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To: DTSCPublicMeeting@DTSC
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Subject: CUPA ASSURANCE OF FINANCIAL RESPONSIBILITY
Date: Wednesday, September 21, 2016 5:40:32 PM
Attachments: [CUPA AFR Issues 9 20 2016.docx](#)

I attended the Chatsworth meeting last night but pulled my speaker card due to the overwhelming Rocketdyne interest and drama. Attached is a letter to the IRP regarding AFR and the CUPAs. The AFR universe needs to be expanded. I am grateful to the Vice-Chair for dovetailing with my concerns by his explanation of the number of facilities looked after by the San Diego CUPA. I had gotten a much lower overall estimate elsewhere. Thanks. Phil

September 20, 2016

Independent Review Panel

Mr. Gideon Kracov, J.D., Chair

Mr. Mike Vizzier, Vice Chair,

Ms. Arezoo Campbell, PhD.

Department of Toxic Substances Control

1001 "I" Street, 25th Floor

P.O. Box 806

Sacramento, California 95812-0806

Dear Independent Review Panel members:

EVALUATION OF CLOSURE PLANS, COST ESTIMATES AND FINANCIAL ASSURANCE AT CERTIFIED UNIFIED PROGRAM AGENCY (CUPA) REGULATED FACILITIES

As Independent Review Panel (IRP) Vice-Chair Mike Vizzier indicated last night (September 20, 2016) in Chatsworth, local agencies have regulatory permit responsibilities (Hazardous Waste Generator, Conditional Exempt, Conditional Authorized, and Permit by Rule) for a great many facilities---many thousands. The Department of Toxic substances control (DTSC) probably has fewer than 200 non-CUPA facilities under permit (RCRA and Standardized). The aggregate CUPA cleanup liability to the public could be greater than the facilities permitted by DTSC. The IRP has required significant Assurance of Financial Responsibility (AFR) information from DTSC on the facilities that it regulates. It is interesting that Hazardous Waste Generator, Conditional Exempt, and conditional authorized facilities regulated by the CUPAs are not required by statute or regulation to have written closure plans---unless a specified 90-day generator status applies. Permit by Rule facilities regulated by CUPAs are required to have a closure plan kept on-site but this does not have to be approved by either the CUPA or DTSC. It is further noted that (1) Hazardous Waste Generators are not required by statute or regulation to have AFR unless certain 90-day generator requirements apply; (2) Conditional Exempt facilities are not required by statute or regulation to have AFR unless certain 90-day generator requirements apply; (3) Conditional Authorized facilities must obtain AFR and must prepare a written cost estimate for closure of each unit; and (4) Permit by Rule facilities must obtain AFR and must prepare a written cost estimate for closure of each unit.

<https://www.dtsc.ca.gov/HazardousWaste/upload/closure-reqmts-gen-tpf.pdf>

I ask the IRP to make an information request of DTSC, such as shown in “The Status of Independent Review Panel Information Requests As of September 19, 2016”, to obtain information on: (1) listing of all CUPA facilities by type of permit and particular CUPA; (2) closure plan “head count” at CUPA facilities by particular CUPA and type of permit; (3) closure cost estimates at CUPA facilities by particular CUPA and type of permit; (4) amounts of financial assurance in place at each CUPA facility by particular CUPA and permit type; (5) presence/absence of known contamination; (5) bankruptcy filings by CUPA facilities and filings of claim for particular CUPA and type of permit; and, (6) listing of all CUPA facilities historically referred to DTSC for cleanup by particular CUPA and type of permit and by presence/absence of AFR. The foregoing information is requested to be complete, addressing both delegated and non-delegated program elements. The statewide public needs to get a complete picture of the potential AFR issues that might affect it.

Sincerely,

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