowledged as corrected by the State Agencies.

Each Evaluation Progress Report must include a narrative stating the status of all deficiencies and incidental findings identified in the Final Summary of Findings Report.

Evaluation Progress Report submittal dates for the first year following the evaluation are as follows:

**Update 1: September 13, 2018**

**Update 2: January 3, 2019**

**Update 3: April 3, 2019**

**Update 4: July 3, 2019**

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

## 1. DEFICIENCY: **CORRECTED**

The CUPA did not consistently report APSA and HWG Program compliance, monitoring, and enforcement (CME) information to the California Environmental Reporting System (CERS).

A comparison of information in the CUPA's facility files, data management system, and CERS shows that CME data were not always reported consistently. For example:

- CERS ID 10475518: Above Ground Petroleum Storage Act (APSA) inspection was conducted on November 20, 2014. However, there is no APSA CME data reported in CERS for this facility.
- CERS ID 10443649: APSA inspection was conducted on June 8, 2017. However, there is no APSA CME data reported in CERS for this facility.
- CERS ID 10398250: APSA inspection was conducted on May 15, 2015. However, there is no APSA CME data reported in CERS for this facility.

The CUPA does not consistently use the specific violation code from the CERS Violation Library and instead a "General Use" violation rather than the specific violation from the CERS Violation Library. 259 out of 1429 (18%) of the violations are listed as "General" and "22 CCR Multiple Sections", Violation Type Number "3030." Examples include:

- CERS ID 10611730: inspection dated December 3, 2015.
- CERS ID 10456099: inspection dated September 15, 2015.
- CERS ID 10664155: inspection dated March 16, 2016.
- CERS ID 10459903: inspection dated April 15, 2016.

The CUPA stated during the Evaluation Exit Briefing that this issue has now been fixed. The CUPA indicated that they will be going back and correcting inspections that were coded incorrectly.

## **CORRECTIVE ACTION: COMPLETED**

By **Update 1** the CUPA will provide CalEPA with a plan to consistently report CME data to CERS. The plan will identify:

- Problem areas and solutions
- Timeframe for implementing solutions
- The number of facilities that the CUPA must report CME data for
- The expected completion date to correct this deficiency

## **Progress Update 1:**

**CalEPA:** Please refer to the Deficiency 3 CalEPA observation (comparing RTC data from the tracking spreadsheet that the CUPA submitted to what was found in CERS).

**DTSC response:** Based on a review of CME data on CERS on September 25, 2018, the CUPA has corrected this deficiency for the HWG program.

**OSFM response:** The CUPA has provided CME upload history and a plan to report CME data to CERS. The CUPA correctly reported the inspection information dated 11/20/2014 for CERS ID 10475518. The CUPA has yet to report CME information for the APSA inspection dated on 6/8/2017 for CERS ID 10443649, and inspection dated 5/15/15 for CERS ID 10398250. Please report CME information to CERS that have not been reported.

**Deficiency Progress Update 2:**

Solano County has attached RTC spreadsheet. Solano County CUPA verified CERS ID 10398250 has an APSA inspection for 05/15/2015 and CERS ID 10443649 has an APSA inspection dated 6/8/2017 uploaded to CERS.

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

**OSFM response:** OSFM considers this deficiency corrected. The CUPA correctly reported the APSA inspection information dated on 6/8/2017 for CERS ID 10443649 and the APSA inspection dated 5/15/15 for CERS ID 10398250.

**2. DEFICIENCY:**

The CUPA is not consistently pursuing all enforcement options when facilities are cited with violations.

From FY 2014/2015 through FY 2015/2016 the CUPA has reported 1389 total violations that have not returned to compliance and the CUPA has not elevated the violation classification or level of enforcement.

The CUPA has followed-up with some facilities through informal enforcement actions, by issuing multiple Notices to Comply 30 days after the inspection. However, 54 facilities, consisting of eight (8) Class I and 222 Class II open violations remain out of compliance and the CUPA has not pursued a graduated series of enforcement.

The following examples were observed in CERS:

- CERS ID 10638058: inspected on July 2, 2015 - one (1) Class I violation and no RTC documented or graduated series of enforcement initiated.
- CERS ID 10610998: was inspected on August 4, 2014 - seven (7) Class I violations and no RTC documented or graduated series of enforcement initiated.

**CORRECTIVE ACTION:**

By **Update 1**, the CUPA will provide CalEPA with a list of all facilities that have been cited with violations that have not returned to compliance and that may warrant a graduated series of enforcement. The list should include the following:

- Facility name;
- CERS ID number;
- A description of the enforcement options pursued to date;
- Current compliance status of the facility; and
- Return to compliance date (if available).

With each Deficiency Progress Report, the CUPA will provide CalEPA with an updated list on the progress towards implementing a graduated series of enforcement for each facility until all have been addressed. The CUPA will also include any additional facilities with violations that warrant a graduated series of enforcement since the previous Deficiency Progress Report.

**Deficiency Progress Update 1:**

[Solano County CUPA disagrees that we are not consistently pursuing formal enforcement on facilities without RTC dates. However, Solano County CUPA currently has a total of six compliance staff that are responsible all compliance activities associated with Unified Program facilities. Before pursuing a formal enforcement action, a “Peer Review” meeting must occur that includes applicable staff, the Supervisor, CUPA Manager, and County Counsel to discuss the case including the inspection records and due process documentation. Formal enforcement will only occur once both CUPA Manager and County Counsel concur.

However, in conjunction with Deficiency 3 (refer to excel spreadsheet mentioned in deficiency 3 update). Solano County CUPA will identify those facilities that remain out of compliance. For all facilities that remain out of compliance, Solano County CUPA will be reviewing previous compliance efforts, sending out Notice of Violations, or conducting subsequent inspections with escalated violations. The additional inspections and/or subsequent Notice of Violations will ensure each facility. The Notice of Violations will have language discussing that our review of their facility file/CERS data indicates that they are still not in compliance, listing previous inspections and any compliance notices/ NOVs, and giving them a compliance date. For facilities that do not Return to Compliance then escalated enforcement efforts will proceed including formal enforcement. The initial priority for formal enforcement will be those facilities that previously received Notices of Violations and remain out of compliance after our informal enforcement efforts. ]

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

CalEPA response: CalEPA appreciates the CUPA's further detail for how their enforcement program works. CalEPA will continue to refer to the RTC tracking spreadsheet, “Uncorrected RTC CERS InspectionListing.xlsx,” but the spreadsheet needs to be complete and include the bullet

points listed in the Corrective Action of this Deficiency's Update 1. This should be a list of long standing violations with little enforcement elevation, and/or long standing Class 1 and Class 2 where enforcement should be taken.

When looking closer at one of the examples listed in the deficiency the following was observed: CERS ID 10610998: reported 11 open violations with no RTC or action noted in the CUPA provided spreadsheet, with 6 Class 1 violations occurring on August 4, 2014. When looking further CERS shows that the CUPA had previously increased informal enforcement by citing prior Class 2 violations as Class 1, possibly demonstrating a lower tolerance for non-compliance. The CUPA has since reported 3 "other" inspection subsequently in 2016, but noted no additional violations while the facility had multiple open Class 1 violations. Finally, an inspection occurring May 15, 2017 indicating that the CUPA cited the facility for some of the same violations, this time as minor, while the previous Class 1 violations are still open from 2014. Additionally, there is no enforcement information in CERS regarding this facility. CalEPA is unable to observe that the CUPA is following their enforcement plan as described above in the update as enforcement efforts have deescalated without facility RTC of multiple longstanding Class I violations.

CalEPA will continue to follow this facility and other like this as it was featured in the deficiency as having Class I violations that have stayed open or have not been pursued for formal enforcement for a long period of time. The CUPA is encouraged to provide more information on this facility to demonstrate the efficacy of the CUPA's enforcement process, whether informal or formal.

When reviewing CERS CalEPA observed that the most recent AEO reported was for a civil referral to the DA occurring on April 4, 2017. CalEPA observed a total of 6 AEO reported in CERS during the evaluation period. CalEPA is aware that this may not represent all enforcement activities.

For the next Update:

Please provide an updated RTC tracking spreadsheet, including the required missing fields demonstrating that the CUPA is following up by sending NTC, failure to comply, NOV's, phone calls, re-inspections, AEO, etc.

Please provide any commentary on facilities the CUPA is/has considered/ing for formal enforcement and any determinations that were made. (recommended, If available)

For the narrative portion CalEPA recommends the CUPA update and provide the number of potential cases in the last 12 months that the CUPA has meet with the District Attorney or County Counsel for review in consideration of some formal enforcement action. Additionally, please provide any other relevant information CalEPA should consider to ensure that this deficiency is adequately addressed by the CUPA.

**Progress Update 2:**

Solano County has enclosed the RTC tracking spreadsheet (see attached)

Solano County CUPA has always recognized the need to pursue the continuum of inspections, follow-up inspections, informal enforcement efforts (NOV/ Violation Notices), and formal enforcement. will verify that all formal enforcement actions from January 1, 2013 through present are in are in CERS CME data. Solano County CUPA does not have dedicated staff who work assignment is to only prepare formal enforcement cases. All Hazardous Materials Staff are responsible for all aspects of the CME data for their assigned districts. Solano County continues to pursue formal enforcement. The formal enforcement cases Solano County has pursued in the past year are the following:

- Solano County has completed 4 AEO cases in consultation with County Counsel for CalARP violations, hazardous waste violations, and UST violations.
- Solano County performed informal enforcement by notifying two UST facilities that failure to comply will result in Red Tagging their UST systems and pursuing AEO
- Solano County is pursuing AEO with one UST facility
- Solano County is preparing AEO for one UST facility

Solano County CUPA is planning on preparing AEOs for six facilities that have not either annually updated in CERs. Solano County CUPA meets with Solano County Counsel before pursuing formal enforcement discuss facilities for which informal enforcement efforts has not been effective to date.

Solano County CUPA is pursuing automating Violation Notices for facilities without a RTC with SWEEPS Inc. to reduce staff time. The Supervisor is reviewing our formal enforcement process and is planning to discuss efficiencies with County Counsel and the CUPA Manager.

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

CalEPA would first like to acknowledge that the charging statement of this deficiency is not correctly articulated. It states that CalEPA requires the CUPA to pursue all forms of enforcement consistently; but should have been focused on the CUPA implementing a graduated series of enforcement. This is more clearly emphasized in the corrective action.

CalEPA appreciates the CUPA's update and further insight of their more recent enforcement activities. CalEPA acknowledges that the CUPA is pursuing formal and informal enforcement efforts at a higher frequency than reported in CERS. The generation of automatic notices for 'Notice to RTC' can be affective and CalEPA has observed this approach in other CUPA's. CalEPA looks forward to the CUPA establishing this system.

**CERS ID 10610998:** *"reported 11 open violations with no RTC or action noted in the CUPA provided spreadsheet, with 6 Class 1 violations occurring on August 4, 2014. When looking*

*further CERS shows that the CUPA had previously increased informal enforcement by citing prior Class 2 violations as Class 1, possibly demonstrating a lower tolerance for non-compliance. The CUPA has since reported 3 “other” inspection subsequently in 2016, but noted no additional violations while the facility had multiple open Class 1 violations. Finally, an inspection occurring May 15, 2017 indicating that the CUPA cited the facility for some of the same violations, this time as minor, while the previous Class 1 violations are still open from 2014. Additionally, there is no enforcement information in CERS regarding this facility. CalEPA is unable to observe that the CUPA is following their enforcement plan as described above in the update as enforcement efforts have deescalated without facility RTC of multiple longstanding Class I violations.”*

When following up, CalEPA observed that an inspection conducted on December 6, 2017 citing 4 more HMBP minor violations matching the previous open minor violations, which match the previous years old Class 1 violations. All violations RTC'd on May 29, 2018.

When reviewing “CME Outstanding Violations RTC.xlsx.” is quite forthcoming and in many places explain the CUPA's action regarding their efforts in follow up and RTC. Current data in CERS shows that 33 individual facilities were inspected for having 146 Class 1 or Class 2 violations that are still considered to be open. The CERS data used for these findings are attached. This reflects that the CUPA is making progress on pursuing these facilities. Please continue to provide the updated spreadsheet along with narrative response describing informant actions taken by the CUPA specifically regarding the graduation of enforcement.

### **Progress Update 3:**

E Solano CUPA continues to address RTCS and has sent out NOVS and completed 3 AEOs during this past quarter and have prepared and are preparing other AEOs on APSA , UST, and CalARP facilities. The CUPA has attached RTC spreadsheet NOV list and three completed formal enforcement actions. All this data will be uploaded to CERS by April 30, 2019.

### **Evaluation Team Response 3 [CalEPA]:**

CalEPA has reviewed the attached Excel spreadsheet “April15th CME Outstanding Violations RTC” and found that after consolidating all violations into facilities, that 447 facilities are documented by the CUPA to be operating out of compliance (427 in CERS). When looking primarily at the most delinquent violations (2013-2016) CERS reported that 272 unique facilities still have open violation from this time period. Of these, 31 facilities have open Class I or Class II violations, and formal enforcement has not been initiated. Approximately 90 Notice of Violations have been sent out to facilities with open violations. Of the 31 delinquent facilities from years 2013-2016, 8 facilities were sent such notices. CalEPA acknowledges that the CUPA has completed 3 AEOs in the last quarter.

CalEPA observes that more tracking is necessary to ensure progress is being made from an enforcement perspective.

Please see attached spreadsheets as one used from what the CUPA provided. The other was derived from CERS.

For the next progress report please provide an updated list of facilities with open violation that may warrant a further enforcement. Please provide information in a data column for each facility stating any enforcement action (formal or informal)

For the narrative portion CalEPA recommends the CUPA update and provide the number of potential cases in the last 12 months that the CUPA has meet with the District Attorney or County Counsel for review in consideration of some formal enforcement action. Additionally, please provide any other relevant information CalEPA should consider to ensure that this deficiency is adequately addressed by the CUPA.

**Progress Update 4:**

**CUPA ENTER RESPONSE HERE**

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

**AGENCY RESPONSE HERE**

**3. DEFICIENCY:**

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

Fiscal Year (FY) 2016/2017

- Hazardous Materials Business Plan (HMBP) Program – 770 out of 1079 (71%) violations have no reported RTC in CERS.
- California Accidental Release Prevention (CalARP) Program – 20 out of 21 (95%) violations have no reported RTC in CERS.
- Underground Storage Tank (UST) Program – 224 out of 247 (91%) violations have no reported RTC in CERS.
- APSA Program - 30 out of 42 (71%) violations have no documented RTC in CERS.
- HWG Program - 307 out of 344 (89%) violations have no documented RTC in CERS.

FY 2015/2016

- HMBP Program – 676 out of 1282 (53%) violations have no reported RTC in CERS.
- UST Program – 127 out of 230 (55%) violations have no reported RTC in CERS.
- APSA Program - 8 out of 16 (50%) violations have no documented RTC. Seven (7) out of 15 minor violations (47%) are without RTC in CERS.
- HWG Program: 271 out of 473 (57%) violations have no documented RTC in CERS.



#### FY 2014/2015

- APSA Program - 17 out of 51 (33%) violations have no documented RTC in CERS.
- CalARP Program – Five (5) out of eight (8) (63%) have no reported RTC in CERS.

The following facilities, with identified violations, have no RTC documented in CERS:

- CERS ID 10166329: inspected on December 21, 2016. Three (3) minor violations were cited and have no documented RTC.
- CERS ID 10399783: inspected on June 21, 2017. Two (2) minor violations were cited and have no documented RTC.
- CERS ID 10401088: inspected on February 28, 2017. Seven (7) minor violations were cited and have no documented RTC.
- CERS ID 10409599: inspected on December 25, 2014. 11 minor violations were cited and have no documented RTC.
- CERS ID 10423603: inspected on March 18, 2014. Six (6) minor violations were cited and have no documented RTC.
- CERS ID 10454269: inspected on June 25, 2014. Two (2) of the three (3) minor violations that were cited have no documented RTC.

#### **CORRECTIVE ACTION:**

By **Update 1**, the CUPA will provide CalEPA with a sortable spreadsheet of all facilities that have open violations. The CUPA will follow-up with the facilities listed in the provided spreadsheet and will prioritize follow-up RTC actions based on the level of hazard and severity of open violations. At minimum, for each facility, the spreadsheet will include:

- Facility name and address;
- CERS identification (ID) number;
- Facility ID number (if applicable);
- Inspection and violation dates;
- Scheduled RTC date;
- Actual RTC date;
- RTC qualifier; and
- Follow-up actions taken by the CUPA to obtain compliance, with timeframe.

By **Update 3**, and with each subsequent Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the spreadsheet. The CUPA will also provide CalEPA with a copy of RTC documentation for three (3) facilities requested by the DTSC and OSFM during the previous quarter.

**Deficiency Progress Update 1:**

[Solano County CUPA recognizes that Return to Compliance (RTC) dates have not been consistently uploaded to CERS. Prior to the recent CalEPA Audit and during the recent CalEPA Audit, Solano County CUPA reinforced business rules in memo on submission of Daily Activity Reports for the Solano County CUPA Staff. This memo states that staff are to record RTC dates on their Daily Activity Reports which is entered in SWEEPS, then uploaded into CERS. Additionally, to rectify this, CME data is uploaded on a quarterly basis to attempt to capture RTC data that has been entered within for facilities. However, since RTC dates are triggered by entry on to Daily Activity Reports the Solano County CUPA suspected that there are RTC dates that were likely not submitted to CERS. To address this deficiency, Solano County CUPA has attached an Excel Spreadsheet of those facilities without RTC dates with the date Range of 7/1/14 through 6/30/17 for all Unified Program Elements. Solano County CUPA will be performing file reviews, review of CERS, and SWEEPS and to verify whether facilities have Returned to Compliance. Solano County CUPA will be using an Extra Help Hazardous Materials Specialist (entry) to assist the Hazardous Materials Supervisor and Hazardous Materials Compliance Staff to address this deficiency.]

**Evaluation Team Response 1 [CalEPA, DTSC, OSFM]:**

Evaluation Team Response: CalEPA thanks the CUPA for investigating this issue. The CUPA has identified a problem with recording RTC data from DARS to CERS. The CUPA has focused on mitigating the problem by sending a memo out to personnel and entering data to CERS on a quarterly bases. The following was observed.

- From the time period July 1, 2014 through June 30, 2017 the CUPA is currently reporting from CERS, "Uncorrected RTC CERS InspectionListing.xlsx," that there are 783 uncorrected violation from 544 facilities. For comparison, as of October 9, 2018 a CERS report found 1968 violations without RTC with an additional 59 facilities, indicating continued discrepancies in CME reporting, specifically for the reporting of RTC (Please refer to attached file "Solano Update 1 CME RTC CERS comparison"). However, the CERS findings demonstrates that the CUPA has resolved about 20% (494) of open violations for this time period since the evaluation assessment.
- The memo "Completion of DARS, Data for CERS" indicates that it was revised on April 16, 2018, and so likely circulated sometime after. Given this information the CUPA would have only made one quarterly submission since circulating to personnel. The 494 violation found to be rectified is reassuring. CalEPA will provide an update on these findings for the next progress report response.
- The CUPA submitted to CalEPA, a sortable spreadsheet of all facilities that have open violations. A review of this spreadsheet shows that there are 298 HWG and 47 APSA tank violations with no RTC. However, the spreadsheet is missing the following requested information:

- Inspection dates;
- Scheduled RTC date;
- RTC qualifier; and
- Follow-up actions taken by the CUPA to obtain compliance, with timeframe.

For the next progress report please provide a complete and updated RTC tracking spreadsheet including the missing fields noted above. Please provide narrative comments on the CUPA's efforts as well as new information for how RTC CME data is different from CERS and what the CUPA provides.

### **Progress Update 2:**

To have RTC data updated in CME data of CERS, the Hazardous Materials Staff must enter corrected dates into their Daily Activity Reports that administrative staff enter into the Solano County data system that is currently SWEEPS. When the Hazardous Materials Staff does not enter in a corrected date or a code for Return to Compliance the SWEEPS data system does not have any record that a violation is corrected even when documentation is within Solano County files showing that violations are corrected. Solano County CUPA is currently working with SWEEPS Inc. to streamline this data management process for both the Scheduled RTC dates and the RTC dates to attempt to eliminate omissions and data entry errors for the future.

Solano County CUPA created a a RTC spreadsheet of missing RTC dates for period of this CUPA Audit. The Hazmat Staff reviewed and updated RTC information in their districts on a spreadsheet and updated CME data in CERS (See attached RTC).

The Hazmat Staff reviewed CME data for all Program Elements for the date range of the CUPA Program Audit. Hazardous Materials Staff will continue to follow-up on those facilities identified in this spreadsheet by either conducting follow-up inspections issuing NOVs and performing formal enforcement.

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

**CalEPA response:** Please refer to the CalEPA response in deficiency 2. Please continue to submit the RTC tracking spreadsheet indicating that regional hazmat inspectors/leads continue to focus on this list and make progress on gaining compliance for the facilities on that list, or determining whether to graduate enforcement. Please note these actives in the spreadsheet as you have been and leave a narrative response of the CUPA's experience over the last quarter in regards to facility RTC.

**OSFM response:** This deficiency is a work in progress. The CUPA has provided an APSA RTC tracking spreadsheet and copies of RTC documentation for two facilities. An APSA CME report was generated on 2/1/2019 and shows the following:

- FY 2014/2015 – 48 of 64 minor violations (75%) have achieved RTC.

- [FY 2015/2016](#) – 31 of 34 minor violations (91%) have achieved RTC.
- [FY 2016/2017](#) – 39 of 47 minor violations (83%) have achieved RTC.

On the next deficiency progress report, please provide RTC documentation for an additional APSA inspection that has achieved compliance within the three months.

**DTSC response:** Thank you for your RTC spreadsheet. We look forward to receiving updates to the RTC in Progress Report 3. By April 22, DTSC will provide you with the names of three facilities for RTC documentation to be submitted by Progress Update 3.

**Progress Update 3:**

Solano CUPA continues to address RTCS and has sent out NOVS and completed 3 AEOs during this past quarter with one being hazardous waste generator and two being UST facilities. Solano CUPA has attached the formal enforcement summaries that are now required by state regulations. The CUPA has attached RTC spreadsheet NOV list and three completed formal enforcement actions. All this data will be uploaded to CERS by April 30, 2019  
Enter response here.

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

CalEPA response: Please see CalEPA comments related to Deficiency 2. The CUPA has been actively pursuing RTC for compliance but may be experience slow progress. Please note any enforcement activities in the spreadsheet, as you have been, and leave a narrative response of the CUPA's experience over the last quarter in regards to facility RTC.

OSFM response: The CUPA has provided an RTC tracking spreadsheet. A review of the tracking spreadsheet and in CERS show that there are about 9 facilities cited for having no SPCC Plan (violation type 4010001) and has not achieved RTC yet. The CERS ID are provided below.

- CERS ID 10447114, cited on 4/28/2017
- CERS ID 10470898, cited on 2/24/2016
- CERS ID 10172755, cited on 12/1/2015
- CERS ID 10485421, cited on 7/30/2015
- CERS ID 10446190, cited on 8/20/2014
- CERS ID 10402306, cited on 4/29/2014
- CERS ID 10470898, cited on 2/27/2014
- CERS ID 10464100, cited on 10/22/2013
- CERS ID 10485421, cited on 7/3/2013

Please follow up with facilities cited for having no SPCC Plan and provide RTC documentation for an APSA inspection that has achieved compliance within the last three months.

DTSC response: DTSC has received the April 15 CME Outstanding Violations RTC spreadsheet. Please continue to submit the RTC tracking spreadsheet that indicates the progress being made on following up with facilities that have outstanding violations and the attempts made to return the facilities to compliance.

Please provide CalEPA with RTC documentation for the following three facilities:

- CERS ID# 10610998
- CERS ID# 10406314
- CERS ID# 10443571

**Progress Update 4:**

**CUPA ENTER RESPONSE HERE**

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

**AGENCY RESPONSE HERE**

**4. DEFICIENCY:**

The CUPA is not inspecting all Hazardous Waste Generators (HWG) facilities and Aboveground Petroleum Storage Act (APSA) tank facilities that store 10,000 gallons or more of petroleum at least once every three years.

The CUPA's Inspection and Enforcement (I&E) Plan states that the CUPA will inspect HWG facilities once every 3 years.

Based on a review of Annual Self-Audit Reports and CUPA-provided spreadsheets, the following was observed:

- 21 of the 54 (39%) APSA facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years.
- 218 out of 1651 (13%) HWG facilities have not been inspected within the last three years.
  - The CUPA inspected 380 out of 1651 HWG facilities in fiscal year 2016/2017.
  - The CUPA inspected 480 out of 1619 HWG facilities in fiscal year 2015/2016.
  - The CUPA inspected 573 out of 1615 HWG facilities in fiscal year 2014/2015.

Based on a review of 25 HWG facility files, four (4) HWGs have not inspected within the last three fiscal years.

- CERS ID 10132696: RCRA LQG, was last inspected on May 1, 2014.
- CERS ID 10478524: LQG, was last inspected on January 5, 2014.
- CERS ID 10407022: SQG, was last inspected on April 2, 2014.

### **CORRECTIVE ACTION:**

By **Update 1**, the CUPA will develop, implement and provide CalEPA with an action plan to ensure all HWG's, giving priority to RCRA LQGs, and APSA tank facilities, including those that store 10,000 gallons or more of petroleum, are inspected at least once every three years. The plan will include the following:

- A sortable HWG and APSA tank inspection tracking spreadsheet exported from their data management system or CERS that lists each 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;
- A proposed schedule to inspect those HWG and APSA tank facilities by **Update 4**. Inspection prioritization should consider the most delinquent inspections first, but the prioritization should also be based on a risk analysis of all facilities (i.e., for APSA: large volumes of petroleum or proximity to navigable water); and,
- Steps to ensure that all HWG and APSA tank facilities will be inspected at least once every three years and CME data are entered.

By **Update 2**, and with each subsequent 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.

By **Update 4**, the CUPA will have inspected each HWG and all APSA tank facilities, including those with 10,000 gallons or more of petroleum, at least once in the last three years.

### **Deficiency Progress Update 1:**

[Solano County CUPA previously identified this inspection backlog in Self Audit Reports. Solano County CUPA has two new staff, one staff person has recently been trained on APSA and the other staff will have to be trained before performing APSA inspections. The more inexperienced staff have yet to be trained on Large Quantity Generator's. Solano County CUPA had experienced staff who initially was involved in emergency response on May 5, 2017 at the Valero Refinery, and subsequently from May 6, 2017 through August 2017 conducted an investigation of the incident. From November 7, 2017 through May 5, 2018 two staff conducted a Program 4 Cal ARP inspection for at least three days a week. These Unified Program activities resulted in experienced staff not being able to conduct APSA and hazardous waste inspections that has resulted increasing the inspection backlog The Hazardous Materials Staff have begun addressing the backlog of APSA and hazardous waste generator inspections. Solano County CUPA staff have generated APSA and hazardous waste generator inspection due lists. Solano County CUPA

have begun addressing the inspection backlog. Solano County CUPA will continue to address the backlog of inspections ].

#### **Evaluation Team Response 1 [DTSC, OSFM]:**

CalEPA response: The CUPA has not complied with the Corrective Actions. By this update the CUPA should have developed a plan for addressing the issues identified which had kept the CUPA from meeting inspection frequency requirements. The CUPA mentioned that they have obtained new staff and have developed an inspection backlog list. That list should have been submitted to CalEPA as the sortable spreadsheet for the state agencies to use in review of the CUPAs progress. Please provide that list including the required data columns listed in the second part of this deficiency's Update 1 Corrective Action. Be advised that the inspection priority list should also be scheduled to have all facilities inspected on it by Update 4.

DTSC response: A review of Inspection and Enforcement Policy, table on page 2, the hazardous waste inspection frequency is listed as "At a minimum of every five (5) years." The CUPA has changed their inspection frequency for all hazardous waste generators from three (3) years to five years (5) in the updated Inspection and Enforcement Policy. This is acceptable so long as facilities that were scheduled to be inspected within three years are prioritized appropriately as fees charged to fund the associated inspections have been, or are currently being collected. Additionally, the CUPA will need to update their fee schedule to account for the reduced costs for less frequent inspections.

With your next progress report, please include a sortable HWG inspection tracking spreadsheet that includes facility name; Address; CERS ID number; Facility ID number (if applicable); and, last routine inspection date. Additionally a proposed schedule that includes prioritization and steps to ensure that HWGs that had been assigned a 3 year inspection frequency previously will still be inspected within three years with CME information

OSFM response: The CUPA provided an update on correcting this deficiency. Please register the staff member to the online APSA Basic Inspector training by following the instructions listed at [http://osfm.fire.ca.gov/cupa/apsa\\_BasicInspectorTraining](http://osfm.fire.ca.gov/cupa/apsa_BasicInspectorTraining). Please also submit an APSA tank inspection tracking spreadsheet which identifies facilities that have been inspected or facilities due for an APSA inspection in the next progress report.

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

Solano County CUPA evaluates and adjusts fees each year. Solano County CUPA has not established fees specifically for hazardous waste generators but combined the fees with HMBP facilities. The Hazardous Materials Supervisor understands that the CUPA Manager reviews all staff time each year to calibrate fees. All fees are reviewed by multiple individuals within the Resource Management Department, Solano County Counsel, and by Solano County Auditor every year for any changes in fees.

The Supervisor has directed staff to focus on delinquent APSA inspections at facilities 10,000 gallons and greater and hazardous waste generator inspections. Solano County CUPA has attached the priority inspection list for both APSA and hazardous waste generators

Solano County CUPA directed the Entry Hazardous Materials Specialist as part of his training plan to register for APSA Basic Inspector Training.

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

**DTSC response:** The CUPA has not made any progress to clear this deficiency for the HWG program. The CUPA did not submit an updated version of the HWG inspection tracking spreadsheet to show inspections that have occurred during the previous quarter.

**OSFM response:**

This deficiency is a work in progress. The CUPA provided an APSA tank inspection tracking spreadsheet from the CUPA's local database. Based on a review of the spreadsheet, 20 of the 55 (36%) APSA facilities that store 10,000 gallons or more of petroleum have not been inspected within the last three years. Please continue to inspect APSA facilities with 10,000 gallons or more of petroleum that are due for an inspection and provide an updated APSA tank inspection tracking spreadsheet on the next progress report.

**Progress Update 3:**

Solano County disagrees with DTSC and provided a spreadsheet last update. We are attaching 070119-123119 spread sheet again. Solano CUPA has review inventory of businesses and redistributed businesses since Solano CUPA staff who is Hazardous Materials Specialist I has satisfactorily completed APSA Training module. The Hazardous Materials Specialist I now assigned the Dixon area. Valero Benicia Refinery continues to occupy the time of two of Hazardous Materials Staff limiting there ability to perform other inspections. However, Solano CUPA continues to conduct hazardous waste inspections and APSA inspections. See attached spread sheet for APSA and Hazardous wastes inspections done from 01/01/19 through 03/31/19.

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

DTSC Response:

This deficiency is a work in progress. DTSC was provided two spreadsheets (Inspection hw and apsa.xlsx010119-033119) and (HAZWASTE Inspection 070118-123119). The first spreadsheet included CERS ID, name and date (presumably the date of inspection). The second spreadsheet included CERS ID and date (again, presumably the date of inspection). These two spreadsheets indicate that 268 HWG inspections were conducted from July 2018 to December 2018. However, the information provided did not meet the corrective action requirements, which were to provide:



- A sortable HWG and APSA tank inspection tracking spreadsheet exported from their data management system or CERS that lists each 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;

Two (2) HWGs have not been inspected within the last five years.

- CERS ID 10132696: RCRA LQG, was last inspected on May 1, 2014.
- CERS ID 10478524: LQG, was last inspected on January 5, 2014.

With the next progress report, please provide CalEPA with an updated spreadsheet to include the above information and a proposed schedule to inspect the remaining HWG facilities.

OSFM response: The CUPA provided an inspection tracking spreadsheet. Based on a review of the spreadsheet and CERS information, four APSA facilities that store 10,000 gallons or more of petroleum have been inspected in 2019. There are about 17 of the 55 (31%) APSA facilities that store 10,000 gallons or more of petroleum that have not been inspected within the last three years. Please continue to inspect APSA facilities with 10,000 gallons or more of petroleum that are due for an inspection.

#### **Progress Update 4:**

**CUPA ENTER RESPONSE HERE**

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

**AGENCY RESPONSE HERE**

### **5. DEFICIENCY:**

The CUPA is not consistently ensuring that all appropriate Underground Storage Tank (UST) related information in CERS is accurate and complete.

The following are examples:

- Vacuum, Pressure, and Hydrostatic (VPH) Systems identified with single-wall components when required to have double-wall components:
  - CERS ID 10448998: Tank ID 06-08, Piping/turbine containment and Vent piping containment sumps, and Under-Dispenser Containers (UDCs) identified as single wall
  - CERS ID 10169741: Tank IDs 4, 5 and 6, Piping/turbine containment identified as single wall
- UST systems installed after July 1, 2004 with Vent Piping Transition Sumps reported as "blank" or "none" when required:

- CERS ID 10165939: Tank IDs 1 and 2,
  - CERS ID 10400878: Tank IDs R-280 & R-284
- UST systems with double-wall pressurized piping identified without either Mechanical Line Leak Detector (MLLD) or Electronic Line Leak Detector (ELLD), excluding emergency generators:
  - CERS ID 10169735: Tank ID 1-4
  - CERS ID 10469866: Tank ID 1-3
  - CERS ID 10611835: Tank ID 2-3
- UST systems without installation dates listed:
  - CERS ID 10134955: Tank ID TI-T4
  - CERS ID 10475776: Tank ID 1-3
  - CERS ID 10403269: Tank ID 1-4
- UST systems reported as not having striker plates:
  - CERS ID 10339510: Tank ID 1-3
  - CERS ID 10396342: Tank ID 1-6
  - CERSID 10401517: Tank ID 1-5

Note: The examples provided above were identified during the CUPA evaluation and may not represent all instances of this deficiency.

Please reference the following CERS FAQs: “General Reporting Requirements for USTs”; “When to Issue a UST Operating Permit”; “Common CERS Reporting Errors”; “Setting Accepted Submittal Status”; and “Which Forms Require Uploading to CERS.” Please reference State Water Board correspondence dated November 29, 2016, “When to Review Underground Storage Tank Records.” The FAQs can be located at the following CalEPA website:

<https://cers.calepa.ca.gov/cers-tips-and-tricks/>

### **CORRECTIVE ACTION:**

By **Update 1**, the CUPA will revise and provide CalEPA with the Data Management Procedure, or other applicable procedure, to ensure the CUPA accepts accurate and complete UST information. The procedure will delineate the CUPA’s process for managing CERS UST submittals, including but not limited to:

- A process for reviewing and not accepting CERS submittals; AND
- A process for reviewing and accepting only accurate and complete CERS submittals; OR
- A process for reviewing and accepting submittals with minor errors:
  - A condition is set in CERS requiring the submittal to be corrected and resubmitted within a certain timeframe;
  - If the submittal is not corrected, personnel will change the submittal status from “accept” to “not accept.”

By **Update 2** the CUPA will, if necessary, amend the procedure, based on feedback from State Water Board and will submit the revisions to CalEPA.

By **Update 3**, the CUPA will provide training to CUPA staff and submit 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 training.

With respect to submittals already accepted in CERS, the CUPA will review UST related information and require accurate and complete submittals when the next submittal is made, but no later than the next annual UST facility compliance inspection.

**Deficiency Progress Update 1:**

[Solano County CUPA has revised the UST Routine Inspection and CUPA Documentation policies to address reviewing and rejecting deficient UST submittals. These policies are attached. Solano County CUPA staff will be assigned the UST facilities in their district that have deficient information to reject the submittal and work with the facility to revise the information so it can be accepted.]

**Evaluation Team Response 1 [State Water Board]:**

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

State Water Board acknowledges the CUPAs provision of the Inspection and Enforcement Plan: CUPA Inspection and Follow-up Procedures (HM-01-01), UST, Routine Inspection Procedures (HM-94-07), and CUPA Documentation including CERS Data (HM-99-03). Review of the procedures finds them acceptable.

As there are no required revisions to documentation, with the next progress update the CUPA may, if they choose, provide training to CUPA staff and submit 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 training. The CUPAs training will include the revised procedures which indicate CERS monitoring and construction information is reviewed and verified prior to acceptance by an ICC CA UST certified Inspector.

**Progress Update 2:**

Solano County CUPA conducted training as part of November 6, 2018 staff meeting. The meeting agenda and attendees is attached.

The Supervisor discussed that the review of UST information in CERS must be done only by ICC certified UST Inspectors. All Solano County CUPA Hazardous Materials Specialists that are permanent employees and the Hazardous Materials Supervisor are California UST Inspectors. Only the permanent Hazardous Materials Specialists that are California UST Inspectors will be assigned UST facilities to review in CERS. The Hazardous Materials Supervisor discussed the revisions of the following Policies and Procedures HM-01-01, HM 94-07, and HM 99-03. The Supervisor stressed the need to review all UST data entered by UST facilities critically and verify the data and verify with each facility's equipment matrix that is part of their UST Permit. The Supervisor discussed notifying each facility with deficient information that the submittal was being rejected by telephone and/or email and specify the data element that needed to be changed. The

Supervisor discussed that review of UST information in CERs must be done only by ICC certified UST Inspectors.

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

This deficiency is considered a work in progress.

State Water Board acknowledges the CUPA's provision of a meeting invitation to staff for staff training on several items including UST Information in CERS and the CUPA's discussion regarding the content of the training. State Water Board review of the provided information finds it acceptable.

Review of 33 motor vehicle facility submittals accepted subsequent to the November 6, 2018 training finds the CUPA is heading in the right direction. With the next progress update the State Water Board will review submittals accepted after February 1, 2019. During the original review 93 submittals were reviewed, with this review the number of accepted submittals was limited to 33, with one more review State Water Board will confirm the success of training.

**Progress Update 3:**

Solano CUPA continues to review UST Data in CERS by reviewing data while addressing the duplicate tanks that were identified by Cal EPA/ SWRCB and while reviewing CERs submittals. Solano CUPA staff have reviewed file documents to and UST permit matrices to verify UST data is correct. Solano County believes it has corrected this deficiency.

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

Enter response here.

**6. DEFICIENCY: CORRECTED**

The CUPA is not properly classifying hazardous waste generator (HWG) violations.

In some cases, the CUPA is citing Class I or II incorrectly as minor violations. The following are some examples:

- Exceedance of authorized accumulation time incorrectly cited as a minor violation. Maximum accumulation time may not be exceeded without a hazardous waste storage permit or grant of authorization from the DTSC. An economic benefit is gained by not disposing of waste within the authorized time. This does not meet the definition of minor violation as defined in Health and Safety Code, section 25404(a)(3). The following are examples:
  - CERS ID 10410112: LQG, inspection dated December 15, 2015
  - CERS ID 10442077: LQG, inspection dated January 25, 2015
  - CERS ID#10638745: inspection dated August 5, 2015.

Note: The examples provided above were identified during the CUPA evaluation and may not represent all instances of this deficiency.

**CORRECTIVE ACTION: COMPLETED**

By **Update 2**, the CUPA will train staff on the terms: minor, Class I, and Class II violations, as described in HSC, Chapter 6.5, Sections 25110.8.5, 25117.6 and CCR, Title 22, Section 66260.10. Also, the CUPA will review the violation classification video, violation classification guidance fact sheet, and train personnel on when and how to properly cite violations for each program element during routine compliance inspections. The CUPA will provide CalEPA with proof of training.

Violation Classification:

**Violation Classification Training Video 2014**

<https://www.youtube.com/watch?v=RB-5V6RfPH8> and

**Violation Classification Guidance Fact Sheet**

<https://www.calepa.ca.gov/files/2016/10/CUPA-Documents-Inspection-ViolationGuide.pdf>

By **Update 3**, the CUPA will provide CalEPA with a copy of three (3) inspection reports for facilities cited with hazardous waste violations that were inspected within the last six (6) months.

**Progress Update 3:**

Solano CUPA has attached three hazardous waste inspection reports for DTSC Review. Solano CUPA believes we have corrected this violation.

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

DTSC Response:

Thank you for providing three HWG inspection reports. DTSC considers this deficiency corrected.

**7. DEFICIENCY:**

The CUPA did not consistently include observations, factual basis, and corrective actions for each violation cited on hazardous waste generator (HWG) and Tiered Permitting (TP) inspection reports

The inspection reports do not provide sufficient details of the violations observed, such as:

- the type and amount of the improperly labelled containers;
- the type and amount of open containers (Note: containers are not required to be in secondary containment);
- the timeframe that the containers had been onsite in excess of allowed storage times;
- the information on tank and container inspections;
- the information on whether training was lacking or out of date; and
- the types of waste records that were not available for review.

The following are specific examples where the factual basis of the violation and the corrective actions to be taken are not sufficient or clear:

- CERS ID 10407022: HWG inspection report, dated April 2, 2014, indicated the following:
  - “Properly label hazardous waste drums with accumulation date. Add label to solvent container waste containers closed properly. Place drums in secondary containment,” and “Inspect containers weekly.”
- CERS ID 10624117: HWG inspection report, dated February 4, 2015, indicated the following:
  - “Properly label hazardous waste containers;”
  - “Properly close waste containers;”
  - “Ship containers for disposal on timely manner;”
  - “Inspect tanks on daily basis;”
  - “Inspect containers on weekly basis;”
  - “Properly label waste oil filters;” and
  - “Train employees for procedures for emergency fire, spill, evacuation on an annually basis.”
- CERS ID 10407445: HWG inspection report, dated November 18, 2016, indicated the following:
  - “Keep hazardous waste stored in properly labeled and closed containers;” and
  - “Keep waste records available onsite.”

#### **CORRECTIVE ACTION:**

By **Update 1**, the CUPA will provide report writing training to each CUPA inspector to ensure that all violations cited in HWG inspection reports include observations, factual basis, and corrective actions for all violations identified during inspection. The CUPA will provide CalEPA with verification that each inspector received training.

By **Update 2**, the CUPA will provide CalEPA with a copy of five (5) HWG (RCRA LQG, LQG, SQG) inspection reports, completed within the last three (3) months, that the CUPA has cited at least one HWG violation. Those reports will contain observations, factual basis, and corrective actions for each violation cited.

#### **Deficiency Progress Update 1:**

[Solano County CUPA has modified Hazardous Waste Tiered Treatment Policy to remind staff on violation classification. Because Solano County CUPA had staff turnover and because proper violation classification is important, we will perform refresher training on violation classification for all staff]

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

CalEPA response: Thank you for your submission. Nothing is due until the next update.

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

On November 6, 2018 Solano County CUPA conducted training on inspection report writing. The Supervisor reminded staff of the required elements of report writing. The Supervisor provided

each staff a copy of CalEPA Inspection Report Writing guidance and US EPA Quick Inspection Report guidance (attached). Solano County CUPA began using electronic inspection report templates for CUPA Program Elements. Solano County CUPA has enclosed 5 inspection reports for hazardous waste generators written in the new format (attached). Solano County CUPA will be implementing this electronic inspection for all CUPA Program Elements.

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

**DTSC Response 2: Thank you for the submittal of the five inspection reports. DTSC considers this deficiency corrected.**

DTSC considers this deficiency corrected. DTSC, however, would like to note the following:

The CUPA is at times still using the outdated checklist (Molecule Corp, CERS ID 10154753 and Benicia Marina, CERS ID 10397515) and is still requesting a drum inspection sheet, which is not required pursuant to Title 22 hazardous waste generator requirements (CERS ID 10154753).

Benicia Marina, CERS ID 10397515 inspection report noted “Dispose of waste batteries within one year period (however no mention was made if the batteries were universal waste or lead acid batteries – different rules would apply).