

**TO:** BOARD OF SUPERVISORS  
**FROM:** William Walker, M.D., Health Services Director  
**DATE:** May 22, 2012  
**SUBJECT:** Hearing to Consider Adoption of Revised Fees For The Contra Costa County Certified Unified Program Agency



# Contra Costa County

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

**RECOMMENDATIONS:**

1. RECEIVE staff report regarding proposed revised fees to fund expenses of the Contra Costa County Certified Unified Program Agency ("CUPA").
2. OPEN public hearing regarding the proposed CUPA fees and other related fees, receive testimony, and CLOSE the public hearing.
3. APPROVE Resolution No. 2012/184, adopting the attached Fee Schedule effective immediately upon adoption.

**FISCAL IMPACT:**

There will be no impact to the General Fund. Revenue from the CUPA Fees will fund the Fiscal Year 2011-2012 costs of three CUPA programs and the Community Warning System, and the Fiscal Year 2010-2011 costs of two other CUPA programs.

CONTINUED ON ATTACHMENT:  YES

SIGNATURE: \_\_\_\_\_

\_\_\_\_ RECOMMENDATION OF COUNTY ADMINISTRATOR  
 \_\_\_\_ APPROVE

\_\_\_\_ RECOMMENDATION OF BOARD COMMITTEE  
 \_\_\_\_ OTHER

SIGNATURE(S): \_\_\_\_\_

ACTION OF BOARD ON \_\_\_\_\_ APPROVE AS RECOMMENDED \_\_\_\_\_ OTHER \_\_\_\_\_

VOTE OF SUPERVISORS

\_\_\_\_ UNANIMOUS (ABSENT \_\_\_\_\_)

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_  
 ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

ATTESTED \_\_\_\_\_

\_\_\_\_\_  
 DAVID TWA, CLERK OF THE BOARD OF SUPERVISORS AND COUNTY

ADMINISTRATOR  
 Contact Person:  
 CC:

BY: \_\_\_\_\_  
 DEPUTY

**SUBJECT:** HEARING TO CONSIDER ADOPTION OF REVISED FEES FOR THE CONTRA COSTA COUNTY CERTIFIED UNIFIED PROGRAM AGENCY

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**BACKGROUND:**

The Hazardous Materials Programs ("HMP") Division of the Health Services Department administers the Contra Costa County Certified Unified Program Agency ("CUPA"). The CUPA operates the Hazardous Materials Business Plan (HMBP) Program, Hazardous Waste Generator (HWG) Program, Underground Storage Tank (UST) Program, California Accidental Release Prevention (CalARP) Program and Aboveground Petroleum Storage Act (APSA) Program. As directed by the Board in the early 1990s, all of the activities of the CUPA are funded through fees and penalties. The *Staff Report on the Determination and Apportionment of CUPA Fees*, dated May 22, 2012 ("Report"), attached as Attachment 1, describes the CUPA programs, legal authorities for and standards applicable to the apportionment of the CUPA Fees, the process used to set the fee amounts and the manner of apportionment.

As can be seen in the proposed fee schedule attached as Attachment 2 staff has proposed fees that, due to the methods used, will decrease for many regulated business but increase for others. The only CUPA annual permit fee categories that will increase this year are HMBP Program fees applicable to some payors. Their fees will increase by between 0.5 and 12.5 percent. HMBP Program fee categories for other payors will decrease by up to 18.6 percent.

Annual permit fees charged to fund the other CUPA programs will decrease. Depending on the fee category, HWG Program fees will decrease by 6.7 to 26.9 percent, UST Program fees will decrease by 10.5 to 24.8 percent and APSA Program fees will decrease by 15.4 percent. Annual permit fees charged to fund the CalARP Program are based on the risk presented by each facility, and thus may increase or decrease based on that risk. This year only one CalARP facility fee was increased due to the change of the potential risk calculated for that facility. The annual permit fee revenue needed to fund this program, however, has decreased by 21.9 percent.

The overall expenses for the CUPA and the HMP Division have decreased during the last two years. The HMP Division moved offices in December 2009, and all of the costs of this move have been paid. The costs of the move reduced the amount of CUPA permit fees that are needed from each of the programs for a total of approximately \$300,000. The Salary and Benefits of the staff also decreased by \$10,700, which also decreased the amount of CUPA permit fees that are needed to fund the programs. There were also statewide settlements for two large environmental cases that brought \$300,000 in penalty money to the CUPA, which decreased the permit fees needed to fund the UST and HWG Programs by \$200,000 for the UST Program and \$100,000 for the HWG Program. The overall amount of CUPA permit fees needed to be assessed for Fiscal Year 2011-2012 has decreased by 9.7 per cent from the CUPA permit fees charged in Fiscal Year 2010-2011.

The proposed fees include a variety of miscellaneous service fees, charged by the hour for various services that the CUPA provides to regulated businesses. Among them are a fee of \$101 per hour for use of the Community Warning System, charged to businesses that do not pay for the system as part of their annual permit fee, and a \$60 initial permit processing fee to be charged to businesses that become subject to regulation by the CUPA or change ownership.

Fees are also proposed for services provided by the Hazardous Materials Incident Response Team (IR Team) to persons and entities that are not regulated by the CUPA. These services are provided countywide by Hazardous Materials Specialists pursuant to the Hazardous

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Materials Area Plan. Fees of \$175 per hour per specialist during regular business hours and \$199 per specialist for non-business hours remain unchanged from last year and were calculated based on the salary and benefit rate of a specialist (\$122.51 per hour) and proportional amounts representing other costs of the IR Team (services and supplies, direct administration, indirect administration and county overhead). These fees are authorized pursuant to Health & Safety Code section 101325.

The Internal Operations Committee of the Board of Supervisors is scheduled to review these fees on May 14, 2012. The Board will receive an oral report on the outcome of the meeting and any recommendations from the Internal Operations Committee.

**CONSEQUENCES OF NEGATIVE ACTION:**

The current fee schedule for the CUPA would remain in place. If the current fee schedule remains in place, regulated businesses collectively would be paying more than what is required to operate the CUPA programs. The CUPA overall would realize a surplus of approximately \$800,000, which is roughly 10 percent more than the fee revenue needed to fund the five programs. The fees that we charge business are to cover the reasonable and necessary costs of the CUPA programs and the CUPA has no authority for charging more than what is needed to cover these reasonable and necessary costs.

Attachments:

Resolution No. 2012/184.

1. *Staff Report on the Determination and Apportionment of CUPA Fees*, dated May 22, 2012.
2. Proposed fee schedule, dated May 22, 2012

# **CONTRA COSTA COUNTY CERTIFIED UNIFIED PROGRAM AGENCY**

## **Proposed Fee Schedule Effective May 22, 2012**

The following is the proposed schedule of fees applicable to programs administered by the Contra Costa Certified Unified Program Agency ("CUPA"). Fees to fund the reasonable and necessary costs incurred by the Contra Costa County CUPA are authorized by California Health & Safety Code section 25404.5 and Section 15210 of Title 27 of the California Code of Regulations. Upon approval by the Board of Supervisors, the proposed fees would apply to all CUPA invoices issued on or after the Effective Date.

### **Hazardous Materials Business Plan Program**

#### **Annual Permit Fees**

<b><u>Projected Inventory (Lbs. Of Material)</u></b>	<b><u># Employees</u></b>	<b><u>Current Fee</u></b>	<b><u>Proposed Fee</u></b>
Less than 1,000	N/A	\$226	\$254
1,000 or more but less than 10,000	0 to 19	\$314	\$353
10,000 or more but less than 100,000	0 to 19	\$702	\$758
100,000 or more but less than 250,000	0 to 19	\$1,005	\$1,076
250,000 or more but less than 500,000	0 to 19	\$2,055	\$2,065
1,000 or more but less than 10,000	20 or more	\$899	\$991
10,000 or more but less than 100,000	20 or more	\$1,218	\$1,344
100,000 or more but less than 250,000	20 or more	\$2,481	\$2,734
250,000 or more but less than 500,000	20 or more	\$4,571	\$4,979
500,000 or more but less than 2.5 million	N/A	\$11,547	\$11,171
2.5 million or more but less than 10 million	N/A	\$20,179	\$18,721
10 million or more but less than 100 million	N/A	\$34,922	\$31,688
100 million or more but less than 1 billion	N/A	\$67,834	\$58,029
1 billion or more but less than 5 billion	N/A	\$114,121	\$108,056
5 billion or more	N/A	N/A	N/A
<b><u>Other</u></b>			
All oil refineries and class 1 off-site hazardous waste disposal sites	N/A	\$151,523	\$123,342

#### **Miscellaneous Service Fees**

	<b><u>Current Fee</u></b>	<b><u>Proposed Fee</u></b>
<b>Unstaffed Remote Facilities</b>		
• <b>Exemption Application Review</b> (Per unstaffed remote facility)	\$268	\$257

## Hazardous Waste Generator Program

### Annual Permit Fees

<u>Hazardous Waste Generated</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Less than 5 tons/year	\$520	\$485
5 or more tons, but less than 12 tons/year	\$730	\$658
12 or more tons, but less than 25 tons/year	\$1,120	\$986
25 or more tons, but less than 50 tons/year	\$1,763	\$1,516
50 or more tons, but less than 250 tons/year	\$4,034	\$3,188
250 or more tons, but less than 500 tons/year	\$12,803	\$10,559
500 or more tons, but less than 1,000 tons/year	\$20,773	\$16,517
1,000 or more tons, but less than 2,000 tons/year	\$35,103	\$26,897
2,000 or more tons/year	\$78,575	\$57,409
 <b><u>Onsite Treatment</u></b>		
• Permit By Rule (Fixed Units)	\$3,222	\$3,068
• Conditional Authorization	\$3,222	\$3,068
• Conditional Exemption	\$644	\$614

## Underground Storage Tank Program

<u>Underground Storage Tank Annual Permit</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Single tank of 1,000 gallons or less used solely in connection with the occupancy of a residence	\$596	\$480
First tank of 50,000 gallons or less	\$298*	\$480*
Basic fee for tank of 50,000 gallons or less	\$1,043	\$720
Each tank of 50,000 gallons or more	\$1,788	\$1,788

\* In addition to the basic fee, a surcharge of \$480 is applicable to the tank at each site that has the earliest installation date.

### Underground Storage Tank Miscellaneous Inspections & Other Services

<u>Current Fee</u>	<u>Proposed Fee</u>	
<b>Permit Amendment or Transfer</b>	\$268	\$257
<b>Tank or Piping Modification or Repair Plan Review and Inspection</b>		
• Base Fee	\$938	\$938
• Each additional hour or fraction thereof of staff time beyond 3.5 hours	\$268	\$257

**Tank Lining Upgrade Plan Review and Inspection**

• First tank	\$2,814	\$2,698
• Each additional tank	\$402	\$385
• Each additional hour or fraction thereof of staff time beyond 10.5 hours	\$268	\$257

**Tank Installation Plan Review and Inspection**

• New tank facility, first tank	\$4,958	\$4,753
• New tank facility, each additional tank	\$536	\$514

**Tank and Piping Removal Plan Review and Inspection**

• First tank	\$1,876	\$1,798
• Each additional tank	\$402	\$385

**Field Installed Cathodic Protection Plan Review and Inspection**

\$1,340	\$1,285
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**Tank Lining Inspection**

• First tank	\$1,876	\$1,798
• Each additional tank	\$268	\$257

**Piping, Under Dispenser Container and Sump Upgrade Plan Review and Inspection**

• First tank	\$3,350	\$3,211
• Each additional tank	\$402	\$385

**Under Dispenser Container or Sump Repair (Without Piping) Inspection**

(Single Sump or Single Under Dispenser Container Repair)

\$938	\$899
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**Phase I EVR Upgrade Plan Review and Inspection**

(Upgrade includes installation of Spill Containers)

\$670	\$642
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**Existing Under Dispenser Container Replacement Plan Review and Inspection**

(Includes Soil Sampling)

\$938	\$899
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**Temporary Closure Plan Review and Inspection**

• First tank	\$804	\$771
• Each additional tank	\$134	\$128

**Monitoring System Change Plan Review and Inspection**

\$1,072	\$1,028
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**Cold Start of Monitoring Panel Inspection**

\$804	\$771
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**Penalty**

\$500/tank

\$500/tank

The following penalty shall be applied and collectible from parties responsible for the following action, in addition to any penalties that may be imposed under any other underground tank regulation:

Failure to file and report a change in ownership or operator of an underground tank.

**California Accidental Release Prevention (CalARP) Program**

**Annual Permit**

Fees applicable to stationary sources will be determined according to the following formula:

Fee	=	(TC/TRF) x RF
TC	=	Total cost of the County's CalARP program
TRF	=	"Total Risk Factor," or the sum of the Stationary Source Modified Chemical Exposure Indexes (SSMCEI) of all stationary sources in the County
RF	=	"Risk Factor," or a stationary source SSMCEI

The TRF for the County and RF of a stationary source (SSMCEI) shall be determined pursuant to the Contra Costa County Health Services Department's California Accidental Release Prevention Program Relative Risk Determination Methodology, attached hereto as Exhibit A and incorporated herein by this reference.

**Stationary Source Exemption & Other Fees**

	<b><u>Current Fee</u></b>	<b><u>Proposed Fee</u></b>
<b>Exemption Application Review</b> (Per regulated substance per process)	\$705	\$754
<b>Exemption Application Review</b> (Per warehouse where regulated substances are stored, if source does not handle any regulated substance in a process)	\$705	\$754
<b>Exemption Review Annual Fee</b> (Assessed on all stationary sources that handle regulated substances on site but are exempt from preparing a Risk Management Plan)	\$70	\$75
<b>Reduced Fee for Multiple Stationary Sources</b>		
• First stationary source	Full fee	Full fee
• Each additional substantially identical stationary source	\$10% of full fee	10% of full fee

## Aboveground Petroleum Storage Act Program

### Annual Permit Fees

<u>Tank Facility Description</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Facility with storage capacity of 1,320 or more gallons but less than 10,000 gallons	\$633	\$536
Facility with storage capacity of 10,000 or more gallons but less than 100,000 gallons	\$1,425	\$1,206
Facility with storage capacity of 100,000 or more gallons but less than 1 million gallons	\$5,700	\$4,822
Facility with storage capacity of 1 million or more gallons but less than 10 million gallons	\$7,599	\$6,429
Facility with storage capacity of 10 million or more gallons but less than 100 million gallons	\$11,399	\$9,644
Facility with storage capacity of 100 million or more gallons	\$18,999	\$16,074

### Miscellaneous CUPA Fees

	<u>Current Fee</u>	<u>Proposed Fee</u>
<b>Incident Response Fee</b>		
<ul style="list-style-type: none"><li>Each hour or fraction thereof of time spent by a Hazardous Materials Specialist during regular business hours (Monday through Friday, 8 a.m. to 5 p.m.) in connection with the characterization or remediation of site contamination by the release of a hazardous substance, material or waste by a business regulated by the CUPA, if (1) the owner, operator or other responsible person in charge of the site, or an emergency services agency, requests assistance from the IR Team and (2) the Hazardous Materials Programs Director or his designee determines that an emergency response is necessary to protect the public health and safety and the environment.</li></ul>	\$268/hr.	\$257/hr.
<ul style="list-style-type: none"><li>Each hour or fraction thereof of time spent by a CalARP Program Engineer during regular business hours (Monday through Friday, 8 a.m. to 5 p.m.) in connection with the characterization or remediation of site contamination by release of a hazardous substance, material or waste by a regulated business, including technical assistance to the IR Team and follow-up work associated with incident investigations, if (1) the owner, operator or other responsible person in charge of the site, or an emergency services agency, requests assistance from the IR Team and (2) the Hazardous Materials Programs Director or his designee determines that an emergency response is necessary to protect the public and safety and the environment.</li></ul>	\$141/hr.	\$151/hr.



**Overtime Charges**

• Each hour or fraction thereof of time spent by a Hazardous Materials Specialist performing any service at the request of a regulated business on weekdays between 5 p.m. and 8 a.m., weekends or County holidays. \$284/hr. \$280/hr.

• Each hour or fraction thereof of time spent by a CalARP Engineer performing any service at the request of a regulated business on weekdays between 5 p.m. and 8 a.m., weekends or County holidays. \$171/hr. \$176/hr.

• Each hour or fraction thereof of time spent by a Hazardous Materials Specialist on weekdays between 5 p.m. and 8 a.m., weekends or County holidays in connection with the characterization or remediation of site contamination by release of a hazardous substance, material or waste, if (1) the owner, operator or other responsible person in charge of the site, or an emergency services agency, requests assistance from the IR Team and (2) the Hazardous Materials Programs Director or his designee determines that an emergency response is necessary to protect the public health and safety and the environment. \$284/hr. \$280/hr.

• Each hour or fraction thereof of time spent by a CalARP Program Engineer on weekdays between 5 p.m. and 8 a.m., weekends or County holidays in connection with the characterization or remediation of site contamination by release of a hazardous substance, material or waste, including technical assistance to the IR Team and follow-up work associated with incident investigations, if (1) the owner, operator or other responsible person in charge of the site, or an emergency services agency, requests assistance from the IR Team and (2) the Hazardous Materials Programs Director or his designee determines that an emergency response is necessary to protect the public health and safety and the environment. \$171/hr. \$176/hr.

**Re-Inspection Fee**

Each hour or fraction thereof of time spent by a Hazardous Materials Specialist performing any inspection of a regulated facility regulated by the CUPA beyond the routine or initial inspection and one follow-up inspection. \$268/hr. \$257/hr.

**Audit Verification Fee**

Each hour or fraction thereof of time spent by a CalARP Engineer following up on the compliance by a regulated business regulated with an audit action plan pertaining to the facility, if the business has not complied with more than 50 percent of the items on the action plan by the stated deadline. \$141/hr. \$151/hr.

**Community Warning System Fee**

Each hour or fraction thereof of CWS use in response to a hazardous materials release by a regulated business that was not subject to the CWS component of the HMBP Program Fee on the Effective Date. Such use will be measured from system activation through the all-clear declaration. \$135/hr. \$101/hr.

**Initial Permit Processing Fee**

For the processing of annual CUPA permits for regulated businesses that commence operations or change ownership \$60 \$60

during the permit period.

### **Other Fees**

(Authority: Health & Saf. Code, § 101325)

	<b><u>Current Fee</u></b>	<b><u>Proposed Fee</u></b>
<b>Incident Response</b>		
<ul style="list-style-type: none"><li>Each hour or fraction thereof of time spent by a Hazardous Materials Specialist during regular business hours (Monday through Friday, 8 a.m. to 5 p.m.) in connection with the characterization or remediation of site contamination by release of a hazardous substance, material or waste, if (1) the owner, operator or other responsible person in charge of the contaminated site, or an emergency services agency, requests assistance from the IR Team and (2) the Hazardous Materials Programs Director or his designee determines that an emergency response is necessary to protect the public health and safety and the environment. This fee does not apply to businesses regulated by the CUPA.</li></ul>	\$175/hr.	\$175/hr.
<ul style="list-style-type: none"><li>Each hour or fraction thereof of time spent by a Hazardous Materials Specialist on weekdays between 5 p.m. and 8 a.m., weekends or County holidays in connection with the characterization or remediation of site contamination by release of a hazardous substance, material or waste, if (1) the owner, operator or other responsible person in charge of the site, or an emergency services agency, requests assistance from the IR Team and (2) the Hazardous Materials Programs Director or his designee determines that an emergency response is necessary to protect the public health and safety and the environment. This fee does not apply to businesses regulated by the CUPA.</li></ul>	\$199/hr.	\$199/hr.

5/22/12