

JULY 21, 2015

**LOS ANGELES FIRE DEPARTMENT**



**RALPH M. TERRAZAS**  
FIRE CHIEF

July 8, 2015

BOARD OF FIRE COMMISSIONERS  
FILE NO. **15-072**

TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION FEEDBACK  
FOR JUNE 2015

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

**SUMMARY**

The California Environmental Protection Agency (CalEPA) along with the California Emergency Management Agency, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board, conducted a program evaluation, from July 29 through July 31, 2014, of the Los Angeles Fire Department's (LAFD) Certified Unified Program Agency (CUPA).

This evaluation is mandated by the Health and Safety Code, Chapter 6.121, to be conducted at least once every three years, in order to verify the Certified Program Agency's implementation of the Unified Program (UP).

Attached for your review are two documents:

1. A 4-page cover letter dated June 30, 2015 from Jim Bohon, Assistant Secretary for Local Program Coordination and Emergency Response, CalEPA, providing feedback on the LAFD's update dated April 23, 2015.
2. The 28-page Performance Improvement Agreement, Deficiency Progress Report 1 which lists each deficiency and the corrective action that was taken as well as the State's response to that action.

The Department will provide a progress report to the Board of Fire Commissioners at a future meeting.

**RECOMMENDATION**

That the Board:  
Receive and file this report.

Board report prepared by John N. Vidovich, Deputy Chief, Bureau of Fire Prevention and Public Safety.

Attachments



Edmund G. Brown Jr.  
*Governor*

Matthew Rodriguez  
*Secretary for Environmental Protection*

Certified Mail: 7014 1200 0001 5649 2992

June 30, 2015

Mr. John Vidovich  
Assistant Chief  
Los Angeles City Fire Department  
200 N Main Street, 16<sup>th</sup> Floor  
Los Angeles, California 90012

Dear Mr. Vidovich:

Thank you for submitting the first deficiency progress report for the 2014 evaluation of the City of Los Angeles Fire Department Certified Unified Program Agency (CUPA). California Environmental Protection Agency (CalEPA) received this deficiency progress report on April 23, 2014. The state evaluation team has reviewed the report, all attachments and additional documentation. The state responses are provided on the enclosed document.

Two deficiencies are considered to be corrected. However, for most deficiencies the CUPA's first deficiency progress report did not adequately address the deficiency or the required corrective actions as outlined in the Program Improvement Agreement. Specifically, the progress report failed to identify reasons for not meeting the annual Underground Storage Tank compliance inspection requirements, did not provide the required action plans for several deficiencies, and requests exemption from reporting compliance monitoring and enforcement (CME) data for Fiscal Year 2103/2014 due to inconsistent tracking of CME data by CUPA inspectors.

For the next update, CalEPA recommends that the CUPA focus on identifying the issues that are keeping the CUPA from meeting program standards. The CUPA should work towards correcting deficiencies, but also focus on long term strategies that will enable the CUPA to move forward and provide a sustainable mechanism to ensure a similar deficiency is not assessed during future evaluations.

The CUPA's implementation of Unified Program elements continues to be unsatisfactory.

Mr. John Vidovich  
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If you have any questions or need further assistance, please contact the CalEPA Evaluation Team Lead, Katrina Valerio, at (916) 323-2204 or John Paine, Manager, at (916) 327-5092.

Sincerely,

Original signed by Jim Bohon

Jim Bohon  
Assistant Secretary for Local Program Coordination and Emergency Response

Enclosure

cc sent via email

Mr. Kenneth S. Miller, Captain  
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Ms. Laura Fisher, Chief  
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Mr. Sean Farrow  
Environmental Scientist  
State Water Resources Control Board  
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Ms. Denise Gibson  
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Mr. John Vidovich  
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cc sent via email

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Mr. John Paine  
Unified Program Manager  
California Environmental Protection Agency

Mr. John Vidovich  
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cc sent via email

Ms. Katrina Valerio  
Unified Program Evaluation Team Lead  
California Environmental Protection Agency

City of Los Angeles Fire Department  
 CERTIFIED UNIFIED PROGRAM AGENCY  
**Program Improvement Agreement**  
**Deficiency Progress Report 1**

<b>EVALUATION DATE(S):</b>	July 29, 2014 – July 31, 2014				
<b>CUPA:</b>	City of Los Angeles Fire Department				
<b>Post-EVALUATION TEAM MEMBERS:</b>	<b>CalEPA Team Lead</b>	<b>DTSC</b>	<b>Cal OES</b>	<b>SWRCB</b>	<b>CAL FIRE - OSFM</b>
	Katrina Valerio	Asha Arora Ari Erman, Ph.D	Edward Newman	Laura Fisher Sean Farrow	Denise Gibson Jenna Yang
<b>Deficiency Pending</b>	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 19				
<b>Deficiencies Corrected</b>	15, 18 - these deficiencies do not require further Corrective Action.				
<b>Updates Received</b>	Update 1: April 23, 2015				
<b>Next Update Due by</b>	July 23, 2015				

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:

Jim Bohon  
 Assistant Secretary for Local Program Coordination and Emergency Response  
 California Environmental Protection Agency  
 P.O. Box 2815  
 Sacramento, CA 95812  
 Phone: (916) 322-7188  
 Fax: (916) 324-0908  
 E-mail: james.bohon@calepa.ca.gov

The CUPA is required to submit a **Deficiency Progress Report every 90 days** from the agreement approval date, until all deficiencies have been acknowledged as corrected.

Each **Deficiency Progress Report** must include a narrative describing the Corrective Actions on ***all*** deficiencies identified in the Summary of Findings evaluation report.

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

**Update 1: April 23, 2015**  
**Update 2: July 23, 2015**  
**Update 3: October 23, 2015**  
**Update 4: January 23, 2016**

1.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not inspecting all underground storage tanks (UST) facilities annually.</p> <ul style="list-style-type: none"> <li>Fiscal Year (FY) 12/13, the CUPA inspected 66% of its regulated facilities;</li> <li>FY 11/12, the CUPA inspected 69% of its regulated facilities;</li> <li>FY 10/11, the CUPA inspected 48% of its regulated facilities.</li> </ul> <p>This deficiency was also cited in 2009, but considered corrected during the update reporting process.</p>	<p>By April 23, 2015, the CUPA will perform a thorough analysis of the UST element of the unified program and conclude the reasons why the annual compliance inspection requirement is not being met. This analysis shall include discussion on existing staffing resources and how many inspections each inspector is capable of conducting annually. This analysis should be submitted to CalEPA with a plan for addressing all the reasons why the annual compliance inspections are not being met, and how the annual compliance inspection frequency will be met by October 23, 2015.</p> <p>By April 23, 2015, the CUPA shall identify those USTs that have not been inspected in the last year or for multiple years, and prioritize those inspections to be completed prior to any other annual compliance inspection. By July 23, 2015, the CUPA shall inspect those USTs that have not been inspected in the last year or for multiple years.</p>

#### Deficiency Progress Update 1:

CUPA has performed a thorough analysis of the UST element of the unified program to determine needed resources to meet the annual compliance inspection frequency.

The survey to estimate inspection time, including documents review and follow up for all facility types was distributed to all ICC certified inspectors and collected. The data was referred to statistician for required analysis and the "UST Inspection Workload Analysis" was created (Attachment 1). CUPA is in a process of implementing the report findings and right-sizing the current staffing levels.

CUPA has identified 581 UST's facilities that have not been inspected in the last year or multiple years and prioritized the annual compliance inspections for these overdue facilities.

The following action items were taken by the Fire Marshal in an effort to move CUPA and specifically this deficiency towards 100% compliance.

- A data "cleanup" was conducted to ensure accurate metrics
- In March 2015 four members were returned to full duty, transferred into, or detailed for a period of time to CUPA with an emphasis on UST inspections.
- Five members assigned to CUPA and six total passed a "pencil paper" ICC Exam administered on March 31st. This raises our number of ICC inspectors to 11 which have an immediate positive impact on our inspection totals.

#### Evaluation Team Response:

The CUPA has not fully complied with the corrective action.

The correction for this deficiency requires the CUPA to:

- 1) perform a thorough analysis of the UST element of the unified program and conclude the reasons why the annual compliance inspection requirement is not being met,
- 2) provide a discussion on existing staffing resources and how many inspections each inspector is capable of conducting annually,
- 3) outline the reasons why the annual compliance inspections are not being met,
- 4) and how the CUPA will meet the compliance inspection frequency by October 23, 2015.

The UST Inspection Workload Analysis for the LAFD CUPA Unit provided by the CUPA provides a statistical analysis of staff activities, but draws no conclusions, nor does it address the ultimate correction of the deficiency.

The CUPA has stated that 581 identified USTs have not been inspected in the last year or multiple years and prioritized the annual compliance inspections for these overdue facilities.

State Water Board notes the CUPA's efforts to make UST training available to CUPA staff, resulting in the addition of six (6) ICC certified staff to the CUPA Unit.

The State Water Board finds the CUPA's submittal for Deficiency 1 unacceptable. State Water Board's UST Unit Chief Laura S. Fisher, met with Chief Vidovich on May 11, 2015 and again with Captain Miller on May 12, 2015 to verbally discuss this unacceptable submittal and provided further direction on how the CUPA can improve and satisfy the intent of the corrective action.

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

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

1. a revised staffing and resource analysis which includes the criteria outlined in the Corrective Action, and
2. a list of 581 USTs referenced in CUPA Deficiency Progress Update 1 that have not been inspected in the last year or multiple years so as to verify completion of Corrective Action.

2.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not requiring facilities to submit UST testing and leak detection documents as required by Chapter 6.7 of the Health and Safety Code (Statute) and Title 23, Chapter 16 of the California Code of Regulations (Regulation).</p> <p>The following documents, which are required to be submitted within 30 days of testing, were not found in facility files, California Environmental Reporting System (CERS), or Envision.</p> <ul style="list-style-type: none"> <li>• Secondary containment testing;</li> <li>• Tank and line integrity tests;</li> </ul>	<p>From this point forward, in accordance with Statute and Regulation, the CUPA will require owners and operators to submit the appropriate UST testing and leak detection documents. In accordance with Statute and Regulation, the CUPA will also require owners and operators to comply with timely submittal of these documents.</p> <p>By April 23, 2015, the CUPA will develop outreach program materials and submit them to CalEPA for approval. In the submittal to CalEPA, the CUPA will outline how and when it will provide the outreach materials to the regulated community (both owners/operators and testers). The outreach materials must explain the requirement to submit the appropriate UST testing and leak detection documents in the</p>



<ul style="list-style-type: none"> <li>• Monitoring certifications;</li> <li>• ELD certifications.</li> </ul> <p>Twenty-eight facility files were reviewed by SWRCB and the file numbers were provided to the CUPA in the preliminary summary of findings.</p> <p>Interviews with CUPA staff confirmed that the CUPA does not actively require appropriate testing and leak detection documents to be submitted, or to be submitted within the 30 day timeframe.</p>	<p>timeframe required by Statute and Regulation.</p> <p>By July 23, 2015, the CUPA will have completed the distribution of the outreach materials so that the regulated community is notified of the requirements to submit appropriate UST testing and leak detection documents. The CUPA shall send CalEPA a final copy of the outreach program materials and a list of businesses the materials were sent to.</p> <p>This Deficiency will be considered corrected once there is consistent documentation over a one-year period that shows the appropriate documents are being submitted, submitted in a timely manner, reviewed by International Code Council (ICC) certified staff, and retained by the CUPA.</p>
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#### **Deficiency Progress Update 1:**

On January 15, 2015, an outreach letter was sent to all UST facilities owners/operators regarding CERS reporting requirements and other required documentation:

“The following documents are required to be submitted to CUPA within 30 day so testing/inspection:

- Monitoring System Annual Certification
- Spill Bucket Testing Report
- Secondary Containment Testing Report
- Tank Integrity Test Report
- Line Integrity Test Report
- Enhanced Leak Detection Test Report
- Temporary Closure Tank Liquid Sampling Results
- Unauthorized Release Report (within five working days).”

Prior to mass mailing, the outreach letter (Attachment 2) was sent to CalEPA for review and the comments were taken into consideration in the final letter.

Since January 15, 2015, the 699 UST CERS submittals were received, out of 2,805; as of 4/16/2015.

#### **Evaluation Team Response:**

The CUPA has not complied with the corrective action.

The Corrective Action requires the CUPA prepare and submit an outline of how and when it will provide the outreach materials to the regulated community. While the CUPA did provide CalEPA with one (1) letter to be used for outreach program materials, and CUPA Deficiency Progress Update 1 indicates this letter was mass mailed, an outline of how and when outreach materials would be used was not submitted to CalEPA.

The intent of the outline was for the State Water Board to evaluate the materials and how they would be used that would bring thousands of businesses and testers into compliance with a regulatory requirement that had been over looked by CUPA for many years. The single letter distributed by the CUPA is not

commensurate for this task. Further, the CUPA states that the letter was sent to UST facility owners/operators. The State Water Board identifies above that testers should be included in distribution of outreach materials. The CUPA does not identify if this letter is maintained on the CUPA's website or available in any other languages or if additional types of outreach materials will be developed and distributed; these are topics that State Water Board would be looking for in the outline requested above.

The statement in CUPA Deficiency Progress Update 1 "Since January 15, 2015, 699 UST CERS submittals were received, out of 2,805" provides little value in the State Water Board's assessment of document submittals. UST CERS submittals include hundreds of variable submittals that go beyond, testing documents. It's unknown if the CUPA has queried out just testing documents, for making such a statement.

Additionally, the CUPA's update/attachment does not address specific segments outlined in the Corrective Action. Specifically, the requirement that items are "submitted in a timely manner, reviewed by International Code Council (ICC) certified staff, and retained by the CUPA" is not addressed in the CUPA Deficiency Progress Update 1, nor are they included in the "written direction and procedures" in the Corrective Action for Deficiency 3. SWRCB is therefore unable to comment/elaborate on whether these actions are being implemented by the CUPA.

The State Water Board finds the CUPA's submittal for Deficiency 2 unacceptable. State Water Board's UST Unit Chief Laura S. Fisher, met with Chief Vidovich on May 11, 2015 and again with Captain Miller on May 12, 2015 to verbally discuss this unacceptable submittal and provided further direction.

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

1. Within ten (10) days of receipt of Evaluator Team Response please clarify the CUPA statement "Since January 15, 2015, the 699 UST CERS submittals were received, out of 2,805", and how those numbers were obtained.
2. Within thirty (30) days of receipt of Evaluator Team Response please provide, prepare and submit an outline of how and when it will provide the outreach materials to the regulated community that is commensurable for the task at hand.
3. Within thirty (30) days of receipt of Evaluator Team Response please identify the policies and procedures for CUPA review of testing documents for timeliness, the review is completed by ICC Certified staff, and records retained by the CUPA. These policies and procedures should be consistent with the materials for Corrective Action 3 although may be submitted separately.

3. DEFICIENCY:	CORRECTIVE ACTION:
<p>The CUPA is not preparing an annual compliance inspection report for every UST inspection.</p> <p>The CUPA could not produce annual compliance inspection reports for all UST facilities reviewed by SWRCB.</p>	<p>Beginning with the first quarterly progress report due April 23, 2015, and each quarterly progress report thereafter, the CUPA will provide copies of the previous quarter's UST annual compliance inspection reports. This reporting will continue until this deficiency is corrected.</p> <p>Clear written direction and procedures for managing UST inspections from start to finish, including electronic data and hard copy paperwork, as well as the identification of tools and resources to conduct adequate inspections are needed to maintain consistent UST inspection practices.</p>

		<p>Therefore, by April 23, 2015, the CUPA will develop and submit to CalEPA procedures for the management of inspection activities that specifically outline the roles of inspectors, office staff, and management.</p> <p>A few of noticeably absent CUPA policies and procedures for managing inspections observed during the evaluation, which should be included in this document, include;</p> <ul style="list-style-type: none"> <li>• the deadline for preparation of the annual compliance inspection report,</li> <li>• the requirements for facility record keeping and document retention,</li> <li>• the requirements for review and follow up of submitted testing reports,</li> <li>• how to conduct inspections in those instances when staff can and cannot witness annual monitoring certifications,</li> <li>• the requirements for the renewal and issuance of operating permits.</li> </ul> <p>All policies and procedures shall be in conformance with LG 159.</p> <p>By May 23, 2015, CalEPA will have the CUPA's UST inspection procedures reviewed and provide feedback to the CUPA.</p> <p>By June 23, 2015, the CUPA will make necessary amendments if needed to these procedures and submit to CalEPA for review and approval.</p> <p>By July 23, 2015, the CUPA will incorporate these policies and procedures into its Inspection &amp; Enforcement Plan and begin implementation.</p> <p>By September 30, 2015, the CUPA will conduct its self-audit and submit the self-audit to CalEPA addressing the status of implementation of this Corrective Action and identify if any changes are needed.</p> <p>This Deficiency will be considered corrected once established policies and procedures are in place and UST inspection reports are shown to be consistently prepared for all inspections over a one-year period.</p>
		<p><b>Deficiency Progress Update 1:</b></p>

CUPA has reorganized the inspection checklist to assist Inspectors in conducting complete inspections. Inspection Procedures have been developed to manager the inspection activities and to provide consistent inspection practices.

Envision Connect Remote (ECR) went live on 1/28/2015 to facilitate preparation of inspection reports and providing them to owners/operators on the day of inspection.

Attachment 3 provides copies of UST annual compliance inspection reports for January 1, 2015, through March 31, 2015.

Attachment 11 contains Management of Inspection Activities.

**Evaluation Team Response:**

The CUPA has not complied with the corrective action.

The Corrective Action requires the CUPA to provide copies of the previous quarter's UST annual compliance inspection reports. The statement above indicates that the CUPA provided copies of UST annual compliance inspection reports for January 1, 2015 through March 31, 2015 as required; however, attachment three (3) provides only a small sample of UST annual compliance inspection reports with a statement that additional reports are available upon request. Pursuant to the corrective action, the CUPA is required to provide copies of the previous quarter's UST annual compliance inspection reports.

The Corrective Action also requires the CUPA to prepare clear written direction and procedures for managing UST inspections from start to finish, including electronic data and hard copy paperwork, as well as the identification of tools and resources to conduct adequate inspections that are needed to maintain consistent UST inspection practices. The CUPA is asked to specifically outline the roles of inspectors, office staff, and management, and to create policies and procedures for managing actions such as, the deadline for preparation of the UST annual compliance inspection report, the requirements for facility record keeping and document retention, the requirements for review and follow up of submitted testing reports, how to conduct inspections in those instances when staff can and cannot witness annual monitoring certifications, and the requirements for the renewal and issuance of operating permits. The LAFD CUPA Inspection Procedures document does not contain the required information outlined in the Corrective Action. The submittal simply reiterates the inspection checklist and lists field equipment.

The State Water Board is unable to conduct a review of UST annual compliance inspection reports to determine if inspections are conducted properly, as the CUPA did not supply the documentation required pursuant to the corrective action. State Water Board will begin to conduct such review once all UST annual compliance inspection reports are received.

The State Water Board finds the CUPA's submittal for Deficiency 3 unacceptable. This Deficiency and Corrective Action was discussed in great detail with Chief Vidovich and Captain Miller on February 26, 2015 during the review of the PIA with State Water Board's UST Unit Chief Laura S. Fisher. State Water Board's UST Unit Chief Laura S. Fisher, met with Chief Vidovich on May 11, 2015 and again with Captain Miller on May 12, 2015 to verbally discuss this unacceptable submittal and provided further direction on how the CUPA can improve and satisfy the intent of the corrective action. The discussions focused on the intent and purpose of these written procedures, which are; rebuild the UST element of the Unified Program, provide clear direction,

provide consistency, keep the momentum up during the rotation of staff, captains, and chief's, and educate newly appointed/rotated staff, captains and chiefs.

**Action Plan for the CUPA:**

1. Upon immediate receipt of Evaluator Team Response the CUPA comply with the corrective action and provide CalEPA with copies of all UST annual compliance inspection reports conducted from January 1, 2015 through March 31, 2015. The CUPA will continue to send all, not a cross-section, UST annual compliance inspection reports until this deficiency is considered corrected.
2. Within thirty (30) days of receipt of Evaluator Team Response the CUPA will provide CalEPA with the clear written direction and procedures for managing UST inspections as outlined in Corrective Action.

4.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not collecting, tracking or accurately reporting SOC information on a semi-annual basis.</p> <p>The CUPA has received letters from SWRCB the last two (2) reporting periods because of late submittals.</p>	<p>From this point forward, the CUPA will report its SOC information to SWRCB within the given time period.</p> <p>The next report period for SOC information is due March 1, 2015.</p> <p>This deficiency will be considered corrected once the CUPA has successfully submitted semi-annual SOC reports on time for a one-year period.</p>

**Deficiency Progress Update 1:**

The software upgrade (ECR) and the revised checklist are now linked to provide an accurate SOC information through improved reporting and tracking system.

The March 1, 2015, due date for Report #6 was not met due to unavailability of staff at that time.

**Evaluation Team Response:**

The CUPA has not complied with the corrective action.

The State Water Board received the CUPA's semi-annual SOC report on March 4, 2015, The information on the report appear to be accurate, but were three (3) days late. Late submittals are not acceptable, and the CUPA is provided 60 days' notice of the upcoming deadline. As per the Corrective Action, this deficiency will be considered corrected once the CUPA has successfully submitted semi-annual SOC reports on time for a one-year period.

**Action Plan for the CUPA:**

1. The next semi-annual SOC report to the State Water Board is due by September 1, 2015 for the period of January through June 2015. The State Water Board will send out a letter approximately July 1, 2015 reminding CUPA's that the January through June 2015 semi-annual reports are due by September 1, 2015.

5.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The annual UST compliance inspection is not always conducted in accordance with the requirements set forth in Statute or</p>	<p>From this point forward, all annual UST compliance inspections shall be conducted in accordance with Statute and Regulation as explained in Local Guidance Letter (LG)</p>

<p>Regulation.</p> <p>File review and LA City Fire staff interviews indicate that staff is not always onsite to witness all aspects of the annual monitoring certification. When staff are not present during the annual monitoring certification staff fail to: (1) review the associated annual monitoring certificates which identify functionality testing, annual spill bucket testing, and/or secondary containment tests and note failures on the UST annual compliance inspection report, and (2) inspect the required subsurface elements of the UST system, as inspectors don't have access.</p>	<p>159. The CUPA will develop and submit to CalEPA procedures consistent with the description in LG 159 to implement the law. These policies and procedures are to be added to the document prepared for the Corrective Actions of Deficiency 3. For that reason; submittals, review, implementation, and self-audit time frames shall be the same as, and on the same timeline as, Deficiency 3.</p> <p>Using the annual inspection reports submitted quarterly under Deficiency 3 the SWRCB will randomly select UST inspection reports to review and request the CUPA to submit supporting documentation to determine whether or not the UST annual compliance inspections are being properly conducted. This review will continue until the deficiency is corrected.</p> <p>This Deficiency will be considered corrected when annual UST compliance inspections are consistently conducted in accordance with Statute and Regulation for a one-year period.</p>
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#### **Deficiency Progress Update 1:**

CUPA has reorganized the inspection checklist to assist Inspectors in conducting complete inspections. Inspection Procedures, consistent with LG 159 have been developed to manager the inspection activities and to provide consistent inspection practices (Attachment 11).

Envision Connect Remote (ECR) went live on 1/28/2015 to facilitate preparation of inspection reports and provide them to owners/operators on the day of inspection.

#### **Evaluation Team Response:**

The CUPA has not complied with the corrective action.

The Corrective Action is to develop and submit to CalEPA CUPA inspection procedures consistent with the description of LG 159. These policies and procedures are to be added to the document prepared for the Corrective Action associated with Deficiency 3. The submitted Inspection Procedures simply reiterates the inspection checklist and lists field equipment.

The State Water Board finds the CUPA's submittal for Deficiency 5 unacceptable. This deficiency and correction was discussed in great detail with Chief Vidovich and Captain Miller on February 26, 2015 during the review of the PIA with State Water Board's UST Unit Chief Laura S. Fisher. State Water Board's UST Unit Chief Laura S. Fisher, met with Chief Vidovich on May 11, 2015 and again with Captain Miller on May 12, 2015 to verbally discuss this unacceptable submittal and provided further direction on how the CUPA can improve and satisfy the intent of the corrective action. The discussions focused on the intent and purpose of these written procedures which are; rebuild the UST element of the Unified Program, provide clear direction, provide consistency, keep momentum of program implementation during the rotation of staff, captains, and chief's, and educate newly appointed/rotated staff, captains and chiefs. As stated above, specifically this

Corrective Action is to clarify the CUPA's policies and procedures on how inspections will be conducted in compliance with LG 159.

The State Water Board takes note of the progress made with ECR and improvements made to UST annual compliance inspection reports. However, the State Water Board is unable to conduct a review of UST annual compliance inspection reports to determine if inspections are conducted properly, as the CUPA did not supply the documentation required pursuant to the corrective action. State Water Board will begin to conduct such review once all UST annual compliance inspection reports are received.

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

1. Upon immediate receipt of Evaluator Team Response, the CUPA will provide CalEPA with copies of all UST annual compliance inspection reports conducted from January 1, 2015 through March 31, 2015. The CUPA will continue to send all, not a cross-section, UST annual compliance inspection reports until this deficiency is considered corrected.
2. Within thirty (30) days of receipt of Evaluator Team Response, the CUPA will provide CalEPA with the CUPA inspection procedures as outlined in Corrective Action.

6.	<b>DEFICIENCY:</b>	<b>CORRECTIVE ACTION:</b>
	<p>The CUPA is not fully implementing its Inspection and Enforcement (I &amp; E) Plan. In many cases, CUPA inspectors are not completing an inspection report after each inspection and leaving a copy with the facility operator. CalEPA, Cal OES, and the SWRCB have observed that many facility files did not contain current inspection reports.</p> <p>The CUPA has recently moved from using a data entry inspection form summarizing inspections to issuing an inspection report to facilities. Due to the CUPA's low inspection frequency, most inspections reviewed contained only the data entry form and no inspection report clearly demonstrating factual basis of violations or observations.</p> <p>The CUPA appears to be beginning to remediate this deficiency.</p>	<p>Effective immediately, the CUPA will document all inspections using an inspection report for each program element.</p> <p>By April 23, 2015, the CUPA will provide to CalEPA a list of facilities that were inspected the first and second quarter of FY 2014/2015. The CUPA shall continue to submit quarterly lists until it is uploading its inspections to CERS. State evaluators will review the lists and will request copies of inspection reports from the lists, not otherwise provided under Deficiency 3.</p> <p>The CUPA will provide quarterly updates of its progress towards ensuring inspection reports are completed after each inspection until this deficiency is corrected. The deficiency will be considered corrected when all the state evaluators have agreed that the inspection reports are being completed. The state evaluators may perform an in-person review of the CUPA's records prior determining this deficiency is corrected.</p>

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

ECR went live on 1/28/2015 to facilitate preparation of inspection reports and providing them to owners on the day of inspection. The inspection reports are now being completed for all Program Elements.

ECR is the wireless software that handles inspection compliance, creates violations, as well as synchronizes with EC to provide a seamless transition from field data to server data. Inspection reports are created on site; exported to pdf format and either e-mailed or printed utilizing mobile printers.



Attachment 5 contains a list of facilities in the first and second quarter of FY 2014/2015 (July 2014 – December 2014).

**Evaluation Team Responses:**

CalEPA

The CUPA has complied with the corrective action and submitted a list of inspected facilities. The corrective action requires the CUPA to submit quarterly lists until it is uploading inspections to CERS.

Based on the list submitted by the CUPA pursuant to the corrective action, CalEPA requests inspection reports for the following facilities. Please limit the reports to inspections conducted within the last 12 months, but do include reports for each applicable program element.

- FA0012281
- FA0001785
- FA0007018
- FA0003243
- FA0029462
- FA0003519

CalEPA has briefly reviewed inspection reports submitted in response to other deficiencies. The CUPA is on the right track and appears to have adopted checklists/inspection reports for each program element rather than preparing a single data entry instruction form (DEIF), which had previously represented the occurrence of an inspection.

SWRCB

In future quarters the State Water Board will perform review of the CUPA's records to determine progress and to determine when this deficiency is considered corrected.

Cal OES

Perusal of Attachment #5 reveals approximately 990 total inspections for first half of FY 2014/2015. Of these, about 450 were identifiable as business plan inspections. In CERS, about 285 business plan inspections were identified since 1/28/2015, the rollout date of ECR. Extrapolating to the end of this month, that's about 342 per half year, or about 6% per year. The CUPA is starting to make some progress, however, Cal OES recommends that more effort be expended on the inspections of business plan facilities. Please continue reporting your progress with the next quarterly update.



7.	<b>DEFICIENCY:</b>	<b>CORRECTIVE ACTION:</b>
	<p>The CUPA is issuing UST operating permits to facilities that are not in compliance.</p> <p>File review indicates that UST inspectors in many cases are not reviewing annual monitoring certifications, secondary containment testing reports, or other testing and leak detection records. These testing reports and records often contain testing failures or leak test results that result in facility non-compliance, as well as violations that would prohibit the UST operating permit from being issued. The CUPAs failure to conduct this proper document review resulted in UST operating permits being issued to facilities that are not in compliance.</p>	<p>From this point forward, the CUPA will only issue UST operating permits to facilities that are in compliance with Statute and Regulations.</p> <p>By April 23, 2015, the CUPA will develop and submit to CalEPA policies and procedures to verify UST compliance with Statute and Regulations before issuing the permit to operate. These policies and procedures are to be added to the document prepared for the Corrective Actions of Deficiency 3. For that reason, submittal, review, implementation, and self-audit time frames shall be the same as and on the same timeline as Deficiency 3.</p> <p>Thirty days after the next UST operating permit issuance cycle the SWRCB will randomly select 30 UST facilities from CERS and provide the list to the CUPA. The CUPA will then submit to CalEPA copies of the facility files so that SWRCB can review and determine that UST operating permits are being issued to facilities that are in compliance.</p> <p>This Deficiency will be considered corrected after one successful permitting cycle where the CUPA has withheld the issuance of operating permits for facilities not in compliance or properly found all facilities to be in compliance.</p>
<b>Deficiency Progress Update 1:</b>		
<p>Management Information Services and Decade Software developed a script to not only flag the facilities with violations but to ensure that a permit is not generated nor issued to non-compliant facilities. Please see Attachment 14 for Billing and Collections Process and Procedures dated 6/10/2013, to be updated with current workflows.</p> <p>Also with the ECR roll out and inspectors generating the NOV's directly through the ECR, CUPA has a better method identifying the facilities with open violations as well as following-up to either clear the violations and issue the permits or take further enforcement actions, if necessary.</p>		
<b>Evaluation Team Response:</b>		
<p>The CUPA has not complied with the corrective action.</p> <p>The Corrective Action states that the CUPA is to develop and submit to CalEPA policies and procedures to verify UST compliance with Statute and Regulations before issuing the permit to operate. These policies and procedures are to be added to the document prepared for the Corrective Actions of Deficiency 3. The noted Billing and Collections Process and Procedures do not cover the corrective action. Deficiency 3 submittal has been identified as unacceptable, and it does not include the requested information for Deficiency 7.</p>		

Once in context with the materials for Deficiency 3, State Water Board Staff can evaluate the CUPA submittal.

State Water Board's UST Unit Chief Laura S. Fisher, met with Chief Vidovich on May 11, 2015 and again with Captain Miller on May 12, 2015 to verbally discuss this unacceptable submittal and provided further direction on how the CUPA can improve and satisfy the intent of the corrective action.

The State Water Board finds the CUPA's submittal for Deficiency 7 unacceptable.

**Action Plan for the CUPA:**

1. Within thirty (30) days of receipt of Evaluator Team Response, the CUPA will provide CalEPA with the policies and procedures to verify UST compliance with Statute and Regulations before issuing the permit to operate as outlined in the Corrective Action.

8.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not requiring UST facilities with testing and/or leak detection failures documented as part of monitoring certifications, secondary containment testing, and other testing of non-monitoring reports to return to compliance. In addition, a review of the submitted violation tracking spreadsheet provided by the CUPA manager shows that in many instances return to compliance is not occurring during annual compliance inspections.</p> <p>Our file review indicates that facilities have been operating out of compliance for multiple years.</p>	<p>From this point forward, the CUPA will;</p> <p>(1) review testing and leak detection reports and cite testing and leak detection failures as a violations,</p> <p>(2) require facilities to correct violations associated with testing and leak detection failures as identified both during inspections and review of testing and leak detection reports,</p> <p>(3) require facilities to re-test and demonstrate that compliance with Statute and Regulations has been met.</p> <p>By April 23, 2015, the CUPA will develop and submit to CalEPA policies and procedures for inspectors to verify return to compliance for testing and or leak detection failures within the appropriate time frames. These policies and procedures are to be added to the document prepared for the Corrective Actions of Deficiency 3. For that reason, submittal, review, implementation, and self-audit time frames shall be the same as, and on the same timeline, as Deficiency 3.</p> <p>By January 23, 2016, and quarterly thereafter the SWRCB will review CERS for facilities with violations, and require the CUPA to submit necessary supplemental information to demonstrate how return to compliance was achieved.</p> <p>This Deficiency will be considered corrected when the CUPA has the above-referenced policies and procedures in place and consistently over a one-year period has reviewed testing and leak detection reports and appropriately cited violations for failures, required</p>

		facilities to correct testing and leak detection violations, and required facilities to retest and demonstrate compliance when there has been a failure indicated in a testing or leak detection report.
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**Deficiency Progress Update 1:**

Software upgrades and revising the to-do lists will assist in alerting inspectors of violations in need of inspections and re-inspections. The addition of the AEO program will reinforce compliance.

The appropriate procedures will be developed for inspectors to verify return to compliance for testing and leak detection failures within the required time frames.

**Evaluation Team Response:**

The CUPA has not complied with the corrective action. .

The Corrective Action is to develop and submit to CalEPA policies and procedures for inspectors to verify return to compliance for testing and or leak detection failures within the appropriate time frames. These policies and procedures are to be added to the document prepared for the Corrective Actions of Deficiency 3. Deficiency 3 submittal is unacceptable, and it does not include the requested information for Deficiency 8.

The CUPA Deficiency Progress Update 1 states that the procedures “will be developed” to verify return to compliance for testing and leak detection failures within the required timeframes; however that is exactly what this Corrective Action reporting was required to include.

State Water Board’s UST Unit Chief Laura S. Fisher, met with Chief Vidovich on May 11, 2015 and again with Captain Miller on May 12, 2015 to verbally discuss this unacceptable submittal and provided further direction on how the CUPA can improve and satisfy the intent of the corrective action.

The State Water Board finds the CUPA’s submittal for Deficiency 8 unacceptable.

**Action Plan for the CUPA:**

1. Within thirty (30) days of receipt of Evaluator Team Response, the CUPA will provide CalEPA with the policies and procedures regarding inspector verification of return to compliance for testing and or leak detection failures as outlined in Corrective Action.

9.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not ensuring that businesses annually resubmit or certify their hazardous materials inventory information.</p> <p>Hazardous materials inventories are currently accepted though the CUPA’s local reporting portal and through CERS.</p> <p>Out of the 21 files reviewed by OSFM, 20 files did not have an updated inventory.</p> <p>45% of facilities queried in CERS by Cal OES did not have an updated inventory.</p>	<p>By April 23, 2015, the CUPA will prepare and implement an action plan to address this deficiency. By July 23, 2015, the CUPA will provide a status on the action plan implementation.</p> <p>The CUPA will continue to provide quarterly updates of its progress towards ensuring facilities annually submit an updated inventory online. The deficiency will be considered corrected when 90 percent of the regulated businesses are in compliance. CalEPA, OSFM and/or Cal OES may require screenshots of the CUPA’s portal, database, CERS or copies of inspection reports, notices</p>

		of violation and/or return to compliance documentation or to perform an in person review of the CUPA's records prior to determining this deficiency corrected.
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#### **Deficiency Progress Update 1:**

On 2/15/2015 an outreach letter was sent to all participants in the program regarding electronic submittal of hazardous materials information (Attachment 4):

"All businesses in the LAFD CUPA jurisdiction should have made electronic submittal to CERS for reporting year 2012 by now. Annual Hazardous Materials Inventory update for reporting year 2014 is due by March 31, 2015."

2,620, out of 11,942, submission elements were submitted to CERS since (as of April 16, 2015).

#### **Evaluation Team Responses:**

##### OSFM

The CUPA has not complied with all of the corrective action requested.

The CUPA has not provided an action plan detailing how it will address this deficiency, but has sent an outreach letter to all participants in the HMBP program in regards to the submittal of hazardous material information. A review of CERS indicates that only 33% of facilities under the CUPA's jurisdiction have submitted hazardous materials inventories within the past year. OSFM is concerned that the current progress and outreach is not sufficient because compliance appears to have decreased since the evaluation.

Please submit an action plan to address this deficiency and ensure inventories are annually submitted for all regulated facilities. OSFM recommends that the action plan include a discussion of how the CUPA will take appropriate enforcement action against facilities that do not comply with this requirement. On the next progress report, please also provide an updated list of the facilities that are not in compliance and enforcement actions taken by the CUPA, if any. OSFM will continue to review the information available on CERS.

##### CalOES

The CUPA's outreach resulted in about 2600 submittals in a 2 month period. If the CUPA is able to maintain the current level of submittals, the deficiency should be resolved in about a year. Cal OES recommends that the CUPA keep up the effort to bring the facilities into compliance, and report their progress with the next quarterly update.

<b>10.</b>	<b>DEFICIENCY:</b>	<b>CORRECTIVE ACTION:</b>
	The CUPA's PA, the Los Angeles County Fire Department, is not meeting either its scheduled inspection frequency for the Resource Conservation and Recovery Act (RCRA) large quantity generators (LQGs), and small quantity generators (SQGs) as outlined in the CUPA's I & E Plan or the statutorily mandated frequency for the	By January 23, 2016 the PA will have inspected all hazardous waste generators (HWG) that have not been inspected in the past three years.  In the first progress report, provide an update on the total number of HWG facilities that need to be inspected and the total number HWG facilities inspected to date (3 prior months). In addition, please provide a list of

<p>tiered permitting (TP) program.</p> <p>Prior to the evaluation, DTSC requested a list of all hazardous waste generator (HWG) facilities that had not been inspected within the last 3 years. During the evaluation, on July 30, 2014, the PA provided two additional lists for DTSC's review and for selection of hazardous waste generator oversight inspections. One list of 18 (12 LQGs and/ 6 TP facilities) and a second list of 905 SQGs. These lists indicated that these 923 facilities had not been inspected within the last three years.</p> <p>TP/RCRA LQG:</p> <ul style="list-style-type: none"> <li>• Three out of six TP facilities had not been inspected in over four years.</li> <li>• One out of 12 RCRA LQGs had not been inspected in over six years.</li> <li>• Four out of 12 RCRA LQGs had not been inspected in over four years.</li> </ul> <p>SQGs:</p> <ul style="list-style-type: none"> <li>• Two out of 905 had not been inspected in over six years.</li> <li>• 108 out of 905 had not been inspected in over five years.</li> <li>• 313 out of 905 had not been inspected in over four years.</li> </ul> <p>Of the thirty four active files reviewed by DTSC, five of the facilities were not inspected in the last three years.</p> <ul style="list-style-type: none"> <li>• Story Building located at 610 S. Broadway #714, Los Angeles, was last inspected on 6/1/11.</li> <li>• Andrews International located at 455 N. Moss St., Valencia, was last inspected on 9/23/10.</li> <li>• SOS Petro/ Vic's Auto Repair located at 6621 Foothill Blvd., Tujunga, was last inspected on 7/8/10.</li> <li>• LA County Public Works located 809</li> </ul>	<p>facilities overdue for inspection with the progress report.</p> <p>Please also submit in the subsequent quarterly progress reports to CalEPA an update on the number of RCRA LQG and TP facilities, and SQGs inspected and the total number HWG facilities inspected to date (3 prior months).</p> <p>The CUPA will continue to provide quarterly updates of its progress towards ensuring the PA meets its inspection frequency for HWG facilities until this deficiency is corrected. CalEPA and/or DTSC may require copies of inspection reports, or an in-person review of the CUPA's records prior determining this deficiency corrected.</p>
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	<p>Big Tujunga Canyon Rd., Tujunga was last inspected on 1/9/10.</p> <ul style="list-style-type: none"> <li>National Diamond Laboratory located at 4650 Alger St. Los Angeles, was last inspected on 3/2/10.</li> </ul>	
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#### Deficiency Progress Update 1:

The PA has been addressing the overdue inspection issue for several years as a normal part of their operational review. Due to significant numbers of retirements over the past several years and the time necessary to develop exams and fill those positions, as well as staff off for extended periods, the PA has seen an increase in the number of overdue inspections. In addition to inspection mandates, over the past four years, the PA has and continues to face the daunting task of implementing the California Electronic Reporting System (CERS) and associated requirements, including the use of an electronic Field Inspection System (FIS). This FIS required changes in work procedures and protocols, violation identification and documentation, and supervisorial review. CERS requires CUPAs and regulated businesses to submit required program element information/reports electronically via the Internet. As a result of this mandate, inspectors have had to devote additional time and effort in assisting regulated businesses with compliance, especially for the approximately 17,587 regulated facilities outside of the City of Los Angeles, which impacted their productivity. As expected, implementation of the FIS reduced productivity as inspectors learned and became comfortable with new field equipment, protocols, and workflows. Finally, after exhaustive review, multiple errors have been identified in previous inspection data tracked by the PA and corrections made to ensure accurate identification of overdue facilities and inspection counts.

The PA currently has 1,334 HWG facilities due for inspection in the City of Los Angeles. Among these facilities, 14 tiered permitting (TP) and 17 RCRA-LQG facilities are overdue as of January 1, 2015. There are a total of 6,046 HWG facilities, which include 118 RCRA-LQG and 164 TP facilities. Between the dates of August 1, 2014, through March 26, 2015, 867 routine inspections were conducted at RCRA-LQG facilities, 33 inspections at TP facilities and 814 inspections at SQG/LQG facilities. A current list of the 1,334 facility programs that are overdue for inspection has been provided as requested.

	Total facilities	Due for Inspection as of 1/1/2015	Inspections conducted from 8/1/2014 through 3/26/2015
<b>Total HWG</b>	<b>6046</b>	<b>1334</b>	<b>867</b>
SQG/LQG	5928	1303	814
RCRA-LQG	118	17	20
TP	164	14	33

The PA's plan to ensure that hazardous waste facilities are inspected at least once every three years includes the following elements and considerations:

- The PA will continue to hire new staff as soon as possible as allowed by County practices and requirements. The PA just completed training of seven new inspectors this month (13 last year) and anticipates losing as many as 15 inspectors next year due to retirements. The training of new staff which involves an eight week hazardous materials specialist "academy" (followed by close field mentoring), also adds to a decrease in staff productivity.
- The PA recognizes that with full staffing, it can and will meet all inspection mandates. However, when staff vacancies create a backlog of overdue inspections, "catching up" while new overdues are

continually created presents a significant challenge. The PA has had several efforts looking at streamlining inspection activities, efficiencies in inspection processes, reassigning inspection type activities to other staff on a permanent basis, such as emergency operations staff when not “on duty”, and temporarily assigning inspection activity to other PA staff.

- The PA also has had several major efforts to identify unpermitted facilities as indicated (“no previous activity”) in the attached list of overdue facilities. While these efforts are necessary and “level the playing field” for the permitted facilities, it does add to the backlog of overdue inspections.
- The PA has reviewed and updated its monthly monitoring of inspections to ensure businesses are inspected once every three years.
- The PA has developed a monitoring and implementation plan to ensure that all high risk facilities are given inspection priority. For example, facilities which pose a lower risk, such as fire stations and cell sites, would be inspected at a later date.
- The PA is also exploring other options to address inspections of low-risk facilities as this program element has no statutory inspection frequency.
- The PA has developed a monitoring and implementation plan to ensure the oldest of the overdues especially high risk facilities, are given priority.

There were a couple of errors that were noted in the summary by DTSC using the lists provided by the PA during the evaluation. They are as follows:

**TP/RCRA LQG:**

- One out of 12 RCRA LQGs had not been inspected in over six years.  
*This summary should have stated that one out of seven recyclers had not been inspected in over six years. There were no RCRA LQGs that had not been inspected in over six years on the provided list.*
- Four out of 12 RCRA LQGS had not been inspected in over four years.  
*This summary should have stated that tow out of eight RCRA LQGs and three out of seven recyclers had not been inspected in over four years.*

The five facilities noted form the file review that had not been inspected within the last three years were all inspected during the month of March 2015. These inspection reports can be provided upon request. One of the facilities on the list, Andrews International, is located in Burbank, which is not in the jurisdiction of the City of Los Angeles.

PA is to submit quarterly reports to the CUP Aon the progress of HWG inspections, including a list of facilities with overdue inspections.

The total number of HWG facilities that need to be inspected is ....., total number of HWG facilities inspected by January 2015 through March 2015 is: .....

Attachment 6 contains list of facilities with overdue inspections.

**Evaluation Team Response:**

CalEPA

The PA’s response to this deficiency highlights additional areas of concern regarding the implementation of the hazardous waste generator program within the City of Los Angeles. The CUPA states that the low inspection frequency is due to lack of staffing, increased responsibilities, and additional needs to assist



facilities outside of the City of Los Angeles. The PA expects this issue to not only persist, but foresees an additional decrease in HWG inspections.

First, the PA should not be diverting resources dedicated to the implementation of the LA City Fire Department's hazardous waste program to compensate for implementation of other programs implemented by LA County Fire Department CUPA. The PA must be able to give a separate accounting of its CUPA and PA programs. The PA must be able to differentiate between the cost incurred for implementing programs in differing jurisdictions in order to work with its CUPAs to ensure single fee and fee accountability programs for each CUPA allow the PA to recover the necessary and reasonable costs of program implementation with a specific jurisdiction.

Secondly, the burden of hiring new/additional staff and implementing new statutory requirements such as electronic reporting is part of the necessary and reasonable costs of implementing the Unified Program. As a CUPA and PA, the LA County Fire Department must ensure that it has adequate resources to implement the Unified Program in all of its jurisdictions.

CalEPA will continue to monitor the PA's progress toward meeting the hazardous waste generator inspection frequencies in the context of the annual review of the CUPA's fee accountability and inspection and enforcement plan review.

#### DTSC

The CUPA, in response to the corrective action, provided an update on the total number of HWG facilities that needed to be inspected and the total number HWG facilities inspected to date (3 prior months). In addition, the CUPA provided a 26 page list of approximately 1350 facilities of overdue inspections with their progress report.

The CUPA will continue to provide quarterly updates of its progress towards ensuring the PA meets its inspection frequency for HWG facilities until this deficiency is corrected. By January 23, 2016 the PA will have inspected all hazardous waste generators (HWG) that have not been inspected in the past three years as stated in the original Summary of Findings.

11.	DEFICIENCY:	CORRECTIVE ACTION:
	The CUPA is not certifying every three years that it has conducted a complete review of its Area Plan. The last revision is dated February 2009	<p>The CUPA has received a grant to revise this Area Plan the term of the grant is November 1, 2014 – September 30, 2015.</p> <p>By September 30, 2015, the CUPA shall submit a certified copy of the Area Plan Revision to CalEPA and Cal OES for review.</p>

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

Activities to date: Collection of associated City and regional plans, documents, and policies including GIS mapping, as well as data on 5-year hazardous materials incident history.  
Consultant's review of these documents.

#### **Evaluation Team Response:**

Thank you for providing an update describing the progress the CUPA staff have made toward completing the corrective action. Although the completion date of the corrective action is September of this year please



continue to provide progress updates with each quarterly report.

12.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not inspecting all of the Aboveground Petroleum Storage (APSA) tank facilities, which store 10,000 gallons or more of petroleum, at least once every three years.</p> <p>22 out of 207 APSA regulated facilities have been inspected in the last three years.</p>	<p>The CUPA will prepare and implement an action plan to address this deficiency. The CUPA is encouraged to prioritize its inspections based on the level of risk posed by each tank facility. The action plan will be submitted with the April 23, 2015 update.</p> <p>By April 23, 2015, the CUPA will submit a status of the CUPA's activities to correct this deficiency, including a list of the tank facilities and the dates the facilities were inspected. The CUPA will also send copies of 10 completed reports from recently inspected APSA facilities to CalEPA.</p> <p>The CUPA will continue to provide quarterly updates of its progress towards meeting its inspection frequency for APSA facilities until this deficiency is corrected. The deficiency will be considered corrected when at least 90 percent of the facilities have been inspected within three years. CalEPA and/or the OSFM may require copies of inspection reports, or an in-person review of the CUPA's records prior determining this deficiency corrected.</p>

**Deficiency Progress Update 1:**

The Los Angeles City Fire Department CUPA has identified 134 facilities that store 10,000 gallons or greater of petroleum. The LAFD CUPA prioritized the inspection of those facilities based on risk (volume of petroleum and proximity to navigable waters). During the fourth quarter of FY 2013/2014 28 AST facilities were inspected.

The LAFD CUPA anticipates to have inspected over 100 facilities during the FY 2014/2015 and the remainder of the APSA facilities will be inspected during the first quarter of FY 2015/2016.

A list of APSA facilities inspected to date together with the copies of 10 recently completed inspection reports are provide in Attachment 7.

**Evaluation Team Response:**

The CUPA has not complied with all of the corrective action requested.

The corrective action required that an action plan be submitted with the update. Instead, the CUPA identified the number of APSA facilities and reiterated that it will prioritize facilities based on risk.

The CUPA conducted 18 routine APSA inspections for FY 2013/2014 and 31 for the current FY 2014/2015. The CUPA needs an additional 69 APSA inspections to meet their goal of 100 inspections for FY 2014/2015. Based on the information provided by the CUPA, OSFM is concerned that the CUPA will not likely meet the goal of 100 APSA inspections by the end of FY 2014/2015.

Additionally, only eight out of the 10 requested inspection reports were included in this progress report. The inspection report for SA Recycling, CERS ID 10240816, dated 3/5/2015, was submitted three times. Please provide inspection reports from two additional APSA facilities.

With the next update, please provide the action plan required by the corrective action and a narrative update detailing the status of the plan's implementation.

13.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not ensuring full access to, and the availability of, the hazardous materials business plan information to its first responders.</p> <p>The CUPA stores its business plan information in paper files, Envision data management system, and CERS. Only Envision Connect is readily available or accessible to the first responders on an annual basis. The CUPA submits a CD from Envision annually, but does not provide access or copies of hazardous materials business plan information from either the CUPA's paper file copies or CERS to its first responders.</p>	<p>By April 23, 2015, the CUPA will meet with its first responders and ensure that all business plan information from all sources (paper files, CERS, and Envision Connect) is provided to them in an agreed upon timeframe and format.</p> <p>In addition, by April 23, 2015, the CUPA will provide a status of this deficiency, including a list of agencies, the meeting date(s), and confirmation that agreement has been reached regarding the timeframe and format for providing business plan information.</p>

#### Deficiency Progress Update 1:

The CERS system is now capable of providing access to Emergency Response module and the lead user for LAFD has been identified. The following procedures are still in place:

- 1) Inventory information will continue to be downloaded on a disc to be uploaded onto the MFC dispatch computer.
- 2) A 2nd disc will be provided to the HazMat Team for information purposes.
- 3) There will be an on-call Inspector who will be able to access any additional information that will be needed for any hazardous material spill/release.

#### Evaluation Team Response:

The CUPA has not complied with all of the corrective action requested.

Although the CUPA has provided a three-tiered approach to transfer information, the CUPA has not provided the following items required in the corrective action:

- List of agencies;
- Meeting date(s);
- Confirmation that agreement has been reached regarding the timeframe and format for providing business plan information.

OSFM is pleased that the CUPA is aware and may utilize the CERS first responder module in the future; however, because complete business plan information for all facilities in the CUPA's jurisdiction is deficient on

CERS, CERS may not contain the information needed by first responders. The CUPA should develop a clear alternative means to provide business plan information for those facilities without information in CERS. With the next progress report, please provide the items required under the corrective action and an update on the status of conveying full access of business plan information to first responders.

14.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not adequately evaluating its Participating Agency (PA) performance to ensure that LA County Fire Department PA meets the minimum requirements described in the Unified Program Application.</p> <p>Specifically, the CUPA did not review the PA's inspection frequency, compliance with the memorandum of understanding (MOU), request fee accountability documentation, or current I &amp; E plan during the last PA audit.</p> <p>The CUPA reviewed only seven files out of 6,183 hazardous waste generator files. The CUPA did not diversify its review to cover each type of industry.</p> <p>The CUPA did not review any tiered permitting files. Los Angeles City, as a CUPA has the most amount of tiered permitting facilities in the state.</p>	<p>In November 2014, the CUPA underwent training in the basics of the Hazardous Waste Generator/Tiered Permitting Program to prepare the CUPA for future PA performance evaluations.</p> <p>By April 23, 2015, the CUPA will evaluate the PA's performance and take into consideration requirements of implementing the hazardous waste program and the MOU. The CUPA will submit its findings, as well as a copy of the CUPA's annual self-audit to CalEPA.</p>

**Deficiency Progress Update 1:**

For PA Evaluation and Preliminary Findings, see Attachment 8.

**Evaluation Team Responses:**

The CUPA has not complied with the corrective action.

Although the CUPA has provided a PA Audit report and Annual Self Audit Report, neither document sufficiency takes into consideration requirements for implementing the hazardous waste program and MOU, nor do they address the issues described in the deficiency or the requirements of CCR Title 27. The PA evaluation that was conducted on December 16, 2014 and (telephonically) on March 19, 2015 did note that the PA (Sylmar Office) was behind on their scheduled inspection frequencies of hazardous waste generators 2 of 20 files (10%) reviewed by the CUPA had been inspected within the last three years.

CCR, Title 27 15330 (b) dictates that the CUPA shall evaluate its PA on an annual basis at the time of the self-audit pursuant to section 15280, or as necessary to maintain standards required in HSC Chapter 6.11, the statutes governing specific program elements, and specific performance standards exhibited in regulation by the Secretary or state agencies responsible for overseeing one or more of the program elements.

CCR, Title 27 Section 15280 (b) describes the self audit stating the Self audit shall assess the performance of the CUPAs and any PAs implementing standards in statute and regulations established by the Secretary or state agencies responsible for one or more of the program elements. Section 15280 (c) lists the subjects that shall be covered in the self audit report, including:

- A report of deficiencies with a plan of correction
- A narrative summary of the effectiveness of activities
- An explanation of any discrepancies on the annual and quarterly reports of program activities submitted to the secretary pursuant to Section 15290 and the Unified Program requirements for these activities.
- Annual review and update of the fee accountability program as required by Section 15220.

Section 15220 requires the CUPA and PA annually review an update the Fee accountability program.

The PA Evaluation and Self Audit Report do not discuss the PA's (or the CUPA's) deficiencies and do not provide a plan of correction for those deficiencies. The PA audit appears to be limited to file review and as in previous years does not review the PA's performance in cooperation with the CUPA including MOU requirements, or annual evaluation and revision of the CUPA's I&E plan and fee accountability programs. Lack of coordination on the I&E Plan and fee accountability program comprise an additional deficiency, which should have been noted in the CUPA's self-audit with a plan of correction.

#### Action Plan for the CUPA

1. Review Health and Safety Code Chapter 6.11 regarding the administration of the CUPA program and the description of what the CUPA is responsible for implementing. Conduct an in-depth review of sections that discuss coordination with participating agencies.
2. Review CCR Title 27 Sections regarding the administration of the CUPA program and the description of what the CUPA is responsible for implementing. Conduct an in depth review of sections that discuss coordination with participating agencies.
3. Work with the PA to correct deficiency 17, and establish process for ensuring that I&E and fee accountability program review occurs annually and in collaboration with the PA.
4. During the upcoming self-audit process (Report due 9/30/2015), evaluate the PA's implementation of LA City's hazardous waste program. Ensure that the PA's implementation complies with:
  - a. The necessary standards described in HSC Chapter 6.11;
  - b. Statutes governing the hazardous waste program;
  - c. Specific performance standards exhibited in regulation for overseeing the hazardous waste generator program element.
5. Review CCR Title 27 15280 which details items to be covered in an annual self-audit.
6. Submit copies of the FY 2014/2015 annual PA audit and CUPA self audit to Cal EPA by 10/1/2015.

<b>15.</b>	<b>DEFICIENCY: CORRECTED</b>	<b>CORRECTIVE ACTION: COMPLETE</b>
	The CUPA is not ensuring that inspectors receive health and safety training required for CUPA technical staff.	By April 23, 2015, the CUPA will provide or ensure technical staff attends health and safety training. The CUPA will send certificates or a class roster and agenda

		demonstrating that staff attended/completed the training, and specifying the subject matter covered.
<b>Deficiency Progress Update 1:</b> All inspectors have been extensively trained on the use of the required FIS, which ensures the consistent documentation of observations, the factual basis of violations, and the required Corrective Action to be taken. This training was held several times during the month of August 2014. Five samples of facility inspection reports from the North and Central offices have been provided as requested.  16-hour Health and Safety Training, provided by UCLA education & Research Center was completed by members excluding three (IOD, SK, retiring) on January 6-7, 2015. For Class Roster, Agenda and Training Certificates see Attachment 9.		
<b>Evaluation Team Response:</b>  The CUPA provided documentation demonstrating that staff attending 16 hours of health and safety training in January 2015. This deficiency is corrected.  Please continue to ensure that staff complete 8 refresher hours of health and safety training annually.		
<b>16.</b>	<b>DEFICIENCY:</b> In some cases, elements that are required by statute, such as factual basis of violations and Corrective Actions are not included in the Los Angeles County PA's HWG inspection reports provided to the facility.	<b>CORRECTIVE ACTION:</b> By April 23, 2015, the PA will provide five examples of facility inspection reports from the North and Central offices that include all observations made at the facility, all alleged violations, the factual basis for the violations, code citations, and any Corrective Actions necessary.
<b>Deficiency Progress Update 1:</b> All inspectors have been extensively trained on the use of the required FIS, which ensures the consistent documentation of observations, the factual basis of violations, and the required Corrective Action to be taken. This training was held several times during the month of August 2014. Five samples of facility inspection reports from the North and Central offices have been provided as requested.  For Facility Inspection reports see Attachment 10.		
<b>Evaluation Team Response:</b>  The CUPA and PA have not demonstrated compliance.  The PA provided examples of facility inspection reports from North and Central offices. All routine inspections occurred prior to November 18, 2011, nearly three years prior to the July 2014 CUPA evaluation. DTSC finds this documentation unacceptable, as it does not demonstrate the PA's current processes, but instead highlights the PA's inability to comply with the CUPA's inspection policies concerning frequency of inspection. Additionally, one of the inspection reports provided (Clay Lacey Aviation) did not have any violations  With the next update report, please demonstrate the PA's North and Central offices are currently providing inspection reports that include all observations made at the facility, all alleged violations, the factual basis for		

the violations, code citations, and any Corrective Actions to facilities at the conclusion of each inspection. In order to demonstrate that this practice is currently being implemented, please ensure that five (5) inspection reports submitted to CalEPA are from routine inspections that have occurred within the last twelve (12) months.

17.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA and PA are not coordinating the annual review and update of the CUPA's fee accountability program and Inspection &amp; Enforcement Plan (I &amp; E Plan).</p> <p>The CUPA does not appear to be consulting and reaching consensus with the PA prior to making changes to the CUPA's I &amp; E Plan that may affect program elements for which the PA is responsible. Although the CUPA reviewed its I &amp; E Plan, implementation requirements for and changes relevant to the Hazardous Waste Program have not been incorporated.</p> <p><b>The CUPA's I &amp; E Plan states the following on page 15, subsection g:</b>  <b>HSC Chapter 6.5 Section 25192</b>  <i>"Class I violations require that formal enforcement action be taken according to the State Response Policy. Class II violations may be enforced by formal or informal enforcement actions. Minor violations require that a Notice to Comply be prepared pursuant to HSC Section 25187.8."</i></p> <p>The Enforcement response policy is no longer valid since the penalty regulations became effective in 2001.</p> <p><b>The CUPA's I &amp; E Plans states the following on page 18:</b>  <i>"DTSC is currently reporting SNC information to the federal EPA from information submitted by CUPAs from the waste generator inspections."</i></p> <p>DTSC is not reporting SNC information separately to EPA. Once CUPAs update its I &amp; E information into CERS, the information</p>	<p>By July 23, 2015, the CUPA will review its entire I &amp; E Plan and update it as needed.</p> <p>By July 23, 2015, the CUPA, in coordination with its PA, will revise its I &amp; E Plan to include the administration of the HWG/TP program element. If adopting LA County Fire Department's I &amp; E Plan for the HWG programs the CUPA should at minimum incorporate by reference and keep the Plan onsite and available upon request.</p> <p>The CUPA will include an update of its fee accountability program with its annual self audit report, due by September 30, 2015. The fee accountability program update will include a discussion of the necessary and reasonable costs of the hazardous waste program as implemented by the PA.</p>

	<p>will be uploaded to RCRAInfo (EPA's database) and EPA will be able to extract SNC information themselves.</p> <p><b>The CUPA's I &amp; E Plans says the following on page 20:</b>  <i>"A class I violation committed by a chronic or a recalcitrant violator, as provided in Section 25117.6 "</i>  The correct section to cite is 25110.8.5.</p> <p><b>page 4 section J:</b>  <b><i>Hazardous Waste Generator Inspection Program</i></b></p> <p><i>"See L. A. County Fire Department Inspection and Enforcement Plan"</i>  As noted above, LA City CUPA's I &amp; E plan has adopted LA Co Fire Department's I &amp; E plan by reference.</p> <p><b>Appendix VI is missing inspection reports for the hazardous waste and tiered permitting programs.</b></p>	
<p><b>Deficiency Progress Update 1:</b>  The CUPA, in coordination with its PA, is in a process of revising the I&amp;E Plan to include the administration of the HWG/TP program element and adopting La County Fire Department's I&amp;E Plan for the HWG programs. CUPA will incorporate PA's I&amp;E Plan by reference and keep the CUPA's I&amp;E Plan available upon request.</p>		
<p><b>Evaluation Team Responses:</b>  The CUPA appears to be in the process of correcting the deficiency by adopting LA County FD's I and E Plan by reference. Please remember that this deficiency also addresses the coordination of the of the CUPA's fee accountability program. CalEPA recommends that the CUPA review CCR Title 27Section 15200 and Section 15220 which describe the requirements of the Inspection and Enforcement Program and Fee Accountability Program Plans respectively.</p>		
18.	<p><b>DEFICIENCY: CORRECTED</b></p> <p>The CUPA was unable to demonstrate if they are investigating complaints referred by DTSC as stated in its I &amp; E plan.</p> <p>On July 31, 2014, the CUPA was unable to demonstrate that DTSC referred complaints were investigated by the PA.</p>	<p><b>CORRECTIVE ACTION: COMPLETE</b></p> <p>The CUPA will immediately start following it's I &amp; E plan and follow up with complaints referred by DTSC.</p> <p>By April 23, 2015, the CUPA will provide follow up documentation for the outcome of the following complaints referred by DTSC:</p> <ul style="list-style-type: none"> <li>• 14-0414-0208</li> <li>• 14-0314-0126</li> </ul>



- 13-0813-0609
- 14-0114-0075
- 13-1013-0675
- 13-0413-0282
- 12-0812-0465
- 12-0112-0059

**Deficiency Progress Update 1:**

Complaint summary reports have been provided for the following:

14-0414-0208 – PA Report # CO0027829  
 14-0314-0126 – PA Report # SR0027460  
 13-0813-0609 – PA Report # CO0025750  
 12-0812-0465 – PA Report # CO0027881  
 12-0112-0059 – PA Report # CO0028045

The PA has not received the following complaints from the CUPA or DTSC:

13-1013-0675  
 13-0413-0282

The following complaint was referred back to DTSC since it was not under the PA's jurisdiction:

14-0114-0075

See Attachment 13.

**Evaluation Team Response:**

The CUPA followed up with all complaints and provided follow up information on all complaints referred by DTSC. This deficiency is corrected.

19.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA did not report quarterly inspection, violation, and enforcement information for each program element to CalEPA through the Decade Envision Connect local information management system or CERS.</p> <p>The CUPA did not report inspection, violation, and enforcement information for the entire 2013/2014 fiscal year by July 30, 2014.</p>	<p>The CUPA will prepare and implement an action plan to address this deficiency. The action plan will be submitted with the April 23, 2015 update.</p> <p>This deficiency will be considered corrected when the CUPA reaches the 90% percentile of inspection, violation, and enforcement information provided through the Decade Envision Connect local information management system or CERS for each program element.</p>

**Deficiency Progress Update 1:**

Pending the CalEPA response to LAFD letter dated February 25, 2015 (Attachment 12).

**Evaluation Team Response:**

The CUPA has not complied with the Corrective Action.

Cal EPA does appreciate that the CUPA responded to the November 17, 2014 survey requesting an update on



the CUPA's progress on complying with reporting requirements of Compliance Monitoring and Enforcement (CME) Data. The letter sent by the CUPA on February 25, 2015, in response to CalEPA's survey, does not contain sufficient information to comprise an action plan and therefore does not meet the terms of the corrective action.

The CUPA has requested an exemption from the requirement to report FY 2013/2014 CME data due to issues with Decade Envision Connect Software and Integration Wizard, and inspectors' consistency in keeping track of inspections and return to compliance. CalEPA denies this request. The CUPA is responsible for ensuring CME data for FY 2013/2014 is uploaded to CERS. CalEPA realizes that lack of consistency among the CUPA inspectors will yield incomplete data as the CUPA reports the information that is available. The CUPA will need to work with its vendor to ensure CME data may be uploaded when RTC dates are unavailable.

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

1. Ensure that inspectors consistently track and report inspections, violations, return to compliance, and enforcement actions. This information required to be tracked and reported through CERS by state law and the information is required to be maintained for 5 years under state regulations.
2. Create a systematic action plan. Take into consideration the staff hours, hardware and software necessary to implement the action plan **in addition to** the staff hours and infrastructure needed to implement the rest of the Unified Program.
3. Coordinate the transfer or uploading of CME data for hazardous waste generators with the PA implementing the hazardous waste program. Ensure CUPA staff is available to facilitate this coordination.
4. Contact the vendor to determine work around for the RTC date issue. Several CUPAs are able to utilize the integration wizard to transfer open violations.
5. Based on the information gathered, draft a step by step action plan and feasible timeframe for completion.
6. Provide the action plan and time frame to CalEPA with the next quarterly progress update.
7. Please also provide a detailed narrative discussing the CUPA's progress in implementing the action plan.