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Code: Section:

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HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 6.11. Unified Hazardous Waste and Hazardous Materials Management Regulatory Program [25404 - 25404.9] (*Chapter 6.11 added by Stats. 1993, Ch. 418, Sec. 3.*)

25404. (a) For purposes of this chapter, the following terms shall have the following meanings:

(1) (A) "Certified Unified Program Agency" or "CUPA" means the agency certified by the secretary to implement the unified program specified in this chapter within a jurisdiction.

(B) "Participating Agency" or "PA" means a state or local agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

(C) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 to 25404.2, inclusive. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) "Department" means the Department of Toxic Substances Control.

(3) "Minor violation" means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter, and that does not otherwise include any of the following:

(A) A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.

(B) A knowing, willful, or intentional violation.

(C) A violation that is a chronic violation, or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(D) A violation that results in an emergency response from a public safety agency.

(E) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

(F) A class I violation, as provided in Section 25110.8.5.

(G) A violation that hinders the ability of the UPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.

(4) "Secretary" means the Secretary for Environmental Protection.

(5) "Unified program facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c).

(6) "Unified program facility permit" means a permit issued pursuant to this chapter. For purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and permit or authorization requirements under a local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the California Fire Code or the California Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Director of Emergency Services, the State Fire Marshal, the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

(c) The unified program shall consolidate the administration of the following requirements and, to the maximum extent feasible within statutory constraints, shall ensure the coordination and consistency of any regulations adopted pursuant to those requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant to that chapter, that are applicable to all of the following:

(i) Hazardous waste generators, persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department.

(ii) Persons managing perchlorate materials.

(iii) Persons subject to Article 10.1 (commencing with Section 25211) of Chapter 6.5.

(iv) Persons operating a collection location that has been established under a stewardship plan approved by the Department of Resources Recycling and Recovery pursuant to the paint product recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(v) A transfer facility, as defined in paragraph (3) of subdivision (a) of Section 25123.3, that is operated by a door-to-door household hazardous waste collection program or household hazardous waste residential pickup service, as defined in subdivision (c) of Section 25218.1.

(vi) Persons who receive used oil from consumers pursuant to Section 25250.11.

(B) The unified program shall not include the requirements of paragraph (3) of subdivision (c) of Section 25200.3, the requirements of Sections 25200.10 and 25200.14, and the authority to issue an order under Sections 25187 and 25187.1, with regard to those portions of a unified program facility that are subject to one of the following:

(i) A corrective action order issued by the department pursuant to Section 25187.

(ii) An order issued by the department pursuant to Chapter 6.86 (commencing with Section 25396) of this division or Part 2 (commencing with Section 78000) of Division 45.

(iii) A remedial action plan approved pursuant to Chapter 6.86 (commencing with Section 25396) of this division or Part 2 (commencing with Section 78000) of Division 45.

(iv) A cleanup and abatement order issued by a California regional water quality control board pursuant to Section 13304 of the Water Code, to the extent that the cleanup and abatement order addresses the requirements of the applicable section or sections listed in this subparagraph.

(v) Corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

(vi) An environmental assessment pursuant to Section 25200.14 or a corrective action pursuant to Section 25200.10 or paragraph (3) of subdivision (c) of Section 25200.3, that is being overseen by the department.

(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant to that chapter, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.

(2) The requirements of Chapter 6.67 (commencing with Section 25270) concerning aboveground storage tanks.

(3) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.7 (commencing with Section 25280) concerning underground storage tanks and the requirements of any underground storage tank ordinance adopted by a city or county.

(B) The unified program shall not include the responsibilities assigned to the State Water Resources Control Board pursuant to Section 25297.1.

(C) The unified program shall not include the corrective action requirements of Sections 25296.10 to 25296.40, inclusive.

(4) The requirements of Article 1 (commencing with Section 25500) of Chapter 6.95 concerning hazardous material release response plans and inventories.

(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements for the hazardous materials plan and hazardous materials inventory statement of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9.

(d) To the maximum extent feasible within statutory constraints, the secretary shall consolidate, coordinate, and make consistent these requirements of the unified program with other requirements imposed by other federal, state, regional, or local agencies upon facilities regulated by the unified program.

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c).

(2) (A) The secretary shall establish a statewide information management system capable of receiving all data collected by the unified program agencies and reported by regulated businesses pursuant to this subdivision, in a manner that is most cost efficient and effective for both the regulated businesses and state and local agencies. The secretary shall prescribe an XML or other compatible web-based format for the transfer of data from CUPAs and regulated businesses and make all nonconfidential data available on the internet.

(B) The secretary shall establish milestones to measure the implementation of the statewide information management system and shall provide periodic status updates to interested parties.

(3) (A) (i) Except as provided in subparagraph (B), in addition to any other funding that becomes available, the secretary shall increase the oversight surcharge provided for in subdivision (b) of Section 25404.5 by an amount necessary to meet the requirements of this subdivision for a period of three years, to establish the statewide information management system, consistent with paragraph (2). The increase in the oversight surcharge shall not exceed twenty-five dollars (\$25) in any one year of the three-year period. The secretary shall thereafter maintain the statewide information management system, funded by the assessment the secretary is authorized to impose pursuant to Section 25404.5.

(ii) No less than 75 percent of the additional funding raised pursuant to clause (i) shall be provided to CUPAs and PAs through grant funds or statewide contract services, in the amounts determined by the secretary to assist these local agencies in meeting these information management system requirements.

(B) A facility that is owned or operated by the federal government and that is subject to the unified program shall pay the surcharge required by this paragraph to the extent authorized by federal law.

(C) The secretary, or one or more of the boards, departments, or offices within the California Environmental Protection Agency, shall seek available federal funding for purposes of implementing this subdivision.

(4) No later than three years after the statewide information management system is established, each CUPA, PA, and regulated business shall report program data electronically. The secretary shall work with the CUPAs to develop a phase-in schedule for the electronic collection and submittal of information to be included in the statewide information management system, giving first priority to information relating to those chemicals determined by the secretary to be of greatest concern. The secretary, in making this determination shall consult with the CUPAs, the California Emergency Management Agency, the State Fire Marshal, and the boards, departments, and offices within the California Environmental Protection Agency.

(5) The secretary, in collaboration with the CUPAs, shall provide technical assistance to regulated businesses to comply with the electronic reporting requirements and may expend funds identified in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

(Amended by Stats. 2024, Ch. 989, Sec. 3. (SB 1143) Effective January 1, 2025.)

25404.1. (a) (1) All aspects of the unified program related to the adoption and interpretation of statewide standards and requirements shall be the responsibility of the state agency which is charged with that responsibility under existing law. For underground storage tanks, that agency shall be the State Water Resources Control Board. The California regional water quality control boards shall have responsibility for the issuance of variances pursuant to subdivision (b) of Section 25299.4. The Department of Toxic Substances Control shall have the sole responsibility for the issuances of variances from the requirements of Chapter 6.5 (commencing with Section 25100) and the regulations adopted pursuant thereto, for the determination of whether or not a waste is hazardous or nonhazardous, for the determination of whether or not a person is eligible to be deemed to be operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department, and for the suspension and revocation of permits-by-rule, conditional authorizations, and conditional exemptions.

(2) Except as provided in paragraphs (1) and (3), those aspects of the unified program related to the application of statewide standards to particular facilities, including the issuance of unified program facility permits, the review of reports and plans, environmental assessment, compliance and correction, and the enforcement of those standards and requirements against particular facilities, shall be the responsibility of the unified program agencies.

(3) (A) Except in those jurisdictions for which the UPA has been determined by the department, in accordance with regulations adopted pursuant to subparagraph (C), to be qualified to implement the environmental assessment and removal and remediation corrective action aspects of the unified program, the department shall have sole responsibility and authority under the unified program for all of the following:

(i) Implementing and enforcing the requirements of paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25200.10 and 25200.14, and the regulations adopted by the department to implement those sections. As a pilot program in up to 10 counties, pending the adoption and implementation of regulations pursuant to subparagraph (C), the department may delegate to the CUPA, through a delegation agreement, responsibility and authority for implementing and enforcing the requirements of Section 25200.14.

(ii) The issuance of orders under Section 25187 requiring removal or remedial action.

(iii) The issuance of orders under Section 25187.1.

(B) Notwithstanding subparagraph (A), a UPA may issue an order under Section 25187 specifying a schedule for compliance or correction and imposing an administrative penalty for any violation of the requirements of Chapter 6.5 (commencing with Section 25100) listed in paragraph (1) of subdivision (c) of Section 25404, or the requirements of any permit, rule, regulation, standard or requirement issued or adopted pursuant to the requirements of Chapter 6.5 (commencing with Section 25100) listed in paragraph (1) of subdivision (c) of Section 25404, if one of the following applies:

(i) The order does not require removal or remedial action.

(ii) The only removal or remedial actions required by the order are those actions determined to be necessary to address an imminent and substantial endangerment based upon a finding by the UPA pursuant to subdivision (f) of Section 25187.

(C) The department shall adopt emergency regulations specifying the criteria and procedures for implementing paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25200.10 and 25200.14, including criteria and procedures for determining whether or not a unified program agency is qualified to implement the environmental assessment and removal and remediation corrective action portions of the unified program under paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25187, 25187.1, 25200.10, and 25200.14. The criteria for determining whether a unified program agency is qualified shall, at a minimum, include consideration of the following factors:

(i) Adequacy of the technical expertise possessed by the unified program agency.

(ii) Adequacy of staff resources.

(iii) Adequacy of budget resources and funding mechanisms.

(iv) Training requirements.

(v) Past performance in implementing and enforcing requirements related to environmental assessments, and removal and remediation corrective actions.

(vi) Recordkeeping and accounting systems.

(D) The regulations adopted by the department pursuant to subparagraph (C) shall include provisions to ensure coordinated and consistent application of paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25187, 25187.1, 25200.10, and 25200.14, when both the department and the unified program agency are, or will be, implementing and enforcing the requirements of one or more of these sections at the same facility.

(E) For purposes of subparagraph (D), "facility" means the entire site that is under the control of the owner or operator.

(F) If the department is designated as a unified program agency, the department is deemed qualified to implement all of the following:

(i) The environmental assessment, removal and remedial action, and corrective action aspects of the unified program.

(ii) Paragraph (3) of subdivision (c) of Section 25200.3, Sections 25200.10, 25200.14, 25187, and 25287.1, and the regulations adopted by the department to implement those provisions.

(b) (1) On or before January 1, 1996, each county shall apply to the secretary to be certified as a unified program agency to implement the unified program within the unincorporated area of the county and within each city in the county, in which area or city, as of January 1, 1996, the city or other local agency has not applied to be the certified unified program agency.

(2) (A) Any city or other local agency which, as of December 31, 1995, has been designated as an administering agency pursuant to Section 25502, or which has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, may apply to the secretary to become the certified unified program agency to implement the unified program within the jurisdictional boundaries of the city or local agency.

(B) A city or other local agency which, as of December 31, 1995, has not been designated as an administering agency pursuant to Section 25502, or which has not assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, may apply to the secretary to become the certified unified program agency within the jurisdictional boundaries of the city or local agency if it enters into an agreement with the county to become the certified unified program agency within those boundaries. A county shall not refuse to enter into an agreement unless it specifies in writing its reasons for failing to enter into the agreement. However, if the city does not enter into the agreement with the county, within 30 days of receiving a county's reasons for failing to enter into agreement, a city may request that the secretary allow it to apply to be a certified unified program agency and the secretary may, in the secretary's discretion, approve the request.

(3) A city, county, or other local agency may propose, in its application for certification to the secretary, to allow other public agencies to implement certain elements of the unified program, but the secretary shall accept that proposal only if the secretary makes the findings specified in subdivision (d) of Section 25404.3.

(4) If a city or other local agency which, as of December 31, 1995, has been designated as an administering agency pursuant to Section 25502, or has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, requests that the county propose in its application for certification to the secretary that the city or local agency implement, within the jurisdictional boundaries of the city or local agency, those elements of the unified program which, as of December 31, 1995, the city or local agency has authority to administer, the county shall grant that request. If an agency described in this paragraph is subsequently removed or withdraws from the unified program, the agency shall not act as an administering agency under Section 25502 or act as a local agency pursuant to Chapter 6.7 (commencing with Section 25280), except as provided in subdivision (c) of Section 25283.

(Amended by Stats. 2022, Ch. 258, Sec. 95. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25404.1.1. (a) If a unified program agency determines that a person has committed, or is committing, a violation of any law, regulation, permit, information request, order, variance, or other requirement that the UPA is authorized to enforce or implement pursuant to this chapter, the UPA may issue an administrative enforcement order requiring that the violation be corrected and imposing an administrative penalty, in accordance with any of the following:

(1) Except as provided in paragraph (5), if the order is for a violation of Chapter 6.5 (commencing with Section 25100), the violator shall be subject to the applicable administrative penalties provided by that chapter.

(2) If the order is for a violation of Chapter 6.7 (commencing with Section 25280), the violator shall be subject to the applicable civil penalties provided in subdivisions (a), (b), (c), and (e) of Section 25299.

(3) If the order is for a violation of Article 1 (commencing with Section 25500) of Chapter 6.95, the violator shall be subject to a penalty that is consistent with the administrative penalties imposed pursuant to Section 25515.2.

(4) If the order is for a violation of Article 2 (commencing with Section 25531) of Chapter 6.95, the violator shall be subject to a penalty that is consistent with the administrative penalties imposed pursuant to Section 25540 or 25540.5.

(5) If the order is for a violation of Chapter 6.67 (commencing with Section 25270), the violator shall be liable for a penalty of not more than five thousand dollars (\$5,000) for each day on which the violation continues. If the violator commits a second or subsequent violation, the violator may be liable for a penalty of not more than ten thousand dollars (\$10,000) for each day on which the violation continues.

(6) If the order is for a violation of this chapter, the violator shall be liable for a civil or administrative penalty of not more than five thousand dollars (\$5,000) for each day on which the violation continues.

(b) In establishing a penalty amount and ordering that a violation be corrected pursuant to this section, a UPA shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the penalty, and the deterrent effect that imposing the penalty would have on both the violator and the regulated community.

(c) An order issued pursuant to this section shall be served by personal service or certified mail and shall inform the person served of the right to a hearing. If a UPA issues an order pursuant to this section, the order shall state whether the hearing procedure specified in paragraph (2) of subdivision (e) may be requested by the person receiving the order.

(d) A person served with an order pursuant to this section who has been unable to resolve a violation with a UPA, may within 15 days after service of the order, request a hearing pursuant to subdivision (e) by filing with the UPA a notice of defense. The notice shall be filed with the office that issued the order. A notice of defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked within that 15-day period. If no notice of defense is filed within the time limits provided by this subdivision, the order shall become final.

(e) Except as provided in subparagraph (B) of paragraph (2), a person requesting a hearing on an order issued by a UPA under this section may select the hearing officer specified in either paragraph (1) or (2) in the notice of defense filed with the UPA pursuant to subdivision (d). If a notice of defense is filed, but no hearing officer is selected, the UPA may select the hearing officer. Within 90 days of receipt of the notice of defense by the UPA, the hearing shall be scheduled using one of the following:

(1) An administrative law judge of the Office of Administrative Hearings of the Department of General Services, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the UPA shall have all the authority granted to an agency by those provisions.

(2) (A) A hearing officer designated by the UPA, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the UPA shall have all the authority granted to an agency by those provisions. When a hearing is conducted by a UPA hearing officer pursuant to this paragraph, the UPA shall issue a decision within 60 days after the hearing is conducted. Each hearing officer designated by a UPA shall meet the requirements of Section 11425.30 of the Government Code and any other applicable restriction.

(B) A UPA, or a person requesting a hearing on an order issued by a UPA, may select the hearing process specified in this paragraph in a notice of defense filed pursuant to subdivision (d) only if the UPA has, as of the date the order is issued pursuant to subdivision (c), selected a designated hearing officer and established a program for conducting a hearing in accordance with this paragraph.

(f) A hearing decision issued pursuant to paragraph (2) of subdivision (e) shall be effective and final upon issuance by the UPA. A copy of the decision shall be served by personal service or by certified mail upon the party served with the order, or their representative, if any.

(g) A provision of an order issued under this section, except the imposition of an administrative penalty, shall take effect upon issuance of the order by a UPA if the UPA finds that the violation or violations associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment. A request for a hearing shall not stay the effect of that provision of the order pending a hearing decision. However, if the UPA determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the UPA. A request for a hearing shall not stay the effect of the order as a whole pending a hearing decision.

(h) A hearing decision issued pursuant to paragraph (2) of subdivision (e) may be reviewed by a court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this section, the court shall uphold the decision of the UPA if the decision is

based upon substantial evidence in the record as a whole. The filing of a petition for writ of mandate shall not stay any action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(i) All administrative penalties collected from actions brought by a UPA pursuant to this section shall be paid to the UPA that imposed the penalty, and shall be deposited into a special account that shall be expended to fund the activities of the UPA in enforcing this chapter.

(j) The UPA shall consult with the district attorney, county counsel, or city attorney on the development of policies to be followed in exercising the authority delegated pursuant to this section as it relates to the authority of the UPA to issue orders.

(k) (1) A unified program facility shall pay a permit fee established by the UPA and any fine or penalty associated with the permit.

(2) A unified program agency may withhold, suspend, or revoke any unified program facility permit, or an element of a unified program facility permit as outlined, for all of the following reasons:

(A) Failing to pay a permit fee.

(B) Failing to pay a fine or penalty associated with a permit.

(C) Failing to comply with an order or written notice issued pursuant to subparagraph (A) of paragraph (1) of subdivision (e) of Section 25510.

(3) (A) If a unified program facility does not comply with a written notice from the unified program agency to the permittee to make the payments specified in paragraph (1) by the required date provided in the notice, the UPA may withhold issuance of, suspend, or revoke the permit or permit element.

(B) If the unified program facility does not have a valid unified program facility permit or if the permit or permit element is suspended or revoked, the unified program facility shall immediately discontinue operating the facility, as applicable, or function of the facility to which the permit or permit element applies until the UPA issues, reinstates, or reissues the permit or permit element.

(C) Subparagraph (B) does not apply to the owner or operator of a facility who submits a timely application for a unified program facility permit, or for a renewal of a permit, and the facility is in compliance with the requirements of this chapter, but has not yet received the permit or renewed permit from the UPA. A submittal of facility information to the California Environmental Protection Agency's California Environmental Reporting System (CERS) constitutes a submittal of a unified program facility permit or permit renewal application for purposes of this subparagraph.

(D) Subparagraphs (A) and (B) do not apply to the United States Department of Defense or the United States Coast Guard only if nonpayment of the permit fee or fine or penalty associated with the permit is due to payment delays due to federal appropriations or federal payment process issues and the required payment will happen once the federal payment delay issue is resolved.

(4) A unified program facility may request a hearing to appeal the withholding of the issuance of, or the suspension or revocation of, a permit or permit element pursuant to this subdivision by requesting a hearing using the procedures provided in subdivision (d).

(l) This section does not do any of the following:

(1) Otherwise affect the authority of a UPA to take any other action authorized by any other law, except the UPA shall not require a person to pay a penalty pursuant to this section and pursuant to a local ordinance for the same violation.

(2) Restrict the power of a city attorney, district attorney, county counsel, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.

(3) Prevent the UPA from cooperating with, or participating in, a proceeding specified in paragraph (2).

(Amended by Stats. 2023, Ch. 207, Sec. 10. (AB 1716) Effective January 1, 2024.)

25404.1.2. (a) (1) An authorized representative of the UPA, who in the course of conducting an inspection, detects a minor violation, shall take an enforcement action as to the minor violation only in accordance with this section.

(2) In any proceeding concerning an enforcement action taken pursuant to this section, there shall be a rebuttable presumption upholding the determination made by the UPA regarding whether the violation is a minor violation.

(b) A notice to comply shall be the only means by which a UPA may cite a minor violation, unless the person cited fails to correct the violation or fails to submit the certification of correction within the time period prescribed in the notice, in which case the UPA may

take any enforcement action, including imposing a penalty, as authorized by this chapter.

(c) (1) A person who receives a notice to comply detailing a minor violation shall have not more than 30 days from the date of the notice to comply in which to correct any violation cited in the notice to comply. Within five working days of correcting the violation, the person cited or an authorized representative shall sign the notice to comply, certifying that any violation has been corrected, and return the notice to the UPA.

(2) A false certification that a violation has been corrected is punishable as a misdemeanor.

(3) The effective date of the certification that any violation has been corrected shall be the date that it is postmarked.

(d) If a notice to comply is issued, a single notice to comply shall be issued for all minor violations noted during the inspection, and the notice to comply shall list all of the minor violations and the manner in which each of the minor violations may be brought into compliance.

(e) If a person who receives a notice to comply pursuant to subdivision (a) disagrees with one or more of the alleged violations listed on the notice to comply, the person shall provide the UPA a written notice of disagreement along with the returned signed notice to comply. If the person disagrees with all of the alleged violations, the written notice of disagreement shall be returned in lieu of the signed certification of correction within 30 days of the date of issuance of the notice to comply. If the issuing agency takes administrative enforcement action on the basis of the disputed violation, that action may be appealed in the same manner as any other alleged violation under Section 25404.1.1.

(f) This section may not be construed as doing any of the following:

(1) Preventing the reinspection of a facility to ensure compliance with this chapter or to ensure that minor violations cited in a notice to comply have been corrected and that the facility is in compliance with those laws and regulations within the jurisdiction of the UPA.

(2) Preventing the UPA from requiring a person to submit necessary documentation needed to support the person's claim of compliance pursuant to subdivision (c).

(3) Restricting the power of a city attorney, district attorney, county counsel, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.

(4) Preventing the UPA from cooperating with, or participating in, a proceeding specified in paragraph (3).

(Amended by Stats. 2005, Ch. 388, Sec. 3. Effective January 1, 2006.)

25404.1.3. (a) A unified program agency may apply to the clerk of the appropriate court for a judgment to collect an administrative penalty for an administrative order or decision that has become final pursuant to subdivision (d) or (f) of Section 25404.1.1 and imposes a penalty pursuant to Section 25401.1.1, if a petition for judicial review of the final order or decision has not been filed within the time limits prescribed in Section 11523 of the Government Code.

(b) The UPA's application to the court clerk shall include a certified copy of the final administrative order or decision that copy of the order or decision constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

(Added by Stats. 2003, Ch. 696, Sec. 4. Effective January 1, 2004.)

25404.2. (a) The unified program agencies in each jurisdiction shall do all of the following:

(1) (A) The certified unified program agency shall develop and implement a procedure for issuing, to a unified program facility, a unified program facility permit that would replace any permit required by Section 25284 and any permit or authorization required under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but that would not replace a permit issued pursuant to a local ordinance that incorporates provisions of the California Fire Code and California Building Code.

(B) The unified program facility permit, and, if applicable, an authorization to operate pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department, are the only grants of authorization required under the unified program elements specified in subdivision (c) of Section 25404.

(C) The unified program agencies shall enforce the elements of a unified program facility permit in the same manner as the permits replaced by the unified program facility permit would be enforced.

(D) If a unified program facility is operating pursuant to the applicable grants of authorization that would otherwise be included in a unified program facility permit for the activities in which the facility is engaged, the unified program agencies shall not require that unified program facility to obtain a unified program facility permit as a condition of operating pursuant to the unified program elements specified in subdivision (c) of Section 25404 and any permit or authorization required under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials.

(E) This subparagraph applies to unified program facilities that have existing, not yet expired, grants of authorization for some, but not all, of the authorization requirements encompassed in the unified program facility permit. When issuing a unified program facility permit to such a unified program facility, the unified program agency shall incorporate, by reference, into the unified program facility permit any of the facility's existing, not yet expired, grants of authorization.

(2) To the maximum extent feasible within statutory constraints, the certified unified program agency, in conjunction with participating agencies, shall consolidate, coordinate, and make consistent any local or regional regulations, ordinances, requirements, or guidance documents related to the implementation of subdivision (c) of Section 25404 or pursuant to any regional or local ordinance or regulation pertaining to hazardous waste or hazardous materials. This paragraph does not affect the authority of a unified program agency with regard to the preemption of the unified program agency's authority under state law.

(3) The certified unified program agency, in conjunction with participating agencies, shall develop and implement a single, unified inspection and enforcement program to ensure coordinated, efficient, and effective enforcement of subdivision (c) of Section 25404, and any local ordinance or regulation pertaining to the handling of hazardous waste or hazardous materials.

(4) The certified unified program agency, in conjunction with participating agencies, shall coordinate, to the maximum extent feasible, the single, unified inspection and enforcement program with the inspection and enforcement program of other federal, state, regional, and local agencies that affect facilities regulated by the unified program. This paragraph does not prohibit the unified program agencies, or any other agency, from conducting inspections, or from undertaking any other enforcement-related activity, without giving prior notice to the regulated entity, except if the prior notice is otherwise required by law.

(b) An employee or authorized representative of a unified program agency or a state agency acting pursuant to this chapter has the authority specified in Section 25185, with respect to the premises of a handler, and in Section 25185.5, with respect to real property that is within 2,000 feet of the premises of a handler, except that this authority shall include inspections concerning hazardous material, in addition to hazardous waste.

(c) Each air quality management district or air pollution control district, each publicly owned treatment works, and each office, board, and department within the California Environmental Protection Agency, shall coordinate, to the maximum extent feasible, those aspects of its inspection and enforcement program that affect facilities regulated by the unified program with the inspection and enforcement programs of each certified unified program agency.

(d) The certified unified program agency, in conjunction with participating agencies, may incorporate, as part of the unified program within its jurisdiction, the implementation and enforcement of laws that the unified program agencies are authorized to implement and enforce, other than those specified in subdivision (c) of Section 25404, if that incorporation will not impair the ability of the unified program agencies to fully implement the requirements of subdivision (a).

(e) (1) The withdrawal of an application for a unified program facility permit after it has been filed with the unified program agency shall not, unless the unified program agency consents in writing to the withdrawal, deprive the unified program agencies of their authority to institute or continue a proceeding against the applicant for the denial of the unified program facility permit upon any ground provided by law, and this withdrawal shall not affect the authority of the unified program agencies to institute or continue a proceeding against the applicant pertaining to any violation of the requirements specified in subdivision (c) of Section 25404 or of any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials.

(2) The suspension, expiration, or forfeiture by operation of law of a unified program facility permit, or its suspension, forfeiture, or cancellation by the unified program agency or by order of a court, or its surrender or attempted or actual transfer without the written consent of the unified program agency shall not affect the authority of the unified program agencies to institute or continue a disciplinary proceeding against the holder of a unified program facility permit upon any ground, or otherwise taking an action against the holder of a unified program facility permit on these grounds.

(Amended by Stats. 2011, Ch. 603, Sec. 12. (AB 408) Effective October 8, 2011.)

25404.3. (a) The secretary shall, within a reasonable time after submission of a complete application for certification pursuant to Section 25404.2, and regulations adopted pursuant to that section, but not to exceed 180 days, review the application, and, after holding a public hearing, determine if the application should be approved. Before disapproving an application for certification, the secretary shall submit to the applicant agency a notification of the secretary's intent to disapprove the application, in which the secretary shall specify the reasons why the applicant agency does not have the capability or the resources to fully implement and enforce the unified program in a manner that is consistent with the regulations implementing the unified program adopted by the secretary pursuant to this chapter. The secretary shall provide the applicant agency with a reasonable time to respond to the

reasons specified in the notification and to correct deficiencies in its application. The applicant agency may request a second public hearing, at which the secretary shall hear the applicant agency's response to the reasons specified in the notification.

(b) In determining whether an applicant agency should be certified, or designated as certified, the secretary, after receiving comments from the director, the Director of Emergency Services, the State Fire Marshal, and the Executive Officers and Chairpersons of the State Water Resources Control Board and the California regional water quality control boards, shall consider at least all of the following factors:

- (1) Adequacy of the technical expertise possessed by each unified program agency that will be implementing each element of the unified program, including, but not limited to, whether the agency responsible for implementing and enforcing the requirements of Chapter 6.5 (commencing with Section 25100) satisfies the requirements of Section 15260 of Title 27 of the California Code of Regulations.
- (2) Adequacy of staff resources.
- (3) Adequacy of budget resources and funding mechanisms.
- (4) Training requirements.
- (5) Past performance in implementing and enforcing requirements related to the handling of hazardous materials and hazardous waste.
- (6) Recordkeeping and cost accounting systems.
- (7) Compliance with the criteria in Section 15170 of Title 27 of the California Code of Regulations.

(c) (1) In making the determination of whether or not to certify a particular applicant agency as a certified unified program agency, the secretary shall consider the applications of every other applicant agency applying to be a certified unified program agency within the same county, in order to determine the impact of each certification decision on the county. If the secretary identifies that there may be adverse impacts on the county if any particular agency in a county is certified, the secretary shall work cooperatively with each affected agency to address the secretary's concerns.

(2) The secretary shall not certify an agency to be a certified unified program agency unless the secretary finds both of the following:

- (A) The unified program will be implemented in a coordinated and consistent manner throughout the entire county in which the applicant agency is located.
- (B) The administration of 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 subdivision (c) of Section 25404.

(d) (1) The secretary shall not certify an applicant agency that proposes to allow participating agencies to implement certain elements of the unified program unless the secretary makes all of the following findings:

- (A) The applicant agency has adequate authority, and has in place adequate systems, protocols, and agreements, to ensure that the actions of the other agencies proposed to implement certain elements of the unified program are fully coordinated and consistent with each other and with those of the applicant agency, and to ensure full compliance with the regulations implementing the unified program adopted by the secretary pursuant to this chapter.
- (B) An agreement between the applicant and other agencies proposed to implement any elements of the unified program contains procedures for removing any agencies proposed and engaged to implement any element of the unified program. The procedures in the agreement shall include, at a minimum, provisions for providing notice, stating causes, taking public comment, making appeals, and resolving disputes.
- (C) The other agencies proposed to implement certain elements of the unified program have the capability and resources to implement those elements, taking into account the factors designated in subdivision (b).
- (D) All other agencies proposed to implement certain elements of the unified program shall maintain an agreement with the applicant agency that ensures that the requirements of Section 25404.2 will be fully implemented.
- (E) If the applicant agency proposes that any agency other than itself will be responsible for implementing aspects of the single fee system imposed pursuant to Section 25404.5, the applicant agency maintains an agreement with that agency that ensures that the fee system is implemented in a fully consistent and coordinated manner, and that ensures that each participating agency receives the amount that it determines to constitute its necessary and reasonable costs of implementing the element or elements of the unified program that it is responsible for implementing.

(2) After the secretary has certified an applicant agency pursuant to this subdivision, that agency shall obtain the approval of the secretary before removing and replacing a participating agency that is implementing an element of the unified program.

(3) Any state agency, including, but not limited to, the State Department of Health Care Services, acting as a participating agency, may contract with a unified program agency to implement or enforce the unified program.

(e) Until a city's or county's application for certification to implement the unified program is acted upon by the secretary, the roles, responsibilities, and authority for implementing the programs identified in subdivision (c) of Section 25404 that existed in that city or county pursuant to statutory authorization as of December 31, 1993, shall remain in effect.

(f) (1) Except as provided in subparagraph (C) of paragraph (2) or in Section 25404.8, if no local agency has been certified by January 1, 1997, to implement the unified program within a city, the secretary shall designate either the county in which the city is located or another agency pursuant to subparagraph (A) of paragraph (2) as the unified program agency.

(2) (A) Except as provided in subparagraph (C), if no local agency has been certified by January 1, 2001, to implement the unified program within the unincorporated or an incorporated area of a county, the secretary shall determine how the unified program shall be implemented in the unincorporated area of the county, and in any city in which there is no agency certified to implement the unified program. In such an instance, the secretary shall work in consultation with the county and cities to determine which state or local agency or combination of state and local agencies should implement the unified program, and shall determine which state or local agency shall be designated as the certified unified program agency.

(B) The secretary shall determine the method by which the unified program shall be implemented throughout the county and may select any combination of the following implementation methods:

(i) The certification of a state or local agency as a certified unified program agency.

(ii) The certification of an agency from another county as the certified unified program agency.

(iii) The certification of a joint powers agency as the certified unified program agency.

(C) Notwithstanding paragraph (1) and subparagraphs (A) and (B), if the Cities of Sunnyvale, Anaheim, and Santa Ana prevail in litigation filed in 1997 against the secretary, and, to the extent the secretary determines that these three cities meet the requirements for certification, the secretary may certify these cities as certified unified program agencies.

(g) (1) If a certified unified program agency wishes to withdraw from its obligations to implement the unified program and is a city or a joint powers agency implementing the unified program within a city, the agency may withdraw after providing 180 days' notice to the secretary and to the county within which the city is located, or to the joint powers agency with which the county has an agreement to implement the unified program.

(2) Whenever a certified unified program agency withdraws from its obligations to implement the unified program, or the secretary withdraws an agency's certification pursuant to Section 25404.4, the successor certified unified program agency shall be determined in accordance with subdivision (f).

(Amended by Stats. 2013, Ch. 352, Sec. 353. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

25404.3.1. A city or other local agency, which, as of December 31, 1999, has been designated as an administering agency pursuant to Section 25502, or has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, and that wishes to administer the unified program or an element of the unified program identified in subdivision (c) of Section 25404, shall request the secretary to include the agency in the implementation structure established by paragraph (2) of subdivision (f) of Section 25404.3. The secretary may grant the request for as long as the agency remains qualified to implement the unified program or an element of the program.

(Added by Stats. 2000, Ch. 730, Sec. 2. Effective January 1, 2001.)

25404.4. (a) (1) The secretary shall periodically review the ability of each certified unified program agency to carry out this chapter. In conducting this review, the secretary shall review both the elements of each CUPA's enforcement program and the efficacy of the program in ensuring compliance with the unified program's requirements. If a certified unified program agency fails to meet its obligations to adequately implement the unified program, the secretary may withdraw the certified unified program agency's certification, or may enter into a program improvement agreement with the certified unified program agency to make the necessary improvements. A certified unified program agency with which the secretary has entered into a program improvement agreement may continue to implement the unified program while the program improvement agreement is in effect and the certified unified program agency is in compliance with the agreement. If the secretary finds that a CUPA has not met the enforcement performance standards adopted pursuant to Section 25404.6 and the secretary enters into a program improvement agreement with the CUPA, the agreement shall make the improvement of enforcement the highest priority.

(2) Before withdrawing a certified unified program agency's certification, the secretary shall submit to the certified unified program agency a notification of the secretary's intent to withdraw certification, in which the secretary shall specify the reasons why the certified unified program agency has failed to meet its obligations to adequately implement the unified program. The secretary shall provide the certified unified program agency with a reasonable time to respond to the reasons specified in the notification and to correct the deficiencies specified in the notification. The certified unified program agency may request a public hearing, at which the secretary shall hear the agency's response to the reasons specified in the notification.

(b) (1) If the secretary finds that a certified unified program agency has failed to adequately enforce the requirements of the unified program with respect to a particular facility, the secretary may direct the appropriate state agency to take any necessary actions and to issue necessary orders to the facility.

(2) If the secretary finds that the failure to adequately enforce the requirements of the unified program may result in an imminent and substantial endangerment to the environment or to the public health and safety, the secretary shall direct the appropriate state agency to take any necessary actions and to issue the necessary orders to the facility.

(3) This chapter does not prevent any appropriate state agency from issuing an order or taking any other action pursuant to state law.

(Amended by Stats. 2000, Ch. 144, Sec. 8. Effective July 19, 2000.)

25404.5. (a) (1) Each certified unified program agency shall institute a single fee system, which shall replace the fees levied pursuant to Sections 25201.14 and 25205.2, except for transportable treatment units permitted under Section 25200.2, and which shall also replace any fees levied by a local agency pursuant to Sections 25143.10, 25287, 25513, and 25535.5, or any other fee levied by a local agency specifically to fund the implementation of the provisions specified in subdivision (c) of Section 25404. The single fee system shall additionally include the fee established pursuant to Section 25270.6. Notwithstanding Sections 25143.10, 25201.14, 25287, 25513, and 25535.5, a person who complies with the certified unified program agency's "single fee system" fee shall not be required to pay any fee levied pursuant to those sections, except for transportable treatment units permitted under Section 25200.2.

(2) (A) The governing body of the local certified unified program agency shall establish the amount to be paid by each person regulated by the unified program under the single fee system at a level sufficient to pay the necessary and reasonable costs incurred by the certified unified program agency and by any participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3.

(B) The secretary shall establish the amount to be paid when the unified program agency is a state agency.

(3) The fee system may also be designed to recover the necessary and reasonable costs incurred by the certified unified program agency, or a participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3, in administering provisions other than those specified in subdivision (c) of Section 25404, if the implementation and enforcement of those provisions has been incorporated as part of the unified program by the certified unified program agency pursuant to subdivision (b) of Section 25404.2, and if the single fee system replaces any fees levied as of January 1, 1994, to fund the implementation of those additional provisions.

(4) The amount to be paid by a person regulated by the unified program may be adjusted to account for the differing costs of administering the unified program with respect to that person's regulated activities.

(b) (1) Except as provided in subdivision (d), the single fee system instituted by each certified unified program agency shall include an assessment on each person regulated by the unified program of a surcharge, the amount of which shall be determined by the secretary annually, to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under this chapter. The secretary may adjust the amount of the surcharge to be collected by different certified unified program agencies to reflect the different costs incurred by the state agencies in supervising the implementation of the unified program in different jurisdictions, and in supervising the implementation of the unified program in those jurisdictions for which the secretary has waived the assessment of the surcharge pursuant to subdivision (d). The certified unified program agency may itemize the amount of the surcharge on any bill, invoice, or return that the agency sends to a person regulated by the unified program. Each certified unified program agency shall transmit all surcharge revenues collected to the secretary on a quarterly basis. The surcharge shall be deposited in the Unified Program Account, which is hereby created in the General Fund and which may be expended, upon appropriation by the Legislature, by state agencies for the purposes of implementing this chapter.

(2) On or before January 10, 2001, the secretary shall report to the Legislature on whether the number of persons subject to regulation by the unified program in any county is insufficient to support the reasonable and necessary cost of operating the unified program using only the revenues from the fee. The secretary's report shall consider whether the surcharge required by

subdivision (a) should include an assessment to be used to supplement the funding of unified program agencies that have a limited number of entities regulated under the unified program.

(c) Each certified unified program agency and the secretary shall, before the institution of the single fee system and the assessment of the surcharge, implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed. The fee accountability programs shall include those elements of the requirements of the plan adopted pursuant to former Section 25206, as it read on January 1, 1995, that the secretary determines are appropriate.

(d) The secretary may waive the requirement for a county to assess a surcharge pursuant to subdivision (b), if both of the following conditions apply:

(1) The county meets all of the following conditions:

(A) The county submits an application to the secretary for certification on or before January 1, 1996, that incorporates all of the requirements of this chapter, and includes the county's request for a waiver of the surcharge, and contains documentation that demonstrates, to the satisfaction of the secretary, both of the following:

(i) That the assessment of the surcharge will impose a significant economic burden on most businesses within the county.

(ii) That the combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(B) The application for certification, including the information required by subparagraph (A), is determined by the secretary to be complete, on or before April 30, 1996. The secretary, for good cause, may grant an extension of that deadline of up to 90 days.

(C) The county is certified by the secretary on or before December 31, 1996.

(D) On or before January 1, 1994, the county completed the consolidation of the administration of the hazardous waste generator program, the hazardous materials release response plans and inventories program, and the underground storage tank program, referenced in paragraphs (1), (3), and (4) of subdivision (c) of Section 25404, into a single program within the county's jurisdiction.

(E) The county demonstrates that it will consolidate the administration of all programs specified in subdivision (c) of Section 25404, and that it will also consolidate the administration of at least one additional program that regulates hazardous waste, hazardous substances, or hazardous materials, as specified in subdivision (d) of Section 25404.2, other than the programs specified in subdivision (c) of Section 25404, into a single program to be administered by a single agency in the county's jurisdiction at the time that the county's certification by the secretary becomes effective.

(2) The secretary makes all of the following findings:

(A) The county meets all of the criteria specified in paragraph (1).

(B) The assessment of the surcharge would impose a significant economic burden on most businesses within the county.

(C) The combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) would exceed the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(D) The waiver of the surcharge for those counties applying for and qualifying for a waiver, and the resulting increase in the surcharge for other counties, would not, when considered cumulatively, impose a significant economic burden on businesses in any other county that does not apply for, or does not meet the criteria for, a waiver of the surcharge.

(e) The secretary shall review all of the requests for a waiver of the surcharge made pursuant to subdivision (d) simultaneously, so as to adequately assess the cumulative impact of granting the requested waivers on businesses in those counties that have not applied, or do not qualify, for a waiver, and shall grant or deny all requests for a waiver of the surcharge within 30 days from the date that the secretary certifies all counties applying, and qualifying, for a waiver. If the secretary finds that the grant of a waiver of the surcharge for all counties applying and qualifying for the waiver will impose a significant economic burden on businesses in one or more other counties, the secretary shall take either of the following actions:

(1) Deny all of the applications for a waiver of the surcharge.

(2) Approve only a portion of the waiver requests for counties meeting the criteria set forth in subdivision (d), to the extent that the approved waivers, when taken as a whole, meet the condition specified in subparagraph (D) of paragraph (2) of subdivision (d). In

determining which of the counties' waiver requests to grant, the secretary shall consider all of the following factors:

(A) The relative degree to which the assessment of the surcharge will impose a significant economic burden on most businesses within each county applying and qualifying for a waiver.

(B) The relative degree to which the combined dollar amount of the surcharge and the single fee system to be assessed, pursuant to subdivision (a), by each county applying and qualifying for a waiver exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(C) The relative extent to which each county applying and qualifying for a waiver has incorporated, or will incorporate, upon certification, additional programs pursuant to subdivision (d) of Section 25404.2, into the unified program within the county's jurisdiction.

(f) The secretary may, at any time, terminate a county's waiver of the surcharge granted pursuant to subdivisions (d) and (e) if the secretary determines that the criteria specified in subdivision (d) for the grant of a waiver are no longer met.

(g) This section shall become operative on July 1, 2022.

(Repealed (in Sec. 80) and added by Stats. 2021, Ch. 73, Sec. 81. (SB 158) Effective July 12, 2021. Operative July 1, 2022, by its own provisions.)

25404.6. (a) The secretary may immediately implement those aspects of the unified program which do not require statutory changes. If the secretary determines that statutory changes are needed to fully implement the program, the secretary shall recommend those changes to the Legislature on or before March 1, 1995, so that the changes, if approved by the Legislature, can be implemented as part of the program by January 1, 1996.

(b) The secretary shall work in close consultation with the Environmental Protection Agency, and shall implement this chapter only to the extent that doing so will not result in this state losing its authorization or delegation to implement the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the Federal Water Pollution Control Act, (33 U.S.C. Sec. 1251 et seq.), the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.), and any other applicable federal laws.

(c) The secretary shall adopt regulations necessary for the orderly administration and implementation of the unified program. The regulations shall include, but are not limited to, performance standards to guide the secretary in evaluating unified program agencies including evaluation of fee accountability and enforcement activities. The secretary shall adopt those regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(Amended by Stats. 2000, Ch. 144, Sec. 10. Effective July 19, 2000.)

25404.8. (a) In a county for which a CUPA has not been certified on or before January 1, 2000, and where the unified program is implemented pursuant to paragraph (2) of subdivision (f) of Section 25404.3, the CUPA is eligible for an allocation pursuant to subdivision (d). The CUPA shall institute a single fee system that meets the requirements of Section 25404.5, except that the amounts to be paid by each person regulated by the unified program under the single fee system shall be set at a level so that the revenues collected under the single fee system and the amount allocated pursuant to subdivision (d) are sufficient to pay the necessary costs incurred by the CUPA in implementing the unified program. The CUPA shall determine the level to be paid by persons regulated under the unified program by conducting a workload analysis that establishes the direct and indirect costs to the CUPA of implementing the unified program.

(b) A CUPA that implements the unified program pursuant to paragraph (2) of subdivision (f) of Section 25404.3 shall use the funding allocated pursuant to subdivision (d) to implement the unified program within the jurisdiction of the CUPA in accordance with the implementation agreement reached with the secretary pursuant to paragraph (2) of subdivision (f) of Section 25404.3.

(c) The Rural CUPA Reimbursement Account is hereby established in the General Fund and the secretary may expend the money in the account to make the allocations specified in subdivision (d).

(d) (1) Except as provided in paragraph (2), the secretary shall allocate the following amounts from the Rural CUPA Reimbursement Account to an eligible county:

(A) If the county has a population of less than 70,000 persons, the amount of the funds allocated from the account shall not exceed 75 percent of the budgeted costs as approved by the local governing body for implementation of the unified program.

(B) If the county has a population of more than 70,000, but less than 100,000 persons, the amount of the funds allocated from the account shall not exceed 50 percent of the budgeted costs as approved by the local governing body for implementation of the unified program.

(C) If the county has a population of more than 100,000, but less than 150,000 persons, the amount of the funds allocated from the account shall not exceed 35 percent of the budgeted costs as approved by the local governing body for implementation of the unified program.

(2) The secretary shall not allocate more than sixty thousand dollars (\$60,000) for all CUPAs in an eligible county.

(e) This section shall become operative July 1, 2001.

(Amended by Stats. 2001, Ch. 663, Sec. 2. Effective January 1, 2002.)

25404.9. (a) The State Certified Unified Program Agency Account (SCUPA Account) is hereby established in the General Fund and shall be administered by the department. In addition to any other money that may be appropriated by the Legislature to the SCUPA Account, all of the following funds shall be deposited in the SCUPA Account:

(1) The fees collected pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 25404.5.

(2) All reimbursements received for costs of enforcement actions taken by the department acting as a CUPA pursuant to this chapter.

(3) Funds received for the counties in which the department acts as a CUPA from the Rural CUPA Reimbursement Account established pursuant to subdivision (c) of Section 25404.8.

(4) Civil and criminal penalties collected pursuant to paragraph (3) of subdivision (a) of Section 25192, as appropriate.

(5) Administrative penalties collected pursuant to subdivision (i) of Section 25404.1.1, as appropriate.

(6) All interest earned upon money deposited in the SCUPA Account.

(b) The funds deposited in the SCUPA Account may be expended by the department, upon appropriation by the Legislature, for the department's costs of implementing the unified program in those counties for which the secretary has designated the department as a CUPA pursuant to paragraph (2) of subdivision (f) of Section 25404.3.

(Added by Stats. 2005, Ch. 81, Sec. 3. Effective July 19, 2005.)