

Date of Hearing: April 8, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 993 (Hadwick) – As Amended March 28, 2025

SUBJECT: Hazardous materials management: Rural CUPA Reimbursement Account

SUMMARY: Expands eligibility for the Rural Certified Unified Program Agency (CUPA) Reimbursement Account to include CUPAs in a county with a population less than 150,000 and increases the maximum allocation to the CUPA by the Secretary of the California Environmental Protection Agency (CalEPA) from \$60,000 to \$100,000. Specifically, **this bill**:

- 1) Changes the eligibility for the Rural CUPA Reimbursement Account, to include CUPAs in a county with a population less than 150,000 persons.
- 2) Increases the maximum CalEPA may allocate to a CUPA, as part of the Rural CUPA Reimbursement Program, from \$60,000 to \$100,000.
- 3) Adjusts, beginning January 1, 2027, the maximum allocation to CUPAs of \$100,000 based upon the change in the annual California Consumer Price Index for All Urban Consumers, produced by the Department of Industrial Relations.
- 4) Provides that the change in eligibility and the increase in the maximum allocation to CUPAs, be contingent upon an appropriation by the Legislature.

EXISTING LAW:

- 1) Enacts the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, which was created to help communities plan for chemical emergencies. EPCRA requires industry to report on the storage, use, and releases of hazardous substances to federal, state, and local governments. It also requires state and local governments, and Indian tribes to use this information to prepare their community for potential risks. (42 United States Code § 11001, et seq.)
- 2) Defines "Certified Unified Program Agency" or "CUPA" as the agency certified by CalEPA to implement the unified program within a jurisdiction. (Health and Safety Code (HSC) § 25404(a)(1)(A))
- 3) Defines "Unified Program Agency" or "UPA" as the CUPA to implement or enforce a particular Unified Program element. UPAs have the responsibility and authority to implement and enforce the unified program requirements and implementing regulations. (HSC § 25404(a)(1)(C))
- 4) Requires the Secretary of CalEPA to adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, known as the unified program. (HSC § 25404(b))
- 5) Establishes the Rural CUPA Reimbursement Account and prohibits CalEPA from allocating more than \$60,000 for all CUPAs in an eligible county. (HSC § 25404.8)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, "Rural local agencies that protect the public and first responders from accidental releases or spills of hazardous materials and waste are under resourced, threatening public safety. Assembly Bill 993 increases funding for these rural local agencies and expands eligibility to more counties. This measure will increase local capacity to respond to wildfires and other hazardous material emergencies, ensure first responders are aware of the dangerous chemicals and substances stored in the buildings throughout the communities they protect, and help prevent underground and aboveground storage tank leaks that may contaminate land and drinking water supplies."

Certified Unified Program Agencies (CUPAs): CUPAs are local agencies certified by the Secretary of CalEPA to implement and enforce six "unified hazardous waste and hazardous materials management" regulatory programs (Unified Program). Currently, there are 81 CUPAs in California tasked with implementation and enforcement of the following:

- 1) Hazardous Materials Release Response Plans and Inventories (Business Plans);
- 2) California Accidental Release Prevention (CalARP) Program;
- 3) Underground Storage Tank Program (USTP);
- 4) Aboveground Petroleum Storage Act (APSA);
- 5) Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs; and,
- 6) California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements.

Hazardous Materials Business Plan (Business Plan) program: The Business Plan program was enacted in 1986 with the purpose of preventing or minimizing the damage to public health and safety and the environment that can be caused by a release or threatened release of hazardous materials. The Business Plan satisfies community right-to-know laws, mandated by the 1986 federal EPCRA. Community right-to-know provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. Crucially, the Business Plan enables first responders to make informed decisions in the event of an emergency to protect public health, safety, and the environment.

California Accidental Release Prevention (CalARP) program: The goal of the CalARP program is to prevent accidental releases of substances that can cause serious harm to the public and the environment, to minimize the damage if releases do occur, and to satisfy community right-to-know laws. CalARP requires businesses that produce, handle, process, distribute, or store certain chemicals over a threshold quantity to develop a Risk Management Program, prepare a Risk Management Plan (RMP), and submit the RMP to their CUPA. Regulated substances are those listed either on the federal list (40 Code of Federal Regulations § 68.130) or the state list (22 California Code of Regulations § 2770.5). An RMP is a detailed engineering analysis of the potential accidental factors present at a business and the mitigation measures that can be implemented to reduce this accident potential. The RMP contains safety information; a hazard review; operating procedures; training requirements; maintenance requirements; compliance audits; and, incident investigation procedures. The RMP must also consider proximity to sensitive populations such as children or seniors and external factors such as seismic activity.

Underground Storage Tank Program (UST Program): The statewide UST Program works to protect public health and safety and the environment from releases of petroleum and other hazardous substances from USTs. A UST is defined by law as "any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and is substantially or totally beneath the surface of the ground. CUPAs additionally enforce UST regulations within their jurisdiction.

Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs: Businesses must manage their hazardous waste from the point of generation until proper disposal or recycling. This is called "cradle-to-grave" liability, and is required by law. A part of this responsibility includes identifying what is and is not a hazardous waste, obtaining a hazardous waste identification number, labeling and storing the waste properly, and ensuring the waste is properly disposed or recycled.

Many types of businesses in California are hazardous waste generators. Hazardous waste is a waste with properties that make it potentially dangerous or harmful to human health or the environment. There are many wastes that are hazardous waste. Hazardous waste can be liquids, solids, or contained gases. They can be the by-products of manufacturing processes, discarded used materials, or discarded unused commercial products such as cleaning fluids (solvents) or pesticides.

Certain wastes can be managed under less rigorous management regulations, such as universal waste. These include batteries, fluorescent lamps, electronic waste, mercury thermostats, aerosol cans, solar panels/photovoltaic modules and more. It is important to know that California's universal waste requirements are generally more stringent than those requirements adopted by the United States Environmental Protection Agency (US EPA). CUPAs enforce hazardous waste generator requirements for businesses within their jurisdiction.

The California Environmental Reporting System (CERS): CERS is a statewide online system that supports the electronic exchange of unified program information among businesses, CUPAs, and the US EPA. Unified program information that must be submitted to CERS includes facility data regarding hazardous material regulatory activities (such as the Business Plan); hazardous waste generation; and inspection, compliance, and enforcement actions.

Rural CUPA Reimbursement Program: Beginning on January 1, 2002, the Rural CUPA Reimbursement Program was created for a county for which a CUPA was not certified on or before January 1, 2000, and the Unified Program was implemented afterward. A CUPA may apply for Rural CUPA Reimbursement if it meets the following allocation standards:

- 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 % of the amount budgeted by the CUPA to implement the Unified Program;
- 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 % of the amount budgeted for the CUPA to implement the Unified Program; or,
- 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 % of the amount budgeted for the CUPA to implement the Unified Program.

Each CUPA must institute a single fee system (HSC § 25404.5), to ensure that the revenues collected under the single fee system and the amount allocated are sufficient to cover the necessary costs incurred by the CUPA for implementation of the Unified Program.

Each CUPA must determine the amount of the single fee to be paid by regulated persons/businesses by conducting a workload analysis that establishes direct and indirect costs incurred by the CUPA for implementation of the Unified Program.

No more than \$60,000 may be allocated for all CUPAs in an eligible county. No disbursement can be distributed until an applicant county is fully certified and has adopted a single fee system.

This bill: AB 993 increases the amount a county can receive for reimbursing the CUPAs in that county from \$60,000 to \$150,000 per year. Additionally, the bill increases the eligible counties to include all counties with a population less than 150,000 people. AB 993 makes the changes to eligibility and the increase to maximum allocation to CUPAs subject to an appropriation by the Legislature. CUPA's are the "boots on the ground" for enforcement of the six statewide programs under the Unified Program. Ensuring that rural CUPAs have the resources to continue to implement and enforce the Unified Program in their jurisdiction helps to increase protections to human health and the environment.

Arguments in support: According to the California Association of Environmental Health Directors and the Rural County Representatives of California:

"Assembly Bill 993 expands eligibility for CalEPA's Rural Certified Unified Program Agency (CUPA) Reimbursement program and increases the maximum annual award to account for inflation.

CUPAs are local agencies that oversee consolidated permitting, inspection, and enforcement programs that protect the public and first responders from accidental releases or spills of hazardous materials and wastes. CUPAs oversee hazardous materials business plans, underground storage tanks, aboveground storage tanks, accidental release prevention programs, hazardous waste management, and hazardous waste tiered permitting programs. CUPAs are often the first to assess wildfire debris for the presence of hazardous materials.

CUPAs are generally funded by fees imposed on regulated businesses; however, smaller jurisdictions have fewer regulated entities to support program implementation costs. Recognizing these challenges, and to incentivize additional rural counties to form their own CUPAs, the Legislature created the Rural CUPA Reimbursement Program.

Under that program, small counties with a population under 150,000 residents whose CUPAs were established after January 1, 2000, are eligible for state reimbursement of up to 75% of program implementation costs, up to \$60,000, annually. Thirteen counties are currently eligible for the Rural CUPA Reimbursement program. Twelve additional counties meet the population threshold, but had CUPAs certified before January 1, 2000, and so are ineligible for reimbursement. That annual reimbursement cap has not been increased since the program was created, so it effectively funds a smaller and smaller portion of local implementation costs every year. If annually adjusted for inflation, the \$60,000 cap established in 2001 would be approximately \$108,000 today.

These changes strengthen the ability of all rural counties with populations of 150,000 residents or less to prevent and respond to local hazardous waste and materials emergencies. AB 993 will increase local capacity to respond to wildfires and other hazardous material emergencies, ensure first responders are aware of the dangerous chemicals and substances stored in the buildings throughout the communities they protect, and help prevent underground and aboveground storage tank leaks that may contaminate land and drinking water supplies."

Arguments in opposition:

None on file.

Related legislation:

- 1) AB 1459 (ESTM Committee). Makes various technical changes to the six unified hazardous waste and hazardous materials management regulatory programs that are overseen by the CUPAs. This bill is pending action in the Assembly Appropriations Committee.
- 2) AB 1716 (ESTM Committee, Chapter 207, Statutes of 2023). Makes various technical changes to the six unified hazardous waste and hazardous materials management regulatory programs that are overseen by the CUPAs.
- 3) AB 2059 (Carrillo, Chapter 278, Statutes of 2022). Requires specified suppliers of hazardous materials to maintain, for at least one year, records of sales and provisions of hazardous materials of specified quantities to a business in the state, and provide such records to a CUPA within five days of a request. Narrows the definition of retail establishment for purposes of hazardous material reporting and limits current exemptions of consumer products as specified from inclusion in a business plan for emergency response to a release or threatened release.
- 4) AB 1429 (Chen, Chapter 66, Statutes of 2019). Authorizes a business that handles hazardous materials to submit their Business Plan to CERS once every three years, instead of annually, if that business is not required to submit Tier II chemical inventory information under the federal EPCRA of 1986.
- 5) AB 1500 (Carrillo, 2019). Would have authorized a CUPA or a local health officer to temporarily suspend a facility permit, including the shutdown of a facility, if conditions at the facility pose an imminent or substantial endangerment to public health and safety. Clarifies the authority of a CUPA, subject to its jurisdiction, to fine or penalize a facility that is operating without a permit. This bill was held on the suspense file in the Senate Appropriations Committee.
- 6) AB 1689 (ESTM Committee, Chapter 159, Statutes of 2017). Adds combustible metals and metal alloys to the list of materials a business must include in its hazardous materials business plan.

REGISTERED SUPPORT / OPPOSITION:

Support

Calaveras County Environmental Management Agency
California Association of Environmental Health Administrators
County of Alpine
County Health Executives Association of California
County of Glenn
County of Mendocino
County of Trinity
County of Yuba- Environmental Health Department
Del Norte County Community Development Department
Lake County Fire Protection District
Lake County Health Services Department Environmental Health Division
Lassen County
Mariposa County Board of Supervisors
Mono County
Plumas County
Rural County Representatives of California

Opposition

None on File

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