



Edmund G. Brown Jr.
Governor

Matthew Rodriguez
Secretary for Environmental Protection

Certified Mail: 7015 0640 0000 9486 4628

April 8, 2016

Mr. Ron Rowe, Director
Merced County Division of Environmental Health
260 E 15th Street
Merced, California 95341

Dear Mr. Rowe:

On February 19, 2016, the California Environmental Protection Agency (CalEPA), the Department of Toxic Substances Control (DTSC), the California Office of Emergency Services (Cal OES), the CAL FIRE - Office of the State Fire Marshal (OSFM), and the State Water Resources Control Board (State Water Board) completed a Unified Program evaluation of the Merced County Division of Environmental Health CUPA Certified Unified Program Agency (CUPA). The evaluation comprised of a remote assessment and oversight inspection.

Upon completion of the evaluation, the Unified Program Evaluation Team (team) developed a preliminary Summary of Findings, which identified program deficiencies and provided corrective actions with timeframes for correction. Program observations, recommendations and examples of outstanding implementation were also noted.

Enclosed, please find the final Summary of Findings. Based upon review and completion of the evaluation, the implementation and performance of the Unified Program by the CUPA is considered to be satisfactory with improvements needed.

Deficiency Progress Reports are due every 90 days from the completion of the evaluation to document progress of the CUPA towards correcting identified deficiencies. Due to the delay with finalizing the Summary of Findings, the first Deficiency Progress Report is due June 8, 2016. Submittal of Deficiency Progress Reports is required until all identified deficiencies have been corrected. Each Deficiency Progress Report should be emailed as a Microsoft Word document file to the team lead, katrina.valerio@calepa.ca.gov.

The final Summary of Findings and Deficiency Progress Reports will be posted at:

<http://cersapps.calepa.ca.gov/Public/Directory/CUPAEvaluationDocuments>

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of the Unified Program.

If you have any questions or need further assistance, please contact the team lead, Katrina Valerio, at (916) 323-2204 or John Paine, Unified Program 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

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Mr. John Paine
Unified Program Manager
California Environmental Protection Agency

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



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CERTIFIED UNIFIED PROGRAM AGENCY
FINAL SUMMARY OF FINDINGS

EVALUATION YEAR:	2016	REVIEW PERIOD:	November 13, 2015 – February 19, 2016	ISSUANCE DATE:	April 8, 2016
CUPA:	Merced County Department of Public Health				
EVALUATION TEAM MEMBERS:	CalEPA Team Lead	DTSC	Cal OES	SWRCB	CAL FIRE - OSFM
	Katrina Valerio	Kevin Abriol	Fred Mehr	Sean Farrow Lisa Jensen	Jenna Yang

This **FINAL SUMMARY OF FINDINGS** includes:

- deficiencies identified during the evaluation
- program observations and recommendations
- examples of outstanding program implementation

The findings contained within this evaluation report are considered final.

Based upon review and completion of the evaluation, the Unified Program implementation and performance of the CUPA are considered to be:

satisfactory with improvements needed

Questions or comments regarding this evaluation should be directed to **CalEPA Evaluation Team Lead**.

The CUPA is required to submit a **Deficiency Progress Report every 90 days** from the last day the evaluation is conducted, until all deficiencies have been acknowledged as corrected. Due to a delay in the final report, CalEPA will require the first update to be submitted 60 days after the issuance of the final report and every 90 days thereafter.

Each **Deficiency Progress Report** must include a narrative stating the correction of 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: June 8, 2016**
- Update 2: September 8, 2016**
- Update 3: December 8, 2016**
- Update 4: March 8, 2017**

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CERTIFIED UNIFIED PROGRAM AGENCY

EVALUATION: **FINAL SUMMARY OF FINDINGS**

DEFICIENCIES IDENTIFIED DURING EVALUATION

1. DEFICIENCY:	CORRECTIVE ACTION:
<p>The CUPA's local reporting portal is unable to transfer or exchange electronic data submitted by regulated businesses to California Electronic Reporting System (CERS).</p> <p>Currently, the CUPA receives over 50% of submittal elements through the local portal, and has identified "mapping" issues between the local portal, CERS Integration Wizard, and CERS.</p> <p>The CUPA's data management system is unable to transfer "batches" of submittals into CERS, each submittal and each attachment must be uploaded to CERS from EnvisionConnect individually. The CUPA is working to correct this deficiency and meets regularly with representatives from their vendor, and has been using the resources available to strive towards compliance with the data exchange requirements.</p> <p>Additionally, DTSC's review of CERS and facility files provided by the CUPA found that inspection and enforcement information was not consistently reported for Hazardous Waste Generators (HWG). For instance:</p> <ul style="list-style-type: none"> • Quik Stop Mkt #163 CERS ID 10419967 HWG Inspection date 09/03/2014 <ul style="list-style-type: none"> ○ CERS violation details list 4 Class I violations. ○ However, no Class I violations were cited in the inspection report. • 99 Cents Only Stores #151 CERS ID 10449568 HWG Inspection Date 08/28/2014 <ul style="list-style-type: none"> ○ CERS violation details list 4 Class I violations. ○ However no Class I violations were cited in the inspection report. • Sun Power Powder Coating 788 E. Childs Ave., Merced, CA 95340 Inspection Date 07/25/2014 <ul style="list-style-type: none"> ○ Facility not in CERS. ○ Inspection not in CERS. ○ Seven violations were cited during the inspection. 	<p>By June 8, 2016, the CUPA will review and edit the violations, inspections, and facility information the three HWG facilities listed in this deficiency and ensure the data represented in CERS is accurate. The CUPA will determine if these are simple typographic errors or part of a larger CME data transfer issue.</p> <p>By September 8, 2016, the CUPA will develop and implement an action plan and timeline for correction of this deficiency, and submit them to CalEPA. The plan will detail the steps necessary to ensure that submittal elements and attachments received by the CUPA via the local portal are uploaded to CERS. The CUPA will also work with its vendor and CalEPA to determine the CME data transfer issue. The timeline will estimate the dates of transfer for submittals and CME data, and an approximate date by which all submittals received in the portal will be uploaded to CERS.</p> <p>Beginning December 8, 2016, and with each successive update, the CUPA will provide a narrative detailing their progress in implementing the action plan. The CUPA will also submit a revised action plan and/or timeline if modifications are made.</p>
CITATION:	
CCR Title 27 Section 15187 (a)(2) [CalEPA][DTSC]	

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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EVALUATION: FINAL SUMMARY OF FINDINGS
DEFICIENCIES IDENTIFIED DURING EVALUATION

2. DEFICIENCY:	CORRECTIVE ACTION:
<p>The CUPA is not collecting, retaining, and managing information necessary to implement the Unified Program. Information reviewed in CERS, Self Audit Reports, and the Semi-annual UST Program Report (Report 6) was inconsistent.</p> <p>CalEPA found 116 inspection discrepancy between routine inspection numbers uploaded to CERS and those disclosed in the CUPA’s annual Self Audit Reports for Fiscal Years (FY) 2013/2014 and 2014/2015. State Water Board’s review of Report 6, CERS, and annual Self Audit Reports found that the CUPA is not consistently reporting annual UST compliance inspections.</p> <p><u>FY 2013/2014</u></p> <ul style="list-style-type: none"> • Hazardous Materials Business Plan (Business Plan) <ul style="list-style-type: none"> ○ CERS identifies 378 routine inspections. ○ Self Audit Report identifies 396 routine inspections. • California Accidental Release Prevention (CalARP) <ul style="list-style-type: none"> ○ CERS identifies 28 routine inspections. ○ Self Audit Report identifies 16 routine inspections. • Underground Storage Tank (UST) <ul style="list-style-type: none"> ○ Report 6 identifies 109 inspections conducted, ○ CERS identifies 98 routine inspections, and ○ Self Audit Report identifies 84 routine inspections. • Aboveground Petroleum Storage Act (APSA) <ul style="list-style-type: none"> ○ CERS identifies 66 inspections. ○ Self Audit Report identifies 63 inspections. • Hazardous Waste Generator (HWG) <ul style="list-style-type: none"> ○ CERS identifies 271 inspections. ○ Self Audit Report identifies 287 inspections. <p><u>FY 2014/2015</u></p> <ul style="list-style-type: none"> • Business Plan <ul style="list-style-type: none"> ○ CERS identifies 310 routine inspections. ○ Self Audit Report identifies 331 routine inspections. • CalARP – No Discrepancy • Underground Storage Tank (UST) <ul style="list-style-type: none"> ○ Report 6 identifies 148 inspections conducted, ○ CERS identifies 102 routine inspections, and ○ Self Audit Report identifies 113 routine inspections. 	<p>By September 8, 2016, the CUPA will perform a thorough analysis of the program and conclude why reported inspection numbers are not consistent between the different reporting formats. The CUPA will provide formal findings of the analysis to CalEPA.</p> <p>By December 8, 2016, the CUPA will develop and submit to CalEPA, written procedures for inspection staff. The procedures will include but not be limited to:</p> <ul style="list-style-type: none"> • Collecting, retaining, managing, and reporting inspection information. • How staff report inspection information at the local level. • How inspection information is reported to state agencies. <p>By March 1, 2017, the CUPA will submit an accurate Semi-Annual Report 6 for July through December 2016 to State Water Board.</p> <p>By March 8, 2017, the CUPA will amend and implement the procedure, if required to do so by state evaluators and submit the amended procedure to CalEPA for review and approval.</p> <p>Additionally, by September 1, 2017, the CUPA will review the Semi-Annual Report 6 for January through June 2017 and submit an accurate report to State Water Board.</p>

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: **FINAL SUMMARY OF FINDINGS** DEFICIENCIES IDENTIFIED DURING EVALUATION

<ul style="list-style-type: none"> • Aboveground Petroleum Storage Act (APSA) <ul style="list-style-type: none"> ○ CERS identifies 51 inspections. ○ Self Audit Report identifies 55 inspections. • Hazardous Waste Generator (HWG) <ul style="list-style-type: none"> ○ CERS identifies 253 inspections. ○ Self Audit Report identifies 274 inspections. <p>During the evaluation, the CUPA identified possible reasons for these discrepancies including lag in data entry for hard copy inspection reports, and permitting inspections mislabeled as routine inspections.</p> <p>CITATION:</p> <p>HSC, Chapter 6.11, Section 25404(e)(4) CCR, Title 27, Section 15110(d) CCR, Title 27, Section 15185(a) CCR, Title 27, Section 15187(c) CCR, Title 27, Section 15290(b) CCR, Title 23, Section 2713(c) [CalEPA][State Water Board]</p>	
<p>3. DEFICIENCY:</p> <p>The CUPA is not consistently following-up and documenting return to compliance (RTC) for facilities cited with minor violations in Notices to Comply or inspection reports.</p> <p><u>HWG</u> DTSC's review of CERS shows that 18% of HWG facilities cited with minor violations have not return to compliance. The following three facility files reviewed by DTSC did not contain return to compliance:</p> <ul style="list-style-type: none"> • Super Mac Food & Gas <ul style="list-style-type: none"> ○ CERS ID 10498750 ○ Inspected 7/24/2014 and 7/12/2015. • United States Penitentiary-Atwater <ul style="list-style-type: none"> ○ CERS ID 10497124 ○ Inspection on 11/05/2013, 11/6/2014, and 11/3/2015. • Los Banos ARCO AMPM 83466 <ul style="list-style-type: none"> ○ CERS ID 10454311 ○ Inspection on 7/30/2014, and 7/30/2015. <p>The following two HWG facilities did not return to compliance within the 35-day statutory timeframe.</p>	<p>CORRECTIVE ACTION:</p> <p>By June 8, 2016, the CUPA will follow-up with the facilities listed in this deficiency and provide CalEPA with a copy of RTC documentation for each one. In the absence of RTC documentation, the CUPA will document follow-up activity and report to CalEPA their progress with ensuring compliance with each facility.</p> <p>By September 8, 2016 the CUPA will perform a thorough analysis of their enforcement program and continue to work with its vendor to analyze its data management process and conclude why RTC rates are low in CERS. The CUPA will provide formal findings of the analysis to CalEPA.</p> <p>By September 8, 2016, the CUPA will provide CalEPA with a RTC tracking spreadsheet that is sortable by program element, and lists the facilities that have open minor violations for each program element. At minimum, the spreadsheet will include:</p>

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<ul style="list-style-type: none"> • Quik Stop Mkt #163 <ul style="list-style-type: none"> ○ CERS ID 10419967 ○ Inspection on 9/03/2014 ○ RTC on 9/02/2015 • Greenway <ul style="list-style-type: none"> ○ CERS ID 10498294 ○ Inspection on 3/12/2014 ○ RTC on 1/13/2015 <p><u>APSA</u> OSFM’s review of CERS found that 95 of 251 (38%) facilities cited with minor violations during an APSA inspection have not returned to compliance, and are beyond the RTC timeframe.</p> <p><u>UST</u> State Water Board review of CERS finds, RTC dates for cited UST violations are not consistently uploaded, or the CUPA is not enforcing UST requirements upon facilities requiring violations to be corrected.</p> <p>The following FY’s show low rates of return to compliance for cited UST violations:</p> <ul style="list-style-type: none"> • FY 2013/2014 <ul style="list-style-type: none"> ○ CERS shows 39% of cited violations did not have a return to compliance date. • FY 2014/2015 <ul style="list-style-type: none"> ○ CERS shows 52% of cited violations did not have a return to compliance date. <p>This deficiency was also cited in 2013 evaluation, but considered corrected during the update reporting process.</p> <p>The CUPA has identified that field mapping may be an issue in syncing data as it is uploaded to CERS. Merced County CUPA has contacted its vendor to identify, and repair problem and to create a report to identify the next inspection dates.</p>	<ul style="list-style-type: none"> • Facility name, address, • CERS ID number, • Facility ID number (if applicable), • Inspection and violation dates, • Scheduled RTC date, • Actual RTC date, • RTC qualifier and • Follow-up actions, and <p>By December 8, 2016, and with each Deficiency Progress Report, the CUPA will provide CalEPA with an updated version of the RTC tracking spreadsheet. The CUPA will also provide CalEPA with a copy of RTC documentation for facilities requested by the evaluation team during the previous quarter.</p> <p>For any UST facility for which RTC documentation is requested, the CUPA will also include the most current Annual UST monitoring certification test results and associated inspection report.</p> <p>For facilities where RTC activities are not successful, the CUPA will pursue progressive enforcement, which includes permit revocation.</p>
<p>CITATION:</p>	
<p>HSC, Chapter 6.11, Section 25404.1.2(c) HSC, Chapter 6.5, Section 25187.8(b) and (g) CCR, Title 27, Section 15200(a) CCR, Title 27, Section 15185(a) and (c) CCR, Title 23, Section 2712(f) [CalEPA] [OSFM] [DTSC] [State Water Board]</p>	

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: **FINAL SUMMARY OF FINDINGS** DEFICIENCIES IDENTIFIED DURING EVALUATION

4.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA has not updated their Inspection and Enforcement (I & E Plan) as necessary.</p> <p>Issues observed include:</p> <ul style="list-style-type: none"> • Graduated series of enforcement actions and formal enforcement procedures do not reflect the CUPA's practice. • Provisions for addressing complaints were not included. • Incorrect references were maintained: <ul style="list-style-type: none"> ○ Page 18, incorrect reference to HSC 25270.5. ○ Page 27, incorrect reference to the Water Board for AST violations. 	<p>By June 8, 2016, the CUPA will review the formal enforcement, and graduated series of enforcement sections of their I & E Plan and revise those sections to reflect the CUPA's processes. The CUPA will submit a copy of the revised I & E Plan to CalEPA.</p> <p>During the evaluation process, the CUPA revised their I & E Plan and corrected most of the issues listed in the deficiency including provisions for addressing complaints and corrections references listed in the deficiency.</p>
	CITATION:	
	CCR Title 27 Section 15200 [CalEPA][OSFM][DTSC]	
5.	DEFICIENCY:	CORRECTIVE ACTION:
	<p>The CUPA is not ensuring that each business annually submits complete hazardous materials business plan information to the statewide information management system.</p> <p>A combined review of CERS and a report from the CUPA's local portal shows that approximately 436 of 1074 (41%) of HMBP facilities have not submitted a business plan within the last year.</p>	<p>By June 8, 2016, and with each Deficiency Progress Report, the CUPA will identify the number of businesses that have not submitted business plan information in the previous 12 months. The CUPA will notify each business of the requirement to submit a business plan, and report the number of those businesses to CalEPA.</p> <p>By December 8, 2016, the CUPA will have initiated appropriate enforcement actions against businesses that that have not submitted complete business plan information to CERS within the past 12 months. The CUPA will provide CalEPA with a report of the number of enforcement actions taken.</p>
	CITATION:	
	HSC, Chapter 6.95, Section 25505 HSC, Chapter 6.95, Section 25508(a) [Cal OES] 2013 CFC, Chapter 50, Section 5001.5.1 and 5001.5.2 [OSFM]	<p>By March 1, 2017 the CUPA will have ensured that all businesses have submitted complete hazardous materials business plan information electronically within the last year.</p>

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION: **FINAL SUMMARY OF FINDINGS** DEFICIENCIES IDENTIFIED DURING EVALUATION

6.	<p>DEFICIENCY:</p> <p>The CUPA is not ensuring all appropriate UST related fields in CERS are properly completed by businesses.</p> <p>State Water Board review of CERS submittals finds, the CUPA is accepting incomplete or inaccurate UST related fields. A few examples of incomplete or inaccurate data fields accepted are as follows:</p> <ul style="list-style-type: none"> • Records missing Tank Installation dates; • Records with no fill components installed; and • Records with no line leak detectors installed on pressurized pipe. <p>Note: Refer to State Water Board published guidance- FAQs “General Reporting Requirements for UST’s”, “When to Issue a UST Operating Permit”, “Common CERS Reporting Errors”, “Setting Accepted Submittal Status”, and “Which Forms Require Uploading to CERS”.</p> <p>CITATION:</p> <p>HSC, Chapter 6.11, Section 25404(a)(1)(C) CCR, Title 27, Section 15185(a) CCR, Title 27, Section 15188(c) [State Water Board]</p>	<p>CORRECTIVE ACTION:</p> <p>By June 8, 2016, the CUPA will revise, implement, and submit to CalEPA, a procedure to ensure only accurate and complete UST information is submitted in CERS prior to acceptance. The procedure will include, but not be limited to, the following steps for accepting CERS submittals:</p> <ul style="list-style-type: none"> • If staff “accept” submittals with minor errors, a condition is set in CERS requiring the submittal to be corrected and resubmitted within a set timeframe; • If the submittal is not corrected, staff will change the submittal status from “accepted” to “not accepted”; and • How staff will determine if UST fields are complete and accurate. <p>With respect to data already submitted to CERS and accepted by the CUPA, the CUPA will review UST related fields and require complete and accurate submittals for each facility no later than the due date of the next annual UST compliance inspection.</p>
7.	<p>DEFICIENCY:</p> <p>The CUPA is not requiring UST facilities to implement periodic enhanced leak detection (ELD) testing due to proximity to public drinking water wells.</p> <p>State Water Board records show there are six (6) UST facilities, which have neither completed the required ELD testing nor submitted a request for reconsideration (RFR) to perform ELD testing application.</p> <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 the State Water Board. The application can be found at: http://www.waterboards.ca.gov/ust/eld/index.shtml.</p>	<p>CORRECTIVE ACTION:</p> <p>By June, 2016, the CUPA will notify UST facility owners/operators and inform them ELD testing is required. The notification letters shall include language stating noncompliance may lead to administrative or other formal enforcement measures. In addition to the notification letters, during the next annual UST compliance inspection, if ELD testing has not been implemented the CUPA shall cite the owner/operator for violation of Title 23, California Code of Regulations, Section 2644.1 for failure to implement ELD testing.</p> <p>The CUPA will copy CalEPA on this communication to document notification has been accomplished for all identified facilities.</p> <p>Once ELD testing has occurred, the CUPA will provide CalEPA with copies of the test results.</p>

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EVALUATION: **FINAL SUMMARY OF FINDINGS**

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	<p>Once received from the UST owner/operator, the State Water Board will make a final determination whether or not ELD testing is required.</p> <p>CITATION:</p> <p>HSC, Chapter 6.7, Section 25292.4 & 25292.5 CCR, Title 23, Section 2644.1 [State Water Board]</p>	
8.	<p>DEFICIENCY:</p> <p>The CUPA is issuing Unified Program Facility Permits, which includes the UST operating permit, to facilities not in compliance with UST Program requirements.</p> <p>The CUPA confirms UST operating permits are issued to facilities when cited minor violations have not been corrected.</p> <p>Note: Refer to State Water Board published guidance- FAQs “When to Issue a UST Operating Permit”.</p> <p>CITATION:</p> <p>HSC, Chapter 6.7, Section 25285(b) CCR, Title 23, Section 2712(c) and (e) [State Water Board]</p>	<p>CORRECTIVE ACTION:</p> <p>By June 8, 2016, the CUPA will amend and submit to CalEPA, its procedures for issuing UST operating permits. The procedures will be amended to identify how CUPA inspectors, managers, and support staff confirm UST facility compliance before UST operating permits are issued.</p> <p>With respect to UST operating permits already issued to UST facilities not in compliance, the CUPA will require violations to be corrected within 30 calendar days or start progressive enforcement, which includes permit revocation for UST facilities that fail to return to compliance.</p> <p>Sixty (60) days after the next permit issuance cycle, the CUPA will submit to CalEPA, a copy of the UST operating permit, testing and maintenance records along with any other necessary records to determine compliance for 10 UST facilities selected by State Water Board.</p>
9.	<p>DEFICIENCY:</p> <p>The CUPA assessed an incorrect amount for the California Accidental Release Prevision (CalARP) program element surcharge during FY 2013/2014 and FY 2014/2015.</p> <p>CalARP facilities were invoiced a surcharge of \$273 instead of \$270. The CUPA identified the \$3 overcharge in the FY 2013/2014 invoices and included a \$3 credit with their FY 2014/2015 invoices.</p> <p>CalARP facilities were again invoiced \$273 in FY 2014/2015, and FY 2015/2016 invoices included a \$3 credit.</p> <p>CITATION:</p> <p>CCR Title 27 Section 15250 (a) [CalEPA]</p>	<p>CORRECTIVE ACTION:</p> <p>This deficiency was corrected during the evaluation.</p> <p>After the January 26, 2016, initial meeting to discuss potential deficiencies, the CUPA provided FY 2015/2016 invoices that demonstrated that all overages had been credited to overcharged CalARP facilities and that the invoice system had been corrected to reflect the accurate \$270 surcharge. No further corrective action is necessary.</p>

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EVALUATION: **FINAL SUMMARY OF FINDINGS**

OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. OBSERVATION:
The CUPA submitted a formal enforcement log summarizing all enforcement cases the CUPA has processed since 2001. For 2014 and 2015 the CUPA has four pending AEOs. In December 2013, Title 27 was revised to include a requirement to submit a formal enforcement summary report within 30 days after the final disposition of a formal enforcement case, including administrative orders.
RECOMMENDATION:
CalEPA recommends that the CUPA submit formal enforcement summaries for each enforcement case that receives a final judgement within 30 days of the final disposition. The Formal Enforcement Summary template and instructions are available through CalEPA's website at http://www.calepa.ca.gov/CUPA/Publications/ .
2. OBSERVATION:
The CUPA meets the first Wednesday of each month with their emergency first responders. During the last meeting, the CUPA educated the first responders on the CERS emergency response module.
RECOMMENDATION:
OSFM recommends that the CUPA continue to coordinate HMBP sharing efforts with their emergency first responders.
3. OBSERVATION:
The CUPA has experienced high turnover of staff within the last year. Several deficiencies included in the summary of findings including ensuring businesses submit business plans annually, follow up on RTC, and data management are likely the result of the temporary vacancies. The CUPA is on track to fill 2 of the 3 vacancies by the end of April 2016.
RECOMMENDATION:
CalEPA recommends that Merced County expedite hiring to fill vacancies in the CUPA program in order to ensure that the CUPA has staff necessary to implement all Unified Program requirements.

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EVALUATION: **FINAL SUMMARY OF FINDINGS**

OBSERVATIONS AND RECOMMENDATIONS

4. OBSERVATION:	<p>State Water Board review of the CUPA's Inspection and Enforcement Plan finds the CUPA does not address conducting annual UST compliance inspections when staff do not witness annual UST monitoring certifications.</p>
RECOMMENDATION:	<p>For consistency between inspection staff, State Water Board recommends that the CUPA add procedures to the Inspection and Enforcement Plan for how to conduct a physical UST inspection when staff do not witness the annual UST monitoring certification. Procedures should include the review of the non-witnessed monitoring certification, scheduling of the annual inspection with an individual who can provide access to turbine sumps, under dispenser containment, spill buckets, etc. and the verification of the UST CERS submission.</p>
5. OBSERVATION:	<p>State Water Board review of the CUPA's permitting procedures finds the CUPA includes information for submitting the HMBP packet and the completion of all UST forms (flow chart). However the permitting procedures do not include CERS submissions and conducting annual UST compliance inspections verifying compliance prior to the issuance of a permit.</p>
RECOMMENDATION:	<p>State Water Board recommends that the CUPA amend permitting procedures to include CERS submissions and verifying UST compliance before the issuance of the UST operating permit.</p>
6. OBSERVATION:	<p>State Water Board observed that the Merced County CUPA has incorporated the City of Hayward Fire Department CUPA's Inspection Procedures Guidance into their policies and procedures. All references to the City of Hayward Fire Department remain in the guidance document.</p>
RECOMMENDATION:	<p>State Water Board recommends that the CUPA revise the Inspection Procedures Guidance document by removing the City of Hayward reference, and specifying that the guidance is for Merced County Department of Public Health CUPA inspectors.</p>

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EVALUATION: **FINAL SUMMARY OF FINDINGS**

OBSERVATIONS AND RECOMMENDATIONS

7. **OBSERVATION:**

On 24 March 2016, State Water Board witnessed the Merced County Environmental Health CUPA, conduct one (1) annual UST compliance inspection at Bi-Rite Liquors, 1103 Martin Luther King, Jr Way, Merced. State Water Board met with the CUPA at 08:30 prior to the inspection to discuss inspection preparation. The inspection began at 09:00 and was concluded at 15:30. State Water Board returned to the CUPA office to provide one-on-one training for data retrieval and analysis of CERS data.

The CUPA inspector's ability to develop a good working relationship with the tank testers and owner/operators helps ensure they come to her with questions and concerns. The inspector wrote detailed notes to document her review of the site and associated background materials, such as description/location of violations and incorrect CERS submissions. The CUPA spends time working closely with owner/operators to aid them in understanding CERS and getting their CERS submittals loaded into CERS.

State Water Board staff observed the failure of CUPA staff to cite violations for the following:

- Waste from the turbine sump and spill buckets was not properly profiled, and was disposed of in a landscaped area adjacent to the UST facility. The facility hazardous waste disposal container was padlocked, neither facility staff nor the designated operators had access to the key.
- The petroleum delivery driver was unable to see the audio/visual overfill alarm as a result of alarm placement on the North side of the building and position of the fuel truck.

The State Water Board noted the monitoring panel is located in the owner/operator's personal office on site. The office is locked when the owner is not on site and thus inaccessible to general facility staff.

The State Water Board observed that the CUPA did not have the owner/operator sign a consent form or gain permission for taking photographs.

RECOMMENDATION:

State Water Board recommends that the CUPA receive additional training on California statutes and regulations to recognize and cite violations as they occur during inspections, as well as consider having the owner/operators sign a consent form which gives permission to be on-site, take photographs and collect evidence as needed.

Finally, State Water Board recommends working with the owner of the site referenced above to ensure all facility staff have access to the monitoring panel.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CERTIFIED UNIFIED PROGRAM AGENCY

EVALUATION: **FINAL SUMMARY OF FINDINGS**

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

- 1. Evaluation Beta Test Participation** – Merced County CUPA was one of four CUPAs to participate in the CalEPA beta test of the new evaluation process. Under the new evaluation process, state agencies now review all evaluation information from their desks rather than conducting an evaluation at the CUPA Office. This new evaluation process requires the CUPA to submit documents that are were historically reviewed in the CUPA’s office to CalEPA electronically. 61 facility files were selected for review by the state agencies in addition to the policies, procedures and other administrative documents that are usually submitted prior to an evaluation. Pursuant to California Code of Regulations, the CUPA is required to provide any requested information within 60 days. However, in October 2016, CalEPA sent an email to Merced County with a special request for evaluation information to be submitted to CalEPA within 30 days. The CUPA complied with the special request and provided the standard policies, procedures and report documents within two weeks, and all of the requested facility files by November 20, 2015, which was within 30 days. The CUPA was very cooperative with the beta test process and provided quickly provided additional information for clarification when requested. Additional information provided by the CUPA included requests for additional facility files, and responses to State Water Board evaluation form questions. The CUPA manager was very forthcoming with information and in discussing challenges with aided significantly in this highly interactive process, and provided useful feedback to help improve the new evaluation process, and ease the burden on the next series of CUPA’s that will be evaluated remotely.