

## § 15160. Certification Process.

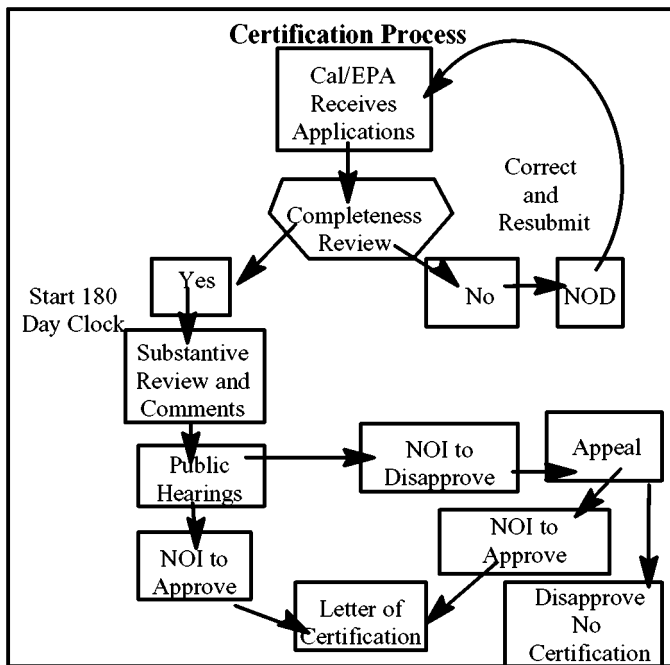


Figure 3

### (a) Completeness review.

(1) Each application shall be reviewed by the Secretary to determine whether all required information has been provided. ~~Such~~The review shall be finished within 90 days of receipt of the application. Within the 90-day review period:

(A) The Secretary shall send a notice of completeness to an applicant agency whose application has been determined to contain all necessary components; or

(B) The Secretary shall return an incomplete application to the applicant agency.

(i) The Secretary shall notify an applicant agency of an incomplete application by using a Notice of Deficiency (NOD).

(ii) In the NOD, the Secretary shall specify those provisions of the application that are not sufficient and the date by which the additional information is due.

### (b) State agency review and recommendation.

(1) Applications that are found to be complete shall be reviewed pursuant to HSC ~~s~~Section 25404.3(b). In determining whether an applicant agency should be certified, the Secretary shall consider comments from the following or their designee:

Director of Department of Toxic Substances Control (DTSC);

~~Director of the Office of Emergency Services (Cal OES);~~ Assistant Secretary for Local Program Coordination and Emergency Response;

State Fire Marshal (SFM); and

Executive Director of the State Water Resources Control Board (State Water Board)

(2) Comments and recommendations to the Secretary shall be based on analysis of the application contents and consideration of the requirements of this division.

(c) Public hearing.

(1) The Secretary shall hold a public hearing regarding the application for certification.

(2) The Secretary may group public hearings for efficiency purposes.

(3) The Secretary shall consider comments received as part of the public hearing in the determination of whether an applicant should be certified.

(d) The Notice of Intent (NOI).

(1) The Secretary shall complete the review process and issue a NOI within 180 days of receipt of the complete application for certification.

(A) The Secretary shall issue a NOI to approve the application for certification if the Secretary finds the applicant agency should be certified.

(AB) The Secretary shall issue a NOI to disapprove the application for certification if the Secretary finds the applicant agency should not be certified. The NOI to disapprove shall identify those areas of the ~~Unified Program~~ application that are deficient.

(i) Within 30 days of receipt of a NOI to disapprove the application for certification, an applicant may appeal the Secretary's decision to disapprove the application. The appeal shall address the areas identified by the Secretary as deficient, and an amended application shall be submitted.

(ii) In addition to its rights pursuant to (i) above, the applicant agency may request a second public hearing, at which time the Secretary shall hear the applicant agency's response to the reasons specified in the NOI to disapprove.

(iii) The appeal process shall be completed within 60 days of receipt of the appeal.

~~(B) The Secretary shall issue a NOI to approve if the Secretary intends to approve an application for certification.~~

(2) During ~~periodic review of the Unified Program, or~~ review of an amended application, if the Secretary finds the ~~Unified Program or the Unified Program implementation~~ amended application to be deficient, the Secretary shall issue a final NOI to ~~withdraw certification~~ disapprove the application. The NOI shall identify those areas of the ~~Unified Program~~ amended application that are still deficient.

(e) Final Decision.

(1) The Secretary's final decision to approve the application for certification shall be issued in writing to the applicant agency within 30 days of issuing the NOI ~~except as provided in section 15160(f)~~. The certification shall include the date upon which the CUPA's authority shall commence.

(2A) For purposes of this division and ~~the~~22 CCR, ~~title 22, d~~Division 4.5, “certification” of a CUPA shall constitute “designation” pursuant to HSC ~~s~~Section 25180, of the responsible agency implementing ~~HSC c~~Chapter 6.5 ~~of the HSC~~, pursuant to ~~the~~22 CCR, ~~title 22, s~~Section 66272.10.

(2) The Secretary’s final decision to disapprove the application for certification shall be issued in writing to the applicant agency within 30 days of issuing the initial NOI, or the final NOI after the appeal process has been completed.

~~(f) Certification Decision Appeal Process.~~

~~(1) Within 30 days of receipt of a NOI to disapprove certification, the applicant agency may respond to the reasons specified and correct the deficiencies in its application.~~

~~(2) Within 30 days of receipt of a NOI to withdraw certification, the CUPA may respond to the reasons specified and correct the deficiencies in its Unified Program.~~

~~(3) In addition to its rights pursuant to (1) above, the applicant agency may request a second public hearing, at which time the Secretary shall hear the applicant agency’s response to the reasons specified in the NOI to disapprove.~~

~~(4) The appeal process shall be completed within 60 days of receipt of the appeal.~~

~~(5) The Secretary’s final decision on the certification decision appeal shall be issued in writing.~~

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

## § 15170. Criteria the Secretary Will Use to Evaluate Applications.

(a) The Secretary will evaluate applications based on the following:

(1) Adequacy of education, ~~expertise~~, and training as required by ~~s~~Sections 15260 ~~and 15270~~.

(2) Adequacy of proposed resources including an analysis of:

(A) The number and type of regulated businesses within the jurisdiction;

(B) An estimate of the annual number of compliance and complaint inspections;

(C) The time allocation requirements of local agency staff, which shall be computed on a full-time equivalent basis, not to exceed 1776 work hours per year per person, for the following:

(i) Inspections and the related travel, research, analysis of findings, and documentation;

(ii) Inspection and enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;

(iii) Permit activities including application reviews, modifications and revisions, and facility evaluations;

(iv) Training including field, meetings, seminars, workshops, courses and literature reviews; and

(v) Management including day-to-day operation scheduling and supervision.

(vi) ~~Technical staff or contractors to~~ support Unified Program electronic reporting mandates.

(D) An estimate of required staff and supervisory personnel to manage the single fee system, surcharge and fee accountability system;

(E) The number of support staff, both technical and non-technical, for all program elements; and

(F) Description of contacts, working relationship with local prosecution and law enforcement agencies (i.e., district attorneys, strike force memberships, etc.).

(3) Proposed budget resources and funding mechanisms. The applicant agency shall include as part of the application, a summary of projected annual funding and expenses for the entire local Unified Program. Adequacy of budget resources and funding mechanisms shall be calculated as the ratio of funding to expenses, a value of one being the standard for most adequate.

(4) Past performance of the applicant agency and its proposed PAs in implementing hazardous materials and hazardous waste management programs.

(5) Record keeping and cost accounting systems proposed for the Unified Program, including:

(A) Elements required by the Secretary pursuant to HSC ~~s~~Section 25404(c);

(B) A method for calculating program costs;

(C) Permit fee structure;

(D) Fee collection process; and

(E) Data management.

(6) Compliance with the criteria in 22 CCR, title 22, sSection 66272.10, except for the requirement of paragraph (2) of subdivision (b) of that ~~s~~Section related to countywide jurisdiction and paragraph (3) of subdivision (b) of that section related to hazardous waste facilities.

(7) Additional programs, including but not limited to programs such as hazardous waste source reduction and pollution prevention programs, incorporated in the Unified Program.

(8) Identified adverse impacts on the county. The Secretary will give particular consideration to written comments or comments received during the public hearing.

(9) The Unified Program throughout the entire county in which the applicant agency is located will be less fragmented between jurisdictions, as compared to before January 1, 1994, with

regard to the administration of the provisions specified in HSC ~~s~~Section 25404(c). The Secretary shall consider, but shall not be limited to, the following measures of fragmentation. The applicant agency shall justify its certification with respect to these measures in the implementation plan required pursuant to 27 CCR, title 27, sSection 15150(e)(6).

(A) The number of agencies managing the six Unified Program elements listed in HSC ~~s~~Section 25404(c) within the county prior to January 1, 1994, and the number of agencies managing those program elements as proposed by the applicant agency.

(B) The number of agencies a regulated business had to work with for the Unified Program elements prior to January 1, 1994, and the number of agencies a regulated business will have to work with as proposed by the applicant agency.

(10) Countywide coordination and consistency. The Secretary shall consider, but not be limited to the following:

(A) Agreements among the county, city, and local agency applicants indicating consistency with a countywide Unified Program.

(11) The Secretary shall not certify an applicant agency that proposes to include PAs in the Unified Program, unless there is a finding that:

(A) It meets the requirements of HSC ~~s~~Section 25404.3(d)(1).

(B) The proposed PAs have met the education, and training ~~and experience~~ requirements identified in ~~s~~Sections 15260 ~~and 15270~~, and have adequate resources to implement the program element(s) that the applicant agency has proposed it will take on.

(C) All necessary agreements are in place, pursuant to HSC ~~s~~Section 25404.3(d)(3).

(12) The requirements of ~~s~~Sections 15160(b) and 15160(c).

(13) The implementation plan for the consolidation of permits, inspections, enforcement, and fees.

(14) Documentation of authority to implement program elements.

(15) If the program will be fully operational no later than one year after certification.

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