



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



MATTHEW RODRIQUEZ
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EDMUND G. BROWN JR.
GOVERNOR

Certified Mail: 7003 1680 0000 6175 0480

July 11, 2014

Mr. Larry Anderson
Fire Chief
City of Petaluma Fire Department
198 D Street
Petaluma, California 94952

Dear Mr. Anderson:

The California Environmental Protection Agency (CalEPA), California Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the City of Petaluma Fire Department Certified Unified Program Agency (CUPA) on April 29 and 30, 2014. The evaluation was comprised of an in-office program review and field oversight inspections by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Agency's program performance is satisfactory with some improvements needed. To complete the evaluation process, please submit Deficiency Progress Reports to CalEPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Katrina Valerio every 90 days after the evaluation date; the first report is due on July 30, 2014.

CalEPA also noted during this evaluation that City of Petaluma Fire Department has worked to bring about a number of local program innovations, including a dedication to reaching out to the regulated community as well as to first responders to educate them on CERS and the technologies available for electronic reporting and emergency response data extraction. We will be sharing these innovations with the larger CUPA community through CalEPA Unified Program website to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, please contact Katrina Valerio, evaluation team leader, at (916) 323-2204 or John Paine, Program Manager, at (916) 327-5092.

Sincerely,

Original signed by Jim Bohon

Jim Bohon, Assistant Secretary
Local Program Coordination and Emergency Response
California Environmental Protection Agency

Enclosure

cc sent via email

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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS - FINAL

CUPA: City of Petaluma Fire Department

Evaluation Date: April 29-30, 2014

EVALUATION TEAM

Cal/EPA: Katrina Valerio
SWRCB: Sean Farrow
Cal OES: Jack Harrah
DTSC: Mark Pear

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are now considered to be final. Questions or comments can be directed to Katrina Valerio at (916) 323-2204.

	<u>Deficiency</u>	<u>Corrective Action</u>
1	<p>The CUPA is not ensuring that Underground Storage Tank (UST) data submitted by businesses is accurate and correct.</p> <p>SWRCB's file review indicates that the CUPA is accepting incomplete California Environmental Reporting System (CERS) submittals. A few examples of data elements found to be inaccurate or missing from accepted submittals are as follows:</p> <ul style="list-style-type: none">• Vent pipe information;• Vapor pipe information;• Line Leak Detectors information;• Tank and/or line integrity testing was indicated but test results were not submitted. <p>HSC, Chapter 6.11, Section 25404(a)(1)(C) [SWRCB] CCR, Title 27, Sections 15185(a) and 15188(c)</p>	<p>Effective immediately, the CUPA will cease accepting incomplete or inaccurate UST CERS submittals.</p> <p>By July 30, 2014, the CUPA will develop, and submit to CalEPA, a procedure to ensure information submitted into CERS is accurate and complete.</p> <p>By August 30, 2014, the CUPA will incorporate and implement the new UST procedure as described above.</p> <p>By September 30, 2014, the CUPA will conduct their self-audit and submit the self-audit report to CalEPA. The self-audit will address the status of implementation of the procedure and identify if any changes are needed.</p> <p>By October 30, 2014, the CUPA will submit CERS ID numbers for two UST facilities that demonstrate submittals are accurate and complete.</p>

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2	<p>The CUPA overlooked two items during its inspection of Petaluma Auto Body Shop, Inc. on January 9, 2014. During the inspection, the following was noted:</p> <ol style="list-style-type: none"> 1) The inspector failed to determine whether the operator was required to provide notification of solvent recycling occurring on site as required by HSC 25143.10(a). 2) The inspector failed to ask whether the operator had made a hazardous waste determination at the point of generation when product is rinsed into a water bath as required by CCR, Title 22, Section 66262.11. As a result, the inspector was unable to determine whether the operator can or needs to provide notification for wastewater treatment under tiered permitting or whether the spent bath\sludge needs to be manifested. <p>HSC, Chapter 6.5, Section 25143.10(a) [DTSC] HSC, Chapter 6.5, Section 25201.5(d)(7) CCR, Title 22, Section 66262.11</p>	<p>The CUPA will re-inspect the site to make a determination whether the facility needs to make a notification under HSC 25143.10(a) and whether the spent product treated in the aqueous bath is a hazardous waste.</p> <p>By October 30, 2014, the CUPA will submit the re-inspection report to CalEPA.</p>
3	<p>In some cases, the CUPA is not appropriately following-up and/or documenting return to compliance (RTC) for businesses cited for violations in Notices to Comply and inspection reports/Notices of Violation.</p> <p>During the 2011 and 2014 evaluations, the CUPA was not consistent in documenting RTC. Prior to the 2014 evaluation, the CUPA created and is now beginning to implement a consistent procedure for documenting RTC.</p> <p>This deficiency is continued from the 2011 CUPA Evaluation (Deficiency 4).</p> <p>HSC, Chapter 6.5, Section 25187.8 [DTSC]</p>	<p>By October 30, 2014, the CUPA will submit to CalEPA one recent example of RTC documentation.</p>
4	<p>The CUPA did not take formal enforcement for non-minor violations noted during a Hazardous Waste Generator inspection of Max Ali Auto Wrecking Yard</p>	<p>The CUPA will initiate and complete the appropriate formal enforcement actions in the future.</p>

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	<p>on March 30, 2011, located at 892 Lakeville Street, in Petaluma.</p> <p>The Max Ali Wrecking Yard failed to:</p> <ul style="list-style-type: none"> • properly store and contain hazardous waste • document waste disposal • keep waste disposal records on site <p>Additionally, the facility illegally discharged waste oil and engine coolant onto the ground.</p> <p>HSC, Chapter 6.5, Section 25110.8.5 [DTSC] HSC, Chapter 6.5, Section 25189.5(b) CCR, Title 27, Section 15200(a)(9)</p>	<p>By October 30, 2014, the CUPA will provide in-house violation determination training to its inspectors and will send confirmation to CalEPA when the training has been completed.</p> <p>The CalEPA “Violation Classification Guidance Document for Unified Program Agencies,” is a good tool to use for refresher training. It is available on the CalEPA website at http://www.calepa.ca.gov/CUPA/Resources/</p>
<p style="text-align: center;">*</p>	<p>UST plot plans were not in facility files or did not contain all required elements. Location(s) of where monitoring would be performed was missing. Examples of missing locations include the sensors (or float and chain) for under-dispenser containments (UDCs), turbine sumps, and line leak detectors.</p> <p>This deficiency is continued from the 2011 CUPA Evaluation (Deficiency 10).</p> <p>HSC, Chapter 6.7, Section 25286 (a) (SWRCB) CCR, Title 23, Section 2711 CCR, Title 27, Sections 15185 and 15188</p>	<p>This deficiency was determined to be corrected during the 2014 CUPA Evaluation.</p>

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

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

1. **Observation:** The CalARP performance audits for Fiscal Year (FY) 2012-2013, as well as preceding fiscal years, lists, under subsection (7), two employees of the stationary source (Petaluma Creamery).

Recommendation: Cal OES recommends that, starting with the next CalARP performance audit, the CUPA list how many CUPA staff, and estimate how many personnel years (PYs), it takes to administer the CalARP program during that fiscal year. Title 19 CCR 2780.5 (b) (7) is asking for a summary of the personnel and PYs necessary for *the CUPA* to directly implement, administer and operate the CalARP program, not the personnel and PYs necessary for the stationary source.

2. **Observation:** Senate Bill 483 (2013) reorganized Health & Safety Code, Chapter 6.95, Article 1, renumbering most sections. Therefore, any documents referencing Article 1 citations may now be incorrect.

Recommendation: Cal OES recommends that the CUPA review all documents that have Article 1 citations, such as the I&E Plan, and ensure that they are current and correct.

3. **Observation:** Nine out of 10 facility files reviewed in CERS by Cal OES had all three elements of the business plan accepted and had inventories dated within one year of the evaluation. The tenth file, Petaluma Creamery (CERS ID# 10122637), had the inventory and emergency response plan accepted on September 13, 2011. The status of the third element, the facility information, was “not accepted” effective July 9, 2013. HSC section 25508 (a)(2) requires the handler to submit a corrected business plan within 30 days.

Recommendation: Cal OES recommends that the CUPA ensure all CERS submittals found to be deficient are followed up on within 30 days. After 30 days, the CUPA should begin applying a graduated series of enforcement.

4. **Observation:** The April 27, 2006 risk management plan (RMP) for Petaluma Creamery has the notification section of the emergency response program on pages 4 and 5. This section directs that, in the event of a release, the CUPA, and maybe the National Response Center, must be notified immediately. There is no mention of the California State Warning Center (CSWC) (800-852-7550).

Recommendation: Cal OES recommends that the CUPA ensure the Petaluma Creamery RMP be corrected upon the next scheduled revision (this year) to include the phone number for the CSWC. Notification of CSWC is required by HSC, Chapter 6.95, section 25510. The Cal OES Spill Guidance document can be found here: <http://www.caloes.ca.gov/HazardousMaterials/Pages/Spill-Release-Reporting.aspx>.

5. **Observation:** Although the CUPA’s I&E Plan has been reviewed recently, a couple references to the Regional Water Quality Control Board’s (RWQCB) administration of provisions of the aboveground petroleum storage tank act (APSA) remain. Additionally, although an entire binder

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section is devoted to the CUPA's red tag authority, the I&E Plan's enforcement option matrix and formal enforcement flow charts do not list red tags as an enforcement option.

Recommendation: CalEPA recommends that the CUPA revise its I&E Plan to replace the remaining references to RWQCB with CalFire-Office of the State Fire Marshal, as well as add the APSA Program to its enforcement options matrix. SWRCB recommends that the CUPA add red tag authority as an option in its enforcement option matrix and formal enforcement flow chart.

- 6. Observation:** The CUPA is pursuing formal enforcement as necessary, but has not submitted formal enforcement summary reports to CalEPA upon completion of formal enforcement actions.

Recommendation: CalEPA recommends that the CUPA submit formal enforcement summary reports to CalEPA pursuant to Unified Program Guidance Letter 13-05, dated April 19, 2013. A template and instructions for formal enforcement summary reports is available at <http://www.calepa.ca.gov/CUPA/Publications/>.

- 7. Observation:** A link to CERS is available through the CUPA's CERS Guidance Document.

Recommendation: CalEPA recommends that the CUPA add a direct link to CERS to their website.

- 8. Observation:** All of the CUPA's direct and indirect costs are funded through the City of Petaluma's general fund. During FY 2012/2013 92% of the CUPA's salary expenditures were funded through single fee billings. One part-time inspector position has since been upgraded to full-time status and as such, salary expenditures are expected to increase during FY 2013/2014.

Recommendation: CalEPA recommends that the CUPA review and consider adjusting its fees to enable it to recoup 100% of the necessary and reasonable cost to administer the CUPA program, including direct and indirect costs.

- 9. Observation:** A review of the CUPA's UST Inspection Standards and Policies shows that the CUPA has inspection checklists for single and double walled facilities. However, SWRCB only found one inspection report dated 2011 using one of these checklists. Currently, all inspections are documented on the CUPA's Fire Inspection/Hazardous Materials Notice.

Recommendation: SWRCB recommends that the CUPA inspectors start to use the CUPA Forum Board standardized UST inspection checklists. These standardized inspection checklists, along with other program checklists, can be found at: www.calcupa.net.

- 10. Observation:** SWRCB has reviewed the CUPA's Inspection Standards/Policies for Underground Storage Tanks and found that it includes outdated information.

Recommendation: SWRCB recommends that the CUPA review its Inspection Standards/Policies for Underground Storage Tanks and update information as necessary.

- 11. Observation:** The CUPA uses a checklist to verify compliance prior to issuing the consolidated operating permit. This checklist identifies the following: type of site, permit number, name and

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address, program, number of tanks, BOE number, SOC and hours to record this information. This is an excellent example that other agencies could use in order to issue permits based on compliance

Recommendation: None.

- 12. Observation:** A review of UST information in CERS depicts, in some instances, that the CUPA is not changing the submittal status from “submitted” to “under review,” indicating that the submittal has been received. Some submittals date back to early March 2014, while the SWRCB review was performed on April 17, 2014.

Recommendation: SWRCB recommends that the CUPA refer to the CalEPA Unified Program Guidance Letter 13-02, dated January 28, 2013.

- 13. Observation:** The CUPA is conducting HWG inspections at a frequency that is consistent with its I&E Plan and with the inspection frequency of other program elements. The CUPA has inspected 154 hazardous waste generators that have been identified. The last three annual inspection summary reports indicate the following:

- 1) 181 hazardous waste generators were identified in FY 10/11, of which 46 were inspected,
- 2) 145 hazardous waste generators were identified in FY 11/12, of which 62 were inspected, and
- 3) 167 hazardous waste generators were identified in FY 12/13, of which 46 were inspected.

The CUPA has inspected approximately 92% of all known facilities generating hazardous waste over the past three FYs. There is a difference of approximately 152 facilities between what the CUPA reported in its latest inspection summary report for FY 2012-2013 (167 facilities), and the total number of businesses manifesting off hazardous waste with active EPA ID numbers listed in the Department's Hazardous Waste Tracking System (319 facilities).

Recommendation: DTSC recommends that the CUPA consult DTSC’s hazardous waste tracking system for any facilities that may have been overlooked. In addition, DTSC recommends that the CUPA continue to meet the established inspection frequency.

- 14. Observation:** The CUPA was able to demonstrate, with use of a tracking log, that none of the complaints assigned to Sonoma County with a Petaluma address were within the city limits of Petaluma (Complaint Nos. 13-0313-0152, 13-0313-0145, and 12-0612-0352)

Recommendation: DTSC recommends that the CUPA continue to ensure all complaints are being received from DTSC by providing the DTSC complaint coordinator [nancy.lancaster@dtsc.ca.gov] with the e-mail address of the CUPA staff member(s) who should receive such complaints.. All received complaints should be investigated and documented. Investigation does not always entail inspection, as many issues may be resolved by other means, such as a phone call. In any instance, it is suggested that all investigations be documented, either by inspection report or by “note to file” and placed in the facility file.

- 15. Observation:** The CUPA inspector performed a thorough and complete UST inspection. Immediately, SWRCB noticed that the inspector seemed to have a good working relationship with the owner/operator and the service technician on-site. The inspector took meticulous notes during the inspection noting observations and the differences between what had been submitted in CERS

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to what was actually on-site. Her attention to detail and knowledge of the law and regulations resulted in an excellent inspection. In addition to the UST inspection, SWRCB also witnessed the inspector perform business plan and hazardous waste small quantity generator inspections.

Recommendation: None.

16. Observation: A review of CERS indicates that UST facilities are not submitting all required information electronically, including:

- Annual Monitoring Certification;
- Secondary Containment Test Results;
- Tank and Line Integrity Testing Reports;
- Spill Bucket Testing Results; and,
- Additional documents to verify statutory requirements.

Recommendation: None.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA has enhanced the capability of emergency responders to access facility chemical information. The CUPA has purchased and put four IPADs into service on Fire Engines for emergency response and development of a new mobile fire inspection and pre-plan program. It is anticipated that the IPADs will also enhance input of Patient Care Information. In conjunction with the IPADs, the CUPA is working with CalEPA to test a new emergency response data system, called “ER Plan,” tied directly into CERS. This system will allow emergency responders to access hazardous materials information “in the field” directly using an IPAD. All Petaluma fire engines are now equipped with IPAD’s and detailed training is planned. This new data system was presented to the Sonoma County Computer Aided Dispatch group for possible countywide use.
2. The CUPA has done an outstanding job reaching out to its regulated community and ensuring the businesses within its jurisdiction have established CERS accounts and are uploading information. The CUPA has successfully seen that all 273 businesses that use or store hazardous materials have been entered into CERS. This effort involved inspectors going out to businesses and helping business owners and operators enter information directly into CERS. Additionally, the CUPA has produced a Guidance Document that provides step-by-step instructions for setting up a CERS account, establishing a facility, describing business activities, and submitting an inventory, site map, and emergency response contingency plan.
3. The CUPA is actively working with participating CUPA jurisdictions, the Bay Area CUPA Forum and Digital Health Department (DHD) to develop and implement an AB 2286 compliant data system for data collection, retention, and reporting as required by the statute, and in conformance with current and subsequent amendments to the Data Dictionary and Unified Program Data Standards, found in Title 27 of the California Code of Regulations. The software is currently being tested on a staging server to identify any deficiencies prior to implementation. These efforts will improve the ability of all CUPAs involved to conduct inspections, confirm compliance, track outstanding violations and communicate directly with CERS through Electronic Data Transfer. The coordination with the Bay Area CUPA Forum and other DHD users as the software is developed and tested will increase consistency in inspection reports, violation classification, compliance and return to compliance tracking.
4. This small CUPA has put a tremendous amount of effort into pursuing formal enforcement against UST facility/business owners that demonstrate recalcitrance. Most recently, the CUPA pursued administrative enforcement on a facility (Valero/ Grand Gasoline) for not monitoring its USTs, not acting on the Designated Operator’s recommendations, and not completing their required secondary containment testing pursuant to SB 989. The CUPA considered the infractions to be Class I violations and a potential threat to groundwater. The AEO penalty was set at \$30,100 but initially negotiated down due to the owner/operator’s apparent cooperation. The penalty was reduced by 30% to \$20,100 for moving forward with the work to repair the station. The responsible party ultimately refused to continue participation in the AEO process and the CUPA proceeded to refer the case to the Sonoma County District Attorney for further legal action.