Deficiency Progress Report – Update 10

Report Submitted: August 13, 2009

CUPA Name: **Alameda County Environmental Health**

Evaluation Date: August 30 - 31, 2006

State Evaluation Team:

Cal/EPA Team Leader: Kareem Taylor
DTSC Evaluator: Mark Pear
OES Evaluator: Brian Abeel

Corrected Deficiencies: 1, 2, 3, 4, 6, 7, 8, 9, 10, 11

The 2006 Evaluation Follow-up for Alameda County CUPA is concluded. Deficiency #5 will be revisited during the CUPA's 2009 Evaluation. Thank you for your continued cooperation and efforts in the 2006 Evaluation Follow-up process.

1. **Deficiency:** On the Annual Enforcement Summary Reports (Summary Report 4) for fiscal years (FYs) 02/03, 03/04, and 04/05, the CUPA did not correctly report facility violation types, enforcement actions, and fine/penalty information.

   Preliminary Corrective Actions: By September 30, 2006, correctly report the following information into the FY 05/06 Annual Enforcement Summary Report:

   - In the "other" column, report the number of businesses with violations.
   - In the "no. of informal enforcement actions" column, report the number of businesses that received informal enforcement actions.
   - In the fines/penalties assessed and collected columns, report the amount of penalties assessed and collected by the CUPA.

   Cal/EPA's 2nd Response: This deficiency is considered corrected.

2. **Deficiency:** The self-audit reports for FYs 03/04 and 04/05 did not contain all of the required elements. The self audit reports were missing a narrative summary of the CUPA's inspection and enforcement activities. The narratives for the single fee activities and the fee accountability program need to be more descriptive.

Preliminary Corrective Actions: By September 30, 2006, submit the CUPA's FY 05/06 self-audit report to Cal/EPA that contains the descriptive narrative summaries of the inspection and enforcement activities, single fee activities, and the fee accountability program.

Cal/EPA's 2nd Response: This deficiency is considered corrected.

3. **Deficiency:** The CUPA does not have a CalARP dispute resolution procedure.

   Preliminary Corrective Actions: By November 30, 2006, the CUPA will develop a CalARP dispute resolution procedure that addresses all of the elements of Title 19, 2780.1.

   Cal/EPA's 2nd Response: This deficiency is considered corrected.

4. **Deficiency:** The CUPA is not inspecting all HMRRP facilities once every three years as required by law.

   Preliminary Corrective Actions: By September 1, 2007, and annually thereafter, the CUPA will inspect at least one third (33% per year) of the businesses subject to the Business Plan Program.

   CUPA's 3rd Status Update: CUPA had recently hired a Senior Hazardous Materials Specialist on August 27, 2007. Addition of new staff will help with meeting the inspection goal (33% per year). Voluntary overtime work is on going to catch up with inspection using the prioritized list of inventoried facilities. CUPA supervisor and CUPA consultant are also inspecting inventoried Cal ARP facilities for all programs (Generator, HMBPs, Tiered Permits, AGT). CUPA will be opening another position (Hazardous Materials Specialist) to assists with the inspection needs of the program.

   Cal/EPA's 3rd Response: The CUPA has taken some positive steps toward meeting the HMRRP inspection frequency. On the next status report, please report the CUPA's total number of regulated HMRRP facilities, the specific inspection goals for the inspectors (the # of routine inspections per HMRRP inspector), and the actual number of HMRRP facilities that have been inspected for FY 07/08.

   CUPA's 4th Status Update: ACDEH HMRRP Facilities = 739;
   Inspection Goals per Inspector = 123 HMBP Inspection per year;
   2 CUPA Inspectors; DEH goal is to inspect 246 HMBP facilities per year;
   739 HMBP facilities inspected every 3 years.

HMRRP Facilities Inspected for FY 07/08 – conducted 134 HMBP inspections up to January 9, 2008; For the previous FY 06/07, completed 315 HMBP inspections.

Cal/EPA's 4th Response: Alameda is on schedule to meet their HMBP inspection frequency. This deficiency is considered corrected.

5. **Deficiency:** The CUPA's area plan has not been revised in the past three years.

   Preliminary Corrective Actions: By November 30, 2006, the CUPA will develop a timeline for review and revision of the area plan.

   CUPA's 3rd Status Update: CUPA is currently drafting a contract with Boykin Consulting to update the Area Plan. Target date is to have the Area Plan updated before the end of December 2007.

   Cal/EPA's 3rd Response: On the next status report, please continue to update Cal/EPA on the status of this deficiency.

   CUPA's 4th Status Update: Area Plan draft contract with Boykin Consulting will have to be updated; DEH considering applying for OES Grant to update the Area Plan and to include DEH role on oil spills response (i.e. Cosco Busan Oil Spill Incident).

   Cal/EPA's 4th Response: On the next status report, please continue to update Cal/EPA on the status of this deficiency.

   CUPA's 5th Status Update: DEH received a proposal to update the Area Plan; see attachment. DEH plans to have a contract agreement with Boykin Consulting before the end of this fiscal year. Six to nine months from contract agreement to complete Updated DEH Area Plan.

   Cal/EPA's 5th Response: On the next status report, please continue to update Cal/EPA on the status of this deficiency.

   CUPA's 6th Status Update: DEH is sending application to OES (by August 15, 2008) for HMEP Grant to update Area Plan and conduct Table Top Exercise; Updated Area Plan to include oil spill response heirachy and pesticide drift exposures. DEH will wait for status of grant application before finalizing consultant's contract to update Area Plan.DEH will send a copy of grant application submitted to OES before August 15, 2008.

   Cal/EPA's 6th Response: On the next progress report, please continue to update Cal/EPA on the status of this deficiency.

CUPA's 7th Status Update: Alameda County DEH has received approval of the HMEP Grant application. Final agreement in progress. DEH will give notice to the BOS for grant acceptance. Consultant will update proposal to include City of Newark. Attached is a copy of the grant application acceptance by OES.

Cal/EPA's 7th Response: Please refer to OES's response.

- **OES's Response:** On the next progress report, please continue to update OES & Cal/EPA on the status of this deficiency.

CUPA's 8th Status Update: Contract / Standard agreement with Boykin Consulting to Update Area Plan is in progress. Met with Chris Boykin on Dec. 8, 2008 to discuss current plan and proposed changes to Area Plan.

Cal/EPA's 8th Response: Please refer to OES's response.

- **OES's Response:** On the next progress report, please continue to update OES & Cal/EPA on the status of this deficiency.

CUPA's 9th Status Update: Contract /Standard agreement with Boykin Consulting to update the Area Plan is approved, signed and in place. By September 30, 2009, the Area Plan update is completed.

Cal/EPA's 9th Response: Please refer to CalEMA's response.

- **CalEMA's Response:** On the next progress report, please continue to update OES & Cal/EPA on the status of this deficiency.

CUPA's 10th Status Update: Area Plan Update is currently in the draft form prepared by Boykin Consulting. Met with agencies (Fire Depts and Deputy Agricultural Commissioner). Updated Area Plan will be finalized by September 30, 2009 and a copy will be submitted to Cal EMA.

Cal/EPA's 10th Response: The Area Plan progress will be reviewed by Cal EMA during the CUPA's 2009 evaluation in December. This deficiency will remains in progress of being corrected until a satisfactory draft has been approved. Please refer to Cal EMA's response.

- **CalEMA's Response:** This deficiency will be considered corrected upon receipt of the CUPA's finalized area plan.

6. **Deficiency:** The CUPA is not forwarding the data (Business Plan) collected, within 15 days of receipt and confirmation, to other local agencies in a format easily interpreted by those agencies with shared

Preliminary Corrective Actions: By November 30, 2006, the CUPA shall forward the information within 15 days of receipt to the respective fire agencies or develop a memorandum of understanding between these fire agencies, and signed by all parties involved; specifying the agreement on what and how often information is forwarded.

CUPA's 3rd Status Update: CUPA has completed scanning all current business plans submitted for each inventoried sites. Scanned HMBP included site maps, which are confidential. Prior to submitting the scanned HMBPs, CUPA will request County Counsel's advise on confidentiality agreement with Fire agencies. CUPA is also exploring giving Fire Departments direct access to HMBP information via our website.

Cal/EPA's 3rd Response: On the next status report, report how many current business plans have been submitted to local fire agencies.

CUPA's 4th Status Update: 732 scanned HMBPs copied in CDs in the mail to local fire agencies.

Cal/EPA's 4th Response: This deficiency is considered corrected.

7. **Deficiency:** The CUPA is not providing all information contained from completed inventory forms, upon request, to emergency rescue personnel on a 24-hour basis.

   Preliminary Corrective Actions: By November 30, 2006, the CUPA shall develop provisions for providing all information to on-call personnel and emergency rescue personnel on a 24-hour basis.

   Cal/EPA's 2nd Response: This deficiency is considered corrected.

8. **Deficiency:** The self-audits FY 03/04, 05/06 did not include CalARP Program self-audit elements. A CalARP audit report shall be compiled annually based upon the previous fiscal year's activities and shall contain an executive summary and a brief description of how the CUPA is meeting the requirements of the program as listed in Section 2780.3

   Preliminary Corrective Actions: By November 1, 2006, the CUPA shall conduct an audit of its activities to implement the CalARP Program.

   Cal/EPA's 2nd Response: This deficiency is considered corrected.

9. **Deficiency:** The CUPA is not conducting inspections with a frequency that is consistent its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 550 hazardous waste generators (HWGs) that have been identified by the CUPA.

   Preliminary Corrective Actions: By July 31, 2007, allocate additional staff resources to the hazardous waste generator program. By July 31, 2007, and annually thereafter, the CUPA should conduct routine inspections of at least one-third (33%) of the CUPA's HWG facilities.

   CUPA's 3rd Status Update: CUPA recently hired a Senior Hazardous Materials Specialist on August 27, 2007. Addition of new staff will help meet the inspection goal (33% of HWG facilities). Voluntary overtime work is on going to catch up with inspection using the prioritized list of inventoried facilities. CUPA supervisor and CUPA consultant are also inspecting inventoried Cal ARP facilities for all programs (Generator, HMBPs, Tiered Permits, AGT). CUPA will be opening another position (Hazardous Materials Specialist) to assists with the inspection needs of the program.

   Cal/EPA's 3rd Response: Cal/EPA is pleased to hear that the CUPA has hired new staff and is devoting more hours toward meeting the HWG inspection goal. Cal/EPA will review the CUPA's FY 06/07 Annual Summary Reports for progress towards correction. If the inspection summary indicates that the CUPA inspected at least 33% of their HWG facilities, this deficiency will be considered corrected. This deficiency remains in progress until further notice.

   CUPA's 4th Status Update: For FY 06-07, DEH reported 554 inventoried HWG regulated facilities and inspected 207 HWG facilities which represents 37% of total inventory.

   Cal/EPA's 4th Response: This deficiency is considered corrected.

10. **Deficiency:** The CUPA does not have in its written policy and procedures a written acknowledgment of the receipt of Tiered Permitting notifications and a method to handle incomplete/inaccurate forms.

    Preliminary Corrective Actions: By January 1, 2007, the CUPA shall amend its written policy and procedures to include a written acknowledgment of PBR notifications along with identifying any corrections of inaccurate or incomplete forms from businesses.

    Cal/EPA's 2nd Response: This deficiency is considered corrected.

11. **Deficiency:** The CUPA failed to take formal enforcement for the Class I violations noted during the evaluation.

    Preliminary Corrective Actions: In the future, any Class I violations must be addressed through a formal enforcement action according to the State Enforcement Response Policy.

    CUPA's 3rd Status Update: CUPA referred a case (Sara Lee Foods in San Lorenzo) to the District Attorneys Office for illegal disposal of waste. The case was settled recently ($70,000 fines). CUPA's newly hired Senior Hazardous Materials Specialist will be the lead in our enforcement program and will coordinate enforcement action with DEH staff and other regulatory agencies.

    Cal/EPA's 3rd Response: This deficiency is considered corrected.