

LOS ANGELES FIRE DEPARTMENT




KRISTIN M. CROWLEY
FIRE CHIEF

July 31, 2023

BOARD OF FIRE COMMISSIONERS
FILE NO. 23-075

TO: Board of Fire Commissioners

FROM:  Kristin M. Crowley, Fire Chief

SUBJECT: FIRE PREVENTION AND PUBLIC SAFETY BUREAU - CUPA
SECTION NEW ORDINANCE REQUEST AND UPDATES

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

The Los Angeles City Fire Department (LAFD) Certified Unified Program Agency (CUPA) regulates hazardous materials, underground storage tanks (UST), and above ground storage tanks (AST) in the City of Los Angeles. The purpose of the proposed new and/or revised ordinances is to streamline enforcement, eliminate inefficiencies, and keep up with technological advancement. The proposed changes will assist facility owners and realign the CUPA program with state legislation under the Health and Safety Code (HSC).

RECOMMENDATIONS

That the Board:

1. Approve the proposed amendments and additions to the Los Angeles City Fire Code (Fire Code) sections regarding CUPA requirements.
2. Transmit this report concurrently to the Mayor's Office and the City Council for approval and request that the City Council direct the City Attorney to draft ordinances adding and/or amending provisions of the Fire Code – which are contained in the Los Angeles Municipal Code (LAMC), Chapter 5, Article 7 – to update and streamline regulations and requirements for the operation of the LAFD's CUPA program.

DISCUSSION

The LAFD CUPA is proposing the following changes to the Fire Code:

1. Create a new ordinance that would require a 7-day minimum timeframe for business owners or operators to notify LAFD CUPA in advance of testing, maintenance, repairs, or annual certifications. Title 23 California Code of

Regulations (CCR) Sections 2637, 2638, 2643, and 2644.1 currently require business owners or operators to provide such notification to the CUPA at least 48 hours in advance. The CUPA is requesting a new ordinance that would require owners/operators to provide notification at least 7 days in advance to improve scheduling efficiencies for CUPA inspectors and business owners.

2. Create a new ordinance that would require businesses to electronically submit UST test results in the California Environmental Reporting System (CERS). Currently, state law permits facilities to submit documentation or information by hand delivery, US mail, facsimile, or email, "unless otherwise directed by the agency that will receive the submittal" (23 CCR Section 2611). This new ordinance would require businesses to submit test results electronically and eliminate other options (i.e., US mail, facsimile). This change will allow the CUPA to centralize documentation flow, eliminate document loss and extended lead times, and improve consistency and efficiency across the board.
3. Create a new ordinance establishing emergency or off-hour inspection and expedited document review processes and fee structures, and approve fee studies for said fee structures. Currently, LAFD CUPA lacks the ability to charge for emergency or off-hour inspections and expedited document reviews. Documents include but are not limited to: UST Plans and Permit Applications, UST Removal Reports, Business Initiated Site Assessments, Site Assessment and Limited Excavation Reports. This new ordinance would provide facilities with options to request inspections outside of regular work hours due to operational necessity and to expedite projects when necessitated by unforeseen circumstances that would otherwise cause a stop work order and/or significant financial losses.
4. Amend Section 121.3.4 of the Los Angeles Fire Code to require businesses to submit their business plan into CERS annually. LAFD CUPA wishes to update the Fire Code's existing annual requirement language to clarify that hazardous materials handlers under LAFD CUPA jurisdiction shall continue to submit and/or certify annually, despite a recent change in HSC Section 25508 which requires submission every three (3) years for certain handlers. The amendment would allow the program to provide the most recent and accurate information to first responders.
5. Amend Table 121.2.1 of the Los Angeles Fire Code (see Table 1 attached). Currently, the Fire Code requires businesses that store and handle certain hazardous materials in quantities lower than state reporting thresholds to submit their hazardous materials inventory annually. The LAFD CUPA is requesting to amend Table 121.2.1 to bring the Fire Code into closer alignment with state requirements. Quantities below the

recommended limits outlined in the attached table pose minimal safety risk and should not require notification to CUPA. This change will relieve the burden for unnecessary permitting and billing on businesses with limited amounts of certain hazardous materials that do not exceed thresholds established under state law. It will also reduce the administrative burden on the CUPA to review and permit facilities that have small quantities of hazardous materials that pose a minimal risk to our first responders and the environment.

6. Amend Section 121.3.5 of the Los Angeles Fire Code to apply the Late Submission Penalty to the other four elements in the Unified Program. Those elements include Aboveground Petroleum Storage Act (APSA) Program, California Accidental Release Prevention (CalARP) Program, Underground Storage Tank (UST) Program, and Hazardous Waste Generator Program. Currently, there exists a Late Submission Penalty only for the Hazardous Materials Business Plan (HMBP) Program. This amendment will assist the LAFD CUPA in maintaining compliance in other CUPA programs that require submission of documentation in CERS and maintaining alignment with state mandates and standards.
7. Create a new ordinance for a second or greater onsite or offsite re-inspection fee for confirmation of compliance. This new ordinance would allow the LAFD CUPA to charge facilities that do not comply with issued violations and require a second or greater follow-up inspection to confirm compliance a fee using the hourly inspector salary rate multiplied by the number of hours expended on reinspections with a 1-hour minimum. The State encourages CUPAs to provide progressive enforcement for businesses that are noncompliant. The CUPA is evaluated by the State on a triennial basis and a significant portion of the evaluation focuses on the effectiveness of enforcement. LAFD CUPA currently uses procedures such as administrative enforcement hearings, referrals to the City Attorney's Office, red tagging equipment and late submittal penalties to comply with State enforcement mandates.
8. Implement CUPA-related changes to the Fire Code outlined in Table 2 (attached). This table outlines technical and non-controversial modifications and removals of outdated language in the Fire Code to reflect current policies and operational practices within the CUPA. These changes will address inaccurate or unnecessary information and reduce confusion for both inspectors and the business operators.
9. Create new ordinances to allow for enforcement of other CUPA program elements in addition to the UST program. Currently, Section 120.7 of the Fire Code gives the LAFD authority to enforce Title 23, Division 3, Chapter 16 of the CCR pursuant to Chapter 6.7 of the HSC. This enforcement authority covers only the UST program which is one of five program

elements enforced by the LAFD CUPA. Creation of new ordinances will establish enforcement authority for the APSA Program, HMRRP and Inventory Program, CalARP Program, and Hazardous Waste Generator and On-Site Treatment Program elements.

Enforcement authority for the APSA Program will be based on HSC Chapter 6.67. Enforcement authority for the HMRRP and Inventory Program will be based on HSC Chapter 6.95, Sections 25500-25519 and California Code of Regulations (CCR) Title 19, Division 2, Chapter 4. Enforcement authority for the CalARP Program will be based on HSC Chapter 6.95, Sections 25531-25543.3 and CCR Title 19, Division 2, Chapter 4.5. Lastly, enforcement authority for the Hazardous Waste Program will be based on HSC Chapter 6.5 and Chapter 6.11 and CCR Title 22, Division 4.5.

FISCAL IMPACT

There is no negative fiscal impact or outlay. All revenue collected will offset inspector time and activity for facilities that are out of compliance or require a reinspection. No additional funds will be necessary to implement any of the above requested changes.

CONCLUSION

The above recommendations for additions and amendments to the Fire Code are concurrent and/or more stringent than the current State requirements. The Fire Code is updated on a tri-annual cycle; however, the sections relating to the CUPA have not been updated for multiple years. The requested changes are concurrent with or exceed statewide program standards, and will assist the business community and the CUPA with compliance and efficiency.

Board Report prepared by Dan Dragotto, Captain II, CUPA Section, Fire Prevention & Public Safety Bureau.