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 8470

June 21, 2007

Mr. Roger E. Smith
Fire Chief
Anaheim Fire Department
201 South Anaheim Blvd., Suite 300
Anaheim, CA 92805

Dear Mr. Smith:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, and Department of Toxic Substances Control conducted a program evaluation of the Anaheim Fire Department's Certified Unified Program Agency (CUPA) on December 6 and 7, 2006. The evaluation consisted of a review of program elements, an in-office program review and field oversight inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

Cal/EPA has received documentation of corrective actions taken by the Anaheim Fire Department's CUPA for deficiencies found during the evaluation process. After reviewing the Evaluation Summary of Findings and the documentation of corrective actions, Cal/EPA finds that all deficiencies noted in the Evaluation Summary of Findings have been corrected.

Cal/EPA appreciates the actions taken by the Anaheim Fire Department's CUPA that have corrected all of the deficiencies identified during the December 6 and 7, 2006 evaluation. Based on these corrections, Cal/EPA has modified the Anaheim Fire Department's CUPA's rating on the evaluation 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,

Don Johnson

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Mr. John White, CUPA Manager (Sent Via Email)
Anaheim Fire Department's Hazardous Materials Section
201 South Anaheim Blvd., Suite 300
Anaheim, CA 92805

Mr. Mickey Pierce (Sent Via Email)
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. Fred Mehr (Sent Via Email)
Governor's Office of Emergency Services
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Rancho Cordova, California 95741-9047

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State Water Resources Control Board
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Sacramento, California 94244-2102

cc: Ms. Terry Brazell (Sent Via Email)
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Sacramento, California 94244-2102

Mr. Charles McLaughlin (Sent Via Email)
Department of Toxic Substances Control
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Sacramento, California 95826-3200

Ms. Vickie Sakamoto (Sent Via Email)
Office of the State Fire Marshal
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Sacramento, California 94244-2460

Mr. Brian Abeel (Sent Via Email)
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P.O. Box 419047
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ENCLOSURE

California Environmental Protection Agency

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Linda S. Adams
Secretary for Environmental Protection

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Certified Mail: 7003 1680 0000 6174 8197

January 10, 2007

Mr. Jeff Lutz, Fire Marshal
Fire Prevention Bureau
Anaheim Fire Department
201 South Anaheim Blvd., Suite 300
Anaheim, CA 92805

Dear Mr. Jeff Lutz:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, and Department of Toxic Substances Control conducted a program evaluation of Anaheim Fire Department's Certified Unified Program Agency (CUPA) on December 6 and 7, 2006. The evaluation was comprised of an in-office program review and a field inspection. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, preliminary corrective actions, and timeframes. Two additional evaluation documents are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

The enclosed Summary of Findings is now considered final and based upon review, I find that Anaheim Fire Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please provide deficiency status reports to Cal/EPA of your progress toward correcting the identified deficiencies. Submit your deficiency status reports to JoAnn Jaschke every 90 days after the evaluation date. The first deficiency status report is due on March 7, 2007.

Cal/EPA also noted during this evaluation that Anaheim Fire Department has worked to bring about a number of local program innovations, including: developing a Tidemark data tracking system that has provided vast improvements in data collection and reporting for their programs and having an outstanding training academy for new staff. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosures

cc: Please see next page.

cc: Mr. John White, CUPA Manager (Sent Via Email)
Anaheim Fire Department's Hazardous Materials Section
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Deficiencies and Corrective Actions

1. **Deficiency:** The CUPA is not meeting the inspection frequency indicated in its Inspection & Enforcement Plan of biennial inspections for the business plan program, Cal/ARP, and hazardous waste generators. This deficiency was noted in the CUPA's 2005/06 Self Audit, and is primarily due to loss of staff.

   CUPA Corrective Action: CUPA responds here

2. **Deficiency:** The CUPA is not classifying violations in a manner consistent with the definitions of Class I, Class II and Minor as defined in Title 22 and Health and Safety Code.

   CUPA Corrective Action: CUPA responds here

3. **Deficiency:** The CUPA Area Plan was missing Safety Procedure Information as required under Title 19, Section 2726.

   CUPA Corrective Action: CUPA responds here

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION
SUMMARY OF FINDINGS

Amended

CUPA: **Anaheim Fire Department**

Evaluation Date: December 6 and 7, 2006

EVALUATION TEAM
Cal/EPA: **JoAnn Jaschke and John Paine**
OES: **Fred Mehr**
DTSC: **Mickey Pierce**

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 JoAnn Jaschke at (916) 323-2204.

	Deficiency	Preliminary Corrective Action
1	The CUPA is not meeting the inspection frequency indicated in its Inspection & Enforcement Plan of biennial inspections for the business plan program, Cal/ARP, and hazardous waste generators. This deficiency was noted in the CUPA's 2005/06 Self Audit, and is primarily due to loss of staff. Overall, the CUPA is still exceeding the minimum expected inspection frequency of one inspection every three years. For example, review of generator files found three (of ten) instances where inspections were not conducted in the past two years (Leach International, Thin Film Devices, and Remedy Environmental Services). **CCR, Title 27, Section 15200(f)**	The CUPA has already taken efforts to correct this deficiency by hiring new staff and instituting its training program to ensure field readiness of the newly hired personnel. The CUPA has indicated that it will maintain its goal of conducting routine inspections every two years.
2	The CUPA is not classifying violations in a manner consistent with the definitions of Class I, Class II and Minor as defined in Title 22 and Health and Safety Code. Two of ten files reviewed contained documentation of	By July 1, 2007, the CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for the

	violations that contain what the DTSC evaluator believes to be mis-classified violations: ● Expedia Media documents disposal of a liquid with a pH of 14 to the sewer, with the violation noted as "failure to make a waste determination" as a minor violation. (A Class I violation because it is significant enough that it could to result in the failure to ensure that the waste is disposed at an authorized location). Resolution of the violation is unclear in the report. ● American Circuit Technology documents the failure to provide a financial mechanism for closure and the failure to conduct a tank assessment as minor violations (Class I violations because they are significant enough that they could result in a failure to ensure adequate resources are available for closure and prevent releases to the environment, respectively). Resolution of the violations is unclear in the report. **CCR, Title 27, Section 15200(b) and definitions of Class I, Class II and Minor in CCR, Title 22, Section 66260.10 and Health and Safety Code Section 25404(a)(3)T**	refresher training is the Cal/EPA **"Violation Classification Guidance Document for Unified Program Agencies"** which can be found on the Cal/EPA website under Unified Programs-Technical Assistance. Additionally, the CUPA should prepare formal enforcement for the violations noted in these cases where warranted.
3	The CUPA Area Plan was missing Safety Procedure Information as required under Title 19, Section 2726. **CCR, Title 19, Section 2726**	By April 1, 2007, the CUPA will include the missing safety procedure information as required under Title 19, Section 2726.

CUPA Representative John White (Print Name) original signed (Signature)

Evaluation Team Leader JoAnn Jaschke (Print Name) original signed (Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section simply address those areas not specifically required of the CUPA by regulation or statute and are provided for continuous program improvement only.

1. **Observation:** The CUPA dedicates a lot of resources reconciling their revenue and expenditures against the accounting records maintained by the Finance Department.

   Recommendation: Establish a separate fund strictly for use by the CUPA to eliminate the challenge of reconciling the revenues and expenditures within the two separate accounting records. Pursuant to the certification as the Unified Program Agency provided by the Cal/EPA Secretary to implement and enforce the Unified Program in the City of Anaheim, the CUPA is required to implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed. Additionally, administrative penalties collected are required to be deposited into a special account to fund activities of the CUPA (Health and Safety Code, Section 25404.1.1). Establishing a separate fund would accomplish these requirements.

2. **Observation:** The CUPA site maps with the Business Plan packets do not include the location of emergency response equipment.

   Recommendation: The CUPA should include the location of facility emergency response equipment in the site map.

3. **Observation:** The CUPA has not submitted a RCRA Large Quantity Generator quarterly report since the 1st quarter of fiscal year 2004/05. Forms are included in files, and were noted as being filled out, but are not being submitted.

   Recommendation: Work with the IT staff to generate a report in Tidemark that collects all of the data requested by DTSC and U.S. EPA regarding inspections conducted at RCRA LQGs.

4. **Observation:** The CUPA is not including a proposed penalty with civil and criminal enforcement referrals sent to the District Attorney. This practice was noted in the enforcement case provided for review as well as in the CUPA's Inspection & Enforcement Plan.

   Recommendation: Include a proposed penalty with all enforcement referrals for consideration and prosecution by the District Attorney. This will provide staff with practice in calculating penalties, will provide that a penalty is ready should the case be returned to be enforced administratively, and may provide training through discussion with the District Attorney's Office regarding how the proposed penalty was calculated.

5. **Observation:** The CUPA is not including all relevant data in Report 4, Annual Enforcement Summary Report. Cases received by the CUPA as referred from the Orange County Sanitation District are being developed and referred to the District Attorney for formal enforcement but are not being tracked and recorded in Report 4.

   Recommendation: Ensure that referred cases are properly reflected in the data system and in annual reports. The CUPA may want to set up a process which ensures inspection and violation information are entered into the system, but are then returned to the inspector rather than filed to maintain enforcement confidentiality and case development.

6. **Observation:** Report 3, Annual Inspection Summary Report indicates no Class I violations found at RCRA LQGs and Tiered Permitting sites in fiscal years 2004/05 and 2005/06. This is inconsistent with the statewide Class I violation rates found during inspections at these types of facilities during DTSC conducted inspections.

   Recommendation: In conjunction with the corrective action for deficiency #2, above, refresh staff knowledge of the definition of Class I and Class II violations.

7. **Observation:** During review of files, the following items were noted: Leach International entered into a Consent Order with DTSC, and the order notes that Leach is operating an onsite treatment system under PBR. Notifications and inspection reports in the file indicated that the facility is operating under the Conditional Authorization tier; and in the Precision Anodizing file the Recyclable Materials Report was last filed in 2003. The report should be filed by the facility every two years.

   Recommendation: Spot check the information in these files during the next routine inspections.

8. **Observation:** The CUPA was unable to demonstrate that two of the three complaints referred by DTSC were investigated. Additionally, the Tidemark system does not yet have a complaint tracking module integrated into it.

   Recommendation: DTSC will ensure that all complaints are referred to jowhite@anaheim.net and the CUPA should continue to utilize their complaint response policy to investigate referred complaints. Continue with the development and integration of this module into the existing system.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA's new Tidemark data tracking system is remarkable. Tidemark has provided vast improvements in data collection and reporting for the hazardous waste program. One improvement in the program is the design of "fail safe" data collection points that require violation data entry to include the classification of each violation. Additionally, Tidemark generates reports for aging violation, the annually summary reports that are submitted to the State, tracks violations, provides chemical inventory information that is available 24/7 to first responders via the web, as well as ensuring that fees are not over accessed. Tidemark even allows staff to input case notes on inspections, e-mail correspondences, and collection calls. Tidemark is part of a city wide database, which allows the CUPA to be on the same system with other city agencies (building department, business licensing, and planning).

2. The Anaheim Fire Department developed and utilizes a file review and equipment checklist to aid inspectors in preparing for an inspection. The check list includes the following information: current permit, owner/operator agreements, proof of financial responsibility, monitoring, response, and plot plans, designated operator notification, required integrity testing, leak detector, dispenser calibration, secondary containment testing (including enhanced leak detection), as well as a description of the installation monitoring equipment, the manufacturer, and model number. The checklist and other inspection procedures (pre-inspection preparation, site inspection, exit interview, inspection report preparation and review, notice of violation, and post inspection procedures) are thoroughly explained within the CUPA's Inspection and Enforcement Plan.

3. The CUPA has a remarkable Hazardous Materials Specialist Training Academy for new staff. New hires spend the first 8 weeks in this training. During the training academy the trainee receives both classroom and field training. A trainee is required to pass bi-weekly exams as well as a field observation by CUPA program manager. Additionally, the trainee will shadow another inspector, write inspection reports, and conduct inspections with another inspector overseeing the inspection.

4. The CUPA has implemented several quality control measures to maintain accurate information on their regulated businesses. Prior to an inspection, the CUPA inspector will ensure the file is properly organized based upon the CUPA's filing system. The CUPA has an excellent file system; files are clean and crisp, in a logical order that make the files easy to locate and review. Typically, documents within the file are date stamped when the information was reviewed and when the information was entered into the database. The files also indicate if any information is obsolete or if the permit is invalid. This thoroughness has decreased the amount of errors that would otherwise need to be addressed. In addition, the CUPA only issues permits if the business has met the following three conditions: no outstanding violations, a complete permit application is on file, and if the fees have been paid in full.

5. The Anaheim Fire Department maintains an informative website for the public by providing CUPA forms that can be filled out and printed, a fee schedule, other website references (Orange County-City Hazardous Materials Emergency Response Authority and Small Hydrocarbon Acquisition and Recovery Program, guidelines and procedures, and references to the federal, state and local environmental laws, regulations, and ordinances.

6. The CUPA's inspection report and violation documentation have improved considerably since 2003. Inspection reports issued after approximately January, 2004 contain more observations and adequate documentation of violations including the facts, corrective actions and timeframes for corrections. Inspection reports prior to 2004 did not always document these items. Additional changes noted were the inclusion of violation classification on the inspection checklist and notation of consent to conduct the inspection.

7. The CUPA inspector conducted a very thorough oversight inspection at a facility which has many challenging regulatory status issues including conditional exemptions from rules for some wastes, universal waste issues and the presence of Part B Hazardous Waste Permit conditions. The inspector did a good job of asking clarifying questions and determining the proper regulatory status of wastes noted onsite.

8. The CUPA has shown an increase of approximately 30% in the number of regulated hazardous waste generators over the past three years. This increase is attributed to time expended in identifying generators that are not subject to business plan reporting thresholds, checking of data transitioned from Orange County Environmental Health Agency and inclusion of UST sites that routinely generate waste from routine tank testing procedures.

9. The CUPA is doing a good job of integrating Universal Waste into its implementation of the hazardous waste program. The CUPA has included inspection of Universal Waste elements into all routine inspections, makes information available in its lobby, and has included literature regarding Universal Waste handling in outreach materials in coordination with the City's Public Works Department. The coordinated effort with Public Works included outreach to households and other non-CUPA regulated entities.