DEFICIENCY PROGRESS REPORT – UPDATE 3

February 13, 2009

CUPA: **NAPA COUNTY DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Evaluation Date: **March 19 and 20, 2008**
Evaluators: Jennifer Lorenzo, Cal/EPA
Frederick Thomas, DTSC
Fred Mehr, OES
Francis Mateo, OSFM
Marcele Christofferson, SWRCB

Update 3 Submittal Date: February 10, 2009
Status: Deficiencies 3, 16, and 18 remain outstanding.
Next Progress Report Due (4th Update): **May 11, 2009**

1. **Deficiency:** The CUPA's fiscal year (FY) 05/06 and 06/07 Self-Audit Reports did not contain all the required elements.

   Corrective Action by October 15, 2008: The CUPA will submit their FY 07/08 Self-Audit Report that contains all the required elements.

   CUPA Update 1: By October 15, 2008, DEM will submit its FY 07/08 Self-Audit Report that contains all the required elements.

   Comments to Update 1: *This deficiency remains outstanding. Cal/EPA looks forward to receiving the CUPA's FY 07/08 Self-Audit Report.*

   CUPA Update 2: [The CUPA submitted its FY 07/08 Self-Audit Report.]

   Comments Update 2: *The CUPA has satisfactorily corrected this deficiency; no further update is required.*

2. **Deficiency:** The CUPA is not remitting all state surcharges collected to the Secretary for Environmental Protection.

   Corrective Action: The CUPA corrected this deficiency on April 16, 2008.

3. **Deficiency:** The CUPA does not provide for a consolidated permit process to its regulated businesses.

   Corrective Action: By December 15, 2008, the CUPA will implement and provide for a consolidated permitting process to its regulated community. Beginning August 14, 2008, the CUPA will submit a report of their progress toward correcting this deficiency, including a copy of a consolidated permit issued to a facility regulated under multiple Unified Program elements.

CUPA Update 1: Napa County DEM has developed a Unified Program Permit (see attached). We are in the process of switching data management systems. We continue to work with the data management vendor and anticipate going live with the new system in the near future. The Unified Permit will be generated by the new data management system. In the interim, we are using the attached UST Operating Permit conditions (See attached).

Comments to Update 1: *Cal/EPA appreciates the CUPA's progress. However, this deficiency remains a correction in progress. This deficiency will be considered corrected once the CUPA's consolidated permit process is fully implemented. When available, please provide a copy of a Unified Program Facility Permit that has been issued to a business that is regulated under multiple (two or more) Unified Program elements.*

CUPA Update 2: The new database is not online yet.

Comments to Update 2: *This deficiency remains in the process of being corrected. On the next deficiency progress report, due on December 29, 2008, please update Cal/EPA on the CUPA's status toward correcting this deficiency.*

CUPA Update 3: We are currently in the test phase with the new database and anticipate going live within two months. The Unified Program Facility Permit will be implemented at that time. See sample attached.

Comments to Update 3**:** *This deficiency shall be considered corrected contingent upon implementation of the consolidated permit as stated within the next two months. Provide a status on the implementation of the consolidated permit in the next update due May 11, 2008.*

4. **Deficiency:** The CUPA is not conducting hazardous waste generator inspections with a frequency consistent with their Inspection and Enforcement (I&E) Program Plan, which is triennial.

   Corrective Action: On an annual basis, the CUPA will inspect approximately a third of its hazardous waste generator facilities. Beginning August 14, 2008, the CUPA will submit a status of their progress, including the number of facilities and the number of facilities inspected.

   CUPA Update 1: Our data shows that there are 414 facilities that are permitted for generating hazardous waste in Napa County. Between 07/01/07 – 06/30/08, 183 of said facilities were inspected (44%). This is more than one-third per year.

   Comments to Update 1: *DTSC acknowledges the progress the CUPA has made in meeting its current inspection frequency. The CUPA has corrected this deficiency.*

5. **Deficiency:** The CUPA is not retaining copies of inspection reports for the five-year minimum.

   Corrective Action: The CUPA corrected this deficiency on April 7, 2008.

6. **Deficiency:** The CUPA has not amended their Unified Program Administrative Policy and Procedure manual to include a discussion of how the CUPA will expend five percent of their hazardous waste-related resources to the oversight of universal waste handlers and silver-only generators according to the Health and Safety Code chapter 6.5, section 25201.4 (c) and the California CUPA Forum May 2001 position paper.

   Corrective Action: The CUPA corrected this deficiency on April 16, 2008.

7. **Deficiency:** The CUPA's emergency response plans/procedures are missing an element.

   Corrective Action: The CUPA corrected this deficiency on April 7, 2008.

8. **Deficiency:** The CUPA's annotated map boiler plate for the business plan does not have all the required fields.

   Corrective Action: The CUPA corrected this deficiency on April 7, 2008.

9. **Deficiency:** The CUPA's training program template for business plan facilities does not contain all of the required elements.

   Corrective Action: The CUPA corrected this deficiency on April 7, 2008.

10. **Deficiency:** The CUPA's California Accidental Release Prevention (CalARP) dispute resolution procedure does not contain all the required elements.

    Corrective Action: This deficiency was corrected at the time of the evaluation.

11. **Deficiency:** The CUPA is not ensuring that precise chemical locations and site maps of hazardous materials business plan facilities are kept from being released to the public.

    Corrective Action: The CUPA corrected this deficiency on April 21, 2008.

12. **Deficiency:** The CUPA does not have a process for disclosure of confidential information to government employees and physicians.

    Corrective Action: This deficiency was corrected at the time of the evaluation.

13. **Deficiency:** The CUPA does not have a process for public inspection of trade secret inventory information.

    Corrective Action: This deficiency was corrected at the time of the evaluation.

14. **Deficiency:** The CUPA does not ensure that business plan facilities are certifying at least once every three years that their inventory has not changed.

Corrective Action by August 14, 2008: The CUPA will submit the number of businesses that have filed inventory certifications (of "no change") and also the number of businesses that submitted new inventories as of August 14, 2008.

CUPA Update 1: 926 out of 1,098 (84%) facilities certified that their HMBP was current and/or there were revisions that were submitted between 07/01/07 and 06/30/08. An annual certification form is attached with the annual invoice in which businesses are to certify that either the HMBP is current or revisions were made and the revisions are attached with the certification form. When the CUPA becomes full[y] staffed, additional follow up will occur to ensure that the remaining 16% of the facilities comply.

Comments to Update 1: *OES considers this deficiency corrected; no further update is required.*

15. **Deficiency:** The CUPA has not inspected all regulated businesses subject to the hazardous materials business plan program at least once every three years.

    Corrective Action: On an annual basis, the CUPA will inspect approximately a third of its business plan facilities. Beginning August 14, 2008, the CUPA will submit a status of their progress, including the total number of registered facilities and the number of facilities inspected.

    CUPA Update 1: 411 out of 1,098 (37%) permitted HMBP facilities were inspected from 07/01/07-06/30/08. We are on track to catch up on facilities that have not been inspected within the three year mandated inspection frequency. Additionally, said sites have been made a priority.

    Comments to Update 1: *OES considers this deficiency corrected; no further update is required.*

16. **Deficiency:** The CUPA's Permit to Operate for the underground storage tank (UST) program does not contain all of the required elements.

    Corrective Action: By August 14, 2008, the CUPA will revise its permit to include monitoring of the tanks and piping, and include language that requires the owner or operator to comply with Health and Safety Code chapter 6.75 and the California Code of Regulations title 23, chapter 18 in the permit conditions. Beginning May 16, 2008, the CUPA will retain a copy of each permit issued (either a paper copy or an electronic image) for its files.

    CUPA Update 1: Complete. Please see attached. A copy of the invoice that is signed by the District person, which triggers the operating permit issuance, is placed in the respective UST file. When we switch to the new data management system, a Consolidated Unified Program Permit will be issued and a copy placed in an electronic file.

    Comments to Update 1: *The SWRCB Staff is pleased that the CUPA has developed an Operating Permit template that includes tank and pipe monitoring, and the additional required*

language. It appears, however, that the use of this permit is based on using the new database. This deficiency remains uncorrected until the CUPA is able to issue the new permit and maintain a copy of the permit in the facility file. Please provide an update regarding the status of when the new permits will be issued in the next progress report, due on November 12, 2008. When available, please provide a copy of a newly issued Permit to Operate which uses the new template.

CUPA Update 2: The new database is not online yet.

Comments to Update 2: *Please continue to update the SWRCB on using the new database and issuing the new operating permits. Please provide a copy of a permit when available.*

CUPA Update 3: We are currently in the test phase with the new database and anticipate going live within two months. The Unified Program Facility Permit will be implemented at that time. See sample attached.

Comments to Update 3: *The State Water Board has reviewed the sample permit and has suggested several changes for clarity. Please see attached version.*

17. **Deficiency:** The monitoring plans reviewed were missing some elements, such as training plan, responsible person, and reporting format/logs. Response plans were also absent in several files.

    Corrective Action by March 18, 2009: The CUPA will ensure that all monitoring and response plans are complete in all UST files. Beginning August 14, 2008, update Cal/EPA and SWRCB on the status of this deficiency.

    CUPA Update 1: District Inspectors are reviewing the Monitoring and Response Plans at the time of the annual UST inspection. If elements of said plans are missing, they are addressed at that time. Since January 01, 2008, 36 out of 46 UST facilities have been inspected.

    Comments to Update 1: *The SWRCB staff is pleased with the progress the CUPA is making in correcting this deficiency. Please provide additional update in the next status report.*

    CUPA Update 2: 34 UST facility inspections have been conducted since 03/20/08 – the date of the audit. [All 46 UST facilities have been inspected in FY 07/08.] Inspectors are reviewing Monitoring and Response Plans for completeness.

    Comments to Update 2: *The SWRCB staff considers this deficiency corrected and will expect that evidence of correction will be seen in all UST files during the next evaluation.*

18. **Deficiency:** The CUPA's inspection report does not document or detail the inspection, but consists of summary of violations or notice to comply (NTC) only information. There is no record of components reviewed.

Corrective Action by August 14, 2008: The CUPA will develop a detailed inspection report showing the items reviewed.

CUPA Update 1: Napa County DEM utilizes a checklist for UST inspections and writes the observation, violation, and corrective action on a separate inspection sheet. If facilities want a copy of the entire inspection checklist now or in the future, they may request it and it will be provided.

Comments to Update 1: *The SWRCB staff is pleased with the progress the CUPA is making in correcting this deficiency. Please provide a copy of the inspection checklist in the next status report. In addition, please provide information on how the checklist will be maintained with the violation summary as part of the complete inspection report in the facility file.*

CUPA Update 2: Napa County DEM utilizes a checklist for UST inspections and writes the observation, violation, and corrective action on a separate inspection sheet. If facilities want a copy of the entire inspection checklist now or in the future, they may request it and it will be provided.

Comments to Update 2: *The CUPA has neither provided a copy of the inspection checklist nor an explanation of how it is used to document that a complete inspection was conducted, nor how the violation summary portion and the inspection checklist will be maintained as part of the complete report, as requested.*

Please provide a copy of the inspection checklist and provide information on how the checklist will be maintained with the violation summary as part of the complete inspection report in the facility file in your next status report.

Note: *A comprehensive inspection report showing all items reviewed during the inspection and detailing the findings of the inspection (compliance as well as non-compliance) is necessary to ensure that regulatory requirements are met (including SOC). These become part of the detailed records necessary to meet California Code of Regulations title 27 reporting requirements, in support of the summary reports submitted.*

CUPA Update 3: Please find the enclosed checklist. Our new database has a field to document the level of compliance/non-compliance. NCDEM utilizes a checklist for UST inspections and writes the observation, violation, and corrective action on a separate inspection sheet. If facilities want a copy of the entire inspection checklist now or in the future, they may request it and it will be provided.

Comments to Update 3: *The State Water Board has reviewed the NCDEM checklist. It is not clear to State Water Board staff how an inspector would use the checklist to document compliance and, in particular, determine if the facility is in significant operational compliance for release detection and release prevention. The State Water Board staff would like to review several completed inspection sheets with your next update to see how the inspectors verified compliance.*

19. **Deficiency:** The CUPA does not have an installation/plan check checklist to ensure that proposed installations meet all of the required criteria.

    Corrective Action: This deficiency was corrected on April 21, 2008.