

# VENTURA COUNTY ORDINANCE CODE

## DIVISION 4 PUBLIC HEALTH

### CHAPTER 5 HAZARDOUS SUBSTANCES

#### ARTICLE 1 UNIFIED PROGRAM GENERALLY

##### 4500 Purpose and authority.

This Article is authorized by Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code. The purpose of this Article is to implement the unified hazardous waste and hazardous materials management regulatory program provided for in said Chapter and to provide for fees to defray the costs to the County of administering and implementing such Chapter in its capacity as a certified unified program agency. The provisions of this Article relating to fees are further authorized by Sections 510, 1155.6 and 101325 of the Health and Safety Code.

##### 4501 Definitions.

Unless the context otherwise provides, the following definitions shall apply to this Article:

- (a) "Act" means Chapter 6.11 (commencing with Section 25404), Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), and Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code, as amended, and all other provisions of state law pertaining to the unified program, including without limitation any and all regulations and standards promulgated by the State of California to implement said provisions, as amended.
- (b) "Contract hourly rate" means the hourly cost of the County to provide on behalf of the CUPA the services of a County employee with a given job classification as established from time to time by the Ventura County Board of Supervisors in accordance with the County's standard accounting procedures. The hourly cost shall be that of an Environmental Health Specialist III ("EHS III") or an Environmental Health Specialist IV ("EHS IV"), as may be specifically provided.
- (c) "County" means the County of Ventura, a political subdivision of the State of California.
- (d) "CUPA" means the Environmental Health Division of the Resource Management Agency of the County in its capacity as the Certified Unified Program Agency, as defined by Section 25404 of the Health and Safety Code.
- (e) "CUPA jurisdiction" means all of the unincorporated and incorporated areas of Ventura County, except for the incorporated area of the City of Oxnard.
- (f) "Hazardous Materials Business Plan/Risk Management Plan" means all of those activities authorized or required by Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code and related state statutes, regulations and standards, as amended, to be implemented as a part of the unified program.
- (g) "Hazardous Materials Management Plan and Hazardous Materials Inventory Statement" means all of those activities authorized or required by Section 25404 (c)(6) of the Health and Safety Code and related state statutes, regulations and standards, as amended, to be implemented as a part of the unified program.
- (h) "Participating agency" means, unless otherwise provided, the City of Santa Paula Fire Department and the City of San Buenaventura Fire Department as participating agencies, as defined in Section 25404 of the Health and Safety Code.
- (i) "Person" means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including but not limited to, a government corporation, city, county, district, commission, the state or any department, agency, or political

subdivision thereof, any interstate body, and the federal government or department or agency thereof to the extent permitted by law.

(j) "Spill Prevention Control and Countermeasure Plan" means all of those activities authorized or required by Chapter 6.67 (commencing with Section 25270 of Division 20 of the Health and Safety Code and related state statutes, regulations and standards, as amended, to be implemented as a part of the unified program.

(k) "Unified program" means the unified hazardous waste and hazardous materials management regulatory program to be implemented by the CUPA and participating agencies in the CUPA jurisdiction, as authorized or required by Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code and related state statutes, regulations and standards, as amended.

(l) "Unified program facility" means any area, room, enclosure, structure, building, lot or contiguous group of lots located in the CUPA jurisdiction where any operation or activity is conducted that is subject to any requirement that a permit or approval be obtained or is subject to any inspection or regulation under the unified program. One facility may include more than one lot provided such lots are contiguous with one another. Operations or activities on sites that are not contiguous, even if controlled by the same person or integrated within the same operation or business, shall be deemed separate facilities.

(m) "Unified program manager" means the Deputy Director of the Environmental Health Division of the Resource Management Agency of the County of Ventura that is assigned to manage the CUPA and his or her duly appointed representatives.

(n) "Underground Storage Tank Program" means all of those activities authorized or required by Chapter 6.7 (commencing with Section 25280) and Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code and related state regulations and standards, as amended, to be implemented as part of the unified program.

#### **4502 General activities related to implementation of the unified program.**

In accordance with each of their respective responsibilities under the Act, the CUPA and the participating agencies are hereby authorized to implement the unified program within the CUPA jurisdiction. The CUPA and participating agencies shall implement the unified program in accordance with agreements made between the County and participating agencies, as may be amended from time to time. In accordance with the Act and in accordance with Articles 1.1 through 1.6, inclusive, of this Chapter, the CUPA shall implement all elements of the unified program in the unincorporated and incorporated areas of the CUPA jurisdiction, except as to those elements to be implemented by participating agencies in accordance with Section 4503. Except as so provided, the CUPA shall implement the Hazardous Materials Business Plan/Risk Management Plan, the Spill Prevention Control and Countermeasure Plan, the Hazardous Materials Management Plan and Hazardous Materials Inventory Statement and the Underground Storage Tank Program. The CUPA and the unified program manager are also authorized to coordinate unified program activities with the City of Oxnard, a separate certified unified program agency within the incorporated area of the City of Oxnard, and with all other state and local agencies and officials.

#### **4503 Activities related to participating agencies under the unified program.**

In accordance with the Act, each participating agency shall implement those elements of the unified program to which each such participating agency has been authorized by the State of California. As participating agencies, the City of San Buenaventura and the City of Santa Paula Fire Departments shall implement the following elements of the unified program in the incorporated areas of their respective cities: the Hazardous Materials Business Plan/Risk Management Plan, the Spill Prevention Control and Countermeasure Plan and the Hazardous Materials Management Plan and Hazardous Materials Inventory Statement. As a participating agency, the City of San Buenaventura Fire Department shall also implement the Underground Storage Tank Program in the City of San Buenaventura. If at any time certification of any participating agency with respect to

any of these elements is terminated, the CUPA shall assume responsibility for such elements unless otherwise directed by the State of California.

#### **4504 Unified program permits and approvals.**

In accordance with the Act, the CUPA and participating agencies shall implement those provisions of the unified program requiring that permits and approvals be issued by the CUPA on a unified basis. All documentation related to permits and approvals that are required to be issued under the Act by the CUPA as a part of the unified program and that are to be processed by a participating agency prior to issuance by the CUPA shall be delivered by such participating agency to the unified program manager. Based upon such documentation and any other documentation pertinent to other authorizations sought under the unified program, the CUPA shall issue permits and approvals in accordance with the Act. No permit or approval required to be issued under the Act as a part of unified program shall be deemed issued or operative until such permit or approval has been issued by the CUPA. No permit or approval shall be issued by the CUPA under the unified program until all applicable fees and surcharges that are due have been paid to the CUPA.

#### **4505 Unified program fees.**

In accordance with the Act, the CUPA and participating agencies shall implement a unified schedule of fees, including without limitation the fees provided for in this Article, fees provided in Articles 1.1 through 1.5, inclusive of this Chapter, those fees established by each participating agency to implement the elements identified in Section 4503 and those applicable fees or surcharges established by the State of California. The CUPA shall collect and disburse such fees in accordance with the Act and agreements made between the County and participating agencies, as may be amended from time to time. The CUPA and each participating agency shall be responsible for properly and timely determining the amount of their respective fees and any revisions thereof. Each participating agency shall notify the CUPA of the amount of such agency's fees and any revisions thereof in accordance with such agreements.

#### **4506 CUPA administrative fee.**

The CUPA shall charge and shall be paid an annual administrative fee in accordance with Section 25404.5 of the Health and Safety Code to defray the costs to the County of administering the unified program on behalf of the CUPA and participating agencies. Such fee is hereby imposed on each unified program facility that is subject to a permit or approval issued or outstanding under the unified program at any time during such year or that is subject to inspection or other form of regulation by the CUPA or participating agencies under the unified program during such year. The amount of such fee for each such facility shall be determined by resolution of the Board of Supervisors. Except as may be otherwise provided by law, the person or persons who hold the pertinent permit or approval or who are the owners and operators of such facility shall be jointly and severally liable to pay such fee. The fee shall be due when the unified program facility is billed or request for payment is otherwise made by the CUPA.

#### **4507 Basic inspection fee.**

The CUPA shall charge and shall be paid an annual basic inspection fee to defray the costs to the County of inspecting unified program facilities on behalf of the CUPA during the year. Such fee is hereby imposed on each unified program facility that is subject to any form of inspection by the CUPA during such year except with respect to any facility that may be exempt in accordance with applicable law and except with respect to a facility that is subject to inspection only with respect to a permit to install, repair or modify an underground tank. The amount of the fee shall be calculated as follows:

Fee = 2.75A

where:

A = the EHS III contract hourly rate in effect as of the date the fee is due and payable.

The amount of the fee for a Special Hazardous Waste Producer as described in Section 4511(f) of Article 1 of this chapter shall be calculated as follows

Fee = 2.75 A/3.

The person or persons who hold the pertinent permit or approval or who are owners or operators of such facility shall be jointly and severally liable to pay such fee. The fee shall be due when unified program facility is billed or request for payment is otherwise made by the CUPA. This basic inspection fee shall be in addition to any other inspection fees provided by law, including such fees provided in Articles 1.1 through 1.5, inclusive of this Chapter and any such fees imposed by participating agencies.

#### **4508 Late payment surcharges.**

In the event any fee required to be paid by this Article, Articles 1.1 through 1.5, inclusive, of this Chapter or any fee collected by the CUPA on behalf of participating agencies, is not paid within 30 calendar days after the due date specified with respect to such fees, a late payment surcharge shall be added thereto in an amount equal to 10 percent of the fee if the fee and the surcharge are both paid within 60 calendar days after the due date and 30 percent of the fee if the fee and the surcharge are not both paid within the 60-day period. The surcharge is imposed to recover the estimated average additional cost incurred by the County on behalf of the CUPA in connection with late payment applications and fees, and not as a penalty.

#### **4509 Other fees and surcharges.**

Each of the fees and surcharges imposed by this Article and each of the fees and surcharges imposed by Articles 1.1 through 1.5, inclusive, of this Chapter shall be in addition to one another and any other fee required by law, including without limitation, any fees imposed by participating agencies, and any state fees and surcharges.

### **ARTICLE 1.1 – UNIFIED PROGRAM – HAZARDOUS WASTE PRODUCERS**

#### **4510 Purpose and authority.**

The purpose of this Article is to establish a system of licensing business activities that produce hazardous waste and to provide for fees to defray the costs of the County, on behalf of the CUPA, to issue such licenses and to enforce minimum standards and regulations respecting such waste adopted by the State of California pursuant to Section 25150 of the Health and Safety Code. The authority for this Article includes Chapter 6.5 (commencing with Section 25100) and Chapter 6.11 (commencing with Section 25404), of Division 20 of the Health and Safety Code, those provisions of the California Code of Regulations implementing or relating to such statutes, and the general police power. The provisions relating to fees are further authorized by Sections 510, 1155.6 and 101325 of the Health and Safety Code. The provisions of this Article shall be applicable throughout the CUPA jurisdiction and shall be administered by the CUPA as part of the unified program, as those terms are defined in Section 4501 of Article 1 of this Chapter.

#### **4511 Definitions.**

Unless the context provides otherwise, the definitions found in Section 4501 of Article 1 of this Chapter shall apply to this Article. In addition, the following definitions shall apply to this Article:

(a) "Business activity" means any activity conducted by any person in furtherance of such person's business (regardless of whether such business is for profit) or employment at any location in the CUPA jurisdiction.

(b) "Hazardous waste" means a hazardous waste as defined in Section 25117 of the Health and Safety Code, as amended.

(c) "License" means the hazardous waste producer's license required to be obtained from the CUPA in accordance with Section 4512.

(d) "Location in the CUPA jurisdiction" means any area, room, enclosure, building, lot, or contiguous group of lots located in the CUPA jurisdiction. One location may include more than one lot provided such lots are contiguous with one another. Operations or activities on sites that are not contiguous, even if controlled by the same person or integrated with the same operation or business, shall be deemed separate locations.

(e) "Waste" means those wastes defined by Section 25124 of the Health and Safety Code, as amended.

(f) "Special Hazardous Waste Producer" means a hazardous waste producer that produces less than 55 gallons or 100 pounds annually of photographic waste containing silver and/or silver compounds or universal wastes.

#### **4512 License required for hazardous waste producer.**

No person shall engage in any business activity that produces hazardous waste at any location in the CUPA jurisdiction unless such activity is either:

(a) One for which a hazardous waste facility permit is required from the State of California in accordance with the Health and Safety Code and related state statutes and regulations; or

(b) One for which a current hazardous waste producer's license has been issued by the CUPA pursuant to this Article.

Any such activity at any location in the CUPA jurisdiction that requires a license in accordance with this Section shall be deemed to be a unified program facility under the unified program. A separate license shall be required for each such location.

#### **4513 Application for and issuance of license.**

An application for the license, required by Section 4512, shall be submitted to the CUPA in the form and manner prescribed by the unified program manager. Except when it pertains to a license that will merely renew an existing license, the application shall include a demonstration, to the satisfaction of the unified program manager, that the activity to which the application pertains will be conducted or operated in accordance with the Act. A separate application shall be required for each location in the CUPA jurisdiction for which a license is required by this Article. The CUPA shall issue the license upon receipt of a complete application and payment of the applicable fee specified in Section 4517.

#### **4514 Term and scope of license.**

Subject to the provisions of Section 4516, the license shall be valid for a period of one year from the date of issuance. The license document shall identify the specific activity licensed, the specific location or locations in the CUPA jurisdiction at which such activity is to be conducted or operated, and the person or persons to whom the license is issued. The license shall be valid only for the identified activities conducted or operated at the identified locations in the CUPA jurisdiction by the identified persons.

#### **4515 Notice of deficiencies.**

The CUPA shall notify the person to whom a license has been issued of any suspected failure to conduct the activity to which the license pertains in accordance with law or with a program that minimizes to the greatest extent economically practicable the volume and toxicity of hazardous waste produced. Such notice shall briefly describe the suspected failure, shall specify a date, time and place of a hearing at which such person will be afforded an opportunity to present evidence showing there has been no such failure, and shall state that failure to appear and present such evidence that may result in suspension or revocation of the license.

**4516 Suspension and revocation.**

(a) Suspension and Revocation by Hearing Officer. A license with respect to which notice has been given pursuant to Section 4515 is subject to suspension or revocation following a hearing conducted in accordance with Article 1.6 (commencing with Section 4550) of this Chapter. Following the hearing, if the hearing officer determines that the suspected failure identified in the notice has occurred, the hearing officer may suspend or revoke the license as the facts may warrant; provided however, that the hearing officer shall have the discretion not to suspend or revoke the license if the hearing officer determines that the failure was not willful, is not ongoing, and is not likely to recur.

(b) Suspension by the Unified Program Manager. The unified program manager may suspend a license prior to a hearing when the unified program manager determines that such action is necessary to protect the public health and safety, the environment or domestic livestock or wildlife from imminent danger. The CUPA shall notify the person to whom the license was issued of such suspension. The suspension shall remain in effect until the hearing officer makes a final determination after the hearing; provided however, that the unified program manager may lift the suspension at any earlier time at which the manager determines that it is no longer necessary.

(c) Other Remedies. This Section shall not deprive the CUPA or the County of the authority to pursue any other action or remedy otherwise available under the law.

**4517 Producer’s license fee.**

Each person to whom a license has been issued shall pay to the CUPA a license fee, computed in accordance with this Section to defray the costs of the County to issue the license and to inspect each pertinent location on behalf of the CUPA. Such fee shall be due and payable in full for each such license and shall be payable by such person each year thereafter upon renewal of the license.

Fee Amount.--Except as provided in this Section, the license fee shall be computed in accordance with the following formula:

Fee = ABC

where:

A = the EHS III contract hourly rate in effect as of the date of the application for or renewal of the license;

B = The estimated average number of person-hours to process the license and inspect the location based upon the estimated quantity of hazardous waste to be produced annually by the facility or location as follows:

Est. Quantity in Tons of Hazardous Waste to Be Produced Annually	Est. Avg. No. of Person-Hours
Under 5	1
5 to 50	3
Over 50	5

C = the number 1 except that the number shall be 0.5 if the facility is required to pay a supplemental inspection fee in accordance with Section 4537 (b) of Article 1.4 of this Chapter.

Notwithstanding the foregoing, said fee shall be equal to the EHS IV contract hourly rate in effect on the date of the application or renewal of the license if the activity for which the license is issued is, as of the date of the issuance or renewal, registered as a small-quantity generator pursuant to Section 4569 of Article 3 of this Chapter. **(Medical Waste)**

The license fee for Special Hazardous Waste Producers shall be computed in accordance with the following formula:

Fee = 1.0 A

Where:

A = the EHS III contract hourly rate as of the due date.

#### **4518 Misdemeanor/infraction.**

Any person who violates any provision of Section 4512 shall be guilty of a misdemeanor/infraction and shall be guilty of a separate offense for each day or portion thereof during which such violation is committed. The provisions of this Section are in addition to and independent of any other sanctions which are or may be imposed under this Article or any other provisions of law.

#### **4519 Fees for Non-Compliance Inspections**

If an inspection required by Chapter 6.5 (commencing with section 25100) of Division 20 of the Health and Safety Code, or by any regulations pursuant thereto, or as a condition of any permit issued pursuant to Ventura County Ordinance Code Section 4512 results in any violation which is uncorrected after an initial follow-up inspection, then the following formula for each subsequent follow-up inspection needed to obtain correction of said violation:

Fee = AE

Where:

A = the EHS III contract hourly rate in effect as of the due date; and

E = the number of person hours expended on behalf of the CUPA by County employees traveling to and from the site and conducting the inspection.

### **ARTICLE 1.2 – UNIFIED PROGRAM – UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES**

#### **4520 Purpose and authority.**

The purpose of this Article is to implement the provisions of Chapter 6.7 (commencing with Section 25280) and Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code and to provide for fees to defray the costs to the County to implement such Chapters on behalf of the CUPA. The authority for this Article includes such Chapters, Chapter 6.11 (commencing with Section 25404) of the Health and Safety Code, those provisions of the California Code of Regulations implementing or relating to such statutes, and the general police power. The provisions of this Article relating to fees are further authorized by Sections 510, 1155.6 and 101325 of the Health and Safety Code. The provisions of this Article shall be applicable in the CUPA jurisdiction with the exception of the incorporated area of the City of San Buenaventura and shall be administered by the CUPA as part of the unified program, as those terms are defined in Section 4501 of Article 1 of this Chapter.

#### **4521 Definitions.**

Unless the context otherwise provides, the definitions found in Section 4501 of Article 1 of this Chapter shall apply to this Article and the definitions found in Section 25281 of Division 20 of the Health and Safety Code shall also apply to this Article. In addition, the following definition shall apply to this Article:

(a) "Corrective action" means corrective action as defined in Section 25299.14 of the Health and Safety Code.

#### **4522 Additional permits required.**

The permits required by this Section are in addition to the permit to operate required by Section 25284 of the Health and Safety Code. Permits issued pursuant to this section shall expire 6 months from the date of issuance. An extension of the permit expiration date up to 6 months may be granted by the CUPA.

(a) Permit to Install. No permit to operate an underground storage tank installed after January 1, 1984, shall be issued pursuant to Section 25284 of the Health and Safety Code unless a permit to install such a tank has been issued prior to installation and such tank has been installed in compliance with a permit to install.

(b) Permit to Repair or Modify. No person shall repair or modify an underground tank system unless a permit to repair or modify that system has been issued prior to the commencement of work and all such work is performed in compliance with the permit to repair or modify.

(c) Permit to Close. No person shall close an underground tank system unless a permit to close has been issued prior to the commencement of work and all such work is performed in compliance with the permit to close and Section 25298 of the Health and Safety Code.

#### **4523 Application for additional permits**

Applications submitted pursuant to this section shall expire 6 months from the date of submittal if a permit is not issued. An extension of the expiration date up to 6 months may be granted by the CUPA.

(a) Permit to Install. An application for a permit to install an underground storage tank system shall be made by a person who will be applying for the permit to operate the tank and shall be accompanied by the applicable fee specified in this Article. This application shall be in such form as the unified program manager may deem necessary to ensure that the tank will meet the requirements of Section 25291 of the Health and Safety Code.

(b) Permit to Repair or Modify. An application for a permit to repair or modify an underground tank system shall be made by a person who holds the permit to operate the underground tank or tanks included in that system and shall be accompanied by the applicable fee specified in this Article. The application shall be in such form as the unified program manager may deem necessary to ensure that the underground tank system will meet the requirements of Section 25291 or Section 25292, whichever applies, of the Health and Safety Code.

(c) Permit to Close. An application for a permit to close an underground tank system shall be made by the person who holds the permit to operate the underground storage tank or tanks included in that system and shall be accompanied by the applicable fee specified in this Article. The application shall be in such form as the unified program manager may deem necessary to ensure that the closure will meet the requirements of Section 25298 of the Health and Safety Code.

#### **4524 Suspension and revocation of permits to operate.**

A permit to operate issued pursuant to Section 25284 of the Health and Safety Code shall be effective for one year from the date of issuance; provided, however, that a permit to operate is subject to suspension or revocation as provided in this Section.

(a) Grounds. Any of the following occurrences constitutes a ground for suspension or revocation of a permit to operate:



- (1) An unauthorized release from or in connection with the operation of the tank for which the permit was issued.
  - (2) Failure of either the owner or the operator of the tank for which the permit was issued to comply with any of the conditions thereof.
  - (3) Failure to pay before the expiration of 30 calendar days following the due date any fee imposed pursuant to this Article respecting the permit or the tank for which it was issued.
  - (4) Abandonment or closure of the tank for which the permit was issued.
  - (5) Obtaining the permit by misrepresentation or intentional failure to fully disclose all relevant facts.
  - (6) A change in any condition that requires modification or termination of the operation of the underground storage tank or the underground tank system.
  - (7) Failure of either the owner or operator to comply with Article 3 (commencing with Section 25299.30) of Chapter 6.75 of Division 20 of the Health and Safety Code at all times commencing with the date three months after the date on which the owner or operator first became subject to said Article 3.
- (b) Notice of Deficiencies. To initiate proceedings to suspend or revoke a permit to operate, the CUPA shall send written notice to the person to whom the permit was issued. The notice shall briefly describe the suspected occurrence which constitutes a ground for suspension or revocation, shall specify a date, time and place of a hearing at which such person shall be afforded an opportunity to present evidence showing that there has been no such occurrence, and shall state that failure to appear and present such evidence may result in suspension or revocation of the permit.
- (c) Suspension or Revocation by Hearing Officer. A permit with respect to which notice has been given pursuant to subdivision (b) is subject to suspension or revocation by the hearing officer following a hearing conducted in accordance with Article 1.6 (commencing with Section 4550) of this Chapter. Following the hearing, if the hearing officer determines that the suspected failure identified in the notice has occurred, the hearing officer shall suspend or revoke the permit as the facts may warrant; provided, however, that the hearing officer shall have the discretion not to suspend or revoke the permit if the hearing officer determines that the failure was not willful, is not ongoing, and is not likely to recur.
- (d) Suspension by Unified Program Manager. The unified program manager may suspend a permit prior to a hearing when the manager determines that such action is necessary to protect the public health and safety, the environment, domestic livestock or wildlife from imminent danger. The CUPA shall notify the person to whom the permit was issued of such suspension. The suspension shall remain in effect until the hearing officer makes a final determination based upon the hearing; provided, however, that the unified program manager may lift the suspension at any earlier time at which the manager determines that it is no longer necessary.
- (e) Other Remedies. This Section shall not deprive the CUPA or the County from pursuing any other remedy otherwise available to them under the law.

#### **4525 Corrective action respecting unauthorized release.**

- (a) Corrective Action Plan Required. Any person who is the owner or operator of an underground storage tank from which there has been an unauthorized release shall, within the time limits specified in Section 4526, submit an application for approval of a corrective action plan that is in the form and contains all of the information required by Section 4526. The application shall be in addition to the report required by subdivision (a)(1) of Section 25295 of the Health and Safety Code unless the application is filed within five working days of the unauthorized release, in which case the application shall also serve as that report. Except as otherwise provided in subdivision (b), no person employed by, under the direction of or under contract with such owner or operator, shall take any corrective action with respect to the unauthorized release unless such action is in conformance with a corrective action plan that has been approved by the unified program manager pursuant to this Article.
- (b) Exceptions. The provisions of subdivision (a) do not apply to any of the following:
- (1) An unauthorized release to which Section 25294 of the Health and Safety Code applies;

- (2) Emergency action taken within 24 hours after the unauthorized release has been detected, or should have been detected, that the person taking the action reasonably believes to be necessary in order to avoid or mitigate an imminent threat of injury to persons, property or the environment;
- (3) An action necessary to comply with lawful orders of state, city, county or fire district by fire, public health, public safety, or emergency rescue personnel;
- (4) An action expressly approved by the unified program manager pending approval of a corrective action plan; and
- (5) An unauthorized release with respect to which the unified program manager has certified in writing that the lead responsibility for the oversight of the remedial action has been assumed by the State Department of Toxic Substances Control or other state agency.

#### **4526 Application for approval of corrective action plan.**

- (a) Time for Submittal. An application for approval of a corrective action plan shall be submitted to the CUPA within 30 calendar days following discovery of the unauthorized release or within such extended period of time as the unified program manager may grant. The unified program manager may, upon a showing of good cause, grant an extension or several extensions of the original 30-day period, provided that no single extension shall be for more than one year.
- (b) Form of Application. An application for approval of a corrective action plan must be on the form specified by the unified program manager and must include the following information:
  - (1) The address and a detailed description of the site of the unauthorized release.
  - (2) The name, address and telephone number of each person who is the owner or operator of the tank involved in the unauthorized release.
  - (3) The name, address and telephone number of each person who are representing the applicant with respect to the application.
  - (4) The name, address and telephone number of each person who will be responsible for performing the corrective action pursuant to the corrective action plan.
  - (5) A detailed description of the material released, including its chemical composition, physical description, and quantity.
  - (6) A detailed description of any corrective action taken to date.
  - (7) A statement of the rationale for selecting the corrective action identified in the proposed corrective action plan.
  - (8) A proposed corrective action plan that identifies the selected corrective action and sets forth the details for its implementation, including the work to be performed and the timetable for its completion.
  - (9) Any other information specified by the unified program manager.
- (c) Approval. The unified program manager shall not approve a corrective action plan unless the application meets the requirements of this Section and the unified program manager determines that implementation of the corrective action plan will adequately protect human health, safety and the environment. However, approval of a corrective action plan shall not constitute a warranty or guarantee by the County, the CUPA or the unified program manager of its effectiveness, shall not give rise to any claim or cause of action against the unified program manager, the CUPA, or the County, and shall not relieve the owner or operator of any liability the owner or operator may otherwise have.

#### **4527 Fees.**

The CUPA shall charge and shall be paid fees required by this Section to defray the costs to the County of administering this Article on behalf of the CUPA. The fees provided in this Section, where applicable, are hereby imposed on each unified program facility at which one or more pertinent tanks are located. The person who was issued or holds the applicable permit and approval, as the case may be, and those persons who own or operate the pertinent facility or tank shall be jointly and severally liable to pay such fees.

(a) Permit to Install Fee. The fee for a permit to install one or more underground storage tanks at a single unified program facility shall be paid in two installments. The first installment shall come due on the date the permit application is submitted to the CUPA for processing. The second installment shall come due on the date an itemized billing therefore is received by the permittee from the CUPA. The installments shall be computed pursuant to the following formula:

$$\text{Installment 1} = 10(A + \$55)$$

$$\text{Installment 2} = (A + \$55)B$$

where:

A = the EHS IV contract hourly rate as of the due date; and

B = the number of person-hours, if any, in excess of ten hours expended by County employees to process the permit and conduct related inspections on behalf of the CUPA.

(b) Permit to Operate Fee. The fee for a permit to operate one or more underground storage tanks at a single unified program facility shall be paid in one installment to the CUPA coming due on the date the permit application is submitted to the CUPA for processing. The fee shall be computed pursuant to the following formula:

$$\text{Fee} = 3AC$$

where:

A = the EHS IV contract hourly rate in effect as of the due date; and

C = the number of tanks covered by the permit.

(c) Permit to Close Fee. The fee for a permit to close one or more underground tank systems at a single unified program facility shall be paid in two installments. The first installment shall be due and payable to the CUPA on the date the permit application is submitted to the CUPA for processing. The second installment shall come due on the date an itemized billing therefore is received by the permittee. The installments shall be computed pursuant to the following formula:

$$\text{Installment 1} = 5(A + \$55)$$

$$\text{Installment 2} = (A + \$55)D$$

where:

A = the EHS IV contract hourly rate as of the due date; and

D = the number of person-hours, if any, in excess of five hours expended by the County employees to process the permit and conduct related inspections on behalf of the CUPA.

(d) Fees for Canceled or Follow-up Inspections. If an inspection required by Chapter 6.7 (commencing with Section 25280) of Division 20 of the Health and Safety Code, or by any regulations adopted pursuant thereto, or as a condition of any permit issued there under or under the provisions of this Article is canceled at the request of the owner, operator or permittee of the facility or tank to be inspected, or if the facility or tank does not pass such an inspection and a follow-up inspection must be performed, the following fee shall be paid to the CUPA in an amount computed pursuant to the following formula:

$$\text{Fee} = AE$$

where:

A = the EHS III contract hourly rate in effect as of the due date; and

E = in the case of a canceled inspection, the number of person-hours expended on behalf of the CUPA by County employees traveling to and from the site and waiting at the site before cancellation is requested, and, in the case of a follow-up inspection, the number of person-hours expended by the inspectors traveling to and from the site and conducting the inspection.

The due date for such fee shall be the date a bill therefore is received from the CUPA.

(e) Unauthorized Release Response Fee. In the event of any unauthorized release from a tank subject to the provisions of Chapter 6.7 (commencing with Section 25280) of Division 20 of the

Health and Safety Code, the following fee shall be paid to the CUPA in an amount computed pursuant to the following formula:

Fee = AF

where:

A = the EHS III contract hourly rate in effect as of the due date; and

F = the number of person-hours expended on behalf of the CUPA by County personnel in traveling to and from the site, surveying the situation, processing applications for approval of corrective action plans, and supervising any required corrective action.

The due date for such fee shall be the date a bill therefore is received from the CUPA. A credit shall be allowed against such fee in an amount equal to the amount the CUPA or County has received or will receive from the state, pursuant to a local oversight program established under Section 25297.1 of the Health and Safety Code, to reimburse them for the cost of providing the services for which the fee is imposed. This subdivision (e) shall not operate to relieve any person from any liability they may otherwise have under any other provision of law or this Code.

(f) Permit to Repair or Modify Fee. The fee for a permit to repair or modify one or more underground tank systems at a single unified program facility shall be paid in two installments to the CUPA. The first installment shall come due on the date the permit is issued or the date on which work for which the permit is required actually commences, whichever date is earlier. The second installment shall come due on the date an itemized billing therefore is received by the permittee. The installments shall be computed pursuant to the following formula:

Installment 1 =  $5(A + \$55)$

Installment 2 =  $(A + \$55)G$

where:

A = the EHS IV contract hourly rate as of the due date; and

G = the number of person-hours, if any, in excess of five hours, expended on behalf of the CUPA by County personnel in processing the permit and conducting related inspections.

### **4528 Violations.**

(a) Performing Repair, Modifications or Closure Without Permit. Any person who violates the provisions of subdivisions (b) or (c) of Section 4522 is guilty of a misdemeanor/infraction and each day or portion thereof during which such violation occurs is a separate offense.

each day or portion thereof during which such violation occurs is a separate offense.

(b) Failure to Apply for Plan. Any person who, in violation of Section 4525, fails to submit an application for approval of a corrective action plan in accordance with the requirements of this Article is guilty of a misdemeanor/infraction and each day or portion thereof during which such violation continues is a separate violation.

(c) Taking Corrective Action Without Approved Plan. Any person who takes corrective action in violating of Section 4525 is guilty of a misdemeanor/infraction and each day or portion thereof during which such violation occurs is a separate offense.

## **ARTICLE 1.3 – UNIFIED PROGRAM – ABOVEGROUND STORAGE OF HAZARDOUS SUBSTANCES**

### **4530 Purpose and authority.**

The purpose of this Article is to implement the provisions of Chapter 6.67 (commencing with Section 25270) of Division 20 of the Health and Safety Code and to provide for fees to pay the County's costs to implement such Chapter on behalf of the CUPA. The authority for this Article includes such Chapter, Chapter 6.11 (commencing with Section 25404) of the Health and Safety Code, those provisions of the California Code of Regulations implementing or relating to such

statutes, and the general police power. The provisions of this Article relating to fees are further authorized by Sections 510, 1155.6 and 101325 of the Health and Safety Code. The provisions of this Article shall be applicable in the CUPA jurisdiction with the exception of the incorporated areas of the participating agencies and shall be administered by the CUPA as part of the unified program, as those terms are defined in Section 4501 of Article 1 of this Chapter.

#### **4531 Definitions.**

Unless the context provides otherwise, the definitions found in Section 4501 of Article 1 of this Chapter shall apply to this Article.

#### **4532 Fees for spill prevention control and countermeasure plan.**

The CUPA shall charge and shall be paid a fee to defray the costs to the County to implement the unified program related to Spill Prevention Control and Countermeasure Plan on behalf of the CUPA. Such fee shall be due and payable once each year for each unified program facility where such a plan is required. The person or persons who are the owners and operators of such facility where such a plan is required shall be jointly and severally liable to pay such fee. The fee provided by this Section shall be due and payable upon demand by the CUPA. The fee shall be computed in accordance with the following formula:

Fee = 0.5A

where:

A = the EHS III contract hourly rate in effect at time the CUPA at the time the CUPA demands payment.

### **ARTICLE 1.4 – UNIFIED PROGRAM – BUSINESS PLAN / RISK MANAGEMENT PLAN**

#### **4535 Purpose and authority.**

The purpose of this Article is to implement the provisions of Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code and to provide for the collection of fees necessary to pay the County's costs incurred implementing such Chapter on behalf of the CUPA. The authority for this Article includes such Chapter, Chapter 6.11 (commencing with Section 25404) of the Health and Safety Code, those provisions of the California Code of Regulations implementing or relating to such statutes, and the general police power. The provisions of this Article relating to fees are further authorized by Sections 25404.5 and 101325 of the Health and Safety Code. The provisions of this Article shall be applicable in the CUPA jurisdiction with the exception of the incorporated areas of the participating agencies and shall be administered by the CUPA as part of the unified program, as those terms are defined in Section 4501 of Article 1 of this Chapter.

Notwithstanding Health and Safety Code Sections 25501.2 and 25503.5, any business that uses or stores any quantity of a chemical that the CUPA/Administering Agency determines to be a "regulated substances accident risk" as this term is defined in Health and Safety Code, Section 25532(h) is required to comply with Health and Safety Code Sections 25504 and 25505.

#### **4536 Definitions.**

Unless the context provides otherwise, the definitions found in Section 4501 of Article 1 of this Chapter and the definitions found in Sections 25501 and 25532 of Division 20 of the Health and Safety Code shall also apply to this Article.

### 4537 Fees respecting business plan.

The CUPA shall charge and shall be paid the fees provided by this Article with respect to any business that is required to have a Hazardous Materials Business Plan/Risk Management Plan for any unified program facility in the CUPA jurisdiction. The person or persons who own or operate such facility shall be jointly and severally liable to pay such fees.

(a) Supplemental Inspection Fee. The supplemental inspection fee is intended to reimburse the County for its cost for the estimated average number of supplemental person-hours required to conduct one annual inspection of a facility on behalf of the CUPA. This estimated number of supplemental person-hours varies with the estimated maximum amount (as specified in the inventory component of the business plan) of each hazardous material or mixture containing hazardous material that will be handled at the facility at any one time over the 12-months to which the inventory pertains, as specified in the following table:

<b>EST. AVG. NO. OF SUPPLEMENTAL PERSON-HOURS</b>	<b>EST. MAX. AMT. OF HAZ. MATERIAL</b>
0	Less than 55 gal., 500 lbs. or 200 cu. ft.
0.5	55-275 gal. 500-2,500 lbs. 200-1,000 cu. ft.
1.0	276-500 gal. 2,501-5,000 lbs. 1,001-2,000 cu. ft.
2.0	501-5,500 gal. 5,001-50,000 lbs. 2,001-20,000 cu. ft.
4.0	More than 5,500 gal. 50,000 lbs. or 20,000 cu. ft.

Notwithstanding the quantities above, the estimated average number of supplemental person hours shall be 0.5 for any amount of radioactive material that requires a business plan in accordance with Section 25503.5(a) of the Health and Safety Code. For example, if the inventory indicated estimated maximums of 40 gallons of the first material, 270 gallons of the second material, 900 pounds of the third material, and 100 cubic feet of the fourth material, the estimated average number of supplemental person-hours would be 1.0 ( $0+0.5+0.5+0=1.0$ ). The supplemental inspection fee shall be due annually in connection with the submittal of the first business plan for the facility and each year thereafter in connection with the submittal of the annual updates of the inventory component of the business plan pursuant to subdivision (g) of Section 2729 of Title 19 of the California Code of Regulations. The amount of the supplemental inspection fee shall be calculated in accordance with the following formula:

Fee = AB

where:

A = the EHS III contract hourly rate in effect at the time of the inspection; and

B = the estimated average number of supplemental person-hours.

Notwithstanding the foregoing, in no event shall the Supplemental Inspection Fee exceed \$10,000.00. The supplemental inspection fee shall not apply to the Ventura County Fire Protection District for the storage of vehicle fuel in above ground tanks at its fire stations. This exception shall not apply to the storage of vehicle fuel at Ventura County Fire Protection District fire stations when stored in underground storage tanks as provided in Section 4527 of this Ordinance.

(b) The supplemental inspection fee for any business that is entitled to the exemption specified in Health and Safety Code Section 25503.5 (c) (5) shall be calculated in accordance with the following formula:

Fee = .85A

where:

A = the EHS III contract hourly rate in effect at the time of the inspection.

The Basic Inspection fee as described in Section 4507 and the CUPA Administrative fee as described in Section 4506 of the Ventura County Ordinance Code shall not apply to any business that is entitled to the exemption specified in Health and Safety Code 25503.5 (c) (5).

### **4538 Fees respecting RMP compliance.**

(a) RMP Review Fees. Any person who is the owner or operator of any stationary source that is required by the provisions of Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code to submit to the CUPA a RMP or a revision of a previously approved RMP shall be jointly and severally liable to pay an RMP review fee to the CUPA for each RMP or revision required to be submitted after the operative date of this Article. The amount of the RMP review fee shall be calculated in accordance with the following formula:

Fee = CD

where:

C = the EHS IV contract hourly rate at the time of review of the review; and

D = the number of person-hours actually expended by the County on behalf of the CUPA in connection with the review of the proposed RMP or revision after the CUPA has determined pursuant to Section 25534 of the Health and Safety Code that the RMP or revision is required. Within 30 calendar days after the owner or operator has been notified that the CUPA has determined that the RMP or revision is required, the owner or operator shall submit to the CUPA an amount equal to 10 times the EHS IV contract hourly rate as an advance deposit on account of the RMP review fee. At the end of each calendar quarter during which it is conducting its review of the RMP or revision, the CUPA shall send the owner or operator an itemized quarterly billing, and upon completion of its review (or upon determining that the proposed RMP or revision is no longer required on account of changes in the proposed operation of the facility), the CUPA shall send the owner or operator an itemized final billing, showing the total number of person-hours expended to date in connection with the review. If the amount of any quarterly or final billing is more than the amount of the advance deposit plus any additional amounts received by the CUPA on account of the RMP review fee, the owner or operator shall pay the balance within 30 calendar days after receipt of the billing. If the amount of the final billing is less than the amount of the advance deposit, the CUPA shall refund the balance.

(b) Inspection and Audit Fees. Any person who is the owner or operator of any stationary source that is inspected by the CUPA pursuant to Section 25537 of the Health and Safety Code, and any person who is the owner or operator of any stationary source that has its RMP audited by the CUPA pursuant to Section 68.220 of Title 40 of the Code of Federal Regulations, shall be jointly and severally liable to pay a fee for each such inspection or audit. The amount of the fee shall be calculated in accordance with the following formula:

Fee = CE

where:

C = the EHS IV contract hourly rate in effect at the time of the inspection or audit; and

E = the number of person-hours actually expended by the County on behalf of the CUPA in connection with the inspection or audit.

After the CUPA has completed the inspection or audit, it shall send the owner or operator an itemized billing showing the total number of person-hours expended in connection with the

inspection or audit. The owner or operator shall pay the fee within 30 calendar days after receipt of the billing.

#### **4539 Administrative civil penalties and procedures.**

The CUPA may seek and collect administrative penalties in accordance with, and if allowed by, Sections 25514.5 and 25514.6 of the Health and Safety Code. Article 1.6 (commencing with Section 4550) of this Chapter shall constitute a written policy to adopt and carry out the provisions of Sections 25514.5 and 25514.6 of the Health and Safety Code.

### **ARTICLE 1.5 – UNIFIED PROGRAM – INSPECTION OF STATE AUTHORIZED FACILITIES**

#### **4545 Purpose and authority.**

The purpose of this Article is to implement the provisions of Section 25201.4 of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and to provide for fees to pay the costs of the County to implement such provisions on behalf of the CUPA. The authority for this Article includes such Chapter, Chapter 6.11 (commencing with Section 25404) of the Health and Safety Code, those provisions of the California Code of Regulations implementing or relating to such statutes, and the general police power. The provisions of this Article relating to fees are further authorized by Sections 510, 1155.6 and 101325 of the Health and Safety Code. The provisions of this Article shall be applicable in the CUPA jurisdiction and shall be administered by the CUPA as part of the unified program, as those terms are defined in Section 4501 of Article 1 of this Chapter.

#### **4546 Definitions.**

Unless the context provides otherwise, the definitions found in Section 4501 of Article 1 of this Chapter shall apply to this Article. In addition, the following definition shall apply to this Article: (a) "Fixed Treatment Unit" means a fixed treatment unit as that term is defined in Section 66260.10 of Division 4.5 of Title 22 of the California Code of Regulations.

#### **4547 Fees with respect to state permitted and authorized hazardous waste treatment facilities.**

The CUPA shall charge and be paid an annual fee to defray the costs to the County of implementing the provisions of Section 25201.4 of the Health and Safety Code and related provisions of the Act on behalf of the CUPA, including without limitation the inspection of hazardous waste treatment facilities that have been permitted or authorized by the State of California pursuant to a permit-by-rule, conditional authorization or conditional exemption. The fee is hereby imposed for each such facility that is subject to such inspection. The person or persons who were issued or hold such permit or authorization or who are the owners or operators of the facility shall be jointly and severally liable to pay such fee. Such fee shall be due and payable upon demand by the CUPA.

The fee for each facility under a permit-by-rule or conditional authorization shall be:

$$\text{Fee} = 7A + 6AB$$

The fee for each facility under a conditional exemption shall be:

$$\text{Fee} = 0.5A + 0.5AB$$

where with respect to both fees:

A = The EHS III contract hourly rate in effect as of the date the inspection occurs; and



B = The total number of fixed treatment units subject to the permit-by-rule, conditional authorization or conditional exemption, as the case may be, less one.

## **ARTICLE 1.6 – PARTICIPATING AGENCY FEES**

### **4550 Purpose and authority**

This Article is authorized by the California Health and Safety Code, Chapter 6.11, Section 25404.5 that requires the CUPA to collect fees for participating agencies for CUPA programs.

### **4550-1 Definitions**

Unless the context provides otherwise, the definitions found in Section 4501 of Article 1 of this Chapter shall apply to this Article.

### **4551 – Participating Agency Fees**

Notwithstanding articles 1.1 to 1.5 the fees for persons operating Unified Program facilities within the jurisdictions of the Participating Agencies as defined in Section 4501(h) of this Chapter shall be in accordance with the following formula:

$$\text{Fee} = D + P$$

Where:

D = applicable CUPA fees established in this Ordinance; and

P = fees for CUPA programs established by the governing bodies of the Participating Agency.

## **ARTICLE 1.7 – UNIFIED PROGRAM – HEARING PROCEDURE**

### **4552 Purpose and authority.**

The purpose of this Article is to provide a hearing procedure to implement the provisions of Sections 4516, 4524 and 4539. The authority for this Article is Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code and general police power.

### **4553 Definitions.**

Unless the context provides otherwise, the definitions found in Section 4501 of Article 1 of this Chapter shall apply to this Article.

### **4554 Hearing procedure.**

The following shall be the hearing procedure:

(a) Hearing Officer--The unified program manager or his or her designee shall be the hearing officer for all hearings conducted pursuant to unified program, including without limitation all administrative hearings for penalties held pursuant to Sections 25514.5 and 25514.6 of the Health and Safety Code.

(b) Notice of Hearing Date and Place--The date, time and place for the hearing shall be provided in the notice of deficiencies required by Sections 4516 and 4524, or with respect to a hearing conducted as to penalties, in the complaint issued pursuant to Section 25514.6 of the Health and

Safety Code. With respect to a hearing conducted for penalties, the hearing date shall be noticed for a date within 60 days after service of the complaint.

(c) Hearing--The hearing shall be public and shall be held before the hearing officer at the date, time and place specified in the notice of deficiencies or complaint, as the case may be, or at such other date, time and place as may be mutually agreed to by the hearing officer and affected persons.

(d) Subpoena Power--Before the hearing has commenced, the hearing officer shall, at the request of the CUPA or any person affected by the outcome, including any person on whom any civil liability may be imposed, issue subpoenas and subpoenas duces tecum for attendance of witnesses or production of documents at the hearing. Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. After the hearing has commenced, the hearing officer may issue subpoenas or subpoenas duces tecum as he or she deems appropriate. Any person duly subpoenaed to appear and testify or to produce any documents before the hearing officer who wrongfully neglects or refuses to appear and testify or to produce such documents is guilty of a misdemeanor.

(e) Evidence--Oral evidence need not be taken under oath or affirmation unless an affected person requests that testimony be taken under oath, in which case the hearing officer shall have the power to administer oaths or affirmations. Testimony may be given in an informal narrative style. The CUPA and any affected person may be represented by counsel. The CUPA and any affected person shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses on any matter relevant to the issue even though such matter was not covered on direct examination, and to impeach any witness regardless of who first called the witness to testify. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence upon objection in a civil action. Hearsay evidence shall be admissible for any purpose but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action.

(f) Record--The hearing officer shall record the hearing on a recording device and shall make such recording available to any member of the public upon request. The hearing officer shall provide a copy of the recording or a transcript prepared therefrom to any person who requests a transcript and pays the cost of making such copy or preparing such transcript.

(g) Decision--After the hearing, the hearing officer shall prepare and issue a decision, which shall be prepared in accordance with Sections 25514.5 and 25514.6 of the Health and Safety Code where such Sections are applicable. The decision of the hearing officer shall be final except that a hearing conducted in accordance with Sections 25514.5 and 25514.6 of the Health and Safety Code shall be appealable in accordance with Section 25514.6. The maximum amount of the civil penalty, if any, imposed by the decision shall be the maximum amount allowed under Section 25514.5 of the Health and Safety Code or the amount specified in the complaint, whichever is less. Subject to those maximums, the amount of the civil penalty, if any, shall be as determined by the hearing officer in accordance with the provisions of Sections 25514.5 and 25514.6 of the Health and Safety Code.

## **ARTICLE 2 – LIABILITY FOR VIOLATION OF HAZARDOUS WASTE AND SUBSTANCE CONTROL LAWS**

### **4555 Purpose and authority.**

The purpose of this Article is to establish liability for reimbursement of the County's expenses incurred in connection with corrective action necessitated by violations of the hazardous waste and substance control laws. The authority for this Article includes the general police power, Sections 510 and 1155.6 of the Health and Safety Code, and the provisions of Chapter 6.5 (commencing with 25100) and Chapter 6.7 (commencing with Section 25280) of Division 20 of the Health and Safety Code.

#### **4556 Definitions.**

For the purposes of this Article, unless the context otherwise requires:

- (a) "County" means, in addition to the County of Ventura, any special district governed by the Ventura County Board of Supervisors.
- (b) "Corrective Action" includes, without limitation, any "remedial action" within the meaning of Section 25322 of the Health and Safety Code and any "removal" within the meaning of Section 25323 of the Health and Safety Code.
- (c) "Disposal" has the meaning assigned to that term by Section 25113 of the Health and Safety Code.
- (d) "Hazardous Waste or Substance" means a waste or substance that:
  - (1) consists of a material listed in either the list of chemicals or the list of common names appearing in Appendix X of Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations;
  - (2) exhibits any of the characteristics identified in Article 3 (commencing with Section 66261.20) of Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations;
  - (3) is listed in Article 4 (commencing with Section 66261.30) of Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations; or
  - (4) is defined as a "hazardous substance" of "hazardous material" or "hazardous waste" by Sections 25281, 25316, 25400 or 25501 of the Health and Safety Code.
- (e) "Hazardous Waste and Substance Control Laws" means Chapter 6.5 (commencing with Section 25100), or Chapter 6.7 (commencing with Section 25280) of Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or any permit, rule, regulation, standard or requirement issued or promulgated pursuant to such chapters.
- (f) "Manager" means the Manager of the Environmental Health Division of the Ventura County Resource Management Agency and his or her duly appointed representatives.
- (g) "Release" has the meaning assigned to that term by Section 25320 and Section 25321 of the Health and Safety Code.
- (h) "Unauthorized Disposal or Release" means any disposal of a hazardous waste or substance which is in violation of the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, any "unauthorized release" within the meaning of Section 25281 of the Health and Safety Code, or any release of a hazardous waste or substance which is not "a release authorized or permitted pursuant to state law" within the meaning of Section 25326 of the Health and Safety Code.

#### **4557 Liability for unauthorized disposal or release.**

If the County takes any corrective action which, in the judgment of either the Manager or the Chief Administrative Officer of a special district governed by the Ventura County Board of Supervisors, is reasonably necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife or the environment arising out of any unauthorized disposal or release of any hazardous waste or substance, the following described persons shall be jointly and severally liable to the County for the cost incurred by it in taking any such corrective action:

- (a) The person or persons whose negligent or willful act or omission proximately caused such disposal or release;
- (b) The person or persons who owned or had custody or control of the hazardous waste or substance at the time of such disposal or release, without regard to fault or proximate cause; and
- (c) The person or persons who owned or had custody or control of the container which held such hazardous waste or substance at the time of or immediately prior to such disposal or release, without regard to fault or proximate cause.

#### **4558 Liability for failure to comply with orders.**

If the Manager issues a lawful order directing any person who has violated or is in violation of any provisions of the hazardous waste or substance control laws to take corrective action respecting such violation, and if such person does not take such corrective action on or before the date specified in the order, the County may take or contract for the taking of such corrective action. If such corrective action is taken by or contracted for by the County, the person to whom the order was directed shall be liable to the County for the cost incurred by it in taking or contracting for such corrective action. If such corrective action is taken by the person to whom the order is directed or by such person's agent, the person to whom the order is directed shall be liable to the County for the County's cost of supervising such corrective action or otherwise verifying compliance with the order.

#### **4559 Computation and recovery of costs.**

The costs referred to in Section 4557 and Section 4558 shall include, in addition to the County's direct out-of-pocket expenses, the cost of all County personnel engaged in such work computed in accordance with the County's standard accounting procedures for computing the hourly cost of services by such personnel. The amount of such costs for which liability is imposed pursuant to this Article shall be recoverable in a civil action by the County and shall be in addition to any other fees or penalties authorized by law, provided that any sums actually received by the County in connection with such work pursuant to subdivision (e) of Section 4527 of this Code, or Chapter 6.7 (commencing with Section 25280), 6.75 (commencing with Section 25299.10), 6.8 (commencing with Section 25300), or 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code, or any other provision of law, shall be credited against any amount recoverable in such civil action to the extent necessary to avoid double recovery by the County.

### **ARTICLE 3 - MEDICAL WASTE MANAGEMENT**

#### **4565 Purpose and authority.**

The purpose of this Article is to implement a medical waste management program for both the incorporated and unincorporated portions of Ventura County. The authority for this Article includes the general police power, Sections 452, 476, 510, 1102 and 1155.6 of the Health and Safety Code, and the Medical Waste Management Act (MWMA) codified as Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code.

#### **4566 Definitions.**

For the purposes of this Article, unless the context otherwise requires:

- (a) "Common Storage Facility" shall have the meaning assigned to that term by Section 117640 of the Health and Safety Code.
- (b) "Director" means the Director of the Environmental Health Division of the Ventura County Resource Management Agency, or his or her designee.
- (c) "Enforcement Agency" means the Environmental Health Division of the Ventura County Resource Management Agency.
- (d) "Large Quantity Generator" shall have the meaning assigned to that term by Section 117680 of the Health and Safety Code.
- (e) "MWMA" means the Medical Waste Management Act codified as Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code.
- (f) "Onsite" shall have the meaning assigned to that term by Section 117740 of the Health and Safety Code.
- (g) "Person" shall have the meaning assigned to that term by Section 117745 of the Health and Safety Code.
- (h) "Small Quantity Generator" shall have the meaning assigned to that term by Section 117760 of the Health and Safety Code.

#### **4567 Election to implement program.**

The Ventura County Board of Supervisors hereby elects, pursuant to Health and Safety Code Section 117810, to implement a medical waste management program.

#### **4568 Scope of program.**

The medical waste management program shall include the following:

- (a) all those things specified in Section 117820 of the Health and Safety Code and any other things that MWMA or regulations adopted pursuant thereto may from time to time require to be included in a medical waste management program implemented by a local agency pursuant to MWMA; and
- (b) all those additional things specified in this Article.

#### **4569 Additional registration requirements.**

Each small quantity generator that is not required to register pursuant to Section 117925 of the Health and Safety Code shall register with the enforcement agency in the same manner as small quantity generators that are required to register pursuant to that Section, provided that:

- (a) several such generators operating as a single business in the same building, or associated as a group practice in the same building, may register as one generator;
- (b) several such generators operating as a single business in different buildings, or associated as a group practice in different buildings, located on the same lot or lots whose boundaries are within 400 yards of each other may register as one generator; and
- (c) generators registered pursuant to this Section 4569 may be recorded in a register separate from that maintained for generators registered pursuant to Section 117925 of the Health and Safety Code.

#### **4569 Additional registration requirements.**

Each small quantity generator that is not required to register pursuant to Section 117925 of the Health and Safety Code shall register with the enforcement agency in the same manner as small quantity generators that are required to register pursuant to that Section, provided that:

- (a) several such generators operating as a single business in the same building, or associated as a group practice in the same building, may register as one generator;
- (b) several such generators operating as a single business in different buildings, or associated as a group practice in different buildings, located on the same lot or lots whose boundaries are within 400 yards of each other may register as one generator; and
- (c) generators registered pursuant to this Section 4569 may be recorded in a register separate from that maintained for generators registered pursuant to Section 117925 of the Health and Safety Code.

#### **4571 Medical waste information document.**

Each small quantity generator required to register pursuant to Section 4569 shall file with the enforcement agency a medical waste information document, on a form prescribed by the enforcement agency, containing the following information:

- (a) The name, address and telephone number of the generator;
- (b) The name and telephone number of a contact person;
- (c) The types, and the estimated average monthly quantity, of medical waste generated; and
- (d) How the generator contains, stores, treats, and disposes of any medical waste generated through any act or process of the generator.

#### **4572 Expiration and renewal of registration.**

Each registration pursuant to Section 4569 shall expire on the earlier of the following two dates:

- (a) the second anniversary of the registration; or
- (b) the 30th calendar day after a change in any of the information required to be included in the medical waste information document filed pursuant to Section 4571.

An application for renewal of such registration shall be filed with the enforcement agency on or before the expiration date of the registration.

#### **4573 Maintenance of required records.**

Each small quantity generator required to register pursuant to Section 4569 of this Article and to maintain records pursuant to subdivision (b) of Section 117945 of the Health and Safety Code shall maintain all such records not less than two years.

#### **4574 Enforcement.**

The provisions of Chapter 10 (commencing with Section 118335) of Part 14 of Division 104 of the Health and Safety Code are hereby incorporated by reference as though set forth in full herein, except that for the purposes of this incorporation each reference in those provisions to "this part" (meaning MWMA, codified as Part 14 of Division 104 of the Health and Safety Code) shall instead read "Sections 4569 through 4573 of the Ventura County Ordinance Code." The purpose of this Section 4574 is to prescribe the same enforcement powers, remedies and penalties with respect to small quantity generators required to register pursuant to Section 4569 as are prescribed by the incorporated provisions of MWMA with respect to small quantity generators required to register pursuant to Section 117925 of the Health and Safety Code.

#### **4575 Eligibility for permits and exemptions.**

In order to be eligible for the following described permits or exemptions, the applicant must satisfy the following eligibility requirements:

- (a) Common Storage Facility Permit. An applicant for a Common Storage Facility Permit must satisfy the eligibility requirements set forth in Section 117928 of the Health and Safety Code.
- (b) Limited-Quantity Hauling Exemption. The applicant for a limited-quantity hauling exemption must be a registered medical waste generator meeting the eligibility requirements set forth in Section 118030 of the Health and Safety Code.
- (c) Onsite Medical Waste Treatment Facility Permit. An applicant for an onsite medical waste treatment facility must be either a health care facility described in Section 118140 or Section 118145 of the Health and Safety Code or a registered medical waste generator located on the same site as the treatment facility.

#### **4576 Grounds for denial of permits and exemptions.**

An application for a common storage facility permit required by Section 117928 of the Health and Safety Code, a limited-quantity hauling exemption authorized by Section 118030 of the Health and Safety Code, or an onsite medical waste treatment facility required by Section 118130 of the Health and Safety Code may be denied on any one or more of the following grounds:

- (a) Failure of the applicant to meet all applicable eligibility requirements set forth in Section 4575.
- (b) Failure of the applicant to demonstrate to the satisfaction of the enforcement agency that the proposed facility or hauling operation has the ability to, or is likely to be conducted in such a manner as to, comply with MWMA and all regulations adopted pursuant thereto.
- (c) Any violation by the applicant within the three years preceding the application date of MWMA or any regulation adopted pursuant thereto where the violation demonstrates a recurring pattern of noncompliance or poses or has posed a significant risk to public health and safety or to the environment.

### **4577 Notice of denial of permit or exemption.**

Upon denial of an application for a permit or exemption described in Sections 4575 and 4576, the enforcement agency shall serve a written notice of denial upon the applicant. The notice shall specify the ground or grounds for the denial and shall state that the applicant may appeal the denial by filing a petition with the enforcement agency within 20 calendar days of the date of the notice of denial.

### **4578 Hearing procedures.**

Unless regulations adopted pursuant to MWMA require different procedures, the procedures set forth in the following subsections of this Section 4578 shall govern the hearings mentioned therein.

#### **4578-1 Initiation of hearing re denial of permit or exemption.**

Any person whose application for a common storage facility permit, a limited-quantity hauling exemption, or an onsite medical waste treatment facility permit (required or authorized by Sections 117928, 118030 and 118130 respectively, of the Health and Safety Code) has been denied may appeal that denial by filing a written petition requesting a hearing. The petition shall identify the applicant, identify the particular application at issue, and state the reasons why the applicant contends that the grounds for denial set forth in the notice of denial do not in fact exist. The petition shall be filed with the enforcement agency within 20 calendar days after the date of the notice of denial. Upon receipt of a timely petition, the enforcement agency shall serve a notice of hearing upon the petitioner. The notice of hearing shall do the following:

- (a) State that the hearing will be held to determine whether the grounds for denial set forth in the notice of denial in fact exist.
- (b) State the time, which will be not less than 15 calendar days after service of the notice, and the place of the hearing.
- (c) Include a copy of Section 4578 and the subsections thereof.

#### **4578-2 Initiation of hearing re suspension, amendment or revocation of permit.**

The enforcement agency may initiate, pursuant to Section 118350 of the Health and Safety Code, proceedings to suspend, amend or revoke any onsite medical waste treatment facility permit issued by the enforcement agency by serving the permittee with a notice of hearing. The notice of hearing shall do the following:

- (a) Specify the provisions of Section 118350 of the Health and Safety Code pursuant to which the enforcement agency is proceeding.
- (b) Describe the alleged acts, omissions or conditions that justify proceeding under the provisions specified in subdivision (a).
- (c) State that the hearing will be held to determine whether one or more of the alleged acts, omissions or conditions have in fact occurred and, if so, that the permit may be suspended, amended or revoked.
- (d) Describe the nature of the remedial action (i.e., suspension, amendment or revocation of the permit) that the enforcement agency intends to take upon an affirmative finding.
- (e) State the time, which shall be not less than 15 calendar days after service of the notice, and the place of the hearing.
- (f) Include a copy of Section 4578 and the subsections thereof.

The enforcement agency may, pursuant to Section 118360 of the Health and Safety Code, suspend the permit prior to the hearing. In case of a prehearing suspension, the notice of hearing described in this Section 4578-2 shall constitute the "accusation" mentioned in Section 118360 of the Health and Safety Code, and the hearing shall take place as presented in the notice of hearing, regardless of whether the permittee files a "notice of defense."

#### **4578-3 Hearing officer.**

The hearing officer shall be any person designated by the Director; provided, however, that the hearing officer shall not be any officer or employee of the enforcement agency who was or is directly and substantively involved either in the decision to deny the application or to initiate the proceedings, in the defense of the application denial, or in the prosecution of the proceedings against the permittee.

#### **4578-4 Hearing.**

The hearing shall be public and shall be held at the time and place noticed or at such other time or place as may be mutually agreed to by the hearing officer, the enforcement agency and the applicant or permittee. Notwithstanding the foregoing, the hearing officer may continue the hearing to such time and place as may be reasonably necessary for the convenience of witnesses or other parties. Failure of the applicant or permittee to appear at the hearing or any continuance thereof shall constitute a default.

#### **4578-5 Oaths.**

The hearing officer shall have the power to administer oaths or affirmations when necessary in conjunction with the hearing.

#### **4578-6 Evidence.**

Oral evidence need not be taken under oath or affirmation unless either the enforcement agency or the permittee so requests and it appears that the witness has a motive for being untruthful. Testimony may be given in an informal narrative style. The enforcement agency, the applicant or permittee, and the hearing officer shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses on any matter relevant to the issues even though such matter was not covered on direct examination, and to impeach any witness regardless of which party first called the witness to testify. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action. Hearsay evidence shall be admissible for any purpose but shall not be sufficient itself to support a finding unless it would be admissible over objection in a civil action.

#### **4578-7 Subpoena power.**

Before the hearing is commenced, the hearing officer shall, at the request of the enforcement agency or the applicant or permittee, issue subpoenas and subpoenas duces tecum for attendance or production of documents at the hearing. Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. After the hearing is commenced, the hearing officer may issue such subpoenas and subpoenas duces tecum as he or she deems proper. Any person duly subpoenaed to appear and testify or to produce any books or papers before the hearing officer who wrongfully neglects or refuses to appear or testify or to produce such books and papers is guilty of a misdemeanor.

#### **4578-8 Record.**

The hearing officer shall record the hearing on a recording device and shall make such recording available to the enforcement agency and to the applicant or the permittee upon request. The



hearing officer shall provide a copy of the recording or a transcript prepared therefrom to any party who requests it and pays the costs of making such copy or preparing such transcript.

#### **4578-9 Findings and decisions.**

At the conclusion of the hearing, or within a reasonable time thereafter, the hearing officer shall make written findings based upon the preponderance of the evidence admitted at the hearing. Where the hearing is an appeal from the denial of a permit or exemption: (i) if the findings are that one or more of the grounds for denial set forth in the notice of denial in fact exist, the denial shall be upheld; and (ii) if the findings are that none of those grounds in fact exist, the permit or exemption shall be granted subject to such conditions as the enforcement agency may show are reasonably necessary to ensure compliance with MWMA and this Article and to protect the public health and safety or the environment. Where the hearing is to suspend, amend or revoke a permit: (i) if the findings are that one or more of the acts, omissions or conditions described in the notice of hearing have in fact occurred, the permit shall be suspended, amended or revoked as described in the notice of hearing unless the enforcement agency and the permittee agree to some less stringent remedial action; and (ii) if the findings are that none of the acts, omissions or conditions described in the notice of hearing have in fact occurred, the permit shall not be suspended, amended or revoked. The findings and decisions shall be final when issued and shall be served promptly upon the applicant or permittee.

#### **4579 Fees.**

The Board of Supervisors may, by resolution, prescribe fees for the issuance by the enforcement agency of any registration, permit or exemption, or for the filing by an applicant of any appeal, pursuant to MWMA or this Article.