

STAFF REPORT

Feasibility Study CalARP
Program 2 CUPA Fees

Contra Costa County
Certified Unified Program Agency

Board of Supervisors
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I. INTRODUCTION

On January 1, 1997, Contra Costa County (“County”) was certified by the California Environmental Protection Agency (“CalEPA”) to be the Certified Unified Program Agency (“CUPA”) for all of Contra Costa County. In its capacity as a CUPA, the County, by and through the Hazardous Materials Programs (“HMP”) Division of the Contra Costa Health Department, administers the following programs, pursuant to the authorities granted under Section 25404 of the Health and Safety Code:

- Hazardous Materials Business Plan (HMBP) Program¹
- Hazardous Waste Generator (HWG) Program²
- California Accidental Release Prevention (CalARP) Program³
- Underground Storage Tank (UST) Program⁴
- Aboveground Petroleum Storage Act (APSA) Program⁵

As a CUPA, the County is required by statute to establish a “single fee system,” which it has.⁶ Under the single fee system, a single fee is charged by the CUPA to fund all its programs. The single fee replaced separate fees formerly charged for the above programs under separate legal authorities before the County was certified as a CUPA. The Contra Costa County CUPA is hereafter referred to as the “CUPA.” As the governing board of the CUPA, the Board of Supervisors is authorized and required to establish the amount to be paid by each person regulated by the unified program to pay the “necessary and reasonable costs” incurred by the CUPA.⁷ The amounts charged are hereafter collectively referred to as the “CUPA Fees.” CUPA Fees are imposed as the reasonable regulatory cost of issuing the annual CUPA permits to regulated businesses. Businesses that fall within the regulatory ambit of the CUPA are required to obtain a CUPA permit as a condition of operation in Contra Costa County.

¹ Health & Saf. Code, § 25404, subd. (c)(4) (citing Chapter 6.95, Article 1 of the Health & Safety Code) and (c)(6) (citing the Uniform Fire Code, § 80.103, subd. (b) and (c), as adopted by the State Fire Marshal pursuant to Section 13143.9).

² Health & Saf. Code, § 25404, subd. (c)(1)(A) (citing Chapter 6.5 of the Health & Safety Code).

³ Health & Saf. Code, § 25404, subd. (c)(5) (citing Chapter 6.95, Article 2 of the Health & Safety Code).

⁴ Health & Saf. Code, § 25404, subd. (c)(3)(A) (citing Chapter 6.7 of the Health & Safety Code).

⁵ Health & Saf. Code, § 25404, subd. (c)(2) (citing Chapter 6.67 of the Health & Safety Code).

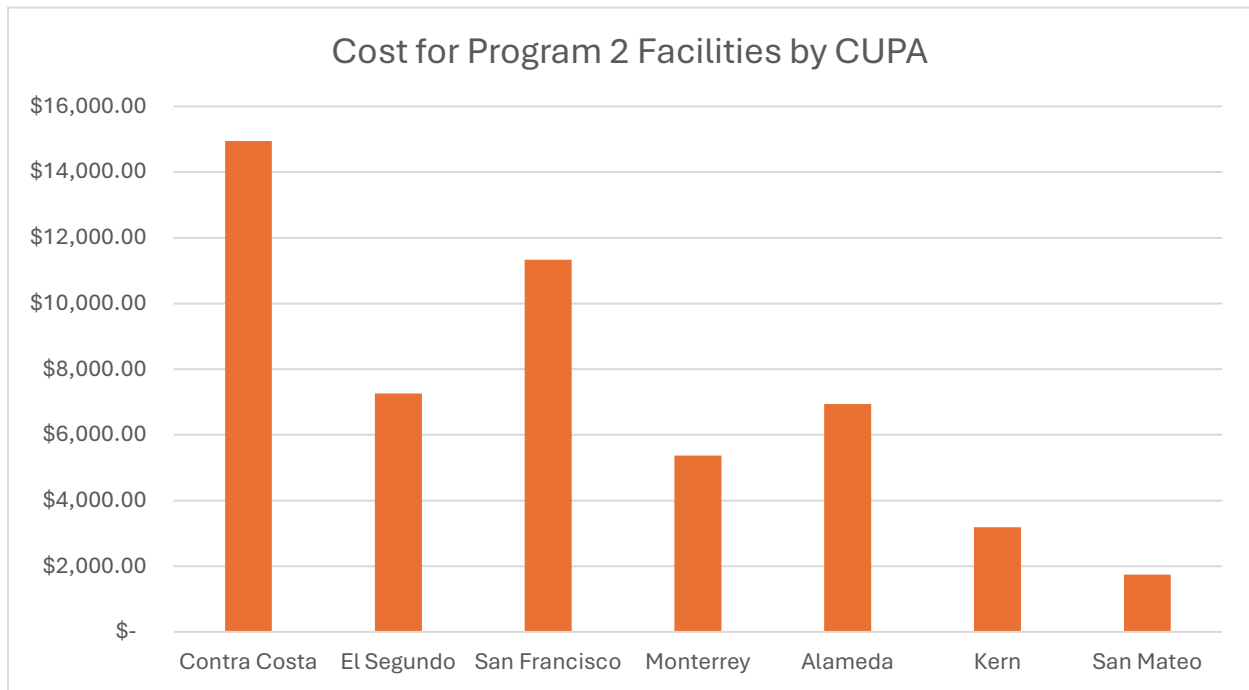
⁶ Health & Saf. Code, § 25404.5, subd. (a)(1).

⁷ Health & Saf. Code, § 25404.5, subd. (a)(2)(A)

The current CUPA Fees were established by Board Resolution No. 2024/293, adopted on August 13, 2024. The Staff, as directed by the Board of Supervisors during this approval process of fees, embarked on a study to determine the feasibility of lowering the permit fee for regulated activities associated with CalARP Program II. The direction given by the Board was to evaluate farm-regulated processes under the CalARP program and determine if there was an opportunity for regulatory inspection cost savings through staffing efficiencies or program changes while maintaining a high level of safety for the program.

The CUPA looked at a variety of CalARP Program 2 fees charged by other CUPAs. The CUPAs selected for evaluation show a cross-section of CUPAs with similar farm facilities, CUPAs with similar industrial makeup to Contra Costa County, and neighboring CUPAs. Table 1 below shows the comparison. Based on the original approved fees, Contra Costa CUPA had the highest rate.

Table 1: CUPA Cost Comparison



II. IDENTIFICATION OF SCENARIOS FOR CALARP

A. General Considerations

California Code of Regulations Title 27 Article 5 Section 15260 outlines the required education and training requirements of a Unified Program Agency Inspector. It is important to note that UPA's education and training requirements have been updated as of July 1st, 2024. These changes make it more challenging for local agencies to contract work related to CUPA regulatory inspections. Contra Costa has always maintained high standards for education and training for all CUPA inspectors, and all of our inspectors meet or exceed the new requirements; these standards also apply to any contracted individuals performing inspections. Many of the required trainings are specific to regulatory agencies and not specific to private industries.

CCR Title 27, section 15187, mandates that the County supports a local information management system capable of transmitting inspection and enforcement data to the California Environmental Management System (CERS). If an outside contractor is used to implement any aspects of a regulatory inspection, the information would need to be manually entered by County staff, increasing the time and cost of the regulatory activity.

B. Economy of scale

The CalARP program is unique in Contra Costa because we have a dedicated group of individuals who concentrate on a single program. While this model is great at focusing on a specific regulatory component at extensive industrial facilities, it does not allow an economy of scale when multiple inspectors are sent to a smaller facility to perform a regulatory inspection. A single regulatory inspector is used in the HMBP, HWG, APSA, and UST programs to enable a single inspector to complete all required regulatory inspections during one site visit at smaller facilities. This platform of combining all the regulatory inspections saves time and, therefore, reduces the overall permit costs for the regulated business.

C. Scenarios evaluated by the CUPA

Considering the information presented above, the CUPA evaluated the following three options to achieve a lower fee for CalARP Program 2 facilities. These options were identified as maintaining a high level of safety oversight on these facilities, ensuring that public safety in the community was not sacrificed while providing economic benefits to the facilities.

Option 1: Enlisting alternate staff to perform the inspection

The economy of scale considerations mentioned in section B above contributed to the CUPA evaluating the possibility of having alternate staff perform the CalARP Program 2 inspections. In this evaluation the following was considered in the cost analysis: total time to complete the inspection, training time for alternate staff, and inspection frequencies. The approved CUPA fee schedule has one hourly rate that is used for all staff in the division. There is no immediate cost savings seen in having alternate staff perform the inspection. Secondly, the CalARP program has a very robust set of requirements for Program 2 facilities that when added on would not allow an alternate inspector to complete the evaluation during one site visit. The time would be exponentially increased for this inspector, equating to nearly the same amount of time already incorporated into the current fee study at the current fee rate. The CUPA, therefore, determined that this option is not feasible.

Option 2: Hiring a 3rd party consultant

Another option reviewed by the CUPA was hiring a 3rd party consultant to do the work. The CUPA encountered the following barriers when exploring this option:

- Conflict of interest
- Consultant cost being equivalent to the cost for CUPA to perform the evaluation
- Additional staff effort to train consultants to Title 27 standards

The CalARP regulations are a very specialized set of regulations with a limited number of consultants available to do this type of work. When looking into this option the CUPA immediately had to remove from consideration the firms who were already working with the farms and other CalARP Program 2 facilities to avoid a conflict of interest. The CUPA also reached out to a firm that works with a government agency doing similar work, however, this was not an option due to concerns of conflict of interest with their current client.

The CUPA was able to identify and obtain costs from consultants who could perform this work. The results of the evaluation showed that the total cost was nearly equivalent to the cost of having CUPA staff perform the job.

The CUPA also recognized that while a portion of training was considered in the evaluation, there was additional training to ensure the hired consultants meet Title 27 standards which was considered overhead. While this did not affect the CalARP fee this would require additional staff time and effort. The CUPA, therefore, determined that this option was not feasible.

Option 3: Reallocating Inspection Time

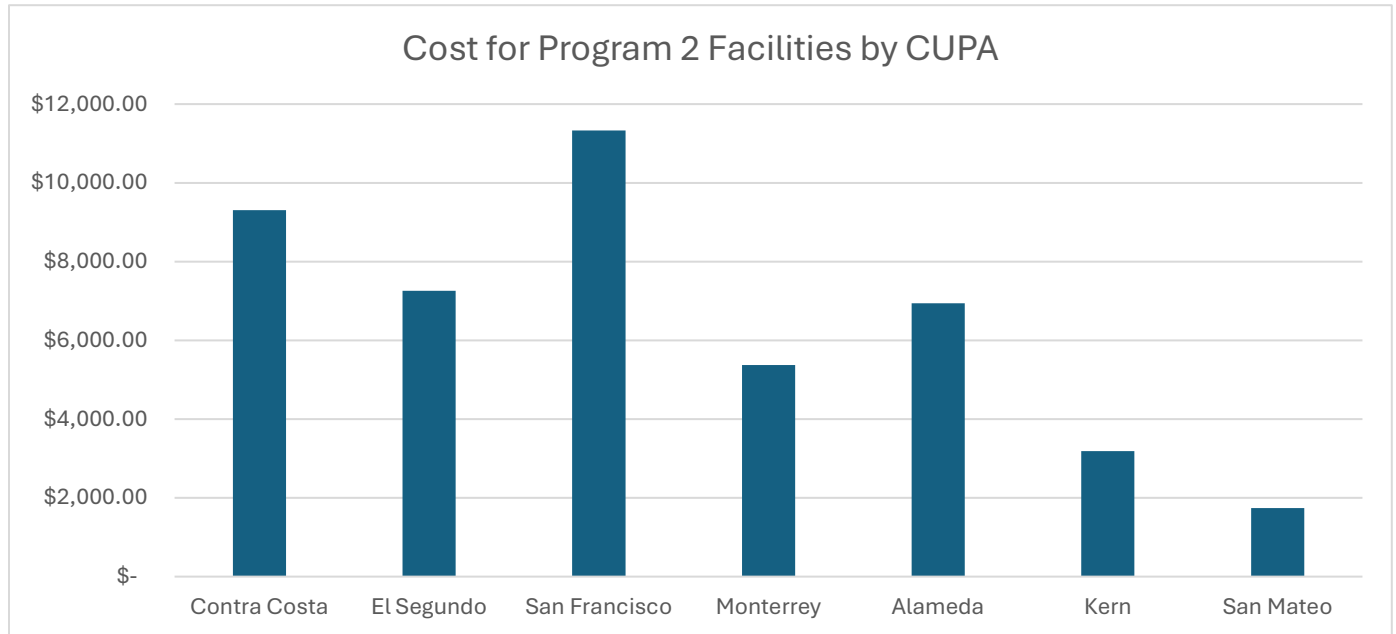
The final option reviewed by the CUPA was reallocating inspection time to lower the overall cost for CalARP Program 2 facilities. The CUPA fee schedule utilizes a time-based methodology to determine the annual fees, therefore by reallocating the inspection time a lower cost could be achieved. The CUPA identified 3 areas where the program 2 inspection workflow could be improved: adjusting the audit protocol to include abridged templates to be used in the inspection, improving the document request process to maximize efficiency, and streamlining subject matter expert interviews. This resulted in a savings of 46 hours of inspection time and lowered costs by 38%. It should be noted that these improvements work well for Program 2 CalARP facilities because these facilities are typically single unit, single chemical processes as opposed to the more complex facilities that fall under CalARP Program 3 and 4. The CUPA determined that

this was the most feasible option and recommends that this option be approved.

III. COST COMPARISON

Table 2 below shows the cost comparison between Contra Costa CUPA and other CUPAs utilizing the recommended options cost.

Table 2: CUPA COST COMPARISON UPDATED



The recommended fee of \$9,308 aligns more with costs in many CUPAs and is not significantly higher than the next lowest CUPA. When comparing CUPA cost, it is challenging to obtain a 1:1 comparison due to various factors. One factor is that some fee schedules listed reinspection fees with hourly rates which may be added to the cost for facilities. Contra Costa’s fees are all-inclusive and are not variable from year to year even if a reinspection occurs. Also, the CUPA was not able to determine if other CUPA fees were supplemented by general fund fees. The Board requires that Contra Costa CUPA remains fiscally independent of the general fund. Contra Costa also wanted to include additional CUPAs in the cost evaluation (e.g., Fresno); however, the fee schedules only provided an hourly rate, and Contra Costa was unable to determine a final total cost. Lastly, Contra Costa has a dedicated engineering staff who perform the CalARP inspections, which is unique from other CUPAs.

IV. CONCLUSION

In conclusion, the CUPA recommends that the Board approve the new proposed fee of \$9,308 through the implementation of Option 3. This option allows the CUPA to provide a lower fee for all CalARP Program 2 facilities. Additionally, the time savings from the reallocation provide capacity at the current staffing levels to inspect the newly approved Industrial Safety Ordinance tank terminal facilities. Staff asks for the board to approve the amended resolution.