Deficiency Progress Report – Update 3

Report Submitted: March 16, 2010

CUPA: **Los Angeles City Fire Department**

Evaluation Date: **April 8 and 9, 2009**

Evaluation Team:

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Corrected Deficiencies: 2, 3, 4, 5, 6, 7, 8, 9, 10, 12
Next Progress Report (Update 4) Due: August 12, 2010

Please update the deficiencies below that remain outstanding.

1. **Deficiency:** The CUPA did not conduct a self-audit of its Unified Program for fiscal year (FY) 2006/2007. The CUPA, however, conducted a self-audit for FY 07/08, which did not assess the performance of its participating agency (PA). The Los Angeles County Fire Department PA implements and enforces the hazardous waste generator and tiered permit programs.

   The CUPA is on its way toward correcting this deficiency. The CUPA has initiated the performance evaluation of its PA for the current fiscal year.

   Preliminary Corrective Actions: The CUPA will conduct an annual self-audit for each fiscal year, including an evaluation of its PA. By October 6, 2009, the CUPA will submit a complete FY 08/09 self-audit report.

   CUPA's 1st Update (7-6-09): The Los Angeles CUPA has devised a plan-of-action to submit the Self-Audit Report for FY 08/09 by September 30, 2009. A copy of the Self-Audit Report will be provided along with the State Reports in September.

   Cal/EPA's 1st Response: This deficiency remains outstanding. Cal/EPA looks forward to receiving the Self-Audit in September.

   CUPA's 2nd Update (10-15-09): Please find a copy of the Self-Audit Report for FY 08/09, including an evaluation of its PA, which was submitted on October 14, 2009.

   Cal/EPA's 2nd Response: Cal/EPA and OSFM appreciates that the CUPA completed its FY 08/09 Self-Audit; however, the Self-Audit is missing a narrative

summary of its permitting activities. In addition, the CUPA's Self-Audit did not adequately depict an evaluation of its PA. On the next progress report or sooner, please provide a revised Self-Audit that includes a narrative summary of the CUPA's permitting activities and an evaluation of its PA. The CUPA may attach its completed PA evaluation form to the Self-Audit.

CUPA's 3rd Update (3-16-10): The Los Angeles Fire Department has a tentative schedule to conduct a PA evaluation at the end of March 2010.

Cal/EPA's 3rd Response: Along with the next progress report , please submit to Cal/EPA the CUPA's revised self audit that includes a summary of its permitting activities and an evaluation of its PA.

CUPA's 4th Update: Enter update Here

2. **Deficiency:** The CUPA has not established the following administrative procedure:

   - Procedures for the withdrawal or removal of a PA.

   Preliminary Corrective Actions: By July 8, 2009, the CUPA will develop and submit a copy of the administrative procedures for the withdrawal or removal of a PA.

   CUPA's 1st Update (7-6-09): CalEPA has previously accepted and approved the MOU agreement between The Los Angeles Fire Department CUPA and Los Angeles County as a Participating Agency (PA). It should not be considered a deficiency that the approved MOU does not contain specific language pertaining to the removal of a PA.

   Cal/EPA's 1st Response: The MOU is not considered an administrative procedure, but an agreement of the services provided by the PA for the CUPA; therefore, this deficiency remains outstanding. California Code of Regulations, title 27, section 15180 (e)(6) does not require that the procedures for withdrawal or removal of a PA be included in the MOU between the CUPA and its PA, but that the procedures be developed as part of the CUPA's administrative procedures. Any CUPA with a PA is required to establish such procedures. The CUPA shall develop and provide this administrative procedure to Cal/EPA on the next update.

   CUPA's 2nd Update (10-15-09): Please see the attached Procedure for the Withdrawal or Removal of a Participating Agency, as well as a copy of the Participating Agency Evaluation Process document.

   Cal/EPA's 2nd Response: Cal/EPA considers this deficiency corrected.

3. **Deficiency:** The CUPA is not fully tracking and accurately reporting information on the Annual Inspection and Enforcement Summary Reports. For example, the number of regulated businesses inspected is lower than the number of routine inspections for the hazardous materials business plan in FY 06/07 and 07/08. The Return to Compliance (RTC) information on the Annual Inspection Summary Report 3 did not correspond with the number of violations information and enforcement actions taken for the business plan, California Accidental Release Prevention (CalARP), and underground storage tank (UST) programs within the last three fiscal years. Also, the number of violations reported was substantially less than the enforcement actions taken, or no violations and no enforcements were reported on the Annual Enforcement Summary Report 4, when RTC information was reported on the Annual Inspection Summary Report 3.

   Prior to July 2008, the CUPA was tracking inspections on its database management software (Decade Envision) and manually verifying the information from each inspector. Beginning July 2008, the CUPA began fully utilizing the tracking capabilities of Envision. The CUPA continues to update and make improvements to its database for easy retrieval of information and for consistency in tracking inspections. Enforcement actions are currently being tracked manually, but the CUPA's goal is to also integrate the enforcement data into their database management software.

   Preliminary Corrective Actions: The CUPA will ensure that the information reported on the Annual Inspection and Enforcement Summary Reports (due annually by September 30th of each year) will be complete and as accurate as possible. Explain any discrepancies of the data as footnotes of the summary reports or as addendum to the annual self-audit.

   CUPA's 1st Update (7-6-09): The Los Angeles Fire Department CUPA has scheduled training for all Inspectors on Data Entry Inspection Forms, Notice of Violations, Forms and all noted areas of deficiency that can be corrected through proper use of Envision database software.

   Cal/EPA's 1st Response: This deficiency remains outstanding. Cal/EPA looks forward to receiving the summary reports in September.

   CUPA's 2nd Update (10-15-09): Please see the attached summary reports with correct values as submitted in the annual Self-Audit.

   Cal/EPA's 2nd Response: After reviewing the CUPA's FY 2008/2009 Summary Reports, Cal/EPA has found the following:

   - Report 3 – The CUPA reported that 100% of HMRRP, CalARP, and UST inspections with Class 1 or Class 2 violations RTC when 0 facilities in these program elements were cited for violations.

- Report 4 - The CUPA reported the same number of local AEO as HSC 25404.1.1 AEOs for the hazardous waste generator program. The columns for local AEOs and total AEOs gather two different sets of data. Refer to the instructions at *http://www.calepa.ca.gov/CUPA/Documents/R4Instruct.pdf*. The numbers entered do not appear to be correct.

On the next progress report or sooner, please provide revised Annual Summary Reports with the correct information.

CUPA's 3rd Update (3-16-10): Reports 3 and 4 have been revised and attached for review.

Cal/EPA's 3rd Response: Cal/EPA considers this deficiency corrected.

4. **Deficiency:** The CUPA is not ensuring that hazardous materials business plan (HMBP) facilities submit either an annual certification of no-change to their inventory or an updated inventory.

   Preliminary Corrective Actions: By July 8, 2009, the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA will correct this deficiency.

   CUPA's 1st Update (7-6-09): The Los Angeles Fire Department CUPA has devised an action plan that includes developing a form to mail to all facilities along with the annual billing that requires facility owners to indicate that there have been either "no changes" in their inventory or details the "changes-in-inventory" to be kept on file and updated annually.

   Cal/EPA's 1st Response: Along with the next progress report, please report the number of "no change" certifications or new inventory statements the CUPA received since the 2009 evaluation. Also, please include of the new form the CUPA plans to send along with the annual billing statement.

   CUPA's 2nd Update (10-15-09): Please see the attached Annual Inventory Update Form. This form will be sent out with the December billing/mailing. As this is a new form, we have not received any "no change" certifications at the time of this update.

   Cal/EPA's 2nd Response: Cal/EPA and Cal EMA consider this deficiency corrected.

5. **Deficiency:** The CUPA is not ensuring that regulated facilities review, update and submit newly updated business plans on the state mandated triennial period.

Preliminary Corrective Actions: By July 8, 2009 the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA expects to reach the state mandated triennial HMBP review period.

CUPA's 1st Update (7-6-09): The Los Angeles Fire Department CUPA has devised an action plan that includes developing a form—the same listed in deficiency #4—that indicates that HMBPs need to be updated and submitted every three years.

Cal/EPA's 1st Response: Along with the next progress report, please report the number of "no change" certifications or new inventory statements the CUPA received since the 2009 evaluation.

CUPA's 2nd Update (10-15-09): Please see the attached Annual Inventory Update document. The document lists the requirement of a triennial HMBP submittal. Since this document will go out in December, we do not have any "no change" certifications at this time.

Cal/EPA's 2nd Response: Cal/EPA and Cal EMA consider this deficiency corrected.

6. **Deficiency:** The CUPA is not ensuring that the HMBP's are complete. Six of the 10 files reviewed did not contain an Emergency Response Plan; seven of the 10 did not contain a site map, and four of the 10 did not contain an Employee Training Plan.

   Preliminary Corrective Actions: By July 8, 2009, the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA believes it can correct this deficiency.

   CUPA's 1st Update (7-6-09): The Los Angeles Fire Department CUPA has developed an action plan that includes training of CUPA Inspectors on the requirements of the HMBP and then provides them with a checklist to use as a reminder as to what they should be checking for and what is required in the file.

   Cal/EPA's 1st Response: Please continue to update Cal/EPA on the CUPA's progress towards correcting this deficiency. Additionally, please include the HMBP checklist inspectors will use to verify compliance.

   CUPA's 2nd Update (10-15-09): Please see the attached Hazardous Materials Business Plan Checklist.

   Cal/EPA's 2nd Response: Cal/EPA and Cal EMA consider this deficiency corrected.

7. **Deficiency:** The CUPA has not maintained the state mandated inspection frequencies for the HMBP program. Of the 10 facility files reviewed, six did not contain inspection reports dated within the last three years.

   Preliminary Corrective Actions: By July 8, 2009, the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA believes it can achieve and maintain the state mandated inspection frequency.

   CUPA's 1st Update (7-6-09): Los Angeles Fire Department CUPA has improved its inspection tracking system (through Envision) and has re-drawn inspection districts in order to be more efficient and reach the inspection frequencies required by the State. It is expected that LAFD CUPA will achieve a 100 percent inspection rate by FY 2009/2010.

   Cal/EPA's 1st Response: On the next progress report, please report the total number of HMBP facilities inspected since the 2009 evaluation.

   CUPA's 2nd Update (10-15-09): As detailed in the Self-Audit report, there have been 2963 HMBP facilities inspected in the 2008-2009 fiscal year. That is an inspection rate of 116% of what is required.

   Cal/EPA's 2nd Response: Cal/EPA and Cal EMA consider this deficiency corrected.

8. **Deficiency:** The UST operating permit does not contain the monitoring options used for the tank and piping systems or have a statement that the monitoring, response, and plot plans are to be maintained on site with the permit.

   This deficiency was identified during the CUPA's previous evaluation in April 2006.

   Preliminary Corrective Actions: This deficiency has been corrected.

9. **Deficiency:** The CUPA has not met the mandated inspection frequency for UST facility compliance inspections during two previous fiscal years. However, the CUPA showed substantial improvement within the last FY.

   - In FY 05/06, the CUPA inspected 68% of their regulated UST facilities;
   - In FY 06/07, the CUPA inspected 53% of their regulated UST facilities;
   - In FY 07/08, the CUPA completed UST compliance inspections for 100% of the regulated UST facilities.

   Preliminary Corrective Actions: By June 30, 2009, and each subsequent year, the CUPA will inspect every UST within its jurisdiction at least once every year.

   No additional follow-up with Cal/EPA is necessary.

10. **Deficiency:** The CUPA's UST files are incomplete. File review indicates that the CUPA's files are missing inspection reports, plot plans, response plans, and secondary containment inspections to verify compliance.

    Preliminary Corrective Actions: Beginning April 9, 2009, the CUPA will collect and retain compliance documents within their prescribed timeframes.

    CUPA's 1st Update (7-6-09): Los Angeles Fire Department CUPA has developed a sample UST file which includes all required reports, forms and plans. These sample files will be given to each Inspector to use as a reference, put on the LAFD website, and used in upcoming Inspector training.

    Cal/EPA's 1st Response: Please refer to SWRCB's response.

    - **SWRCB's Response:** The CUPA is making good progress towards correcting this deficiency. On the next progress report, please submit a copy of the UST file that is being used for the upcoming inspector training. If the CUPA likes, please contact the SWRCB and arrange for early submittal of packet. This way we can try to remove the deficiency without having to wait for the next progress report.

    CUPA's 2nd Update (10-15-09): Please see the attached sample UST file and checklist. Each Inspector will be given a file checklist to be attached to the outside of every UST file and tasked with making sure all items are included in the file. The LAFD CUPA will systematically go through each of our facility files and update and organize them according to the checklist.

    Cal/EPA's 2nd Response: Cal/EPA and SWRCB consider this deficiency corrected.

11. **Deficiency:** The CUPA is not collecting all of the new UST data elements for permit renewals that came into effect in December 2007.

    Preliminary Corrective Actions: Beginning April 9, 2009, the CUPA will collect the new UST data elements.

    One way to gather the information is to mail out the new Unified Program Consolidated Forms (UPCF's) UST-A and B during the next round of operating permit renewals.

    Prior to conducting the annual UST inspection, the CUPA shall review all paperwork submitted for a Permit to Operate and ensure that the tank and piping systems, and the monitoring methods used are sufficiently described and are

appropriate for the system. If the forms are incorrect, the CUPA shall either correct the forms, or have the facility owner resubmit new forms that are correct.

CUPA's 1st Update (7-6-09): Los Angeles Fire Department CUPA will send out a packet of new forms A, B, C, and D to each regulated business with the annual billing (September), as well as put them on LAFD's CUPA website. At the time of Inspection, the new forms will be required to be filled out and placed in each facility's file.

Cal/EPA's 1st Response: Please refer to SWRCB's response.

- **SWRCB's Response:** The CUPA is making good progress towards correcting this deficiency. On the next progress report, please submit a few copies of completed and signed forms. If the CUPA has not yet received any of the new forms, please notify the SWRCB and make arrangements for the submittals to be sent once received. This way we can try to remove the deficiency without having to wait for the next progress report.

CUPA's 2nd Response (10-15-09): Copies of the new forms will be sent out in the December mailing. Upon receipt of completed forms, the Los Angeles Fire Department will provide copies to Ca/EPA and the SWRCB.

Cal/EPA's 2nd Response: Please refer to SWRCB's response.

- **SWRCB's Response:** The CUPA is making good progress towards correcting this deficiency. On the next progress report, please submit to Cal/EPA copies of the completed and signed revised UST UPCF forms from two facilities.

CUPA's 3rd Update (3-16-10): A complete package will follow this e-mail with the required information.

Cal/EPA's 3rd Response: Please refer to SWRCB's response.

- **SWRCB's Response:** Cal/EPA has not received the copies the CUPA mentions in its 3rd response. On the next progress report, please submit 3 copies of completed and signed UPCF's.

CUPA's 4th Update: Enter update Here

12. **Deficiency:** The CUPA is not approving the submitted monitoring plan form (UPCF UST-D). File review indicates that the CUPA is not signing the approval/disapproval box on page four, indicating that the form has been reviewed for completeness and accuracy.

Preliminary Corrective Actions: By July 8, 2009, the CUPA shall report to Cal/EPA and the SWRCB the number of approved monitoring forms.

CUPA's 1st Update (7-6-09): In December 2008, the Los Angeles Fire Department conducted a mass-mailing to all UST facilities requesting the submittal of the new UPCE UST-Form D. The Fire Department is still receiving copies of Form D from those facilities. The Fire Department has attached copies of completed Form D's. Based on the information provided the Los Angeles Fire Department respectfully requests that this deficiency be consider corrected.

Cal/EPA's 1st Response: Cal/EPA and the SWRCB consider this deficiency to be corrected.