



# The NEW Evaluation Process

Presented by

**Kareem Taylor**

**Marc Lorentzen**

**Christopher Moon**

**21<sup>st</sup> Annual California CUPA Training Conference**  
**February 25-28, 2019**  
**Anaheim**



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# The Unified Program CUPA Performance Evaluation Process

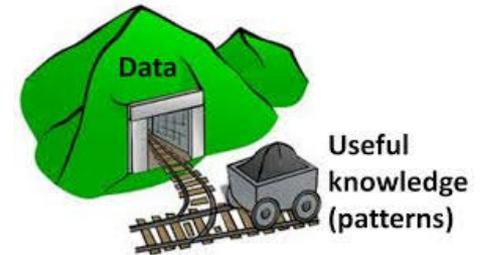
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- The process has undergone numerous changes throughout its history.
- Though the mission remains constant, the process evolves.
  - Always seeking to strike balance between thoroughness and efficiency
  - suitable to a variable and changing level of resources available to individual CUPAs and state oversight agencies.

# The Unified Program CUPA Performance Evaluation Process

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- The most significant resource change:
  - ***the institution and reliance on CERS data***
  - creates both benefits and burdens for local delegated agencies and state oversight
- As CERS continues to evolve, so too, will grow the need for adaptation and resilience in the Evaluation process.
  - ***The NEW Process is intended to meet this current need.***



# The Unified Program CUPA Performance Evaluation Process

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- **DISCLAIMER: *The NEW Process is still in development and all aspects have not been finalized.*** 
  - Though the concept is intended to remain the same, some details of the final NEW process may be different than what is portrayed in the presentation.
  
- Performance Evaluation Workgroup is finalizing details
  - Represented groups:
    - CUPAs
    - Participating Agencies
    - State Agencies
    - California Conference of Directors of Environmental Health (CCDEH)
    - Cal Chiefs

# The Current REMOTE Process

- 5 two hour Conference Call meetings
  - 10 hours of total meeting time for all programs
  - 6 hours dedicated with the CUPA
- Additional Information Request
  - Can take days to address questions with email turnaround
  - Form is not well utilized
- More data driven than previous processes
  - CERS data is getting more accurate and reliable
  - We are identifying shortcomings through this reliance
  - By itself, difficult to see the whole picture



# HYBRID Process

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- Del Norte, San Diego, Kings, Santa Clara City
  - Kickoff Meeting Conference Call
  - Review administrative documents and CERS
  - On site visit: most state agencies at CUPA office (3 days)
    - Facility File Review
    - Q&A Meeting
      - Conference Call
    - Closing
      - Conference Call





# HYBRID Process

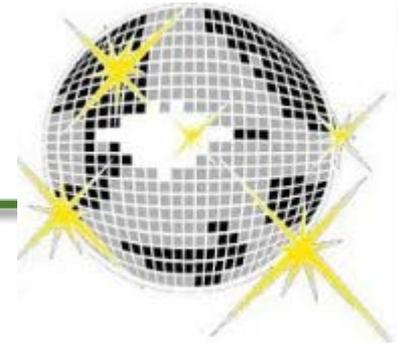
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- What we learned with the HYBRID Process:
  - More time allotted for more thorough discussion and investigation
  - Additional information can be presented on the fly or later, at any time
  - The CUPA was allotted less time to prepare for the Questions and Answers meeting, because findings were primarily developed onsite

Obtained feedback from CUPAs and state agencies that aided in developing the NEW Process

# The NEW Process

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- Reduction in amount of Facility File documentation requested electronically
- Bring back face to face interactions among CUPA and state agency evaluators with more discussion time
- Adds more context and understanding to CERS data

# The NEW Process

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- Incorporates the advantage of remote assessment
- Incorporates the advantage of the on-site interaction element
- Planned to begin implementing in Fiscal Year 2019/2020

# Who is involved?

- All state agencies will participate in every evaluation.
  - Cal OES – California Governor's Office of Emergency Services
  - DTSC – Department of Toxic Substances Control
  - OSFM – Cal-FIRE Office of the State Fire Marshal
  - State Water Board – State Water Resources Control Board
  - Cal EPA – California Environmental Protection Agency
- Not all evaluators will be able to participate on-site at the CUPA office
  - Evaluators not participating on-site will participate remotely via conference call



**Cal OES**  
GOVERNOR'S OFFICE  
OF EMERGENCY SERVICES



**CalEPA**  
California Environmental  
Protection Agency



# Who is involved?

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- Typically one evaluator represents each state agency
  - Occasionally, additional evaluators or supervisors may participate for purposes of training
  - All agency Supervisors are invited to all meetings with the option to attend remotely
    - Evaluator oversight
    - Additional expertise
- CUPA personnel
  - Conference calls
  - On-site visit
  - Oversight Inspections

# Who is involved?

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## ➤ Inspections

- For efficiency purposes a different state agency evaluator may participate in the oversight/verification inspection.



# Time Period Evaluated

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## ➤ Time Period Evaluated:

- Every 3 years (as close as possible in scheduling)
- Review from last day of onsite visit of the previous evaluation to the first day of the on-site visit of the current evaluation.
- Exceptions:
  - Inspection frequencies on 3-year cycles
  - Flexibility will be needed



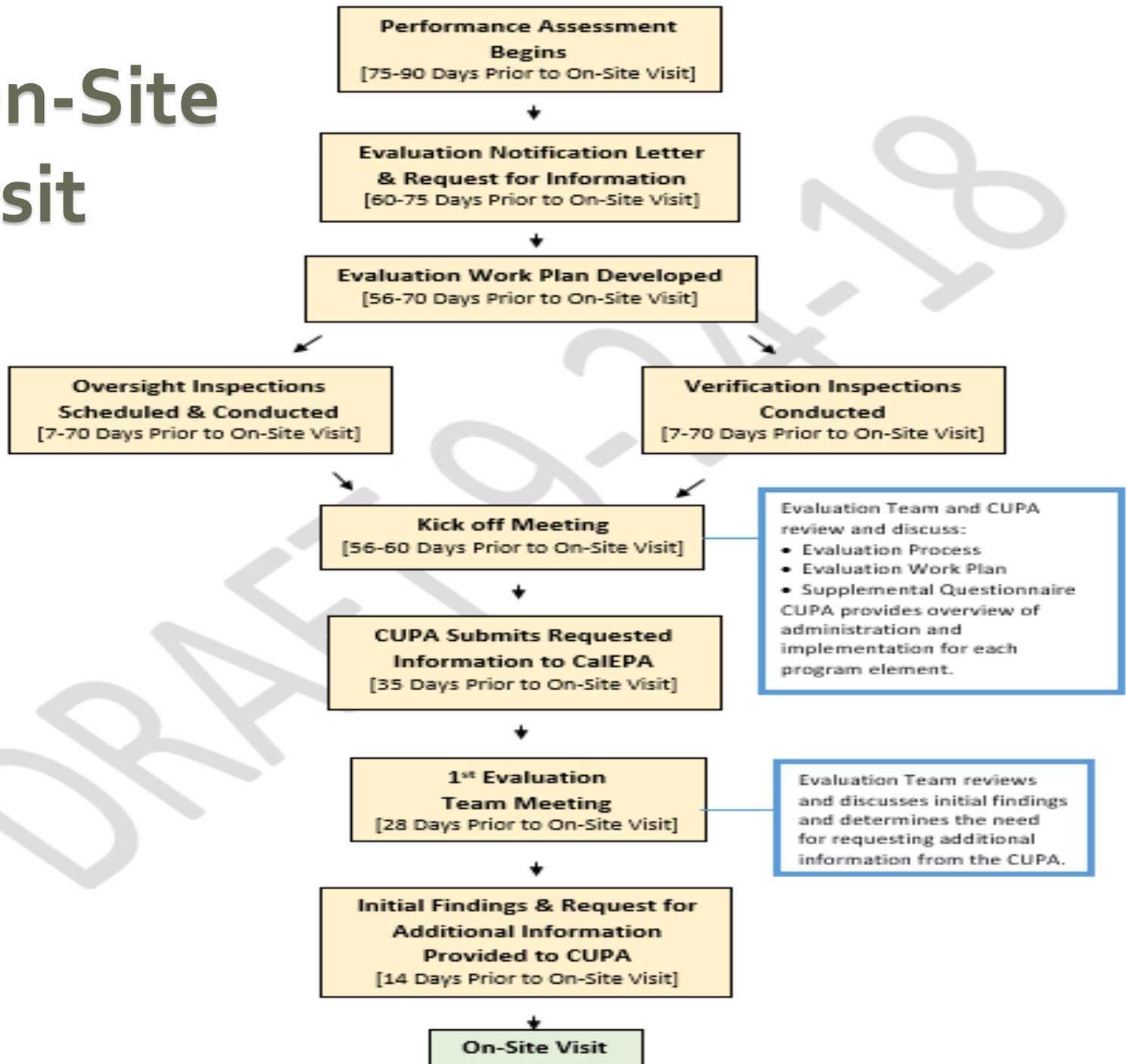
# Duration

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## ➤ Duration

- Approximately 5 months long
- Relatively same duration as the REMOTE process
- Begins on post date of “Evaluation Notification” Letter
  - Includes 60-day request for information
- Concludes the date of the Evaluation Report

# Pre-On-Site Visit



# Pre-On-Site Visit

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- Performance Assessment Begins
  - 75-90 days prior to on-site visit
- Evaluation Notification Letter sent
  - 60-75 days prior to on-site visit
  - Request for information to be provided electronically in 60 days
    - Enclosure 1: Administrative Documents
    - Enclosure 2: Facility Files



# Enclosure 1: Request for Information

(provide  
electronically  
in 60 days)

Please provide the following CUPA documentation electronically to  
CalEPA:

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## Administrative Documents:

- Inspection and Enforcement Plan
- Self Audit Reports [last three Fiscal Years (FYs)]
- Surcharge Transmittal Reports (last three FYs and through current quarter of this FY)
- Single Fee Invoices (last three FYs and through current quarter of this FY)
  - For each FY, ensure at least one invoice is provided for each program element: California Accidental Release Prevention (CalARP), Underground Storage Tank (UST), Aboveground Petroleum Storage Act (APSA), Hazardous Materials Business Plan, Hazardous Waste Generator
- Fee Accountability Program Documents
  - Record/budget spreadsheet (last two FYs), including revenue and expenditures (itemized direct and indirect costs)
- Staff Education and Training Records (last three FYs)
  - Health and Safety Training Certification with current refresher
  - International Code Council Certifications
  - APSA Inspector Training Certificates
  - Ongoing training documentation
- Three Formal Enforcement case files (closed within the last two years)
- CUPA Organization Chart

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## Administrative/Standard Operating Procedures:

- Public Participation
  - Records Maintenance
  - Information Request Response
  - Financial Management (including the single fee system and surcharge collection and reimbursement program)
  - Memorandum of Understanding with each Participating Agency, including procedures for Withdrawal or Removal, if applicable
  - Data Management
  - Fee Dispute Resolution
  - Permitting Procedures
  - Business Plan Information Forwarding
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# Enclosure 1: Request for Information

(provide  
electronically  
in 60 days)

## Program Element Specific Documents:

- Area Plan
- CalARP Program Dispute Resolution Procedure
- CalARP Program Performance Audit Reports (last three FYs)

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## Please submit the following documentation for each facility file listed on Enclosure 2:

- Last two routine inspection reports, including summaries of violations, notices to comply, and notices of violation
- Return to Compliance documentation
- Correspondence related to returning the facility to compliance
- Current Unified Program Facility Permit(s)
- For CalARP facility files requested by CalOES, please also include:
  - CalARP Program Level
  - Current Risk Management Plan (RMP) date
  - Statement of whether or not an RMP audit was conducted
- For Tiered Permit facility files requested by DTSC, please also include:
  - Applicable Tiered Permit notifications
- For APSA facility files requested by OSFM, if not in CERS, please also include:
  - Most recent "Tank Facility Statement" or Business Plan
  - If including the Business Plan, include the most recent site map and most recent Emergency Response and Training Plans
- For UST facility files requested by the State Water Board, please also include:
  - Last three Annual Inspection Reports
  - Last three Monitoring Certification Reports
  - Last three Spill Bucket Tests
  - Last two Secondary Containment Test Reports
  - Tank Lining Certifications, as appropriate
  - Last three Tank and Piping Integrity Tests, as appropriate
  - Enhance Leak Detection test results, as appropriate
  - UST closure documentation, as appropriate



# Pre-On-Site Visit

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## ➤ Facility Files Requested

- Assistance from STATE to scan documents is available, if requested 30 days prior to electronic submittal deadline
- **NEW!** Initial number of requested files is REDUCED from current process, however, additional files may be requested for review during On-Site Visit
- **NEW!** Minimum of 2 and maximum of 16 facility files requested electronically per applicable program element
  - Effectively reduces the number of files requested electronically for larger CUPAs

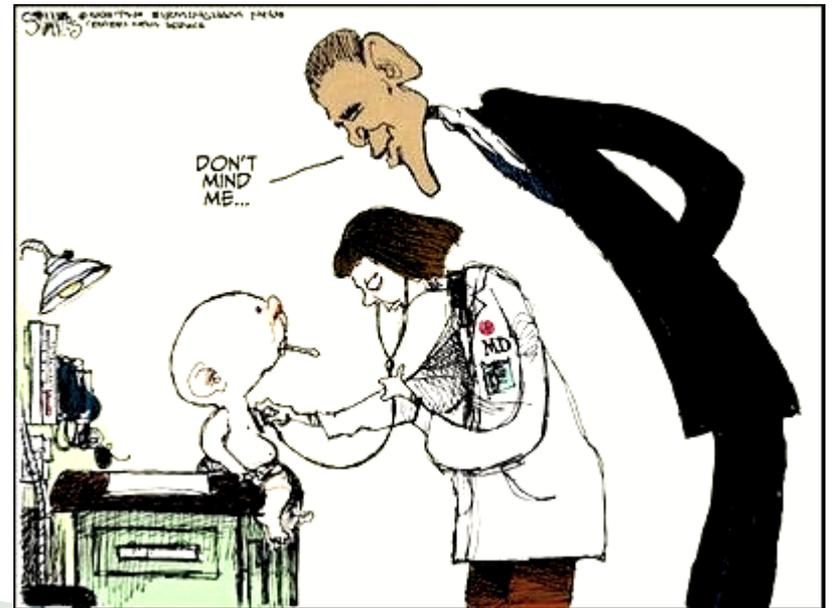
# Pre-On-Site Visit

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- Secure File Transfer Protocol (SFTP) Site
  - Alternative ways to submit:
    - USB Flash Drive
    - Mail to CalEPA (P.O. Box 2815, Sacramento CA 95812)
    - In person (1001 I Street, Sacramento CA 95814)
  
- Evaluation Work Plan Developed
  - 56-70 days prior to on-site visit
  - CalEPA Evaluation team lead works with CUPA and state agency evaluators: On-site visit logistics, Conference calls
  - Supplemental Information Request provided to CUPA to use during Kick-Off Meeting

# Pre-On-Site Visit

- Oversight Inspections Scheduled and Conducted
  - 7-70 days prior to on-site visit
  - State agencies coordinate with CUPA using existing scheduled inspections
  - Evaluator shadows inspectors and observes
- Verification Inspections Conducted
  - 7-70 days prior to on-site visit
  - Evaluator conducts independent inspection after recent CUPA inspection to verify consistency in results



# Pre-On-Site Visit

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## ➤ The Kick-Off Meeting

- 56-60 days prior to on-site visit
- Approx. 30 days before information is due
- Conference call with state agency evaluators and CUPA
- Introductions: Meet and Greet
- Review and discuss:
  - Evaluation Process
  - Evaluation Work Plan
  - Supplemental Information Request **BEING REVISED!**
- CUPA provides overview of administration and implementation for each program element
- CUPA provides aspects to consider for OUTSTANDING performance

# Pre-On-Site Visit

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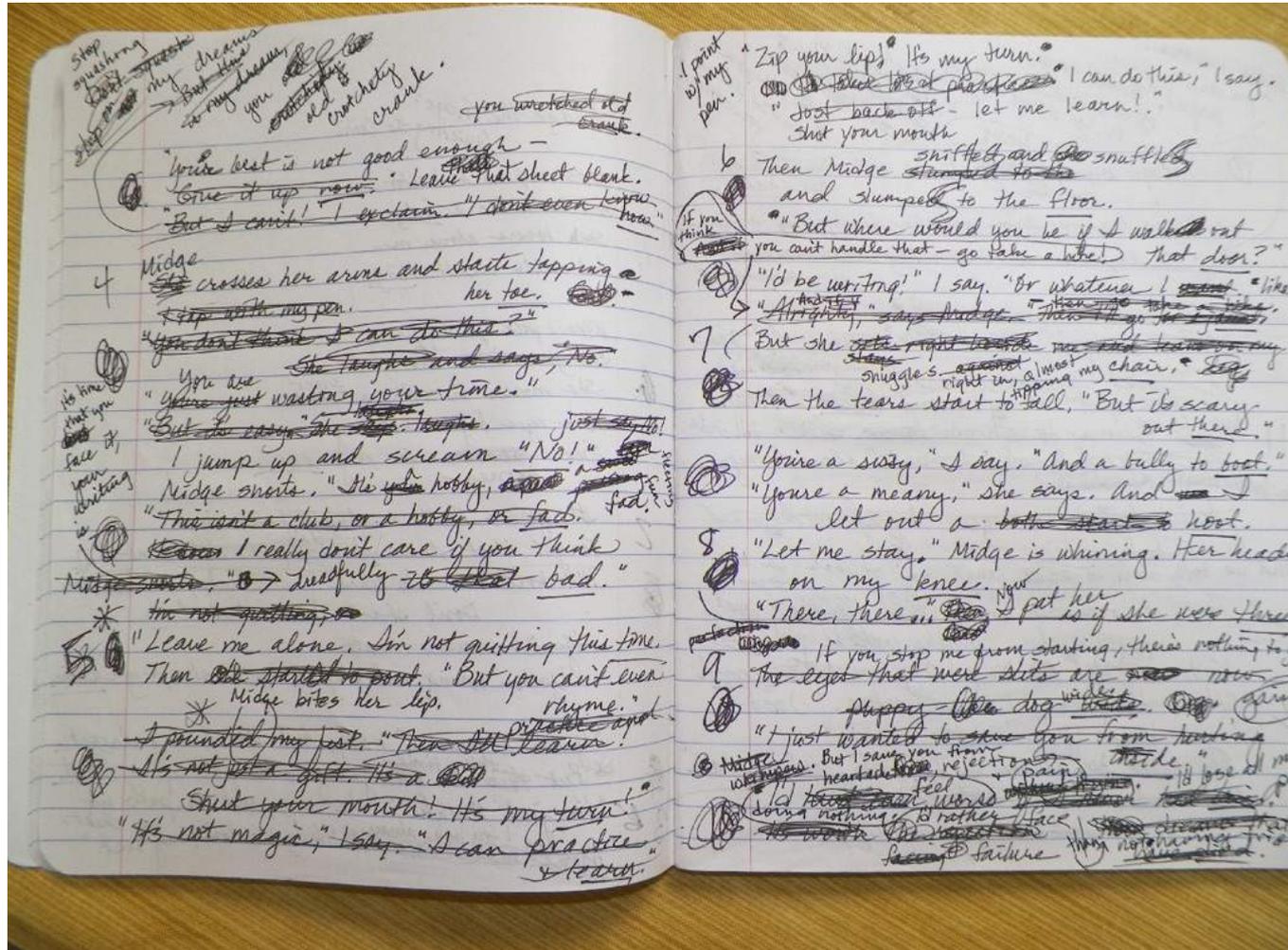
- CUPA submits requested information electronically to the SFTP site
  - ~ 35 days prior to on-site visit
- 1st Team Meeting (Evaluators only)
  - ~ 28 days prior to on-site visit
  - Evaluators develop, review and discuss Initial Findings document – **NEW!**
  - Evaluators determine the need for requesting additional information from the CUPA and develop Request for Additional Information

# Pre-On-Site Visit

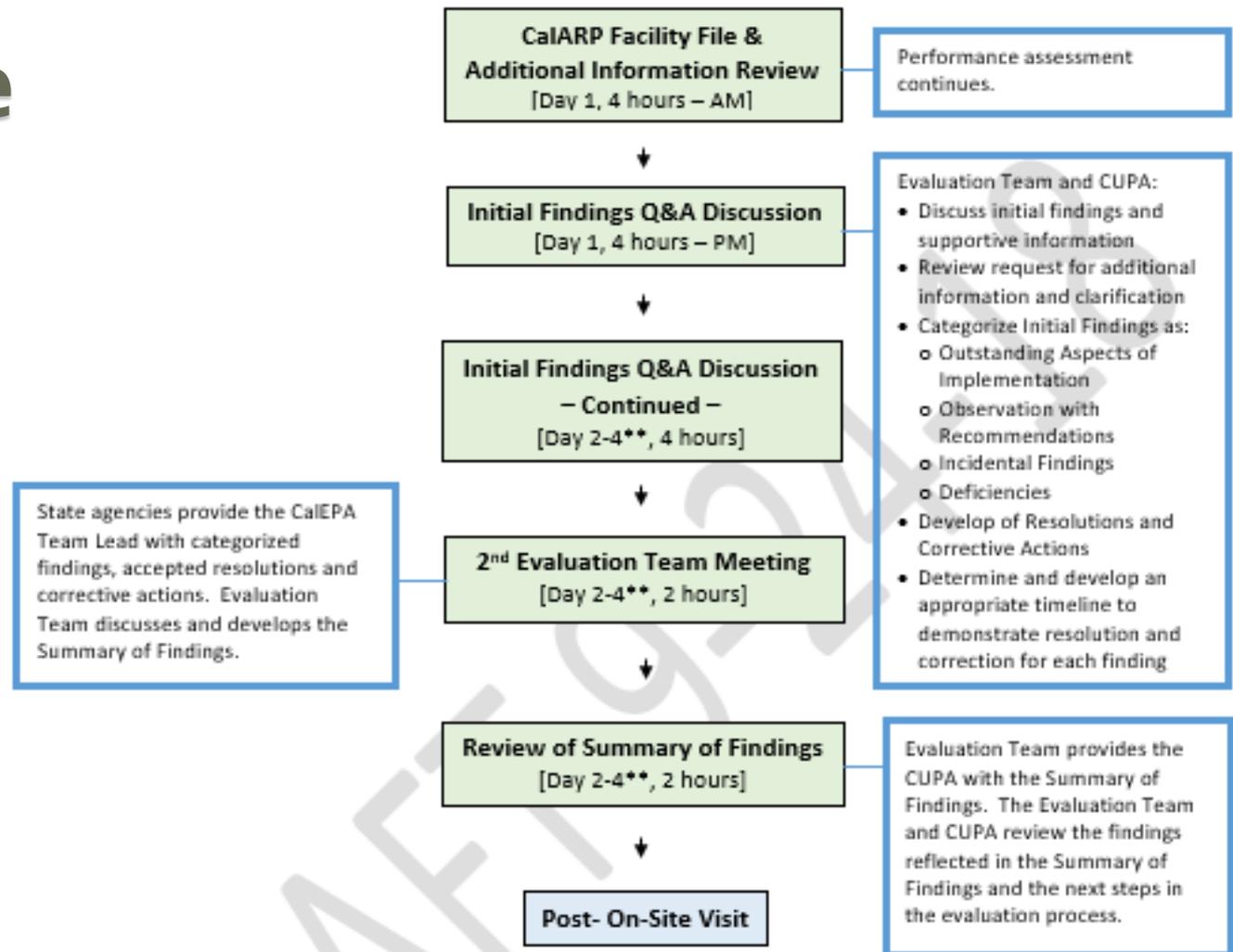
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- Initial Findings and Request for Additional Information Provided to CUPA
  - ~ 14 days prior to on-site visit
  - Initial findings NOT categorized- **NEW!**
    - No specified Incidental Findings, Deficiencies, Observations or Outstandings
    - Corrective Actions NOT designated for initial findings- **NEW!**
    - Contains potential observations demonstrating deviation from the standard
    - Demonstration of deviations from the standard are articulated statistically and qualitatively
    - Includes citation of requirement

# The Initial findings document is simply a legible compilation of our assessment regarding findings that draw inquiry



# On-Site Visit



- \* State agency evaluators will either participate physically on-site at the CUPA office or remotely via conference call.
- \*\* The number of days needed to conduct on-sight activities is dependent on the size and complexity of the CUPA's implementation of the Unified Program.

# On-Site Visit

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- 2-4 days
  - The size and complexity of the CUPA will determine how many days are necessary to complete onsite visit activities
  - Not all evaluators will attend in person
    - If not attending in person, participating via conference call
  
- Day 1: 4 hours (AM): Performance Assessment Continues
  - Review of CalARP Facility Files (Cal OES)
  - Review of Risk Management Plans (Cal OES)
  - Review additional Facility Files, if necessary

# On-Site Visit

- Day 1: 4 hours (PM) & Day 2, 4 hours (AM)
  - Evaluation Team & CUPA participate
  - Initial Findings Q & A Discussion: Review supportive information
  - Review request for Additional Information
  - Categorize Initial Findings: Deficiencies, Incidental Findings,, Observations, Examples of Outstanding Implementation
    - **NEW!** Incidental Finding: *"...specific incidents or activities the CUPA is required to address that do not rise to the level of a systemic deficiency. However, resolution of these matters is required by regulation or statute."*
  - Develop Resolutions and Corrective Actions
  - Develop timeline to demonstrate resolutions and corrective actions

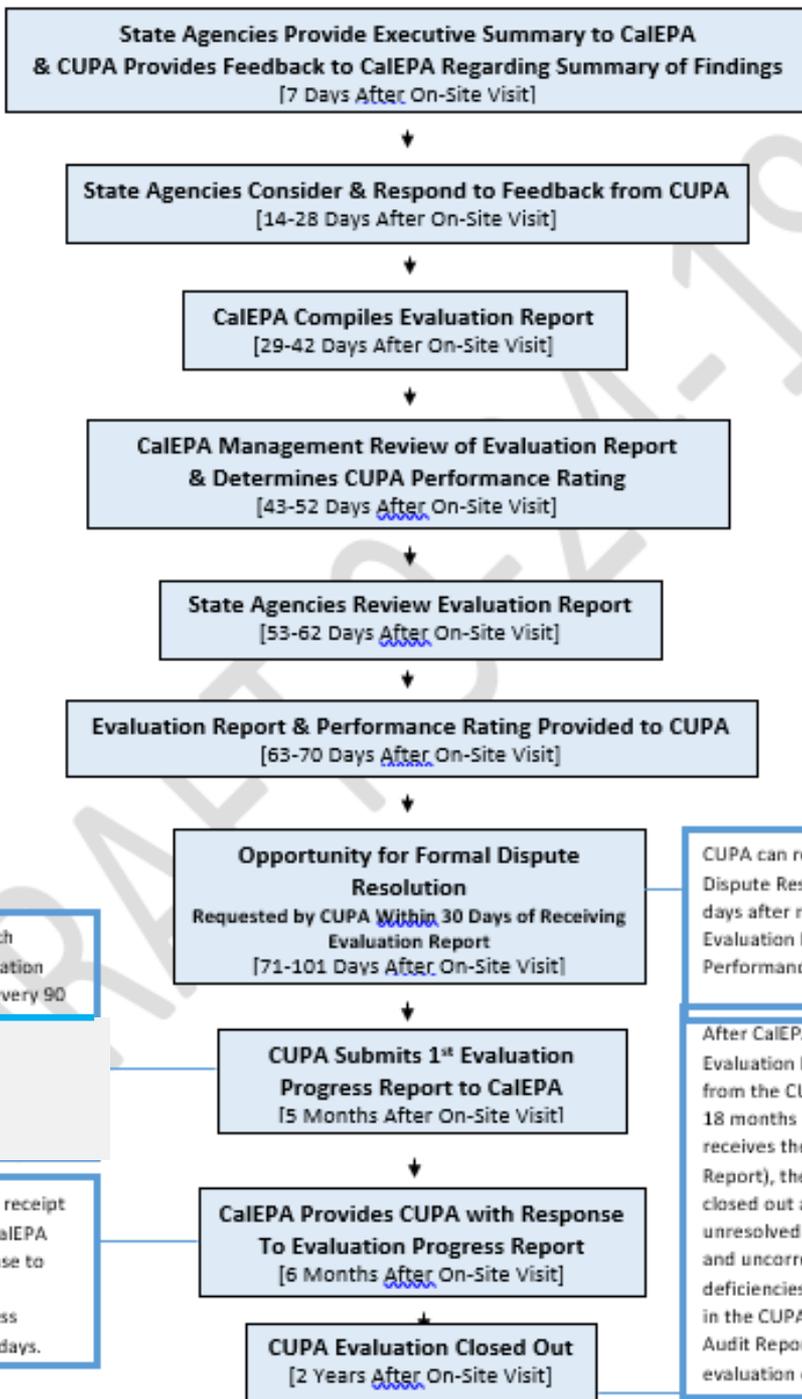


# On-Site Visit

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- Day 2: 2 hours (PM), may extend to days 3 & 4
  - 2<sup>nd</sup> Evaluation Team Meeting (Evaluators only)
  - Discussion and consolidation of findings
  - Evaluators provide CalEPA Team Lead with categorized findings, resolutions and corrective actions
  - Evaluation Team discusses and develops Summary of Findings document
  
- Last Day
  - **Evaluation Team & CUPA participate**
  - Review of Summary of Findings
  - Review next steps in Evaluation Process

# Post-On-Site Visit



CUPA submits each subsequent Evaluation Progress Report every 90

Within 30 days of receipt from the CUPA, CalEPA provides a response to each subsequent Evaluation Progress Report within 30 days.

CUPA can request a Formal Dispute Resolution within 30 days after receiving the Evaluation Report and Performance Rating.

After CalEPA receives the 6<sup>th</sup> Evaluation Progress Report from the CUPA (approximately 18 months after the CUPA receives the Evaluation Report), the Evaluation will be closed out and the status of unresolved incidental findings and uncorrected program deficiencies will be addressed in the CUPA's Annual Self-Audit Report until the next evaluation occurs.





# Post-On-Site Visit

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- Executive Summary – **NEW!**
  - ~ 7 days after the on-site visit
  - Evaluators provide CalEPA Team Lead with Executive Summary
  - A 2-3 page summary describing the overall performance of the CUPA
  - Provides a written narrative of overall performance of the CUPA's implementation and captures any strenuous circumstances, such as natural disasters, presenting challenges to the CUPA regarding the ability to implement the program

# Post-On-Site Visit

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- CUPA Feedback to Evaluators **NEW!**
  - ~ 7 days after the on-site visit
  - CUPA provides feedback to state agency evaluators regarding Summary of Findings presented at on-site visit
  
- Evaluators consider CUPA feedback regarding to Summary of Findings in development of Evaluation Report **NEW!**
  - ~ 14-28 days after the on-site visit

# Post-On-Site Visit

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- CalEPA Compiles Evaluation Report
  - ~ 29-42 days after the on-site visit
  - Evaluators provide final summary of findings information to CalEPA Team Lead
  - Details are quantitative and qualitative
  - Evaluation Report consists of: Executive Summary and Summary of Findings
  
- CalEPA Management Review of Evaluation Report & Determination of CUPA Performance Rating
  - ~ 43-52 days after the on-site visit

# Post-On-Site Visit

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- State Agencies Review FINAL Evaluation Report
  - ~ 53-62 days after the on-site visit
  - Edits incorporated and sent back to BDOs for acceptance**NEW!**
  
- Evaluation Report & Performance Rating Provided to CUPA
  - ~ 63-70 days after the on-site visit
  - **NEW** Performance Ratings
    - *Exceeds, Meets, Conditionally Meets, Needs Improvement, Unsatisfactory*



# Post-On-Site Visit

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## ➤ **NEW** Performance Ratings

- **Exceeds** – Fully meets and exceeds requirements for all programs
- **Meets** – requirements are adequately met for all programs with no systemic program deficiencies
- **Conditionally Meets** – Generally meets program requirements with identified needs for improvement
- **Needs Improvement** – Insufficient program implementation in several areas
- **Unsatisfactory** – Continuing program deficiencies demonstrating a lack of implementation and enforcement. May require a Program Improvement Agreement



# Post-On-Site Visit

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## ➤ Evaluation Survey

- ~ 63-70 days after the on-site visit
- Provided to CUPA simultaneously with Evaluation Report & Performance Rating
- Feedback vital to improving Unified Program Evaluation Process
- An avenue to raise concerns and experiences
- Can be submitted to CalEPA anonymously
  - Leave CUPA section blank
  - Mail in or use a non-identifiable email
  - We'd rather hear and not know who, than have nothing



# Post-On-Site Visit

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- Opportunity for Formal Dispute Resolution **NEW!**
  - ~ 71-101 days after the on-site visit
  - Received by CalEPA within 30 days of receiving Evaluation Report & Performance Rating

# Post-On-Site Visit

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- CUPA submits 1<sup>st</sup> Evaluation Progress Report to CalEPA
  - ~ 5 months after the on-site visit
  - Subsequent reports are due every 90 days
  - CUPA provides progress on Resolution of Incidental Findings and Corrective Action on Program Deficiencies
  - Americans with Disabilities Act (ADA) compliant template **NEW!**

# Old Template

# NEW ADA Compliant Template

1.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is issuing Unified Program Facility Permits, which includes the underground storage tank (UST) operating permit, to facilities with USTs that are not in compliance.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• CERS ID: 10216915 - Permit issuance date is November 9, 2017. However, CERS indicates five (5) of six (6) violations cited on April 20, 2016 have no RTC.</li> <li>• CERS ID: 10223725 - Permit issuance date is February 3, 2017. However, CERS indicates RTC did not occur until March 28, 2017.</li> <li>• CERS ID: 10217170 - Permit issuance date is June 24, 2016. However, CERS indicates no RTC for cited violations dated February 26, 2016.</li> <li>• CERS ID: 10223725 - Permit issuance date is February 6, 2016. However, CERS indicates RTC for cited violations dated January 29, 2016 did not occur until March 28, 2017.</li> </ul> <p>Note: The examples provided above <u>were identified</u> during the CUPA evaluation and may not represent all instances of this deficiency.</p> <p>Note: Please reference the following CERS FAQ: "When to Issue a UST Operating Permit."</p>	<p>By <b>[First Update After January 1, 2019]</b>, the CUPA will provide CalEPA with the revised procedure for issuing permits to ensure Unified Program Facility Permits, which includes the UST operating permit, are withheld from facilities with USTs that are not in compliance. The procedure must identify how CUPA inspectors, managers, and support personnel confirm UST compliance before the permit is <u>issued</u>.</p> <p>By <b>[Second Update]</b>, the CUPA <u>will, if necessary, submit</u> the revised procedure, based on feedback from State Water Board.</p> <p>By <b>[Third Update]</b>, the CUPA will implement and train personnel on the revised plan or procedure. In addition, the CUPA will provide training documentation to CalEPA. Training documentation will include, but not be limited to an outline of the training conducted and a list of CUPA personnel attending the training.</p> <p>With respect to permits already issued to facilities with USTs that are out of compliance, the CUPA will require UST violations to <u>be corrected</u> within 60 calendar days or initiate enforcement actions, which may include permit revocation.</p> <p>Thirty days after the next permit issuance cycle the CUPA will identify and provide CalEPA with a list of UST facilities (CERS ID and facility name) where permits <u>have been withheld</u> from facilities with USTs that are not in compliance.</p> <p>Ninety days after the next permit issuance cycle the CUPA will provide CalEPA copies of five (5) permits, as selected by State Water Board. Documentation will include monitoring certifications, all other necessary testing and compliance documentation, and any RTC documentation not found in CERS.</p>
<p><b>Deficiency Progress Update 1:</b> The first update is not required until after January 1, 2019. The first update <u>will be submitted</u> on March 5, 2019.</p>		
<p><b>Evaluation Team Response 1 [State Water Board]:</b></p>		

1.	DEFICIENCY: CORRECTED
	<p>The CUPA is not consistently requiring underground storage tank (UST) facilities to implement enhanced leak detection (ELD) testing, as required by state law and based on a facilities proximity to public drinking water wells.</p> <p>State Water Board records show the following UST facilities have neither completed the required ELD testing nor submitted a request for reconsideration (RFR) to perform ELD testing application:</p> <ul style="list-style-type: none"> <li>• CERS ID 10169755</li> <li>• CERS ID 10276303</li> <li>• CERS ID 10276246</li> <li>• CERS ID 10276297</li> <li>• CERS ID 10276507</li> <li>• 1225 Highway 99, Gridley, CA (not currently in CERS)</li> </ul> <p>State Water Board has provided the CUPA with copies of the formal notification letters and noncompliance letters to implement required ELD testing.</p> <p>Note: If a UST owner/operator believes they are not within 1,000 feet of a public drinking water well, an RFR application must be submitted to State Water Board. The application form can be found at: <a href="http://www.waterboards.ca.gov/ust/eld/index.shtml">http://www.waterboards.ca.gov/ust/eld/index.shtml</a>. Once received from the UST owner/operator, State Water Board will make a final determination whether or not ELD testing is required.</p> <p><b>CORRECTIVE ACTION: COMPLETED</b></p> <p>By June 27, 2017, the CUPA will notify UST facility owners/operators that they are required to conduct ELD testing within 60 days or immediately submit an RFR. The notification letters will also include language stating noncompliance may lead to administrative or other formal enforcement measures including, but not limited to, permit revocation. The CUPA will provide CalEPA with a copy of the notification letters to document notification have been accomplished for all identified facilities.</p> <p>By September 27, 2017, if ELD testing has not been implemented or the owner/operator has not been granted approval of the RFR, the CUPA shall initiate appropriate enforcement.</p> <p>Once ELD testing has occurred, the CUPA will provide CalEPA with a copy of each facility's test results.</p> <p><b>Progress Update 7:</b> The 350-gallon UST was removed under CUPA oversight on November 16, 2018. Attached is the CUPA inspection report documenting the removal of the tank.</p>



# Post-On-Site Visit

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- Closing the CUPA Performance Evaluation
  - Progress Reports conclude after 18 months **NEW!**
  - After 18 months, progress on remaining Resolutions and Corrective Actions to be addressed in the annual CUPA Self-Audit Report **NEW!**
  - **Evaluations will be considered closed upon correction of identified incidental findings and program deficiencies or upon submittal of progress reports for 18 months after the evaluation**

Christopher Moon (916)323-2204  
[christopher.moon@calepa.ca.gov](mailto:christopher.moon@calepa.ca.gov)

Kareem Taylor (916) 327-9557  
[kareem.taylor@calepa.ca.gov](mailto:kareem.taylor@calepa.ca.gov)

Marc Lorentzen (916)322-2155  
[marc.lorentzen@calepa.ca.gov](mailto:marc.lorentzen@calepa.ca.gov)

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# Thanks For Listening!



# Any Questions?