

# LOS ANGELES FIRE DEPARTMENT



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FIRE CHIEF

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BOARD OF FIRE COMMISSIONERS  
FILE NO. 12-166

TO: Board of Fire Commissioners  
FROM: Brian L. Cummings, Fire Chief  
SUBJECT: CUPA PERMIT FEE RECOVERY – IMPROVEMENT PLAN

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 Withdrawn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

## **Recommendation:**

That the Board approve a new operating policy that allows the Los Angeles Fire Department (Department) to seek Indirect Assessment Property Liens to collect outstanding Unified Program Facility Permit fees.

## **Summary:**

In order to improve fee recovery and compliance with Unified Program Facility Permits, the Department seeks to implement an Indirect Assessment Property Lien as part of its standard collection process. Although the California Health and Safety Code (CHSC) and the Los Angeles Administrative Code (LAAC) currently provide the legal authority for a Certified Unified Program Agency (CUPA) to implement tax liens, the Department has not previously utilized this process.

## **Background:**

**Certified Unified Program Agency (CUPA):** In 1983, Senate Bill 1082, created the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program), which requires the administrative consolidation of six hazardous materials and waste programs (Program Elements) under one agency, the Certified Unified Program Agency.

The Department's Unified Program was established in 1997. The goal of the Unified Program is to create a cohesive, effective and efficient program for the regulation of hazardous and waste materials. Annual fees for each program are merged into a single fee system.

The California Environmental Protection Agency (Cal/EPA), along with the California Emergency Management Agency, Office of the State Fire Marshal, Department of Toxic Substance Control, and the State Water Resources Control Board are responsible for oversight.

The six (6) Program Elements consolidated under the Unified Program are:

- Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs (a.k.a. Tiered Permitting)
- Aboveground Petroleum Storage Tank Spill Prevention Control and Countermeasure Plan (SPCC)
- Hazardous Materials Release Response Plans and Inventory Program (a.k.a. Hazardous Materials Disclosure or "Community-Right-To-Know")
- California Accidental Release Prevention Program (CalARP)
- Underground Storage Tank Program (UST)
- Uniform Fire Code plans and Inventory Requirements

In 2009 and 2011, Cal/EPA evaluated the LAFD CUPA Program and identified two areas needing improvement: enforcement and fee accountability. At the June 19, 2012 Fire Commission meeting, the Department presented the evaluation to the Board. In order to address issues relative to enforcement and fee accountability, the LAFD CUPA is requesting approval to implement a new operating procedure to attach an Indirect Assessment Lien to the property of delinquent property owners. Such liens will be sought for CUPA facility property owners who are not current with their respective Unified Program Facility Permits fees. The existing collection process allows many facilities to remain delinquent and continue to handle regulated hazardous materials and conduct business without a current permit. Said businesses take advantage and show a knowing disregard for the regulatory requirements in addition to ignoring invoices and collection attempts.

The current operating procedure for delinquent accounts consists of:

- Three Invoice Billings – Initial, Penalty and Final
- "Penalty Letter"
- "Final Notice" letter
- Attempts with two different collection agencies

The current method can take up to 21 months and has a less than desirable collection rate. Adding the Indirect Assessment Lien to the collection process, will increase the Department's fee recovery effort. The LAFD CUPA will use sections 7.35.1 and 7.35.3 of the LAAC to annually bundle the unpaid delinquent accounts and seek liens. The procedure requires the Department to submit an itemized report and request for lien to the City Council for approval.

To augment the enforcement effort, the new collection procedure will include issuing a "Stop Order" to discontinue non-permitted activities. The owner/operator as well as the property owner will be cited under Los Angeles Municipal Code (L.A.M.C.) - 57.14.03. The above mentioned L.A.M.C. Section sets forth the requirements which apply to "Unified Program Facility Permits." A facility engaging in Unified Program Element activities without a current permit will be ordered to forthwith eliminate the non-authorized operations. This enforcement tool would be used as a last resort option as well as send a message that Unified Program Facilities conducting non-permitted activity will not be allowed to operate in the City.

Changes will also be made to the billing and notification procedures, which include alerting the property owner (as well as the business owner) to essential requirements and deadlines. It is the duty of the property owner as well as the business owner to assure compliance with CUPA regulations.

**Conclusion:**

Property liens are used successfully by the Los Angeles Department of Building and Safety, Los Angeles Department of Housing, Los Angeles County Health and Hazmat, and the Department's Brush Clearance Unit. The proposed Indirect Assessment Lien, the billing and fee recovery improvements, and the use of the "Stop Order" will help address deficiencies noted in the last two Cal/EPA evaluations, and increase compliance, aid in permit fee recovery, and support the Unified Program Enforcement administration.

All parties involved in delinquent CUPA permit situations will receive multiple notifications and given ample time and opportunity to settle the account before the "Stop Order" or lien option is exercised.

This report was prepared by John Vigil, Inspector II, Legal Liaison Unit.