

§ 15180. Maintenance of Certification and Administration.

- (a) ~~A~~ CUPA shall implement the Unified Program consistent with the implementation plan submitted in compliance with ~~s~~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 HSC ~~s~~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 HSC ~~sections~~Section 25404.3(f)(2) ~~or 25533(f)~~ shall comply with the requirements in the regulations placed on CUPAs with the exception of ~~A~~articles 3, 4, ~~and~~ and 7, ~~and 5~~, ~~s~~Sections 15210, 15220, 15240, 15250, and 15260 of Article 5.
- (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 anythe Unified Program ~~element~~.
 - (C) Coordinate, consolidate, and make consistent public notices for all activities related to anythe 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.~~
- (32) 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~~ for the handling of confidential and trade secret information.
- (43) Procedures for providing access to HMRRP information in CERS to emergency response personnel on a 24-hour basis ~~and other appropriate government entities~~ in accordance with HSC section 25504(c).
- (A) Other appropriate government entities, with emergency response responsibilities, may be given access to HMRRP information, as applicable.

(54) Financial management procedures that include:

- (A) A single fee system in compliance with sSection 15210(b);
- (B) A fee accountability program in compliance with sSection 15220(a); and
- (C) A surcharge collection and ~~reimbursement~~ remittance program in compliance with sSection ~~15250~~ 15210(b)(1)(D).

(65) Procedures for the withdrawal or removal of a PA, if applicable, that include:

- (A) Providing notice;
- (B) Stating ~~causes~~ cause(s);
- (C) Taking public comment;
- (D) Making appeals; and
- (E) Resolving disputes.

(76) Data management procedures in compliance with Section 15185(e), ~~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.~~

(7) Procedures for issuing the Unified Program Facility Permit (UPFP) in compliance with Section 15190(b).

Note: Authority cited: Sections 25404(b), 25404(e) and 25404.6, Health and Safety Code. Reference: Sections 25103, 25404(a), 25404(c), 25404.3(d), 25404.4(a)(1), 25404.5, 25500, 25506 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 information specified in these regulations and ~~all data specified in the~~ Data Dictionary. Data Dictionary ~~data~~ information and documents retained in CERS do not need to be ~~also~~ retained locally unless otherwise required by local rule or ordinance.

~~(b) 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.~~

~~(5) Training records required by section 15260 of this chapter and any other required training records specific to each program element.~~

~~(c) The 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 CalEPA in the Data Dictionary format using the Data Exchange Technical Specifications provided by CalEPA.~~

~~(db) The CUPA shall process all submittals elements from regulated businesses within their jurisdiction that include the relevant data elements as specified in the Data Dictionary to CERS or the local reporting portal, as applicable to their authority.~~

~~(ec) 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 pertaining to submittals must be reported to CalEPA for inclusion in CERS.~~

~~(d) The Data Dictionary 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 CERS using the Data Exchange Technical Specifications established by CalEPA.~~

~~(e) The CUPA, in coordination with its PA(s), if applicable, shall develop and implement data management procedures that address:~~

~~(1) The collection and management of documents and electronic data;~~

~~(2) The transfer and exchange of electronic data through an applicable local information management system or local reporting portal in compliance with Section 15187; and~~

~~(3) The reporting of electronic data in compliance with Section 15290.~~

~~(f) The CUPA shall establish and implement record maintenance procedures that address the following:~~

~~(1) Identification of records maintained and minimum retention times, including and in addition~~

to those identified in (e);

(2) Archive procedures; and

(3) Proper disposal methods.

(g) A CUPA shall retain the following information, as applicable, for a minimum of five years:

(1) Self-audit reports, inspection reports, informal enforcement actions, and formal enforcement actions; ~~from the date the enforcement action requirements have been resolved~~

(2) Detailed records used to produce information reported to the state in compliance with Section 15290(a);

(3) Surcharge billing and collection records following closure of any billing period, or until completion of any audit process, whichever is longer; and

(4) Training records required by Section 15260 of this chapter and any other required training records specific to each program element.

(h) The CUPA will provide access, upon request, to the information collected in CERS or local reporting portals to those agencies with shared responsibilities for protection of the public health and safety and the environment.

(i) The Secretary may establish and maintain standard descriptions for chemical inventory reporting of common chemical products in the Data Dictionary. The UPA shall accept the standard description for inventory reporting.

~~(f) A CUPA shall provide access to information in accordance with section 15100(b)(2)(B)(i)(c).~~

~~(g) The Secretary may establish and maintain standard descriptions for chemical inventory reporting of common chemical products in the Data Dictionary. The UPA shall accept the standard descriptions for inventory reporting.~~

Note: Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(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~~25218.2, 25218.9, 25286, 25287, 25505, 25506 and 25509, Health and Safety Code.

§ 15187. Local Information Management Systems - Electronic Reporting.

(a) A CUPA may establish and implement a local reporting portal that can receive electronic data from regulated businesses within ~~their own~~the jurisdiction of the CUPA.

~~(1) A CUPA that establishes and implements a local reporting portal is required to process all Unified Program data elements and submittal elements submitted by any regulated businesses in its jurisdiction.~~The CUPA shall process all Unified Program data elements and submittal elements submitted to a local reporting portal by regulated businesses.

~~(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 CalEPA. The local reporting portal shall be able to transfer or exchange electronic data submitted by regulated businesses to CERS using the Data Exchange Technical Specifications.~~

~~(b) A regulated business shall use CERS, or the designated local reporting portal approved by CalEPA, to meet regulatory reporting requirements. However, if a CUPA has a local reporting portal approved by CalEPA, then a regulated business may use the local reporting portal to meet regulatory reporting requirements. However, if a CUPA has a local reporting portal approved by CalEPA, then a regulated business may use the local reporting portal to meet regulatory reporting requirements.~~

~~(c) If not otherwise manually entered into CERS, a CUPA's local information management system or local reporting portal shall be able to transfer electronic data submitted by regulated businesses and inspection, violation, and enforcement information to CERS, using the data elements in the CERS Data Dictionary and the Data Exchange Technical Specifications provided established by CalEPA.~~

~~(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.~~

(1) A local ordinance is required to be documented in CERS if it affects reporting requirements.

~~(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 of the CUPA.~~

Note: Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503(a), 25505 and 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 applicable required data applicable to their business to the UPA by electronic submission to CERS or the CUPA's local reporting portal. of the data elements described in the Data Dictionary.~~

~~(c) The Regulated businesses shall verify the accuracy of the data and documents submitted.~~

~~(d) Regulated businesses shall comply with the established reporting timeframes (HSC, division 20, chapter 6.95, sSections 25504, 25507, 25507.2, 25508, 25508.2 and 25512, effective January 1, 2014) or events (HSC, division 20, chapter 6.95, sSection 25508.1, effective January 1, 2014) that trigger the requirements for regulated businesses to submit applicable required information into CERS. Information required as a part of the Data Dictionary. An UPA may establish other specific dates for submission of information consistent with state and federal law.~~

~~(e) If a regulated business believes a chemical or mixture reported in a Hazardous Material Business~~

Plan submitted to CERS submittal to be trade secret, the regulated business shall complete and ~~include~~design the Trade Secret Disclosure form (Appendix ~~GD~~) and upload it into CERS with the Hazardous Material Business Plan ~~CERS submittal~~. The Trade Secret Disclosure (TSD) form must be completed, signed and uploaded into CERS for each chemical or mixture claimed to be trade secret at the time of submitting the Hazardous Material Business Plan CERS submittal.

(1) For purposes of this subdivision, trade secret is defined in HSC ~~§~~Sections 25512(a) and (b), ~~Cal. Gov. Government Code §~~Section 6254.7(d), Evidence Code ~~§~~Section 1061(a)(1) and ~~Cal. Civil Code §~~Section 3426.1(d).

(2) The TSD form shall provide the following information:

(A) Chemical or common name(s) of the chemical or mixture believed to be trade secret.

(B) Whether the chemical or mixture is part of any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that is believed to be trade secret.

(C) Whether any information about the chemical or mixture is part of a patent. If so, an explanation as to why the chemical or mixture is still believed to be trade secret.

(D) Whether the chemical or mixture is known only to certain individuals with a commercial concern who are using it to fabricate, produce, or compound an article of trade.

(E) Whether and how the chemical or mixture derives independent economic value, commercial value, or a business advantage, actual or potential, in the process it is used. If not, an explanation as to why the chemical or mixture is still believed to be trade secret.

(F) Whether the chemical or mixture is generally known to the public or to other persons who can obtain economic value from its disclosure or use. If so, an explanation as to why the chemical or mixture is still believed to be trade secret.

(G) An explanation of how the regulated business is making reasonable efforts to maintain the secrecy of the chemical or mixture.

(3) For reporting trade secret information relating to the UST Program, refer to 23 CCR, title 23, §Section 2714.

(4) For reporting trade secret information relating to the CalARP Program and submittal of information in a risk management plan by a stationary source, refer to HSC ~~§~~Chapter 6.95, ~~§~~Section 25538.

(5) For reporting trade secret information relating to methods of hazardous waste handling and disposal as described in HSC, ~~§~~Chapter 6.5, ~~§~~Section 25173, refer to HSC ~~§~~Chapter 6.8, ~~§~~Section 25358.2.

(f) Other documents may also be required by federal and state statutes and regulations or by UPA local ordinance.

Note: Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Sections 3426.1(d)(1) and 3426.1(d)(2), Civil Code; Section 2714, Cal. Code of Regs.; Section 6254.7(d), Government Code; Section 1061(a)(1), Evidence Code; and Sections 25173, 25358.2, 25505, 25512(a), 25512(b) and 25538, Health and Safety Code.

§ 15200. Inspection and Enforcement.

(a) ~~The CUPA, in cooperation with its PA(s), if applicable, shall develop and implement a written plan to implement an inspection and enforcement program. The Inspection and Enforcement Program Plan shall be developed and implemented in cooperation with all PAs of the jurisdiction. The plan~~Inspection and Enforcement (I&E) Plan shall include:

~~(1) Provisions for administering all program elements. An inspection process for each program element that includes pre-inspection, on-site and off-site inspections, post-inspection procedures, and re-inspections.~~

~~(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 HSC, sections 25150, 25159; CCR, 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 HSC sections 25200.3, 25201.5; CCR, tit. 22, div. 4.5, ch. 45];~~

~~(C) UST Program inspections [refer to HSC section 25288; CCR, tit. 23, div. 3, ch. 16, § 2712 et seq.];~~

~~(D) HMRRP Program inspections [refer to HSC section 25500 et seq.];~~

~~(E) CalARP Program inspections [refer to HSC section 25533 et seq.];~~

~~(F) APSA Program inspections [refer to HSC section 25270.5 et seq.]; and~~

~~(G) Other inspections that may be consolidated pursuant to HSC section 25404.2(a)(4).~~

~~(3) A schedule of the inspection frequencies to be conducted that shall, at a minimum, meet the following inspection frequencies as mandated in the following statutes; statutes, as shown in Figure 1.~~

~~(A) Hazardous Waste Generator Program – No mandated frequency;~~

~~(B) Onsite Hazardous Waste Treatment Activities – PBR, CA, and CE – Initial inspection within two years of notification and every three years thereafter (HSC Section 25201.4(b));~~

~~(C) UST Program – At least once every year (HSC Section 25288(a));~~

~~(D) HMRRP and Inventories Program – At least once every three years (HSC Section~~

25511(b));

(E) CalARP Program – At least once every three years (HSC Section 25537);

(F) APSA Program – At least once every three years for tank facilities with 10,000 gallons or more of petroleum (HSC Section 25270.5(a)).

Figure 1 – MANDATED INSPECTION FREQUENCIES

Program Element	Inspection Frequency	Statutory Reference
Hazardous Waste Generator Program	No Mandated Frequency	
Onsite Hazardous Waste Treatment Activities – PBR, CA and CE	Initial Inspection within two years of notification and every three years thereafter	HSC section 25201.4(b)
UST Program	At least once every year	HSC section 25288(a)
HMRRP and Inventories Program	At least once every three years	HSC section 25511(b)
CalARP Program	At least once every three years	HSC section 25537
APSA Program	At least once every three years for tank facilities with 10,000 gallons or more of petroleum	HSC section 25270.5(a)

~~(A) If there is no mandated inspection frequency, the CUPA shall establish an inspection frequency considering the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials and hazardous waste, emergency response capability, compliance history, and any other pertinent local issues.~~

~~(43) Coordination~~Description of inspection coordination efforts between the CUPA and its PAs, if applicable.

~~(54) Enforcement notification procedures that ensure:~~

~~(A) Appropriate confidentiality; and~~

~~(B) Coordination and timely notification of appropriate prosecuting agency(ies).~~

~~(65) Identification of all available enforcement options.~~

~~(76) Uniform and coordinated application of enforcement standards that includes:~~

~~(8A) Identification of penalties and enforcement actions that are consistent and predictable for similar violations and no less stringent than state~~California ~~statutes~~ and regulations.

~~(9B) A description of the graduated series of~~progressive enforcement actions the UPA shall initiate and implement until compliance has been achieved, ~~based on the severity of the violation.~~

~~(407) Provisions for multi-media enforcement~~ in order to promote the effective detection,

abatement and deterrence of violations affecting more than one environmental medium or regulatory scheme.

(1418) A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.

(1429) Procedures for coordinating enforcement efforts between the CUPA and its ~~PA~~PA(s), if applicable.

(14310) Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.

(14411) Provisions for ensuring the CUPA has sampling capability, which may include sampling by a qualified person and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, chapter 6.5, ~~s~~Section 25198.

(b) The CUPA shall review the Inspection and Enforcement ~~Program~~ Plan annually and revise it as necessary.

(1) The CUPA shall consult and reach consensus with ~~the PA~~its PA(s), if applicable, prior to any changes that affect program elements for which the PA is responsible.

~~(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.~~

(c) Inspections shall be conducted according to the standards contained in statutes and regulations identified below:

(1) Hazardous waste generator inspections [refer to HSC, Sections 25150, 25159; 22 CCR, Division 4.5, Chapter 12];

(2) Inspection of Onsite Hazardous Waste Treatment activities under the CE, CA, and PBR tiers of Tiered Permitting [refer to HSC Sections 25200.3 and 25201.5; 22 CCR, Division 4.5, Chapter 45];

(3) UST Program inspections [refer to HSC Section 25288; 23 CCR, Division 3, Chapter 16, section 2712 et seq.];

(4) HMRRP Program inspections [refer to HSC Section 25500 et seq.];

(5) CalARP Program inspections [refer to HSC Section 25533 et seq.];

(6) APSA Program inspections [refer to HSC Section 25270.5 et seq.]; and

(7) Other inspections that may be consolidated pursuant to HSC Section 25404.2(a)(4).

(d) Consolidation of Unified Program inspections should be considered when feasible.

(e) If there is no mandated inspection frequency, the CUPA shall establish an inspection frequency considering the following: local zoning requirements, population density, local groundwater

conditions, identified hazards of a type of business, quantity and type of hazardous materials and hazardous waste, emergency response capability, compliance history, and any other pertinent local issues.

(df) In addition to the mandatory elements of HSC ~~d~~Division 20, ~~e~~Chapter 6.5, the CUPA may integrate optional waste reduction and pollution prevention programs into the unified inspection and enforcement program.

(eg) CUPAs are responsible for initiating enforcement actions ~~when appropriate~~, but may also refer formal enforcement cases to the appropriate local, state, or federal agency for their consideration.

(fh) 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.

Note: Authority cited: Sections 25404, 25404.2 and 25404.6(c), Health and Safety Code; and Section 6254(f), Government Code. Reference: Sections 25404(c), 25404(d), 25404.2, 25404.2(a), 25404.2(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 to:~~

(1) Consolidates all fees currently mandated in statute and regulation used for local implementation of the Unified Program; including state surcharges; and,

(2) Consolidate any other fees levied by a local agency specifically to fund their implementation of the programs specified in HSC section 25404(c).

(A) Each PA shall annually notify the CUPA of its necessary and reasonable costs for program implementation as determined by Section 15220.

(b) Each CUPA shall establish procedures for implementing a Single Fee System. Single Fee System procedures shall include, but not be limited to:

(1) Mechanisms for the billing, collection, and transmittal of consolidated fees.

(A) Each billing statement shall itemize the single fee by program element, including by category, if applicable, if the single fee is calculated separately.

(B) The CUPA shall ensure that all fees collected on behalf of a PA ~~is~~ are forwarded to the PA.

(i) The CUPA shall remit the appropriate collected fees to the PA within 90 days of receipt unless the CUPA and PA agree in writing to an alternative.

(C) Fees for non-recurring activities of the UPA such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the single fee.

(D) The CUPA shall establish a program for state surcharge collection and remittance in compliance with Section 15250.

(i) The CUPA may show the state surcharge as a separate item or items within the single fee, by program elements, ~~included by category, if applicable.~~

(2) Procedures for establishment of a detailed fee schedule for regulated businesses.

(A) The governing body shall establish the fee schedule to reflect the reasonable and necessary costs to implement the Unified Program as determined by the Fee Accountability Program described in Section 15220(a)(1).

(B) The governing body shall adjust the fee schedule to reflect the reasonable and necessary costs to implement the Unified Program as determined by the annual review of the Fee Accountability Program described in Section 15220(a)(2).

(C) The governing body shall utilize the fee schedule(s) established by the PAs and authorize collection of those fees.

(D) Fee schedules shall be based on the following factors associated with the cost of implementing and maintaining the Unified Program:

(i) Operating costs as determined by Section 15220: and;

(ii) Consolidated fees from Section 15210(a).

(3) ~~Publication of~~ The fee schedule shall be made available to interested parties upon request.

(4) Procedures for the resolution of fee disputes ~~that may arise between the CUPA and PA(s), between a regulated business and either the CUPA or the PA, or between a regulated business and the state regarding the state surcharges.~~

(A) The CUPA shall attempt to resolve fee disputes involving the state surcharges in the same manner used to resolve local fee disputes.

(B) Those disputes regarding the state surcharges that cannot be resolved locally shall be referred to the Secretary for resolution.

(i) Disputes referred to the Secretary shall be in writing and shall include a recommendation for resolution.

(5) Annual review of the Single Fee System as identified in Section 15220.

(b) The Single Fee System may be used to charge fees for programs that are not listed as Unified Program elements in HSC Section 25404.5(c), if those programs are incorporated into the Unified Program.

(d) Provided the minimum requirements outlined in Sections 15210 and 15220 are met, a UPA 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 implementing the Unified Program.

~~(ce) The sSingle fFee sSystem may reflect variations in cost to implement and maintain programs for different regulated businesses.~~

~~(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, an UPA 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 UPA 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 UPA shall make fee 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.~~

Note: Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b), 25404.5(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 develop procedures to implement a Fee Accountability Program designed to encourage to demonstrate efficient and cost-effective operation of the Unified Program for which the single fee and surcharge are assessed through the Single Fee System. Fee Accountability Program procedures shall include, but not be limited to:

~~(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:~~

~~(A1) An accounting for: the fee schedule, the actual amount billed, and the revenue collected. the operating costs of the Unified Program Implementation as follows:~~

~~(BA) Discrete billable services, categorized as either site specific or general.~~

~~(CB) Staff work hours required to implement the each program element, including by category, if applicable, based on a full-time equivalent per staff position, per calendar year, and the corresponding salary for each staff position.~~

~~(DC) Direct program expenses including durable and disposable equipment.~~

~~(ED) Indirect program expenses including overhead for facilities and administrative functions.~~

~~(FE) The number of regulated businesses in each program element within the jurisdiction, including by category, if applicable, regulated by the UPA.~~

~~(i) If a CUPA has a PA, the CUPA shall also specify the number of regulated businesses in each program element, including by category, if applicable, regulated by the PA.~~

~~(GF) Total number of regulated businesses in the jurisdiction. The number of regulated businesses in each program element, including by category, if applicable, assessed the single fee.~~

~~(G) The number of regulated businesses in each program element, including by category, if applicable, for which fees are waived, thus not subject to the single fee and state surcharge(s).~~

~~(H) Quantity and range of services provided, including, but not limited to:~~

~~(i) Frequency of inspection;~~

~~(ii) Oversight of electronic reporting;~~

(iii) Verification of return to compliance; and;

(iv) Applied appropriate enforcement.

(I) Non-recurring activities such as, but not limited to, the fee for an initial permit or special inspection.

(J) Other funding sources that assist in covering the costs of implementing the Unified Program.

~~(2) The CUPA and PAs shall annually review and update the fee accountability program.~~

(2) The process for annually reviewing and updating, as necessary, the Fee Accountability Program to ensure the single fee schedule and other funding sources account for the necessary and reasonable costs to implement the Unified Program. The annual review shall include a comparison of actual operating costs for each aspect identified in (a)(1)(A)-(J) with:

(A) The fee schedule established by the governing body of the CUPA; and;

(B) The actual single fee amount billed and collected, including any amount billed and collected by a CUPA on behalf of a PA.

(3) The process for establishing and adjusting the single fee amount for each program element, including by category, if applicable, based on necessary and reasonable costs to implement the Unified Program, including adjusting the single fee schedule as needed based on annual review of the Fee Accountability Program.

(b) The Fee Accountability Program shall be instituted before the Single Fee System in order to determine the initial operating costs for the UPA.

Note: 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.

§ 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 HSC, ~~s~~Sections 25404.3 and 25404.5, ~~subdivision (a)(2)(B) of the HSC~~, 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 APSA, UST, CalARP, Refinery Safety, HMRRP, hazardous waste generator and onsite hazardous waste treatment, ~~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 one 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 HSC sSection 25404.5(b)(1), ~~subdivision (b)(1) of the HSC~~.

(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. Regulated Bbusinesses with multiple program elements will be assigned the specified base rate for each element that is present at an individual site, except that regulated 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 California Department of Tax and Fee Administration pursuant to sSection 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 regulated business' control, and ~~occurred notwithstanding the not failure to exercise of ordinary care and the absence of or through~~ willful neglect. Mere disagreement

with the fee assessment shall not be deemed reasonable cause. A person regulated business 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 is based.

(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 ~~s~~Section 43455 of the Revenue and Taxation Code, unless the erroneous billing was due to incorrect information provided by the person regulated business who receives the refund. No refund shall be granted unless the person regulated business 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 regulated business 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 ~~s~~Section, the fees assessed pursuant to this ~~s~~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 or the designated agency may recover the cost of non-recurring activities directly from the person regulated business who receives the non-recurring activities, based on the total cost to the Secretary or designated agency of providing that non-recurring activity.

(k) A person regulated business may dispute the assessment of the fee or cost recovery by submitting a petition to the director of the designated agency. The person regulated business must submit the petition, in writing, within one year of the date the person regulated business 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 director 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.

Note: 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 jurisdiction as part of the 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.

(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 ~~s~~Sections 152440 and 152421, if a CUPA prorates their fees for a regulated business in operation for part of a year, the applicable surcharge components may be prorated at the same rate.

(b) The CUPA shall remit collected state surcharge revenues to the Secretary within 30 days of the end of each state fiscal quarter, as specified in ~~s~~Section 15290 of this chapter.

~~(1) Remittance of the surcharges should be made payable to: Secretary for Environmental Protection.~~ (1) Remittance of the surcharges shall be made payable to: Secretary for Environmental Protection.

~~(2) With each surcharge remittance, the CUPA shall submit:~~ (2) With each surcharge remittance, the CUPA shall submit:

~~(i) the collected state surcharge revenues with a completed copy of the Surcharge Transmittal Report (Appendix C) to:~~ (i) the collected state surcharge revenues with a completed copy of the Surcharge Transmittal Report (Appendix C) to:

~~AIR RESOURCES BOARD ATTN: ACCOUNTING
P.O. BOX 1436
SACRAMENTO, CALIFORNIA 95812~~ AIR RESOURCES BOARD ATTN: ACCOUNTING

P.O BOX 1436

SACRAMENTO, CALIFORNIA 95812

~~(ii) an electronic copy of the Surcharge Transmittal Report (Appendix C) to:
cupa@calepa.ca.gov.~~

~~(3) Failure to remit the surcharge after collection may be a basis for withdrawing the CUPA's certification.~~ (3) Failure to remit the surcharge after collection may be a basis for withdrawing the CUPA's certification.

Note: Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.5(a)(1), 25404.5(a)(2), 25404.5(a)(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~~ UPA staff and supervisors who conduct and/or oversee inspections and enforcement activities must meet the following minimum educational requirements:

~~(i) Thirty semester units earned from an accredited college or institution~~ Bachelors degree from an accredited college, accredited university or equivalent degree with major course work from one or more of the following disciplines:

- ~~(aa)~~ A) Biology or microbiology
- ~~(bb)~~ B) Chemistry, chemical engineering
- ~~(cc)~~ C) Physics, physical science
- ~~(dd)~~ D) Environmental science
- ~~(ee)~~ E) Geology or soil science
- ~~(ff)~~ F) Environmental health
- ~~(gg)~~ G) Environmental or sanitary engineering
- ~~(hh)~~ H) Toxicology
- ~~(ii)~~ Industrial hygiene
- ~~(jj)~~ J) Hazardous materials management
- ~~(kk)~~ K) Fire science, fire technology;

- OR -

~~(ii) Equivalent to graduation from an accredited college or university or equivalent degree with major course work in the disciplines listed in paragraph (a)(1)(A)(i)~~

(2) Registration as an Environmental Health Specialist;

- 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.~~

~~(3) 30 semester units or 46 quarter units in the disciplines listed in (a)(1) from an accredited college or equivalent units from an institution approved as above. One year qualifying experience in hazardous materials management regulation, analysis, or research; environmental research, monitoring, surveillance or; enforcement; or resource recovery may be substituted for a maximum of 15 semester units or 23 quarter units.~~

~~(b) UPA staff or supervisors implementing the requirement of who conduct and/or oversee inspections and enforcement activities of the Unified Program prior to January 1, 2023 July 1, 2024, are not required to meet the minimum education requirements.~~

~~(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:~~

~~(c) UPA staff and supervisors shall receive training on the following subject areas, based on Unified Program implementation:~~

~~(i1) Statutory and Rregulatory overview for all Unified Program elements, including federal regulations, state statutes and regulations, and any applicable local ordinances;~~

~~(ii2) Classification, identification, and chemistry of hazardous materials and hazardous waste;~~

~~(iii3) Health and environmental effects of hazardous substances, including chemical exposure and route of entry;~~

~~(iv4) Sampling methodologies and use of instrumentation for detection and sampling of hazardous substances;~~

~~(v5) Conducting inspections and enforcement actions, and writing inspection reports and notices of violation;~~

~~(vi6) 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 meets 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:~~

~~(17) Hazardous materials and hazardous waste permitting, inspection and enforcement duties and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;~~

~~(28) Inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;~~

~~(39) Administration practices within a hazardous materials and hazardous waste program;~~

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

(511) 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 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:~~

~~(A12) Health and safety training as specified in section 5192(e) title 8, CCR;~~

~~(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)13) Witness training; and~~

~~(xi)14) Rules of evidence and the administrative hearing process.~~

~~(Cd) Twenty-four hours of training~~UPA staff and supervisors who will be issuing enforcement orders shall have training in the following additional areas:

~~(i)1) Training on p~~Penalty assessment; and

~~(ii)2) Negotiation techniques.~~

~~(e) Training shall be conducted for topics identified in subsections (c) and (d) such that each topic will be addressed at least once every three years, with the exception of (b)(12), which shall be conducted annually.~~

~~(Df) It shall be the responsibility of the GUPA to document the training and experience of staff participating in this program.~~

~~(g) Contractors must meet the education and training requirements of this Section when performing Unified Program operations~~conducting inspections for an UPA.

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

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