California Environmental Protection Agency

Air Resources Board ● Department of Pesticide Regulation ● Department of Toxic Substances Control
Integrated Waste Management Board ● Office of Environmental Health Hazard Assessment
State Water Resources Control Board ● Regional Water Quality Control Boards

Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 8067

October 3, 2006

Mr. Richard LeWarne
Assistant Director of Environmental Health
County of Monterey Division of Environmental Health
1270 Natividad Road, Suite B301
Salinas, California 93906

Dear Mr. Richard LeWarne:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the County of Monterey Division of Environmental Health's Certified Unified Program Agency (CUPA) on May 16 and 17, 2006. The evaluation consisted of a review of program elements, an in-office program review, and field inspections. The state evaluators completed a CUPA Evaluation Summary of Findings with your agency's program management staff, which included identified deficiencies, preliminary corrective actions, and timeframes.

On September 1, 2006, Cal/EPA received documentation of corrective actions taken by Monterey County for deficiencies found during the evaluation process. After reviewing the Summary of Findings and the documentation of corrective actions, Cal/EPA finds that all deficiencies noted in the Summary of Findings have been corrected.

Cal/EPA appreciates the corrective actions taken by Monterey County's CUPA. Having determined that Monterey County has corrected all of its deficiencies, Cal/EPA has modified Monterey County's CUPA program status from satisfactory with some improvement needed to meets program performance standards.

Thank you for your continued commitment to the protection of public health and the environment. If you have any questions or need further assistance, you may contact Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

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Enclosures

cc: Mr. Bruce Weldon, Supervisor (Sent Via Email)
Monterey County Health Department
Environmental Health Division

Ms. JoAnn Jaschke (Sent Via Email)
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Ms. Loretta Sylve (Sent Via Email)
California Environmental Protection Agency

Mr. Terry Snyder (Sent Via Email)
State Water Resources Control Board

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STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY

Linda S. Adams
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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION
SUMMARY OF FINDINGS

CUPA: Monterey County Health Department

Evaluation Date: May 16 and 17, 2006

EVALUATION TEAM

Cal/EPA: **John Paine and Robbie Morris**
SWRCB: **Terry Snyder**
OES: **Brian Abeel**
DTSC: **Mark Pear**

This Summary of Findings includes the deficiencies identified during the evaluation, observations, and recommendations for program improvement and examples of outstanding program implementation activities**.** The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to John Paine at (916) 327-5092.

	Deficiency	Preliminary Corrective Action
1	The CUPA is not consistently enforcing the Return to Compliance (RTC) for minor violations identified during compliance inspections. Many of the files reviewed did not contain a certification or other means of verification to demonstrate that all minor violations have been corrected within the required timeframe, as specified on the inspection report. In most cases, the inspectors verify compliance during the next routine inspection, which often occurs approximately three years later. Corrective actions are often documented when re-inspections are conducted. Although a Return to Compliance procedure (Inspection and Enforcement Plan) has been developed, the CUPA is not consistently following their procedure or using the form.	By October 1, 2006, the CUPA will ensure that all inspectors are fully prepared and trained to implement the Return to compliance process, as depicted in the CUPA's I&E Plan. Beginning October 1, 2006, all CUPA inspectors will begin to follow-up on all minor violations identified during compliance inspections, which may include using their Return to Compliance form. Beginning October 1, 2006, all CUPA inspectors will document corrective actions taken for minor violations by either inputting return to compliance dates into Envision or by filing completed Return to Compliance forms in the regulated business files.
2	The CUPA is not providing the hazardous material inventory disclosure information for	

	public inspection in accordance with the Health and Safety Code Section 25506 (a). The CUPA regulated business files contain a green folder comprised of the hazardous material disclosure information: hazardous material inventories forms and site maps. When the public reviews a business file, the CUPA removes the green folder prior to allowing public review to prevent the portions of the hazardous material disclosure information specifying the precise location where hazardous materials are stored and handled onsite to be viewed. All the information on the hazardous material inventories form, except the field listing the chemical location, is required to be made available for public review.	By July 21, 2006, the CUPA will amend their procedure for handling public request for information to ensure hazardous material disclosure information is available for public review, except those portions specifying the precise location where hazardous materials are stored and handled onsite.
3	The CUPA has not met the mandated inspection frequency for UST facility compliance inspections during the last year. In FY 04/05 the CUPA completed UST compliance inspections for only 63% of the regulated UST facilities. In FYs 02/03 and 03/04 the CUPA inspected 100% of the UST regulated facilities. The CUPA's goal is to meet the inspection frequencies and conduct the compliance inspection during the annual monitoring certification. The CUPA has achieved 45% inspection compliance for 2006 in less than 5 months and should reach 100% this year in conjunction with management priority directive to inspect all UST facilities yearly. The CUPA stated that they are using a risk-based evaluation process to first inspect the facilities with the highest potential for environmental impacts or are recalcitrant in returning to compliance after Notice of Violation. In addition, the CUPA has hired 3 new inspectors in the past two years and these inspectors are now becoming productive and the inspection percentage will be increasing also.	The CUPA will conduct compliance inspections for all UST facilities each year, which will be reflected on their Annual Summary Report # 3, which will be submitted on or before September 30th, and their Summary Report # 6, submitted quarterly.

CUPA Representative _____ _____
(Print Name) (Signature)

Evaluation Team Leader _____ _____
(Print Name) (Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

1. **Observation:** The CUPA has recently incorporated the Administrative Enforcement Order process into their Inspection and Enforcement plan. However, County Counsel still needs to review the procedure and the County Board of Supervisors need to approve the procedure. The CUPA has developed a detailed work plan to finalize the procedure within the next few months. Since the District Attorney is receptive, at this point, to handle all formal enforcement, a potential obstacle may or may not exist.

   Recommendation: Continue with the final adoption of the AEO process and ensure support and concurrence from the District Attorney. Identify those cases that would not warrant or justify the expenditure of DA resources, but still require formal enforcement. Once identified, share the information with the DA to obtain concurrence with the AEO process.

2. **Observation:** The CUPA conducted a complete review of its Area Plan (Monterey County Operational Area Hazardous Materials Incident Response Plan) and amended the plan appropriately. The April 2006 draft was reviewed by the OES evaluator and found to address all the required elements in Title 19 Section 2720-2728. The April 2006 draft Area Plan final approval is still pending.

   Recommendation: None Provided.

3. **Observation:** Inspector Cory Welch conducted the site inspection in a thorough and professional manner. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. After a spill bucket failed the initial vapor testing, Cory required the service technician to cover the fill pipe with water when he only filled it to the normal testing level. This resulted in the spill bucket being in violation and scheduled for replacement. Cory also asked for suggestions on how to improve his inspection technique and procedure.

   Recommendation: None Provided.

4. **Observation:** While the inspector conducted a thorough inspection during the oversight, the inspector was unaware of the distinction between satellite and generator accumulation.

   Recommendation: Please review the definitions of satellite and generator accumulation which be may found under CCR Title 22 Section 66262.34 , HSC 25123.3(d), and HSC 25123.3(h)(1).

5. **Observation:** The inspector did not access DTSC's Hazardous Waste Tracking System on the date of the oversight inspection. This would have enabled the inspector to obtain a list of manifests which should be maintained by the facility on site for review

   Recommendation: Please begin accessing the Department's Hazardous Waste Tracking System for future generator inspections to determine waste profiles and generation status from previous manifests sent. In addition, obtain a list of manifests and selectively compare to those found on site at the facility for the past three years as required by CCR Title 22 Section 66262.40.

6. **Observation:** The CUPA's Inspection Reports do not segregate Class I violations and chronic Class II violations under a Summary of Violations from minor violations under a Notice to Comply.

   Recommendation: The CUPA may wish to modify its inspection report to segregate these elements in order to distinguish between enforcement modes for Class I, Class II and minor violations.

7. **Observation:** The CUPA has inspected all 873 known hazardous waste generators that have been identified by the CUPA. The last three annual inspection summary reports indicate the following:

   1) 1306 hazardous waste generators were identified in Fiscal Year 02/03 of which 458 were inspected.
   2) 1308 hazardous waste generators were identified in Fiscal Year 03/04 of which 244 were inspected.
   3) 873 hazardous waste generators were identified in Fiscal Year 04/05 of which 382 were inspected.

   Recommendation: Keep up the good work!

8. **Observation:** The CUPA's FY 04/05 Annual Summary Report #2 identified waived surcharge amounts.

   Recommendation: Cal/EPA recommends that the CUPA verify those facilities that have received surcharge waivers.

9. **Observation:** CUPA was able to demonstrate that complaints that were referred by DTSC from January 1, 2003 to May 1, 2006 were investigated. Follow-up documentation could be found for Complaints Nos. 05-0405-0206, 04-0704-0439, 05-0705-0324, 04-0504-0293, 03-1103-0751, and 06-0306-0128.

   Recommendation: Keep up the good work. The CUPA may wish to establish a separate complaint tracking system database in order to track residences and vacant lots. Ensure that all complaints are being received by the CUPA from DTSC by providing the e-mail address of the person who should receive complaints to [slaney@dtsc.ca.gov], complaint coordinator. Investigate and document all complaints referred. 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. Please notify the complaint coordinator of the disposition of all complaints.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENATION

1. The Monterey County Hazardous Materials Management Services CUPA received two prestigious awards in 2005. They were honored as the most outstanding CUPA in California at the 2005 CUPA Conference in Universal City. This recognition was the result of their outstanding performance in outreach, public education and enforcement. They were also recognized by the Central Coast Regional Water Quality Control Board with an award of outstanding achievement for their contributions in protecting water quality in the Central Coast Region.

2. The CUPA has developed and implements an excellent outreach and training program for their regulated community. The program was established over a decade ago as a result of an enforcement action and subsequent Supplemental Environmental Project. The CUPA put on three large workshops focusing on Environmental Compliance for farmers, Underground Storage Tanks, and Ammonia Safety Day. These workshops are all provided for free and have consistently attracted hundreds of attendees from all over California. In fact, the Ammonia Safety Workshop has received national reconnection and is considered an excellent model of government and private industry working together for environmental protections. This workshop has been offered by the CUPA for the past 13 years and has evolved into one of the premier Ammonia training opportunities throughout California and beyond. Two smaller workshops were also held in Salinas and King City to assist businesses in completing the required CUPA paperwork, again to aid in achieving compliance. The CUPA has developed numerous brochures and booklets in an effort to aid regulatory compliance, such as their Hazardous Waste Booklet, available on CD and hardcopy, a Pollution Prevention (P2) booklet, and a Monterey County specific Emergency Spill Reporting booklet. They have also developed numerous flyers and fact sheets, covering such areas as silver- only waste, handling paint, and universal waste. The CUPA routinely distributes the booklets, flyers, and fact sheets to all regulated businesses. Periodically, as requested, the CUPA is available for public speaking engagements. The CUPA has also developed a great web site. It contains all the CUPA forms, fee information, guidance documents, their fact sheets, flyers and other education materials. The web site also provides a listed of specialized consultants, of which the CUPA screens. However, the list does have a disclaimer holding the CUPA not liable for the services rendered by these consultants.

3. Education and training, with the appropriate level of enforcement, is the key to the CUPA's Unified Program. The CUPA works extremely hard with their regulated community to achieve compliance before formal enforcement actions are initiated, which are often criminal and civil actions. Over the past several years the County District Attorney has shown great interest and concern for environmental crimes. There are currently three District Attorneys in Monterey County who focus on environmental enforcement. The CUPA Inspection Checklists are very detailed and organized. They contain all the required elements for compliance and are an excellent resource for complete and thorough inspections. The CUPA has continued an aggressive environmental enforcement program, investigating civil and criminal cases that resulted in significant fines and penalties and incarceration. Cases ranged from criminal convictions for illegal dumping of hazardous waste, up to participation in large statewide cases settled for millions of dollars (AT&T, $25 million). Several of our settled

cases include Supplemental Environmental Projects (SEPs) directing funds toward community outreach and education and environmental restoration. The following cases are specific examples of the CUPAs enforcement efforts in recent years:

- referred a civil case to the DA concerning California-American Water Company which was settled for $181,000 for the company failing to report the locations of hazardous materials on its property and for failing to train its employees who handle these materials.

- referred a civil case to the DA concerning Color Spot Nurseries, Inc which was settled for $603,320 for the company illegally disposing of asbestos. Color Spot Nurseries Inc. violated provisions of the California Health and Safety Code by allowing employees to improperly handle and dispose of asbestos, a hazardous waste. At the discretion of the company, employees illegally handled and disposed of deteriorating asbestos which covered piping and boilers at its facility on Espinosa Road in Salinas. The violations placed workers, neighbors, and the environment at risk and the conduct gave Color Spot an unfair advantage over those businesses that comply with California law. The investigation revealed no evidence of human injury from these violations.

- referred a civil case to the DA concerning Lens Crafter which was settled for $474,422 for the company illegally disposing to the trash a “cured” chemical coating placed on eyeglasses.

- referred a criminal enforcement case to the DA against the owner of Alcalas Machine Shop in Salinas, Ca for the illegal disposal of automotive cleaning product to the sewer system and for failing to report it to the Monterey County Health Department. Mr. Alcalas had been previously warned by the Health Department to refrain from similar conduct. The Honorable Jose Velasquez sentenced Mr. Alcalas to two years probation and he was ordered to pay a fine in the amount of $750.

- thru the DA’s office settled a civil enforcement action against Earth Tech Inc. for violating provisions of the Health and Safety Code that protect firefighter safety. On July 8, 2003, Earth Tech Inc., a corporation hired by Duke Energy, started a fire when its employees were dismantling an outdated oil storage tank at Duke’s Moss Landing facility. An investigation revealed that Earth Tech failed to adhere to safety procedures which exposed both employees and firefighters to injury. The defendants did not contest the allegations in the complaint and, as part of the civil settlement, Earth Tech Inc. agreed to pay a total of $1,200,287. The settlement in the case represents $562,000 in penalties, $338,000 in agency costs and $300,000 for training of employees on worker and fire fighter safety procedures.

4. The CUPA recently became an integral member of the Monterey County Operational Area Hazardous Materials Response Team and we now train and respond regularly with the team, comprised of two fire agencies (Seaside and Salinas City) and County Health. In 2004-2005, CUPA staff responded to over 100 hazardous materials incidents. Weapons of Mass

Destruction funding has allowed the CUPA to purchase over $150,000 in emergency response equipment, including air monitoring equipment, radiological monitors, communications equipment, vehicles and personnel protective equipment such as SCBAs and chemical suits. As part of the regional CBRNE Task Force, the CUPA is equipped and trained to respond to terrorist and other hazardous materials incidents involving biological agents or other weapons of mass destruction. In addition, a County Ordinance was adopted to fund the County Hazmat Teams in the City of Salinas and City of Seaside, which assesses a fee on environmental facilities. The CUPA in conjunction with the two Cities, jointly attend monthly team training, exercises, and drills, ensuring a high level of readiness and capabilities to handle releases of hazardous materials in Monterey County.

5. The CUPA has developed and implemented a comprehensive Inspector Training Program, ensuring highly expert inspectors representing Monterey County. The program is delineated in a comprehensive binder that includes; Inspector Training Program Policy, Education and Training Minimum Requirements, On-going Training Requirements, In-House Training, and Training Records. The program also includes a Summary of Experience, covering all staff, and a detailed Training Log for each employee that includes; the date of training, the training provider, the title of the course, the number of hours, and any certifications obtained. The inspectors are trained as generalist, receiving numerous hours of extensive cross-training covering all Unified Program elements.