

LOS ANGELES FIRE DEPARTMENT



SEP 1 2009

DOUGLAS L. BARRY
FIRE CHIEF

August 19, 2009

BOARD OF FIRE COMMISSIONERS
FILE NO. 09-094

TO: Board of Fire Commissioners

FROM: Douglas L. Barry, Fire Chief

A handwritten signature in black ink, appearing to read "Doug Barry", is written over the printed name of Douglas L. Barry.

SUBJECT: PROPOSAL TO CHARGE FEES FOR ABOVEGROUND
STORAGE TANKS AND MODIFY THE METHOD OF CHARGING
FEES FOR HAZARDOUS MATERIALS UNDER THE UNIFIED
PROGRAM FACILITY PERMIT

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 Withdrawn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

RECOMMENDATIONS

That the Board:

- 1) Approve the Aboveground Storage Tank Permit Fee.
- 2) Approve the Aboveground Storage Tank Permit Fee to be \$260 per tank per year.
- 3) Approve an amendment to the Los Angeles Municipal Code (L.A.M.C.), Section 57.14.10 E:
 - a) To collect fees for the Aboveground Storage Tank Program
 - b) To remove the hazardous materials fee categories and include the latest hazardous materials fees in the Schedule of Fees updated per the provisions of L.A.M.C., Section 57.04.12 C.
- 4) Direct the Commission Executive Assistant II to forward this report to the City Council and Mayor for consideration and approval.

- 5) Subject to the approval of the City Council and Mayor, request the City Council to instruct the City Attorney to draft an amendment to L.A.M.C., Section 57.14.10.E to include the collection of the Aboveground Storage Tank Permit Fee and the removal of the hazardous materials fee categories (draft amendment attached).
- 6) Request the City Attorney to report back to the City Council within 30 days with an amendment revising the L.A.M.C., Section 57.14.10. E per the recommendations in this report.

SUMMARY

As a Certified Unified Program Agency (CUPA), the Fire Department currently administers and enforces the following programs:

- Hazardous Materials Release Response Plans and Inventory Program
- California Accidental Release Prevention Program
- Underground Storage Tank Program
- Uniform Fire Code Plans and Inventory Requirements Program

Aboveground Storage Tank Annual Permit Fee

On January 1, 2008, through the passage of Assembly Bill 1130, the responsibility for implementation, enforcement, and administration of the Aboveground Petroleum Storage Act (APSA) was transferred from the State Water Resources Control Board to the Certified Unified Program Agencies (CUPA).

The assembly bill requires owners of tank facilities with an aggregate storage capacity equal or greater than 1,320 gallons of petroleum, to prepare and implement a Spill Prevention Control and Countermeasure plan in accordance with federal law, 40CFR112.

The APSA requires CUPA to conduct inspections of tank facilities with an aggregate storage capacity equal or greater than 10,000 gallons of petroleum at least every three years and to establish a fee sufficient to recover the costs incurred by the administration of the APSA. The established fee is to be assessed on or after January 1, 2010.

It is estimated that there are currently 568 aboveground tanks in the City. Based on the estimated time required to administer programs similar to the Aboveground Storage Tank Program, it is proposed that the Aboveground Storage Tank Permit Fee be established at \$260 per tank per year.

Hazardous Materials Release Response Plan and Inventory Program

The Hazardous Materials Release Response Plan and Inventory Program require businesses handling a minimum of 55 gallons or 500 pounds of hazardous material or 200 cubic feet of a compressed gas to submit a disclosure and response plan. CUPA conducts periodic site inspections of the businesses and tracks the hazardous material inventory. The hazardous materials fee is charged to recover the cost of the service.

The hazardous materials fees are currently charged based on a tier system and consists of the following 3 tiers:

- Inventory Count 1 to 3
- Inventory Count 4 to 7
- Inventory Count 8 or more

However, recent data shows that many businesses maintain several hundred to over a thousand inventory counts and many additional hours are required to administer these businesses. Thus, it is proposed that the hazardous fee categories be removed from L.A.M.C. Sec 57.14.10. E.3 and the fees be reviewed on a regular basis and updated in the Schedule of Fees, per the provisions of L.A.M.C. Section 57.04.12 C.

The L.A.M.C. Section 57.04.12 C authorizes the Board, with the concurrence of the Office of the City Administrative Officer, to determine on a regular basis the verifiable costs to the City and develop a cost recovery schedule to recover the costs. Upon approval of the proposed Schedule of Fees by the Board, the Mayor and City Council may within 60 days make recommendations to amend or disapprove the proposed fees in which event, the Board shall have no force to effect the proposed fees. If within 60 days, the Mayor and City Council take no action, the proposed fees shall be deemed approved as submitted and shall be effective upon publication in a daily newspaper pursuant to Charter Section 251.

It is proposed that L.A.M.C., Section 57.14.10.E be amended in order that the cost of implementing the aboveground storage tank program can be recovered and a more efficient method of updating the hazardous materials fees can be established.

A copy of this transmittal has been forwarded to the Office of the City Administrative Officer for review.

FISCAL IMPACT

Revenue generated from the implementation of the aboveground storage tank program is estimated to be \$147,680 in Fiscal Year 2010 - 2011. No additional resources are required to implement the program.

CONCLUSION

The establishment and collection of fees for the inspection, enforcement, and administration costs associated with the aboveground tank program is necessary to ensure cost recovery and consistent with the City's financial policy of full cost recovery.

Amending the L.A.M.C. Section 57.14.10.E to authorize the collection of fees for aboveground storage tank program will allow the department to recover costs and ensure feasibility for funding the program.

Amending the L.A.M.C. Section 57.14.10.E.3 to remove the hazardous material fee categories will allow for a more efficient method of updating the hazardous material fees.

Board report prepared by Muriel Gee, Senior Management Analyst I, Administrative Services Bureau.

Attachment

ORNINANCE NO. _____

An ordinance amending Section 57.14.10 Subsection E of the Los Angeles Municipal Code to include provisions for the computation of the hazardous materials fees based on verifiable costs and for the establishment and collection of fees for the aboveground storage tank program.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS**

Section 1. Section 57.14.10 Subsection E of the Los Angeles Municipal Code is amended to read:

E. The fees charged to recover City costs in connection with the inspection and enforcement activities, and the administration of the provisions of this division, associated with the businesses, shall be computed as follows:

1. Hazardous Waste Generators and Hazardous Waste Onsite Treatment Activities. The fees for the Hazardous Waste Generators and Hazardous Waste Onsite Treatment Activities program element will be established by the Los Angeles County Fire Department Health Hazardous Materials Division, and reviewed and approved by the Los Angeles County Board of Supervisors, for the inspection and enforcement activities associated with that program element. The Los Angeles County Fire Department is a Participating Agency to the City of Los Angeles Fire Department for the inspection and enforcement activities associated with this program element. An additional administrative charge may be applied by the Department for oversight activities relative to this program element.

2. Underground Storage Tanks. In addition to the establishment of an annual Permit fee for each underground storage tank and the administration of Division 31 of this Code commencing with Section 57.31.30, an hourly rate shall be established for the plan check and inspection activities associated with the installation, modification, abandonment, and site mitigation of underground storage tanks and facilities.

3. Hazardous Materials Release Response Plan and Inventory Program. The fees charged to recover City costs in connection with the administration of the Hazardous Materials Release Response and Inventory Program, and the provisions of Division 8 of this Code, shall be computed as follows:

- ~~a. For each business handling:~~
 - ~~(i) one to three hazardous substances,~~
 - ~~(ii) four to seven hazardous substances,~~
 - ~~(iii) eight or more hazardous substances,~~

~~a fee shall be charged as specified in the schedule of fees. based on verifiable costs to the City and specified in the "Schedule" as per Section 57.14.10 Subsection C of this Code.~~

b a . If the total volume of each type of lubricating oil handled at a single business facility is below 55 gallons, but the total volume of all types of lubricating oil handled at that facility exceeds 275 gallons at any one time, each type of lubricating oil shall be subject to disclosure and business plan requirements. For the purposes of this paragraph, "**lubricating oil**" means any oil intended for the use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, plane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. The term "**lubricating oil**" does not include used oil, as defined in Subdivision (a) of Section 25250.1 of the Health and Safety Code of the State of California.

e b. Physicians, dentists, podiatrists, veterinarians or pharmacists who maintain oxygen or nitrous oxide at their office or place of business in quantities of not more than 1,000 cubic feet of each substance at any one time shall be exempt from fee calculations with respect to such substances.

4. **California Accidental Release Prevention Program.** The fees charged to recover City costs in connection with the administration of the California Accidental Release Prevention Program, shall include an annual administrative fee, a risk factor fee, and an hourly inspection and review fee to be charged as the service is provided.

5. **Aboveground Storage Tanks Program.** *The fees charged to recover City costs in connection with the administration of the Aboveground Storage Tanks Program shall be an annual Permit Fee for each aboveground storage tank.*

5 6. **Service Charges.** Additional State service charges for individual program elements as established by the Secretary of the California Environmental Protection Agency shall be collected from unified program facilities and forwarded to the State.

Section 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN TRUTANICH, City Attorney

By _____
JANET JACKSON
Deputy City Attorney

Date _____

Council File No. _____