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CHAPTER 1. Unified Hazardous Waste & Hazardous Materials Management Regulatory Program

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Part II. Operations

Article 5. Implementation and Maintenance of the Unified Program

§15180. Maintenance of Certification and Administration

- (a) A CUPA shall implement the Unified Program consistent with the implementation plan submitted in compliance with section 15150(e)(6) and these regulations.
- (b) A CUPA shall maintain certification through the administration of the Unified Program in compliance with these regulations.
- (c) Any agency designated by the Secretary as the CUPA pursuant to Health and Safety Code section 25404.3(f)(2) must comply with the requirements in these regulations.
- (d) Any local agency authorized to continue its role, responsibilities, and authority pursuant to Health and Safety Code sections 25404.3(f)(2) or 25533(f) shall comply with the requirements in the regulations placed on CUPAs with the exception of articles 3, 4, and 7, sections 15210, 15220, 15240, 15250, and 15260.
- (e) The CUPA shall establish and implement the following Unified Program administrative procedures.
 - (1) Public participation procedures that:
 - (A) Ensure receipt and consideration of comments from regulated businesses and the public.
 - (B) Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.
 - (C) Coordinate, consolidate, and make consistent public notices for activities related to any Unified Program element.
 - (2) Records maintenance procedures that include:
 - (A) Identification of the records maintained.
 - (B) Minimum retention times.
 - (C) Archive procedures.
 - (D) Proper disposal methods.
 - (3) Procedures for responding to requests for information from the public, from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.
 - (4) Procedures for forwarding the HMRRP information in accordance with Health and Safety Code sections 25503.5(d) and 25509.2(a)(3).

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- (5) Financial management procedures that include:
 - (A) A single fee system in compliance with section 15210;
 - (B) A fee accountability program in compliance with section 15220; and
 - (C) A surcharge collection and reimbursement program in compliance with section 15250.
- (6) Procedures for the withdrawal or removal of a PA that include:
 - (A) Providing notice;
 - (B) Stating causes;
 - (C) Taking public comment;
 - (D) Making appeals; and
 - (E) Resolving disputes.
- (7) Data management procedures that include:
 - (A) The collection, retention, and management of electronic data and documents in compliance with section 15185.
 - (B) The transfer and exchange of electronic data through an applicable local information management system or local reporting portal in compliance with 15187; and
 - (C) The reporting of electronic data in compliance with section 15290.

Authority cited: Sections 25404(b) and (e) and 25404.6, Health and Safety Code. Reference: Sections 25103, 25404.2(a) and (c), 25404.3(d), 25404.4(a)(1), 25404.5, 25500, 25506, 25509.2(a)(3) and 25534.5, Health and Safety Code; and Section 6253 et seq., Government Code.

§15185. Information Collection, Retention, and Management

- (a) CUPAs shall collect, retain, and manage information needed to implement the Unified Program, including these regulations and all data specified in the Unified Program data dictionary. Data Dictionary Data and documents retained in CERS do not need to be also retained locally.
- (b) The data dictionary is contained in division 3, Electronic Submittal of Information. It defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected, retained, and managed by a CUPA. It consists of the following sections:
 - (1) Division 3, Electronic Submittal of Information, includes data elements reported by a regulated business to a UPA; and

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- (2) Division 3, Electronic Submittal of Information, includes data elements a CUPA reports to the state.
- (c) A CUPA shall retain the following information for a minimum of five years:
- (1) Copies of self-audits, inspection reports, enforcement files, and UPCFs.
 - (2) All records related to hazardous waste enforcement actions from the date the enforcement action is resolved.
 - (3) Detailed records used to produce the summary reports submitted to the state.
 - (4) Surcharge billing and collection records following closure of any billing period, or until completion of any audit process, whichever is longer.
- (d) The Unified Program Data Dictionary data elements and submittal elements must be used for electronic reporting by businesses to a CUPA pursuant to this section or by a CUPA to the state pursuant to this section. The CUPA is not required to store or maintain the data in the data dictionary format, but must be able to electronically submit the data to Cal/EPA in the data dictionary formats using the data exchange technical specifications provided by Cal/EPA.
- (e) The CUPA shall accept all submittal elements from regulated businesses within their jurisdiction that include the relevant data elements as specified in the Unified Program Data Dictionary.
- (f) The CUPA may collect locally required supplemental information.
- (1) CUPAs are prohibited from requesting duplicative information if the information is included in the data dictionary.
 - (2) Locally required information must be adopted by local ordinance.
 - (3) A description of locally required supplemental information requirements must be reported to Cal/EPA for inclusion in CERS.
- (g) A CUPA shall provide access to information in accordance with section 15100(b)(2)(C)(iii).
- (h) The Secretary may establish and maintain standard descriptions for chemical inventory reporting of common chemical products in the Unified Program Data Dictionary, located at title 27, division 3, subdivision 1. The UPA shall accept the standard descriptions for inventory reporting.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25281.2, 25218.9, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

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§15186. Unified Program Data Standards

- (a) The Secretary shall establish and maintain a Unified Program Data Dictionary, located at title 27, division 3, subdivision 1, that lists, organizes, and describes the data to be collected and submitted by CUPAs in administering the programs listed in Health and Safety Code chapter 6.11. It shall contain:
- (1) a listing of the data elements and the submittal elements reported by a regulated business to a CUPA.
 - (2) a listing of the data elements a CUPA reports to the state.
 - (3) a listing of the data elements required for electronic data exchange.
- (b) The Secretary shall review and amend, if necessary, the Unified Program Data Dictionary, located at title 27, division 3, subdivision 1, every two years in accordance with the Administrative Procedure Act.
- (c) The state agency with assigned program responsibility shall identify and specify Unified Program Data Dictionary submittal options for data that cannot be divided into discrete data elements.
- (d) If a Unified Program reporting requirement is created by new statute or regulation that is not covered by the Unified Program Data Dictionary as defined in subdivision (a), the state agency with assigned program responsibility, in consultation with the Secretary, may develop and maintain a standard form that requires the statutory or regulatory information in a format that can be electronically uploaded to CERS, a local information management system, or a local reporting portal until such time that the new reporting requirement is integrated into the Unified Program Data Dictionary, CERS, local information management systems, and local reporting portals.

Authority cited: Sections 25404(b), (c), (d), and (e); 25404.6(c), Health and Safety Code.
Reference: Sections 25503.3, 25505, Health and Safety Code.

§15186.1. Standard Descriptions for Chemical Inventory Reporting

- (a) A handler that reports lead acid batteries as a part a chemical inventory submission shall use the following standard descriptions:
- (1) Data element 205, Chemical Name, is "Lead Acid Batteries".
 - (2) Data element 206, Trade Secret, is "No".
 - (3) Data element 207, Common Name, is "Lead Acid Batteries".
 - (4) Data element 208, EHS, shall be left blank.
 - (5) Data element 209, CAS#, shall be left blank.
 - (6) Data element 210, Fire Code Hazard Classes, is "Corrosive".

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- (7) Data element 211, Hazardous Material Type, is “Mixture”.
- (8) Data element 212, Radioactive, is “No”.
- (9) Data element 214, Physical State, is “Liquid”.
- (10) Data element 215, Largest Container, shall be reported as gallons of electrolyte.
- (11) Data element 216, Fed Hazard Categories, is data element 216d, “Acute Health” and data element 216e, “Chronic Health”.
- (12) Data element 217, Average Daily Amount, shall be reported as gallons of electrolyte.
- (13) Data element 218, Maximum Daily Amount, shall be reported as gallons of electrolyte.
- (14) Data element 221, Units, is “Gallons”.
- (15) Data element 223, Storage Container, is data element 223r, “Other”.
- (16) Data element 224, Storage Pressure, is “Ambient”.
- (17) Data element 225, Storage Temperature, is “Ambient”.
- (18) Data element 226, Hazardous Component 1 Percent by Weight, is “40”.
- (19) Data element 227, Hazardous Component 1 Name, is “Sulfuric Acid”.
- (20) Data element 228, Hazardous Component 1 EHS, is “Yes”.
- (21) Data element 229, Hazardous Component 1 CAS #, is “7664-93-9”.

Authority cited: Sections 25404(b), (c), (d), and (e); 25404.6(c), Health and Safety Code.
Reference: Section 25404, Health and Safety Code.

§15187. Local Information Management Systems – Electronic

- (a) A CUPA may establish and implement a local reporting portal that can receive electronic data from regulated businesses within their own jurisdiction.
 - (1) A CUPA that establishes and implements a local reporting portal is required to accept all Unified Program data elements and submittal elements submitted by any regulated businesses in its jurisdiction.
 - (2) A CUPA’s local reporting portal shall be able to transfer or exchange electronic data submitted by regulated businesses to CERS using the data exchange technical specifications provided by Cal/EPA.
- (b) A regulated business shall use CERS to meet regulatory reporting requirements. However, if a CUPA has a local reporting portal approved by Cal/EPA, then a regulated business may use the local reporting portal to meet regulatory reporting requirements.

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- (c) If not otherwise manually entered into CERS, a CUPA's local information management system shall be able to transfer inspection, violation, and enforcement information to CERS, using the data elements in the Unified Program Data Dictionary and the data exchange technical specifications provided by Cal/EPA.
- (d) Locally required supplemental information collected, if any, and the applicable local code citations shall be included in both the local information management system or local reporting portal and CERS.
- (e) PAs shall not have a local reporting portal unless provided by the CUPA for use by all regulated businesses to meet all Unified Program reporting requirements throughout the CUPA's jurisdiction.

Authority cited: Sections 25404(b), (c), (d), and (e); 25404.6(c), Health and Safety Code.

Reference: Sections 25503(a), 25503.5(a) and (b), 25505, 25509, Health and Safety Code.

§15188. Reporting Requirements – Business Responsibilities

- (a) Regulated businesses are required to meet the reporting requirements of any applicable Unified Program element.
- (b) Regulated businesses shall report required data applicable to their business to the UPA by electronic submission of the data elements described in the data dictionary.
- (c) The business shall verify the accuracy of the data and documents submitted.
- (d) Regulated businesses shall comply with the established reporting timeframes (see Health and Safety Code, division 20, chapter 6.95, sections 25504, 25507, 25507.2, 25508, 25508.2 and 25512, effective January 1, 2014) or events (see Health and Safety Code, division 20, chapter 6.95, section 25508.1, effective January 1, 2014) that trigger the requirements for businesses to submit information required as a part of the Unified Program Data Dictionary. A UPA may establish other specific dates for submission of information consistent with state and federal law.
- (e) Other documents may also be required by federal and state statutes and regulations or by local ordinance.

Authority cited: Sections 25404(b), (c), (d), and (e); 25404.6(c), Health and Safety Code.

Reference: Sections 25503.5, 25505, Health and Safety Code.

§15190. Permitting

- (a) The UPA shall issue a Unified Program facility permit in accordance with these regulations.
- (b) The CUPA shall consolidate the permits issued under the Unified Program utilizing the Unified Program facility permit.
 - (1) The UPA shall provide to regulated businesses Unified Program facility permit instructions for the specific requirements that are applicable to regulated businesses.

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- (2) The UPA shall use CERS, a local information management system, or a local reporting portal to manage permit information.
- (3) Additional locally required supplemental information must follow section 15185(f).
- (c) The CUPA shall provide for a single point of local contact for permit applicants. The program shall provide for a coordinated and consolidated permit process that provides regulated businesses a single point of local contact for obtaining information on, the requirements for, and the application process for the Unified Program facility permit.
- (d) The CUPA, in cooperation with the PAs, shall ensure timely decisions regarding Unified Program facility permits, including:
 - (1) Time lines and time limits of appeal processes;
 - (2) Provisions for preliminary check for application completeness;
 - (3) Provisions for technical review of permit applications by the responsible agency;
 - (4) A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.
- (e) The CUPA shall identify and utilize efficient methods of transmitting the permit.
- (f) The CUPA shall establish a permit cycle.
- (g) The CUPA shall evaluate the coordination, consolidation and consistency of the Unified Program facility permit process.
 - (1) Information obtained through the permit evaluation process shall be considered and used in modifying the Unified Program facility permit when appropriate.
- (h) The Unified Program facility permit shall include:
 - (1) The applicable program element(s) and authorizations that make up the Unified Program facility permit;
 - (2) The agency responsible for issuing the Unified Program facility permit;
 - (3) The permitted facility by business name and address;
 - (4) The permit issuance date;
 - (5) The permit expiration date; and
 - (6) An addendum used to document permit conditions for each applicable element of the Unified Program.
- (i) The CUPA shall address any coordination, consolidation, or consistency issues not specifically addressed above.

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Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(a)(1) and (2), 25299.6 and 25503.4, Health and Safety Code; and Section 8670.36.5, Government Code.

§15200. Inspection and Enforcement

- (a) The CUPA shall develop a written plan to implement an inspection and enforcement program. The plan shall be developed and implemented in cooperation with all PAs of the jurisdiction. The plan shall include:
- (1) Provisions for administering all program elements.
 - (2) The following types of inspections shall be conducted according to the standards contained in statute and regulation:
 - (A) Hazardous waste generator inspections [refer to Health & Saf. Code, §§ 25150, 25159; Cal. Code Regs., tit. 22, div. 4.5, ch. 12];
 - (B) Inspection of onsite hazardous waste treatment activities under the CE, CA, and PBR tiers of Tiered Permitting [refer to Health & Saf. Code, §§ 25200.3, 25201.5; Cal. Code Regs., tit. 22, div. 4.5, ch. 45];
 - (C) UST Program inspections [refer to Health & Saf. Code, § 25288; Cal. Code Regs., tit. 23, div. 3, ch. 16, § 2712 et seq.];
 - (D) HMRRP Program inspections [refer to Health & Saf. Code, § 25500 et seq.];
 - (E) CalARP Program inspections [refer to Health & Saf. Code, § 25533 et seq.];
 - (F) AST Program inspections [refer to Health & Saf. Code, § 25270.5 et seq.]; and
 - (G) Other inspections that may be consolidated pursuant to Health and Safety Code section 25404.2(a)(4).
 - (3) A schedule of the inspection frequencies to be conducted that shall, at a minimum, meet the inspection frequencies mandated in statutes, as shown in figure 1.
 - (A) If there is no mandated inspection frequency, inspection frequency scheduling shall consider the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials, emergency response capability, compliance history, and any other pertinent local issues.

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Figure 1 – MANDATED INSPECTION FREQUENCIES		
Program Element	Inspection Frequency	Statutory Reference
Hazardous Waste Generator Program	No mandated frequency	
Hazardous Waste Treatment Activities – PBR, CA and CE	Initial inspection within two years of notification and every three years thereafter	Health and Safety Code section 25201.4(b)
UST Program	At least once every year	Health and Safety Code section 25288(a)
HMRRP and Inventories Program	At least once every three years	Health and Safety Code section 25508(b)
CalARP Program	At least once every three years	Health and Safety Code section 25537
AST Program	At least once every three years for tank facilities with 10,000 gallons or more of petroleum	Health and Safety Code section 25270.5(a)

- (4) Coordination of inspection efforts between the CUPA and its PAs.
- (5) Enforcement notification procedures that ensure:
 - (A) Appropriate confidentiality; and
 - (B) Coordination and timely notification of appropriate prosecuting agency(ies).
- (6) Identification of all available enforcement options.
- (7) Uniform and coordinated application of enforcement standards.
- (8) Identification of penalties and enforcement actions that are consistent and predictable for similar violations and no less stringent than state statute and regulations.
- (9) A graduated series of enforcement actions that may be taken by the UPAs, based on the severity of the violation.
- (10) Provisions for multi-media enforcement.
- (11) A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.
- (12) Provisions for coordinating enforcement efforts between the CUPA and its PAs.

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- (13) Provisions for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.
- (b) The Inspection and Enforcement Program Plan shall at a minimum be reviewed annually by the CUPA.
 - (1) The CUPA shall consult with and reach consensus with the PA prior to any changes that affect program elements for which the PA is responsible.
 - (2) The CUPA shall update the plan as necessary.
- (c) The CUPA shall participate in a multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement and deterrence of violations affecting more than one environmental medium or regulatory scheme.
- (d) In addition to the mandatory elements of Health and Safety Code division 20, chapter 6.5, the CUPA may integrate optional waste reduction and pollution prevention programs into the unified inspection and enforcement program.
- (e) CUPAs are responsible for initiating enforcement actions when appropriate, but may also refer enforcement cases to the appropriate state or federal agency for their consideration.
- (f) These regulations shall not limit the authority of any state agency to investigate alleged violations of state law. These regulations shall not limit appropriate state agencies from taking any other actions that are mandated, allowed, or authorized pursuant to state law.

Authority cited: Sections 25404, 25404.2 and 25404.6(c), Health and Safety Code; and Section 6254(f), Government Code. Reference: Sections 25404(c) and (d), 25404.2, 25404.2(a) and (c), 25404.4(b)(3), 25150, 25159, 25179.4, 25200.3, 25201.5, 25288, 25500 and 25533, Health and Safety Code; and Section 6254(f), Government Code.

§15210. Single Fee System

- (a) Each CUPA shall implement a single fee system within its jurisdiction. The single fee system will do the following:
 - (1) Consolidates all fees currently mandated in statute and regulation used for local implementation of the Unified Program.
 - (2) Consolidates any other fees levied by a local agency specifically to fund their implementation of the programs specified in Health and Safety Code section 25404(c).
- (b) The single fee system may be used to charge fees for programs that are not listed as Unified Program elements in Health and Safety Code section 25404.5(c), if those programs are incorporated into the Unified Program.
- (c) The single fee system may reflect variations in cost to implement and maintain programs for different regulated businesses.

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- (1) Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.
 - (2) Fees may differ from one jurisdiction to the next, based on the necessary and reasonable costs to implement the Unified Program.
 - (3) The fee schedule may be adjusted by the CUPA to reflect changes in reasonable and necessary costs.
- (d) Provided the single fee system meets the minimum requirements of the law, a CUPA or a PA has the authority to determine the level of service it will provide and to set its fees to fund the necessary and reasonable costs of its program.
- (e) Each PA shall notify the CUPA of its program costs.
- (f) The CUPA shall ensure that all funds collected on behalf of the PA are forwarded to the PA.
- (1) The CUPA shall pay the PA within 45 days of receiving fees designated for the PA unless the PA and CUPA agree in writing to an alternate schedule.
- (g) Each billing statement shall itemize the fees by program element, if those fee elements are calculated separately.
- (h) Fees for non-recurring activities of the CUPA or PA such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the single fee billing.
- (i) The governing body of the CUPA shall establish the fee schedule for businesses regulated under the Unified Program. The governing body of the CUPA shall utilize the fee schedules established by the PAs and authorize the collection of those fees.
- (j) The CUPA or PA shall make fees schedules available to interested parties upon request.
- (k) The CUPA shall prepare and implement a plan to resolve fee disputes that arise between the CUPA and PAs, between a regulated business and either the PA or the CUPA, or between a regulated business and the state regarding the state surcharge.
- (1) The CUPA shall attempt to resolve disputes involving the surcharge in the same manner used to resolve local fee disputes. Those disputes regarding the state surcharge that cannot be resolved locally may be referred to the Secretary for resolution.
 - (A) Disputes referred to the Secretary shall be in writing and shall include a recommendation for resolution.
- (l) The single fee system shall include mechanisms for the billing, collection, and transmittal of the state surcharge.
- (1) The CUPA may show the state surcharge as a separate item or items within the single fee billing.

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Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b) and (c), and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(a)(1), 25404.4, and 25404.5 Health and Safety Code.

§15220. Fee Accountability Program

- (a) Each CUPA shall implement a fee accountability program designed to encourage efficient and cost-effective operation of the program for which the single fee and surcharge are assessed.
- (1) The fee accountability program shall be instituted before the single fee system. The fee accountability program shall include at a minimum the following elements:
- (A) Accounting for: the fee schedule, the actual amount billed, and the revenue collected.
 - (B) Discrete billable services, categorized as either site specific or general.
 - (C) Staff work hours required to implement the program.
 - (D) Direct program expenses including durable and disposable equipment.
 - (E) Indirect program expenses including overhead for facilities and administrative functions.
 - (F) The number of regulated businesses in each program element within the jurisdiction.
 - (G) Total number of regulated businesses in the jurisdiction.
 - (H) Quantity and range of services provided, including frequency of inspection.
- (2) The CUPA and PAs shall annually review and update the fee accountability program.

Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b) and (c) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(a)(1), 25404.4, and 25404.5, Health and Safety Code.

§15240. State's Surcharge Responsibilities

- (a) The Secretary shall determine the annual surcharge based on the assumptions, calculations, and supporting data that justify the reasonable and necessary costs of CUPA oversight and program element management by state agencies with responsibilities under the Unified Program.
- (1) The Secretary shall determine the amount of each surcharge component based upon information received from each state agency responsible for activities under Health and Safety Code division 20, chapter 6.11.
- (2) Each state agency responsible for activities under Health and Safety Code division 20, chapter 6.11 shall submit to the Secretary, on a date specified by the Secretary, its projected reasonable and necessary costs, including the detailed supporting information to carry out responsibilities under Health and Safety Code division 20, chapter 6.11.

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- (3) Reasonable and necessary costs shall include but are not limited to, the costs of bad debts, and uncollected fees.
- (b) The Secretary shall review annually, and revise if necessary, the state surcharge to be assessed on regulated businesses. The state surcharge shall not be revised more than once per year.
- (c) The Secretary shall determine the amount of state surcharge to be assessed on each person regulated by the Unified Program in order to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under Health and Safety Code division 20, chapter 6.11, pursuant to Health and Safety Code section 25404.5(b)(1). The state surcharge consists of the following components:
- (1) A component for oversight of each CUPA assessed on all regulated businesses.
 - (2) A component assessed on regulated businesses for each UST that meets the criteria of Health and Safety Code section 25281(y)(1).
 - (3) A component assessed on regulated businesses under the Health and Safety Code section 25531 et seq., the CalARP program.
 - (A) This CalARP surcharge component is assessed on a single company or business within a CUPA's jurisdiction, regardless of the business's number of stationary sources.
 - (B) A regulated business is not required to pay the CalARP surcharge component at a stationary source if a CUPA makes a determination that there is not a significant likelihood of a regulated substances accident risk and does not require the preparation and submission of a risk management plan at that stationary source operated by that business in the CUPA's jurisdiction, pursuant to Health and Safety Code section 25534.
 - (C) This CalARP surcharge component waiver is effective starting in the following fiscal year after the determination is made by the CUPA. If subsequent changes lead to a redetermination and a requirement by the CUPA to prepare and submit any risk management plan at any of the business's stationary source(s), then this surcharge component will be assessed beginning in the following fiscal year.
 - (4) A component assessed on businesses regulated under the Health and Safety Code section 25270 et. seq., the Aboveground Petroleum Storage Act.
- (d) The Secretary shall publish the amendments to the state surcharge in the California Regulatory Notice Register and accept comments on the proposed surcharge for 30 days.
- (e) Following the 30-day comment period required in subdivision (d) for this section, the Secretary will publish the final surcharge in the California Regulatory Notice Register.
- (f) Sixty days following the publishing of the final surcharge in the California Regulatory Notice Register, the CUPAs shall be responsible for collecting the new surcharge as part of their single fee system.

Authority cited: Sections 25404(b) and (d), 25404.6(c) and 25531.2, Health and Safety Code.

Reference: Sections 25404.5(b) and (d) and 25534, Health and Safety Code.

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§15241. Establishing the Single Fee for Designated State Agencies

- (a) The Secretary shall determine the Unified Program single fee for any state agency designated to act as the CUPA pursuant to sections 25404.3 and 25404.5, subdivision (a)(2)(B) of the Health and Safety Code, based on data that sets forth the necessary and reasonable costs of CUPA implementation by that state agency, according to the methodology described in subdivision (c).
- (b) Each state agency designated to administer the Unified Program shall provide the Secretary with the information necessary to determine the amount of the single fee. Each designated agency shall annually submit to the Secretary, on a date specified by the Secretary, the amount of necessary and reasonable costs to carry out its responsibilities as the designated agency, including the supporting information requested by the Secretary. Necessary and reasonable costs shall include, but not be limited to, the costs of bad debts and uncollected fees.
- (c) The Secretary or the designated agency shall assess an annual fee on regulated businesses that is sufficient to recover the designated agency's net costs. The annual fee shall consist of a program element fee, levied on each program element to which a regulated business is subject within the CUPA's jurisdiction during the reporting period or any portion thereof, and a flat fee, levied equally on each regulated business within the CUPA's jurisdiction during the reporting period or any portion thereof. The initial reporting period is July 1, 2005, through June 30, 2006.
- (1) The program element fee shall be calculated for each business by multiplying a base rate by an hourly fee for each program element to which a business is subject. If a business is subject to multiple program elements, all program element fees to which it is subject shall be added to determine its total program element fee.
- (A) Program element fee categories include AST, UST, CalARP, HMRRP, hazardous waste generator, hazardous waste recycler, and tiered permit. In determining the base rate, the Secretary may divide tanks and generators into categories of large, medium, and small, and divide tiered permits into categories of PBR, CA and CE. Businesses with multiple tiered permit operations at the same site will be subject to the tiered permit program element fee for only one such operation per site, which shall be for the operation that is subject to the highest fee.
- (B) Businesses that have filed documents required for permanent tank closure with the designated agency or its predecessor, and have discontinued storage of hazardous substances within the tank, shall not be subject to the program element fee beginning with the reporting period after such documents have been filed, but shall be subject to cost recovery pursuant to subdivision (j).
- (2) The flat fee shall be calculated for each business by dividing the designated agency's net costs, minus all estimated program element fee receipts, by the total number of regulated businesses within the CUPA's jurisdiction.
- (d) In addition to the annual fee, the Secretary or the designated agency shall assess the annual state surcharge pursuant to section 25404.5, subdivision (b)(1) of the Health and Safety Code.

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- (e) A transfer of ownership or operation of assets at a site shall not cause an additional fee to be assessed if the fee for the same reporting period has been paid by the previous owner or operator. Businesses with multiple program elements will be assigned the specified base rate for each element that is present at an individual site, except that businesses with more than one tank will be assigned the specified number of units based on the combined capacity of all active tanks per site, regardless of the number of such tanks.
- (f) The fee shall be due on the date or dates specified by the Secretary or the designated agency, which shall not be less than 30 days from the date of the bill. The fee may be assessed in a single billing or in more than one billing. A penalty of 10 percent shall be assessed on any payment that is not received as postmarked by the due date. Beginning on the first day of the calendar month following the due date, simple interest shall accrue monthly on any unpaid fee or portion thereof at the rate established by the State Board of Equalization pursuant to section 43155 of the Revenue and Taxation Code, and shall continue until the fee is paid. The penalty or interest may be waived if the Secretary or the designated agency determines that the failure to make a timely payment was due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. Mere disagreement with the fee assessment shall not be deemed reasonable cause. A person seeking to be relieved of penalty or interest shall submit a written statement to the Secretary or the designated agency, signed under penalty of perjury, setting forth the facts upon which he or she bases the claim for relief.
- (g) If the Secretary or the designated agency provides a refund because of an erroneous billing, the refund shall be subject to simple interest at the rate provided in section 43455 of the Revenue and Taxation Code, unless the erroneous billing was due to incorrect information provided by the person who receives the refund. No refund shall be granted unless the person who seeks the refund submits written notification of the error to the Secretary or the designated agency within one year of the date the person is notified of the fee or cost assessment.
- (h) Failure to pay the required fee or cost reimbursement may result in a suspension by the Secretary or the designated agency of the regulated business's right to conduct the activity that is subject to the fee. The regulated business will receive at least 30 days notice of the suspension. Failure to pay the fee, or conducting the activity during the suspension, shall be deemed a violation of the regulatory law administered by the Secretary or the designated agency. Any suspension will be stayed during the appeal of the fee under subdivision (k).
- (i) The Secretary shall review annually, and revise if necessary according to the procedures set forth in this section, the fees assessed pursuant to this section. The Secretary shall not revise the fees more than once per fiscal year. The Secretary shall publish any proposed revisions to the fees in the California Regulatory Notice Register and accept comments on the proposed fees for 30 days thereafter. Following the 30-day comment period, the Secretary will consider comments and prepare a response that identifies the comments, the Secretary's findings, and the Secretary's final fee decisions. The Secretary will make responses available upon request and will publish the final fee in the California Regulatory Notice Register.
- (j) The Secretary of the designated agency may recover the cost of non-recurring activities directly from the person who receives the non-recurring activities, based on the total cost to the Secretary or designated agency of providing that non-recurring activity.

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- (k) A person may dispute the assessment of the fee or cost recovery by submitting a petition to the directory of the designated agency. The person must submit the petition, in writing, within one year of the date the person is notified of the fee or cost assessment. The petition must state the specific grounds upon which it is founded. If the matter cannot be resolved informally, the directory shall designate a hearing officer to decide the petition. The hearing officer shall be in neither a subordinate nor a supervisory or managerial position to any staff involved in making the initial determination. A hearing shall be conducted in person, by telephone, or by video conference at which all relevant evidence will be admissible. The hearing officer shall make the final decision to approve or deny the petition.

Authority cited: Sections 25404 and 25404.6, Health and Safety Code. Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

§15242. Definitions.

The following definitions apply to section 15241 of this title:

- (a) “Base rate” is an estimate of the designated agency’s workload standard (amount of time) to complete a program element task for each jurisdiction for which it acts as the CUPA.
- (b) “Business” or “regulated business” shall have the meaning of “regulated business” defined in section 15110 of this title.
- (c) “Generator” shall have the meaning of “generator” in section 66260.10 of title 22 of the California Code of Regulations. Notwithstanding this definition, a person shall not be subject to the program element fee or the flat fee solely for reason of any of the following: generation of waste that is not transported off site; removing soil for purposes of site mitigation; removing an unexpected or extraordinary spill of hazardous materials; or removing abandoned hazardous waste that was not produced in the course of conducting his or her business. Also, no program element fee or flat fee shall be assessed for any activity that is exempt from any fee pursuant to section 25174.7 or 25205.3 of the Health and Safety Code.
- (1) “Large generator” means a person who generates 500 or more tons of hazardous waste per calendar year.
- (2) “Medium generator” means a person who generates at least one ton but less than 500 tons of hazardous waste per calendar year.
- (3) “Small generator” means a person who generates hazardous waste in an amount less than one ton per calendar year.
- (d) “Hourly fee” is the designated agency’s hourly labor charge. It will be calculated by dividing 80 percent of the designated agency’s net annual costs by the total estimated annual workload hours to administer the program.
- (e) “Net costs” means projected costs to administer the Unified Program during the fiscal year, minus any money collected from grants, reimbursements, penalties, cost recoveries, and allocations from the Rural CUPA Reimbursement Account. Any surplus or deficit from the preceding fiscal year will be subtracted from or added to the designated agency’s cost projections for the following fiscal year.

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- (f) “Non-recurring activities” shall include, but not be limited to, oversight of facility closure or of remedial activities, including closure or remedial activities required by an order issued by the designated agency or another government agency. “Non-recurring activities” do not include any of the following: a regulatory compliance inspection, the issuance or approval of a permit or other form of authorization, the issuance of an order for corrective action or penalties, a plan review, or any activity that is essential to carry out one or more of the foregoing regulatory activities.
- (g) “Site” means real property that is owned or operated by the same person that is either contiguous or satisfies the meaning of “on site” in section 66260.10 of title 22 of the California Code of Regulations.
- (h) “Tank” means a storage tank or group of storage tanks.
 - (1) “Large storage tank” means a storage tank or group of storage tanks with a total capacity per site of 34,000 gallons or more.
 - (2) “Medium storage tank” means a storage tank or group of storage tanks with a total capacity per site of at least 19,000 gallons but less than 34,000 gallons.
 - (3) “Small storage tank” means a storage tank or group of storage tanks with a total capacity per site of less than 19,000 gallons.
- (i) Except as otherwise stated in this section, words have the meanings provided by the following authorities, in order of precedence: (1) section 25404 of the Health and Safety Code; (2) section 15110 of this title, (3) article 2 (commencing with section 25110) of chapter 6.5 of division 20 of the Health and Safety Code; and (4) section 66260.10 of title 22 of the California Code of Regulations.

Authority cited: Sections 25404 and 25404.6, Health and Safety Code. Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

§15250. CUPA Surcharge Responsibilities

- (a) The CUPA shall collect the surcharge for all program elements within its Unified Program as part of their single fee system.
 - (1) Willful or negligent failure to collect the surcharge may be a basis for withdrawing the CUPA's certification.
 - (2) The CUPA shall begin assessing the surcharge within its first billing cycle or within 12 months after the effective date of certification, whichever is shorter. The full surcharge will be assessed and collected within 12 months of the effective date of certification and every 12 months thereafter.
 - (3) The CUPA may waive the state surcharge for specific regulated businesses provided that the criteria for waiving the state surcharge meets the same standards as those established by the CUPA for waiving the single fee.

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- (A) The state surcharge may not be waived for any regulated business so long as the regulated business is assessed a fee under the single fee system.
 - (i) The Secretary may revoke the CUPA's authority to waive state surcharge fees if it is determined that the CUPA consistently does not make a reasonable, good faith effort to protect the state's interests or is not following the established criteria for waiving the state surcharge.
- (B) Notwithstanding the provisions of sections 15241 and 15242, if a CUPA prorates their fees for regulated business in operation for part of a year, the applicable surcharge components may be prorated at the same rate.

(b) Remittance to the Secretary.

- (1) The CUPA shall transmit all collected state surcharge revenues to the Secretary quarterly, within 30 days of the end of each state fiscal quarter.
 - (A) With each surcharge transmittal the CUPA shall separately report the amount of surcharge revenues collected for: CUPA oversight, regulated USTs, and the CalARP Program.
 - (B) Failure to transmit the surcharge after collection may be a basis for withdrawing the CUPA's certification.
 - (C) Remit the collected state surcharge revenues with a completed copy of the Surcharge Transmittal Report to:

Air Resources Board
Attn: Accounting
P.O. Box 1436
Sacramento, California 95812

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.5(a)(1), (2) and (4) and 25404.5(b), Health and Safety Code.

§15260. CUPA – Education, Technical Expertise, and Training

(a)(1) CUPAs shall meet the following minimum qualifications:

- (A) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements must meet the following minimum educational requirements:
 - (i) Thirty semester units earned from an accredited college or institution approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b), from one or more of the following disciplines:
 - (aa) Biology or microbiology
 - (bb) Chemistry, chemical engineering

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- (cc) Physics, physical science
- (dd) Environmental science
- (ee) Geology or soil science
- (ff) Environmental health
- (gg) Environmental or sanitary engineering
- (hh) Toxicology
- (ii) Industrial hygiene
- (jj) Hazardous materials management
- (kk) Fire science, fire technology;

- OR -

- (ii) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94301(b) with major course work in the disciplines listed in paragraph (a)(1)(A)(i);

- OR -

- (iii) Qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education, on the basis of one year of qualifying experience for 15 units of college course work authorized pursuant to paragraph (a)(1)(A)(i), for up to a maximum of 15 units.

(B) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements shall meet minimum hours of training or experience requirements contained in subdivision (d)(3)(B) of this section, for all the following subject areas:

- (i) Regulatory overview;
- (ii) Classification, identification, and chemistry of hazardous materials and hazardous waste;
- (iii) Health and environmental effects of hazardous substances, including chemical exposure and route of entry;
- (iv) Sampling methodologies and use of instrumentation for detection and sampling of hazardous substances;

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(v) Conducting inspections and enforcement actions, and writing inspection reports and notice of violation;

(vi) Interviewing, case development, and collection and preservation of evidence.

(b) One or more CUPA technical staff or supervisors, as needed to effectively meet the requirements of paragraphs (a)(1)(A) and (1)(B), shall meet the requirements of subdivision (d) of this section.

(c) Technical staff and supervisors of the CUPA and PAs shall receive training in the following areas:

(1) Hazardous materials and hazardous waste permitting, inspection and enforcement duties and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;

(2) Inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;

(3) Administration practices within a hazardous materials and hazardous waste program;

(4) Monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis; and

(5) Field staff health and safety training including: planning field inspections, safety equipment, on-site procedures, decontamination and hazard recognition and avoidance.

(d)(1) Education Requirements:

(A) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b) with major coursework in biological, chemical, physical, environmental or soil science; environmental health; environmental or sanitary engineering; toxicology; industrial hygiene; or a related field. Additional qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education on the basis of one year of qualifying experience for each year of college work for up to a maximum of two years. When substituting experience for education, qualifying education must include a minimum of 30 semester units in natural science from an accredited college or equivalent units from an institution approved as above; or

(B) Registration as an Environmental Health Specialist may be substituted for the required education.

(2) Participating staff shall have a minimum of one year experience in conducting hazardous materials or hazardous waste regulatory compliance inspections.

(3) Staff issuing enforcement orders shall complete the following minimum training:

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- (A) Health and safety training as specified in section 5192(e) title 8, California Code of Regulations;
- (B) 100 hours of training in regulatory investigative techniques including training in the following subjects:
 - (i) Federal and state statutes and regulations on hazardous waste control;
 - (ii) Conducting an inspection;
 - (iii) Waste classification;
 - (iv) Inspection report writing;
 - (v) Collection and preservation of samples;
 - (vi) Enforcement response options;
 - (vii) Writing reports of violation;
 - (viii) Interviewing;
 - (ix) Case development;
 - (x) Collection and preservation of evidence;
 - (xi) Witness training; and
 - (xii) Rules of evidence and the administrative hearing process.
- (C) Twenty-four hours of training in the following additional areas:
 - (i) Training on penalty assessment and
 - (ii) Negotiation techniques.
- (D) It shall be the responsibility of the CUPA to document the training and experience of staff participating in this program.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1), and 25404.3(b)(1), (4), (5) and (7), Health and Safety Code.

§15270. PA – Education, Technical Expertise, and Training

- (a) A PA implementing one or more of the program elements on or before December 31, 1995, shall be considered qualified to implement those specific program element(s).
- (b) PA technical staff and supervisors shall meet the ongoing training requirements identified in section 15260(c).

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Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1), 25404.1(b)(2) and (4) and 25404.3(b)(1), (4), (5) and (7). Health and Safety Code.

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Article 6. CUPA Self-Auditing and Reporting

§15280. Self-Auditing

- (a) The CUPA shall conduct an annual self-audit at the end of each state fiscal year and shall be maintained on file by the CUPA for a period of five years. Annual self-audit reports shall be completed by September 30 of each year. The time period covered by each self-audit is the state fiscal year from July 1 through June 30 of each year.
- (1) The first self-audit report shall be produced by September 30 following a full year of operation as a CUPA.
 - (2) Upon written request of the Secretary or a state agency responsible for overseeing one or more program elements, the CUPA shall forward the self-audit to the person or agency making the request upon 60 days notice.
 - (3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f), the self-audit shall only include information on the program element or elements that particular agency is authorized to continue to operate and shall not include information related to the surcharge or single fee system.
- (b) The self-audit shall assess the performance of the CUPAs and any PAs implementation of standards in statutes and regulations established by the Secretary or the state agencies responsible for one or more of the program elements.
- (c) The self-audit report shall include:
- (1) A report of deficiencies with a plan of correction.
 - (2) A narrative summary of the effectiveness of activities including, but not limited to:
 - (A) Permitting;
 - (B) Inspections;
 - (C) Enforcement; and
 - (D) The single fee system.
 - (3) An explanation of any discrepancies on the annual and quarterly reports of program activities submitted to the Secretary pursuant to section 15290 and the Unified Program requirements for those activities.
 - (4) The annual review and update of the fee accountability program as required by section 15220.
 - (5) A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

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(6) A summary of new programs being included in the Unified Program if applicable.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(b), (c) and (d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code; and Title 23, Section 2713, California Code of Regulations.

§15290. Reporting

(a) The CUPA shall submit the following reports for the previous fiscal year to the Secretary by September 30 of each year.

(1) The Annual Single Fee Summary Report. It includes:

(A) The amount of the single fee billed and the amount collected.

(B) The amount of any funds due to PAs and the amount actually transmitted.

(C) The amount of surcharge billed, the amount of surcharge waived, and the amount of surcharge collected for each category identified in section 15240(c).

(D) If the CUPA believes that the number of regulated businesses will change significantly in the current year or in the next year, then estimates of those changes for each program element will be provided in a cover letter with the Annual Single Fee Summary Report.

(E) A count for the year of the report of the total regulated businesses, UST facilities, USTs, onsite hazardous waste treatment facilities (PBR, CA, and CE), CalARP program stationary sources, waivers granted to stationary sources, and businesses subject to the CalARP program and the total AST regulated businesses.

(2) Annual Single Fee Summary Report shall be submitted by the CUPA to the:

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
UNIFIED PROGRAM SECTION

U.S. MAIL: P.O. BOX 2815
SACRAMENTO, CALIFORNIA 95812-2815

EXPRESS MAIL: 1001 "I" STREET
SACRAMENTO, CALIFORNIA 95814

(b) At least on a quarterly basis, each CUPA shall report inspection, violation, and enforcement information for each program element to the Secretary through a local information management system, local reporting portal, or CERS.

(1) Each CUPA shall submit inspection, violation, and enforcement information pertaining to local underground storage tank program including but not limited to release detection and release prevention requirements and Red Tag issuance in accordance with Health and Safety Code sections 25288, 25292.3, 25299, 25299.7(b), and California Code of Regulations title 23 Section 2712(c), (e), (g) and 2713(c).

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- (2) Each PA shall report inspection, violation, and enforcement information to the CUPA with jurisdiction over the geographic area or shall manually enter the information into CERS. The CUPA shall include inspection, violation, and enforcement information received from the PA as part of its quarterly submittal to the Secretary unless the PA manually entered the information into CERS. Each PA shall coordinate the distribution of information with its CUPA so that the CUPA may report the information in a timely manner.
- (3) The inspection, violation, and enforcement information shall be submitted to the Secretary within 30 days after the end of each quarter.
 - (A) First quarter- January thru March, date due April 30.
 - (B) Second quarter- April thru June, date due July 30.
 - (C) Third quarter- July thru September, date due October 30.
 - (D) Fourth quarter- October thru December, date due January 30.
- (4) Regulated businesses shall be able to access electronically submitted inspection, violation, and enforcement information pertaining to their business through CERS.
- (c) Each CUPA shall submit a formal enforcement report to the Secretary for each formal enforcement case that has received a final judgment. The formal enforcement report shall be submitted using a local information management system, local reporting portal or CERS within 30 days after a final case disposition.
- (d) Nothing in this section shall limit the authority of the Secretary or state agencies to request records or documents that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA. The CUPA shall provide this information to the Secretary or state agencies within 60 days.
- (e) The CUPA shall provide any other program reports required by federal or state law or regulation to the person or agency making the request within 60 days.
- (f) An agency authorized to operate a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f) shall only report information on the implementation of the program element or elements that particular agency is authorized to operate and shall not include information related to the surcharge or single fee system.
- (g) If the Secretary or state agencies do not receive current information on the regulated business from each CUPA, the Secretary or state agencies may use whatever information is available to estimate the data on regulated business.
- (h) The Secretary shall provide copies of the received summary reports required pursuant to section 15290 to any state agency with program element responsibilities under the Unified Program upon request.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25299.3(b), 25404(b), (c) and (d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code.

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Article 7. Changes in the Program

§15300. Prior Notification and Approval by the Secretary

- (a) A CUPA must notify and receive approval from the Secretary prior to instituting the following significant changes:
 - (1) Addition or deletion of a program element;
 - (2) Replacement or addition of a PA.
- (b) The CUPA shall submit a proposal for change in the Unified Program to the Secretary. The proposal shall include the following if applicable:
 - (1) Explanation of the proposed changes in sufficient detail to enable a full understanding of the roles and responsibilities of the CUPA, each member of a Joint Powers Authority (JPA), and all PAs;
 - (2) PA agreements for any new PAs or any changes in the role or responsibilities of any PA;
 - (3) Adequate information to enable the Secretary to determine that agencies proposed to implement some element of the Unified Program meet requirements including technical expertise, training, and education applicable to those elements; and
 - (4) Sufficient information to enable the Secretary to determine that adequate resources exist to carry out all aspects of the Unified Program.
- (c) The CUPA shall notify any affected PA.
- (d) Any PA implementing a program element that is subject to proposed change shall have the opportunity to comment on the proposed change.
- (e) The Secretary shall review proposed changes to a Unified Program in consultation with other affected state agencies.
 - (1) The Secretary may conduct a public hearing if in the Secretary's opinion the proposed changes are likely to generate significant public interest.
- (f) The Secretary shall approve or disapprove of the CUPA's proposal within 60 days of receipt of the proposal by certified mail.
- (g) Within 30 days of receipt of the Secretary's decision, the CUPA may appeal a decision pursuant to this section.
 - (1) The appeal shall respond to the reasons specified in the Secretary's decision and may propose additional changes necessary to correct deficiencies in the original proposal.
 - (2) The appeal process shall be completed within 60 days of receipt of the appeal.

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- (3) The Secretary's final decision on the proposal changes shall be issued by certified mail within the 60-day appeal timeframe.

Authority cited: Sections 25404, 25404(b), and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(c), 25404.3, 25404.3(d), and 25404.4(a), Health and Safety Code.

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Article 8. Performance Evaluations

§15320. Withdrawal of a Certification

- (a) If the Secretary finds the program or the program implementation to be deficient, the Secretary may:
- (1) Issue a Notice of Intent to withdraw certification or
 - (2) Enter into a program improvement agreement with the CUPA to correct the deficiencies.
- (b) A Notice of Intent to withdraw certification shall include specific reasons why the CUPA has failed to meet its obligations, in accordance with section 25404.4 of the Health and Safety Code, to adequately implement the Unified Program within its jurisdiction.
- (1) A period of 60 days shall be allowed for the CUPA to respond to the Notice of Intent to withdraw certification and to correct deficiencies.
 - (2) A public hearing may be scheduled, at which the Secretary may hear the CUPA's response to the Notice of Intent to withdraw.
- (c) If a city or JPA certified as a CUPA and implementing the Unified Program within a city desires to withdraw as a CUPA, it shall give 180 days notice to the Secretary and to the county within which the city is located or to the JPA with which the county has an agreement to implement the Unified Program prior to withdrawing from its Unified Program obligations. A successor CUPA will be chosen in accordance with the provisions of section 25404.3(f) of the Health and Safety Code.

Authority cited: Sections 25404, 25404(b), 25404.3(g) and 25404.6(c), Health and Safety Code.
Reference: Sections 25404.3(g) and 25404.4(a), Health and Safety Code.

§15330. Evaluation of CUPAs and PAs

- (a) The Secretary shall evaluate a CUPA's implementation of the requirements of Health and Safety Code chapter 6.11 and California Code of Regulations title 27, chapter 1 at least once every three years. The Secretary shall coordinate the evaluation of a CUPA with all state agencies with Unified Program responsibilities.
- (1) The annual self-auditing and reporting requirements pursuant to sections 15280 and 15290 and the specific performance standards established in regulation by the Secretary or the state agencies responsible for one or more of the program elements shall be used for the evaluation of the CUPA.
 - (2) Nothing in this section shall limit the authority of the Secretary to request records or documents for use in conducting the state performance evaluation that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA.
 - (3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code sections 25404.3(f) or 25533(f),

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the performance evaluation shall only cover the program element or elements that particular agency is authorized to continue to operate.

(b) The CUPA shall evaluate its PAs on an annual basis at the time of the self-audit pursuant to section 15280, or as necessary to maintain standards required in Health and Safety Code, chapter 6.11, the statutes governing specific program elements, and the specific performance standards established in regulation by the Secretary or the state agencies responsible for overseeing one or more of the program elements.

(1) A PA that ceases to meet minimum qualifications or fails to implement its program element(s) as described in the Unified Program application approved by the Secretary at any time during the term of its agreement with the CUPA shall enter into a program improvement agreement with the CUPA. The program improvement agreement shall specify the areas of improvement, minimum accomplishments necessary, and time frames that shall be met.

(A) The CUPA may apply to the Secretary, in accordance with section 15300, for approval to replace a PA that fails to perform according to the program improvement agreement.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.5, 25201.13, 25201.14, 25286, 25287, 25404.2(c), 25404.3(d), 25404.4(a)(1) and 25506, Health and Safety Code.