

**California Code of Regulations, Title 27, Division 1, Subdivision 4**

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

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**CHAPTER 1. UNIFIED HAZARDOUS WASTE AND HAZARDOUS MATERIALS  
MANAGEMENT REGULATORY PROGRAM**

**Part I. Definitions, Application, and Certification**

**Article 1. Introduction**

**§15100. Unified Program**

- (a) Health and Safety Code division 20, chapter 6.11, and these regulations outline the requirements for the Unified Program for hazardous materials and hazardous waste management. This division integrates requirements established pursuant to:
- (1) The Hazardous Waste Generator (HWG) program and the Hazardous Waste Onsite Treatment activities authorized under the permit-by-rule (PBR), conditionally authorized (CA), and conditionally exempt (CE) tiers - Health and Safety Code division 20, chapter 6.5 (generally supplemented by Cal. Code Regs., tit. 22, div. 4.5);
  - (2) The Aboveground Storage Tank (AST) program - Health and Safety Code division 20, chapter 6.67;
  - (3) The Underground Storage Tank (UST) program - Health and Safety Code division 20, chapter 6.7; (generally supplemented by the Cal. Code Regs., tit. 23, chs. 16 and 17);
  - (4) The Hazardous Materials Release Response Plans and Inventory (HMRRP) program - Health and Safety Code division 20, chapter 6.95, article 1 (generally supplemented by Cal. Code Regs., tit. 19, §§ 2620-2734);
  - (5) California Accidental Release Prevention (CalARP) program - Health and Safety Code division 20, chapter 6.95, article 2 (generally supplemented by Cal. Code Regs., tit. 19, §§ 2735.1-2785.1);
  - (6) The Hazardous Materials Management Plans and the Hazardous Materials Inventory Statement (HMMP/HMIS) requirements - California Fire Code.
- (b) The Secretary of the California Environmental Protection Agency (Secretary), state agency, and Certified Unified Program Agency (CUPA) responsibilities for Unified Program elements are clarified as follows:
- (1) The Secretary is responsible for:
    - (A) Adopting regulations for the administration and implementation of the Unified Program.
    - (B) Consolidating, coordinating, and making consistent the requirements of the Unified Program with requirements imposed by other government agencies on businesses regulated by the Unified Program, to the maximum extent feasible.
    - (C) Developing a Unified Program in close consultation with Department of Toxic Substances Control (DTSC), Governor's Office of Emergency Services (OES), Office of the State Fire Marshal (SFM), State Water Resources Control Board (SWRCB), local

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health officers and fire services, other interested local agencies, affected businesses, environmental organizations, and interested members of the public.

- (D) Implementing a Unified Program that consolidates the administration of program elements.
  - (E) Implementing a Unified Program that ensures coordination and consistency of the regulations adopted for each program element, to the maximum extent feasible.
  - (F) Determining Unified Program implementation in each jurisdiction and certifying an agency as the CUPA, including approval of each PA's implementation.
  - (G) Periodically reviewing each CUPA's ability to adequately implement the Unified Program.
  - (H) Managing the Unified Program surcharge account.
- (2) The state agencies will establish and interpret statewide standards for those Unified Program elements for which they are responsible.
- (A) OES has responsibility for the HMRRP program and CalARP program.
  - (B) SFM has responsibility for California Fire Code sections, as adopted pursuant to Health and Safety Code section 13143.9, concerning the HMMP/HMIS.
  - (C) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the HMMP/HMIS (Health & Saf. Code, § 25404 (c)(6)) are clarified as follows:
    - (i) SFM will coordinate program responsibilities concerning the HMMP/HMIS.
    - (ii) HMMP/HMISs, when required, will comply with Health and Safety Code sections 25500 through 25545 and California Code of Regulations, title 19, division 2, chapter 4, section 2620 et. seq.
    - (iii) The CUPA will provide access to the information collected in the statewide information management system, local information management system or local reporting portal to those agencies with shared responsibilities for protection of the public health and safety and the environment.
  - (D) SWRCB has responsibility for the UST.
  - (E) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the UST program elements are clarified as follows:
    - (i) A CUPA may oversee the abatement of unauthorized releases of hazardous substances from underground storage tanks pursuant to the Local Oversight Program (LOP) listed in Health and Safety Code section 25297.1, providing the following criteria are met:
      1. The CUPA must demonstrate its capability to oversee corrective action by having two years of acceptable experience implementing the underground storage tank

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program under Regional Water Quality Control Board oversight after which time the CUPA may apply to the SWRCB to enter into an agreement for the LOP.

2. The funding source available to the SWRCB is sufficient to cover the LOP agreements.

(F) DTSC has responsibility for the HWG and Onsite Hazardous Waste Treatment programs and additional programs pursuant to the Health and Safety Code section 25404(c)(1).

(G) To avoid overlap in responsibilities, CUPA and state agency responsibilities for the HWG and Onsite Hazardous Waste Treatment elements are clarified as follows:

(i) DTSC will coordinate, to the maximum extent feasible, the responsibilities concerning hazardous waste generators and onsite hazardous waste treatment activities with the CUPA at a hazardous waste Treatment, Storage and Disposal (TSD) facility.

(ii) CUPAs may refer enforcement cases to the DTSC. DTSC may accept enforcement cases at its discretion.

(iii) CUPAs will establish procedures to accept the following reports from businesses:

1. Contingency Plan activation report for permitted facilities (Cal. Code Regs., tit. 22, § 66264.56 (j) and 66265.56(j)).

2. Release reports for tank systems or secondary containment systems reporting the release of a reportable quantity (Cal. Code Regs., tit. 22, § 66265.196(e)).

3. Tiered Permitting Closure Reports.

(iv) CUPAs will review source reduction documents required of businesses pursuant to Health and Safety Code, Sections 25244.19, 25244.20, and 25244.21; and may impose civil penalties pursuant to Health and Safety Code Section 25244.21(a).

(v) Hazardous Waste Manifest documents will continue to be submitted to DTSC.

(vi) Hazardous Waste Manifest Exception Reports will continue to be submitted to DTSC.

(vii) DTSC will retain responsibility for hazardous waste classifications.

(viii) DTSC will retain responsibility for overseeing exports of hazardous waste out of the country.

(ix) DTSC and the U.S. Environmental Protection Agency will retain responsibility for issuing EPA numbers.

(x) DTSC will retain responsibility for the following elements of the Hazardous Waste Source Reduction and Management Review Act of 1989 (Health & Saf. Code § 25244.12 et. seq.):

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1. Conduct a technical and research assistance program pursuant to Health and Safety Code section 25244.17.
  2. Select at least two categories of generators by SIC Code every two years to identify successful source reduction measurers pursuant to Health and Safety Code section 25244.18 (a).
  3. Impose civil penalties pursuant to Health and Safety Code section 25244.18 (d)(2).
  4. Report to the Legislature pursuant to Health and Safety Code section 25244.22.
- (xi) DTSC will retain the responsibility to collect Biennial Reports specified in California Code of Regulations, title 22, section 66262.41.
- (xii) DTSC will notify and coordinate with the appropriate CUPA regarding any investigation it will conduct of hazardous waste generators; hazardous waste generators conducting treatment conditionally authorized pursuant to Health and Safety Code section 25200.3; hazardous waste generators conducting treatment conditionally exempted pursuant to Health and Safety Code section 25201.5; and facilities deemed to hold a permit-by-rule pursuant to the regulations adopted by DTSC. Information related to an ongoing investigation shall remain confidential.
- (H) State agencies' responsibilities include:
- (i) Maximizing coordination, consolidation, and consistency of their Unified Program element(s) within the Unified Program.
  - (ii) Participating in evaluating CUPAs as defined by the Secretary.
  - (iii) Providing necessary guidance, training, and support to Unified Program Agencies.
- (3) The Unified Program Agencies' responsibilities include implementing the requirements in Health and Safety Code chapter 6.11, these regulations, and the requirements for each program element.

Authority cited: Sections 25404(b), 25404.1(b)(1), 25404.3(f) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(b), (c) and (d), 25404.1, 25404.2(a) and (c), 25404.3(f), 25404.5 and 25533(f), Health and Safety Code.

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### Article 2. Definitions

#### §15110. Unified Program Definitions

- (a) Applicant Agency means a county, city or other qualified local agency that is applying to the Secretary to become a Certified Unified Program Agency.
- (b) California Environmental Reporting System or CERS is the statewide information management system established by the Secretary to receive all data collected by the Unified Program Agencies and reported by regulated businesses, pursuant to Health and Safety Code chapter 6.11.
- (c) Certified Unified Program Agency or CUPA means the agency certified by the Secretary to implement the Unified Program in a specified jurisdiction, pursuant to Health and Safety Code chapter 6.11.
- (d) Data Collection. For the purposes of this division, terms related to the Unified Program information have the following meaning:
  - (1) Data elements are the discrete data fields that define information required to be collected by applicable statutes or regulations. Data elements are defined in the Unified Program Data Dictionary.
  - (2) Submittal Element means a collection of related Unified Program data elements or document(s) that must be submitted by a regulated business as a single unit.
  - (3) Document means a collection of data that are not submitted as a set of standardized data elements either because the document's data are not suitable to define as discrete data elements, or the document's data elements are not yet defined in the Unified Program Data Dictionary. When a document needs to be submitted to meet Unified Program electronic reporting requirements, it shall be provided in the Portable Document Format (PDF) or other document format supported by CERS.
  - (4) Electronic reporting means the collection, submittal, and transfer of Unified Program data using electronic, non-paper media.
  - (5) Electronic Data Transfer (EDT) means the electronic exchange of Unified Program data elements or documents as one or more submittal elements as defined in the Unified Program Data Dictionary by Unified Program Agencies and Cal/EPA. EDT is performed using data exchange technical specifications.
  - (6) A Data Exchange Technical Specification is a standardized format that identifies the format for exchanging Unified Program data between CERS and a local information management system or local reporting portal. The primary Data Exchange technical specifications for Unified Program electronic reporting involve XML Schemas that define how Unified Program data elements must be formatted or arranged to support XML-based electronic data exchange. Other Data Exchange technical specifications include specifically formatted spreadsheets and other files for exchanging certain Unified Program data. Cal/EPA releases updated Data Exchange Technical Specifications after changes are approved to the Unified Program Data Dictionary.

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(e) Enforcement Actions. There are two types of Unified Program enforcement actions:

- (1) Formal Enforcement means a civil, criminal, or administrative action that mandates compliance, imposes sanctions, and results in an enforceable agreement or order. Enforceable agreement or order means the instrument creates an independent, affirmative obligation to comply and imposes sanctions for the prior failure to comply. Sanctions include fines and penalties as well as other tangible obligations, beyond returning to compliance, that are imposed upon the regulated business.
- (2) Informal Enforcement means a notification to the regulated business of non-compliance and establishes an action and a date by which that non-compliance is to be corrected. Examples include a letter or notice of violation. These actions do not impose sanctions.

(f) Inspection Types. There are two types of Unified Program inspections, which for reporting purposes are mutually exclusive:

- (1) Routine Inspection is a regularly scheduled inspection to evaluate compliance pursuant to one or more program elements.
- (2) Other Inspection includes, but is not limited to, regulatory field activity such as complaint investigations, enforcement follow-up, closures, tank installation and/or removal oversight, tank cleaning, and release investigations. It does not include routine inspections or field or site visits whose principal purposes are informational or educational, pollution prevention education, verification of administrative information, or orientation of new owners or operators.

(g) Local Information Management System is a data management system used by a UPA to collect, retain, and manage Unified Program data.

(h) Local Reporting Portal is a public web site used by a CUPA to collect Unified Program data from regulated businesses within its jurisdiction.

(i) Participating Agency (PA) means a state or local agency that has a formal agreement with the CUPA to implement one or more program elements as part of the Unified Program.

(j) Program Element means one of the six sets of requirements listed in section 15100(a) or any other requirements incorporated pursuant to Health and Safety Code chapter 6.11, section 25404.2(d).

(k) Regulated Business means any of the following:

(1) "person" as defined in:

- (A) the Hazardous Waste Management Program, Health and Safety Code section 25118;
- (B) the California Hazardous Substances Tax Law, Revenue and Taxation Code part 22, division 2, section 43006;
- (C) the HMRRP program, title 19, section 2650;

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- (D) the CalARP program, Health and Safety Code section 25532(m);
  - (E) the UST program, Health and Safety Code section 25281(l); and
  - (F) the AST program, Health and Safety Code chapter 6.67, section 25270.2.
- (2) “business” as defined in the HMRRP program, Health and Safety Code sections 25501(e) and 25501.4.
  - (3) “facility” as defined in the UST program, Health and Safety Code section 25281(f).
  - (4) “tank facility” as defined in the AST program, Health and Safety Code section 25270.2.
  - (5) “hazardous waste facility” as defined in the Hazardous Waste Management program, Health and Safety Code section 25117.1.
  - (6) “stationary source” as defined in the CalARP program, California Code of Regulations, title 19, section 2735.3(uu).
- (l) Signed or signature for purposes of electronic submissions means any symbol, including a digital signature defined in Government Code section 16.5, executed or adopted by a party with present intention to authenticate a writing.
  - (m) Surcharge means an element of the single fee assessed by the CUPA on each regulated business that covers the necessary and reasonable cost of the state agencies in carrying out their responsibilities pursuant to Health and Safety Code section 25404.5(b).
  - (n) Unified Program Agency (UPA) is the Certified Unified Program Agency (CUPA) or PA that implements one or more Unified Program elements.
  - (o) Unified Program Consolidated Form (UPCF) is a standardized set of forms used before January 1, 2013, by CUPAs to collect Unified Program data from regulated businesses. The UPCF is a single, comprehensive format that consolidates business-to-CUPA reporting requirements within the Unified Program.
  - (p) Unified Program Data Dictionary (data dictionary) defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected and retained by a CUPA. It has the following sections:
    - (1) Business Section: for information reported from businesses to UPAs. [Div. 3, subd. 1, chs. 1-4]
    - (2) CUPA Section: for CUPA-to-state reporting of CUPA activities or other information that shall be collected and retained by a CUPA and reported pursuant to section 15290. [Div. 3, subd. 1, ch. 5, Unified Agency Reporting]
  - (q) Unified Program Facility Permit means those permits issued under the Unified Program. The permit may be a single permit or multiple permits in a single package which shall minimize duplicate information. It includes the underground storage tank permit, permit-by-rule, and any other permit or authorization requirements found under any local ordinance or requirement

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relating to the generation or handling of hazardous waste or materials. The Unified Program Facility Permit does not include the permitting requirements of a local ordinance that incorporates provisions of the California Fire or Building Code.

Authority cited: Sections 25404(b), (c), (d) and (e), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.5(a) and 25532(k), Health and Safety Code; Section 43006, Revenue and Taxation Code; and the 1996 United States Environmental Protection Agency Enforcement Response Policy for the Resource Conservation and Recovery Act.

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### Article 3. Application Process

#### §15120. Certified Unified Program Agency Applicants

- (a) Counties must apply.
- (b) Cities or other local agencies that qualify pursuant to Health and Safety Code section 25404.1(b)(2) may apply.
- (c) A city that incorporates after January 1, 1996, may apply for certification as a CUPA pursuant to Health and Safety Code section 25404.1(b)(2)(B) and section 15130(b) of this title. Any request to the Secretary for approval to apply for certification shall be submitted within 180 days of incorporation.
- (d) Two or more counties, cities or local agencies that propose to form a Joint Powers Agency (JPA) may apply on or before January 1, 1996.
  - (1) Cities or other local agencies that have formed or propose to form a JPA may apply if one of the following is true:
    - (A) A maximum of two member agencies of the JPA have not implemented the HMRRP program or the UST program prior to December 31, 1995, and at least one member agency has implemented the HMRRP program or the UST program prior to December 31, 1995; or
    - (B) The JPA has an agreement with the county to implement the Unified Program in the JPA's jurisdiction; or
    - (C) The county is a member agency of the JPA.
- (e) Each county shall and each city or local agency within the county that qualifies pursuant to Health and Safety Code section 25404.1(b)(2) and chooses to apply, shall apply for certification on or before January 1, 1996.
- (f) An applicant agency shall apply to the Secretary according to the provisions of sections 15130, 15150, and 15160.
- (g) Applications shall be valid if they meet the requirements of this article and one copy is mailed to: California Environmental Protection Agency, Unified Program Section, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

#### §15130. Application Notices

- (a) A non-county agency, as defined in section 15120(c) and (d), that intends to apply for certification as a CUPA shall file with the Secretary and the county within which the city or other local agency is located, a letter that expresses the applicant's intent to apply. This "intent to apply" letter shall be valid if mailed to: California Environmental Protection Agency, Unified Program Section, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

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- (b) Any request to the Secretary by a non-county agency for approval to apply for certification pursuant to Health and Safety Code section 25404.1(b)(2)(B) shall be submitted in writing.
  - (1) In its request, the applicant shall specify the date it received the county's agreement or the reasons for failing to enter into an agreement. Any relevant correspondence to or from the county shall be attached to the request.
  - (2) The Secretary shall respond within 45 days of receiving the request.

Authority cited: Sections 25204(b) and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

### §15150. Information Provided in an Application

- (a) Identify which agency will be the point of contact within the CUPA.
  - (1) An applicant agency shall designate only one administrative body, such as an internal department or office within a county or city, within that jurisdiction as the point of contact for Unified Program implementation.
  - (2) The governing body of the applicant agency may designate itself as the point of contact by not specifying any other.
  - (3) The applicant agency shall provide the name, address, phone number, e-mail, and facsimile number of the contact (use appendix A).
- (b) The application for certification as a CUPA shall be signed by at least one elected or appointed official who is authorized to represent the jurisdiction.
- (c) The application for certification shall include an Authorizations Section including a list and brief description of all ordinances and resolutions used in the Unified Program.
  - (1) If overlapping authority will arise pursuant to certification under this division, the applicant agency shall include in the application, a discussion of how jurisdictional authority will be managed to ensure that health and safety are maintained within the jurisdiction.
  - (2) Copies of all UST ordinances required by Health and Safety Code chapter 6.7 must be provided.
- (d) The application for certification shall include an agreements section including copies of all agreements or draft agreements between the applicant agency and proposed PAs.
  - (1) The agreements section shall include draft or final agreements between the applicant agency and all proposed PAs. Final copies of all agreements must be submitted to the Secretary prior to certification.
    - (A) If an applicant agency proposes that any agency other than itself implement any aspect of the single fee system, including the surcharge, the written agreement shall specify responsibilities of each agency. The written agreement shall:

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- (i) Identify responsibility for absorbing funds lost on non-payment of fees.
    - (ii) Identify under what conditions and authority fees will be waived.
  - (B) Include procedures for removing a PA required pursuant to 15180(e)(6).
  - (C) CUPAs may satisfy information collection, retention, and management requirement through agreements with PAs that serve as the repository of the information.
- (e) The application for certification shall be constructed in sections so as to meet the requirements and structure of appendix A, including the following:
- (1) A cover sheet. Use appendix A and complete all appropriate information.
  - (2) For a county applicant, documentation that cities within the county either intend or do not intend to apply to be a CUPA. Documentation may take the form of a listing of all cities within the county with an indication of whether they intend to apply or not.
  - (3) A description of the geographic scope of the proposed Unified Program in the jurisdiction.
  - (4) The number of regulated businesses within the jurisdiction, for each program element. Use appendix B, table 1 to provide this information.
  - (5) The organizational structure of the proposed Unified Program in the jurisdiction.
  - (6) A Unified Program Implementation Plan that provides:
    - (A) A description or implementation timeline that addresses all phases from startup through full operation.
    - (B) Specific information required for the Secretary's evaluation of the application pursuant to section 15170.
    - (C) For a transition from multiple billing statements and collection agencies within the Unified Program to a single billing statement and collection agency within the Unified Program, this shall:
      - (i) Provide for a transition period no longer than five years;
      - (ii) Provide for regulated businesses to receive a single billing statement annually that includes all recurring Unified Program activity fees;
      - (iii) Provide for regulated businesses to remit Unified Program fees with a single payment; and
      - (iv) Include provisions for instances of non-payment.
  - (7) Adequate information to determine that the applicant agency and any proposed PAs meet education, expertise and training requirements specified in sections 15260 and 15270.

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- (A) Table 2 and table 4 may be used to provide this information.
- (B) If table 2 and table 4 are not used, the information required in the tables must be provided in some form.
- (8) A certification that the administrative procedures of the proposed Unified Program will meet the requirements of section 15180. Use appendix B.
- (9) A Unified Program Facility Permit Plan that meets the requirements of section 15190.
- (10) An Inspection and Enforcement Program Plan that meets the requirements of section 15200.
- (11) A Fee Accountability Program in compliance with section 25404.5(c) of the Health and Safety Code and with section 15210 of this title.
- (12) A Single Fee System Implementation Plan that meets the requirements of section 15210.
- (13) A budget and funding mechanism for the Unified Program that meets the requirements of section 15170(c), staff time allocations, and certification that adequate resources exist to carry out the Unified Program. Appendix B, table 3 may be used to provide information on staff time allocations. Appendix B will be used to certify adequate resources exist.
- (14) A description of how the CUPA will fulfill reporting requirements and certification that it will meet requirements of article 6 below.
- (15) A summary of program implementation history that shall include the following information. Appendix B, table 2 may be used to provide this information.
  - (A) A list of the Unified Program elements that have been managed by the applicant agency and PAs for the past three years. This list shall include voluntarily consolidated programs.
  - (B) A summary of inspection and enforcement activities within the scope of the Unified Program, undertaken within the past three years, including the types and numbers of inspections conducted and enforcement actions handled.
- (16) A description of recordkeeping and costs accounting systems.
- (17) A description of the applicant agency's compliance with the criteria identified in the California Code of Regulations, title 22, section 66272.10 except subdivisions (b)(2) and (b)(3).
- (18) A description of any additional programs incorporated into the Unified Program.
- (19) An explanation of why the Secretary need not be concerned that certification of the applicant agency might lead to adverse impacts on the county.
- (20) A description of how certification of the proposed Unified Program will lead to less fragmentation between jurisdictions within the county.

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- (f) The application for certification shall contain a Single Fee System Implementation Plan that provides for a transition from multiple billing statements and collection agencies within the Unified Program, to a single billing statement and collection agency within the Unified Program.
  - (1) The applicant agency shall implement the Single Fee System Implementation Plan upon certification.
  - (2) The applicant agency shall provide for public participation and review of the proposed Single Fee System Implementation Plan.
  - (3) A CUPA that has partially implemented the single fee system but requires an extension of the transition period may petition the Secretary for an exception of the five-year limit.
    - (A) The CUPA shall submit such petition at least one year prior to expiration of the five-year limit.
    - (B) The Secretary shall rule on such petitions within 180 days of receipt of the request for extension.

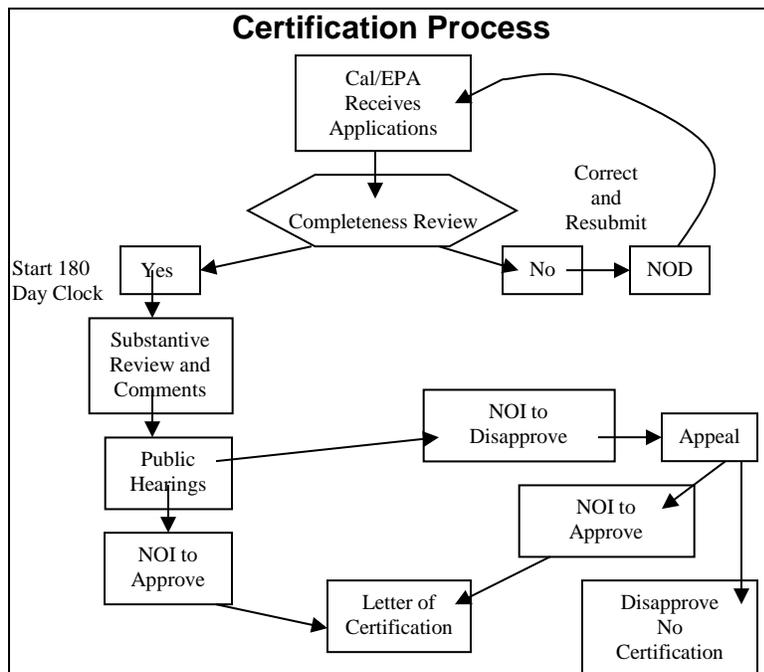
Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(b), 25404.2, 25404.3(b), (c) and (d), and 25404.5, Health and Safety Code.

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Article 4. Certification Process and Responsibilities

§15160. Certification Process

Figure 3



(a) Completeness review.

(1) Each application shall be reviewed to determine whether all required information has been provided. Such review shall be finished within 90 days of receipt of the application. Within the 90-day 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 Health and Safety Code 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;

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Director of the Office of Emergency Services;  
State Fire Marshal; and  
Executive Officer and Chairperson of the State Water Resources Control  
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 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 that are deficient.
  - (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 to be deficient, the Secretary shall issue a NOI to withdraw certification. The NOI shall identify those areas of the Unified Program that are deficient.

### (e) Final Decision.

- (1) The Secretary's final decision 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.
- (2) For purposes of this division and the California Code of Regulations, title 22, division 4.5, "certification" of a CUPA shall constitute "designation" pursuant to Health and Safety Code section 25180, of the responsible agency implementing chapter 6.5 of the Health and Safety Code, pursuant to the California Code of Regulations, title 22, section 66272.10.

### (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.

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- (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.

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 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 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

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- (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 Health and Safety Code 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 California Code of Regulations, title 22, section 66272.10, except for the requirement of paragraph (2) of subdivision (b) of that section related to county-wide 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 Health and Safety Code 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 California Code of Regulations, title 27, section 15150(e)(6).
- (A) The number of agencies managing the six Unified Program elements listed in Health and Safety Code 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.

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(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 Health and Safety Code section 25404.3(d)(1).

(B) The proposed PAs have met the education, training and experience requirements identified in 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 Health and Safety Code section 25404.3(d)(3).

(12) The requirements of 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) and (c), and 25404.3(b), (c) and (d), Health and Safety Code.