

ANALYSIS

This ordinance amends Title 12 – Environmental Protection of the Los Angeles County Code, to increase fees for hazardous materials, hazardous waste, and above-ground petroleum storage tank facilities; to establish prorated fees for certain permits; and to make other technical non-substantive changes.

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County Counsel

By:
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Labor & Employment Division

JT:bd

Requested: 03/11/2020

Revised: 05/11/2020

ORDINANCE NO. 2020-0029

An ordinance amending Title 12 – Environmental Protection of the Los Angeles County Code, to increase fees for hazardous materials, hazardous waste, and above-ground petroleum storage tank facilities; to establish prorated fees for certain permits; and make other technical non-substantive changes.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 12.50.010 is hereby amended to read as follows:

12.50.010 Definitions.

A. "Act" means the California Unified Hazardous Waste and Hazardous Materials Management Regulatory Program Act, Chapter 6.11, Division 20, California Health and Safety Code ("H&SC"), commencing with section 25404.

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R. "Unified program facility permit" or "permit" means a consolidated permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permits issued pursuant to: section 25284 of the California Health and Safety Code and Division 4 of Title 11 of the County Code relating to the underground storage of hazardous materials; Chapter 12.52 of the County Code relating to the generation or handling of hazardous waste or extremely hazardous waste; Chapter 12.64 of the County Code relating to handling of hazardous materials or ~~acutely hazardous materials~~ regulated substances; Chapter 12.70 of the County Code relating to the aboveground storage of petroleum; and those city codes or resolutions related to the unified program elements administered by those cities as participating agencies to the LACoCUPA.

SECTION 2. Section 12.50.131 is hereby amended to read as follows:

12.50.131 Reinspection Fee.

Every permittee that has been issued a notice of violation as specified in Sections 12.52.015P, 12.64.010M, and 12.70.010J of this Chapter and has failed to correct the violation(s) or deviation(s) by the correction date as set forth in the notice of violation, shall be charged a reinspection fee for each subsequent reinspection required to verify compliance with the notice of violation. The reinspection fee shall be ~~\$448~~506.

SECTION 3. Section 12.52.070 is hereby amended to read as follows:

12.52.070 Fees to Be Paid by Hazardous Waste Generators.

A. Beginning with the ~~2019-2020~~ fiscal year 2020-2021, the annual fee for the issuance of a unified program facility permit for the hazardous waste program element required to be paid to the Forester and Fire Warden by every person, business, or business concern generating or handling a hazardous or extremely hazardous waste shall be as follows:

Fee Group	Number of Employees	Annual Fee
1	0 to 2	\$536 <u>583</u>
2	3 to 5	\$781 <u>851</u>
3	6 to 19	\$1,116 <u>1,216</u>
4	20 to 100	\$1,506 <u>1,641</u>
5	101 to 500	\$2,232 <u>431</u>
6	501 or more	\$3,793 <u>4,133</u>

Exception:

Every person, business, or business concern generating or handling a hazardous waste which is hazardous solely due to the presence of silver and which generates no other hazardous wastes shall be charged a fee equal to one-half the amount of the Fee Group 2 fee. Beginning with the ~~2019-2020~~ fiscal year 2020-2021, this fee shall be ~~\$391425~~.

B. Beginning with the ~~2019-2020~~ fiscal year 2020-2021, the annual fee required to be paid to the Forester and Fire Warden by every person, business, or business concern that is a hazardous waste generator conducting treatment of hazardous waste under the Act shall be based on the highest tier of permit required in descending order, as follows:

Permit Tier	Annual Fee
(1) Permit by Rule (PBR)	\$2,1102,925
(2) Conditional Authorization (CA)	\$1,4552,017
(3) Conditional Exemption (CE)	\$218303

C. Beginning with ~~2019-2020~~ the fiscal year 2020-2021, the schedule of fees contained in this Section may be adjusted annually by the following procedures:

1. Hazardous Waste Generator Fees. Hazardous waste generator fees shall be determined based on the annualized cost to the Forester and Fire Warden to administer the hazardous waste generator program, where

annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the hazardous waste generator program calculated from rates contained in the Forester and Fire Warden's rate package, as approved by the County Auditor-Controller. The annualized cost shall be reallocated among hazardous waste generators based upon the number of hazardous waste generators in each fee group.

2. Tiered Permit Program Fees. Fees for the tiered permit program shall be determined based on the annualized cost to the Forester and Fire Warden to administer the tiered permit program, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the tiered permit program calculated from rates contained in the Forester and Fire Warden's rate package, as approved by the County Auditor-Controller. The annualized cost shall be reallocated among hazardous waste generators conducting treatment of hazardous waste under the tiered permit program based upon the number of facilities falling within each fee group.

SECTION 4. Section 12.56.020 is hereby amended to read as follows:

12.56.020 Emergency Response Cost Recovery.

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B. Any person whose release or threatened release caused the incident, as specified in Section 12.56.020A, shall be assessed an administrative charge for the response and additional emergency response charges, based upon hourly personnel costs, as approved by the County Auditor-Controller, to recover the costs incurred by

the Forester and Fire Warden to protect the public from threats to public health and safety and any actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material. Beginning in fiscal year ~~2019-2020~~2020-2021, the administrative charge shall be ~~\$650729~~ and the personnel hourly rates shall be ~~\$176198~~.

C. All payments made pursuant to this Chapter shall be collected and accounted for in accordance with the requirements of the County Treasurer-Tax Collector and the County Auditor-Controller.

SECTION 5. Section 12.60.050 is hereby amended to read as follows:

12.60.050 Site Mitigation Oversight Fees.

A. Fees for site mitigation and oversight will be assessed to the responsible party (as defined in the Comprehensive Environmental Response, Compensation and Liability Act ((CERCLA), section 106) for a site which requires oversight by the Health Hazardous Materials Division's site mitigation unit, or the person requesting oversight by the Health Hazardous Materials Division's site mitigation unit. These fees shall be based upon the hourly personnel costs incurred by the Forester and Fire Warden to recover the costs of oversight, as approved by the County Auditor-Controller.

B. The responsible party or person requesting oversight shall be assessed an initial oversight fee to recover the costs of the Forester and Fire Warden to initially review and analyze the site, submitted site assessment reports, site history, and determine site regulatory requirements, site priority, and lead agency status. This

fee shall be based upon average hourly personnel costs incurred by the Forester and Fire Warden to conduct this initial review, as approved by the County Auditor-Controller. Beginning in fiscal year ~~2019-2020~~2020-2021, this fee shall be ~~\$2,6773,022~~ for each site accepted by the Forester and Fire Warden.

C. The responsible party or the person requesting oversight by the Health Hazardous Materials Division's site mitigation unit shall be required to pay oversight fees, based upon hourly personnel costs incurred by the Forester and Fire Warden to review and oversee site assessment and remediation activities over and above the initial review fee in Section 12.60.050 B, as approved by the County Auditor-Controller. Beginning in fiscal year ~~2019-2020~~ 2020-2021, the hourly rate shall be ~~\$165~~187.

SECTION 6. Section 12.64.010 is hereby amended to read as follows:

12.64.010 Definitions.

The following definitions govern the construction of this chapter:

A. "Act" means Chapter 6.95 (commencing with section 25500) of Division 20 of the California Health and Safety Code.

B. "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, limited liability company, or association.

"Business" includes a business organized for profit and a nonprofit business. "Business" also includes every governmental agency.

C. "Business Plan" means a separate plan for each unified program facility, site, or branch of a business that meets the requirements of section 25505 of the Act.

D. "California Environmental Reporting System" (CERS) is a Statewide web-based system to support CUPA and Participating Agencies (PA) in electronically collecting and reporting various hazardous materials-related data as mandated by the California Health and Safety Code, including section 25404.

E. "Certified Unified Program Agency" (CUPA) means the agency certified by the Secretary to implement the unified program specified in this chapter within the County of Los Angeles, pursuant to chapter 6.11 of the Act and the local agency authorized pursuant to section 25502 of the Act to implement and enforce the Act.

F. "Chief" means the Division Chief of the Health Hazardous Materials Division of the Forester and Fire Warden. "Chief" also means any authorized representative of the Forester and Fire Warden charged with the enforcement of the Act.

G. "Compressed gas" shall have the same meaning as defined in Section 3002.1 of Title 32, Fire Code, of the Los Angeles County Code.

H. ~~"Covered process" means a process that has a regulated substance present in more than a threshold quantity.~~ "Covered process" means a process that has a regulated substance present in more than a threshold quantity as determined under Section 2770.2 of Title 19 of the California Code of Regulations.

I. "Forester and Fire Warden" means the Forester and Fire Warden of the County of Los Angeles and the Consolidated Fire Protection District of Los Angeles

County.

J. "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material or regulated substance in any fashion and includes the use or potential use of a quantity of hazardous material or regulated substance by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any of the above purposes or activities.

K. "Handler" means any business which handles a hazardous material or regulated substance.

L. "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the CUPA has reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or environment.

M. "Notice of violation" means a written notice issued to a handler or a business with a covered process by an authorized representative of the Forester and Fire Warden in the course of conducting an inspection which:

1. Identifies violations of the Act or deviations from minimum standards and regulations adopted pursuant to the Act;
2. Is presented to a person who is an owner or employee of the business being inspected; and

3. States the nature of the violations or deviations, the means by which compliance with the permit conditions, rules, regulations, standards, or other requirements cited by the inspector may be achieved, and a time limit in which to comply, which shall not exceed 30 days.

N. "Permittee" shall have the same meaning as defined in Section 12.50.010.

O. "Process" means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of the regulated substance or any combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located so that a regulated substance could be involved in a potential release, shall be considered a single process. This definition shall not apply to Article 6.5 of Title 19 of the California Code of Regulations.

P. "Process" for purposes of Article 6.5 of Title 19 of the California Code of Regulations means petroleum refining activities involving a highly hazardous material, including use, storage, manufacturing, handling, piping, or on-site movement. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that an incident in one vessel could affect any other vessel, shall be considered a single process. Utilities and safety-related devices shall be considered part of the process if, in the event of an unmitigated failure or malfunction, they could potentially contribute to a major incident. This definition includes processes under partial or unplanned shutdowns. Ancillary administrative and

support functions, including office buildings, laboratories, warehouses, maintenance shops, and change rooms are not considered processes under this definition.

~~P.~~Q. "Qualified person" means a person who is qualified to attest, at a minimum, to the completeness of an RMP to: (1) the validity and appropriateness of the process hazard analyses (PHA) performed pursuant to Section 2760.2 of Title 19 of the California Code of Regulations; (2) the completeness of a risk management plan; and (3) the relationship between the corrective steps taken by the owner or operator following the PHAs and those hazards which were identified in the analyses.

~~Q.~~R. "Regulated substance" or "RS" means any substance ~~as defined in section 25532(g) of the Act,~~ unless otherwise indicated, listed in Section 2770.5 of Title 19 of the California Code of Regulations.

~~R.~~S. "Regulated substances accident risk" means a potential for the accidental release of a regulated substance into the environment that could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.

~~S.~~T. "Restaurant" shall have the same meaning as defined in Section 11.02.320 of Title 11, Health and Safety, of the Los Angeles County Code.

~~T.~~U. "Risk management plan" or "RMP" means the risk management plan required under Part 68 (commencing with section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations, the California Health and Safety Code,

Chapter 6.95, Article 2., and as described by the component elements identified in Article 3 of Title 19 of the California Code of Regulations.

~~U. "State threshold quantity" means the quantity of a regulated substance adopted by the State Office of Emergency Services pursuant to section 25543.1 or 25543.3 of the Act. Until the office adopts a state threshold quantity for a regulated substance, the state threshold quantity shall be the threshold planning quantity for the regulated substance specified in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.~~

V. "Stationary source" means any stationary source, as defined in ~~s~~Section 68.3 of Title 40 of the Code of Federal Regulations2735.3 of Title 19 of the California Code of Regulations.

W. "Threshold quantity" or "TQ" means the quantity of a regulated substance that is determined to be present at a stationary source in the manner specified in ~~section 68.115 of Title 40 of the Code of Federal Regulations and that is the lesser of either of the following:~~pursuant to Section 2770.5 of Title 19 of the California Code of Regulations and determined to be present at a stationary source as specified in Section 2770.2 of Title 19 of the California Code of Regulations.

- ~~1. The threshold quantity for the regulated substance specified in section 68.130 of Title 40 of the Code of Federal Regulations;~~
- ~~2. The state threshold quantity~~

X. "Unified program agency" or "UPA" means the CUPA, or its participating agencies to the extent each participating agency has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in paragraphs (4) and (5) of subdivision (c) of section 25404 of the Act.

Y. "Unified program facility permit" shall have the same meaning as defined in Section 12.50.010.

SECTION 7. Section 12.64.030 is hereby amended to read as follows:

12.64.030 Compliance Required.

Every business shall comply with reporting requirements as set forth by the CUPA relating to hazardous materials, regulated substances, and stationary sources under the Act.

A. The required reporting includes:

1. Initial submission of the business plan which shall include the facility information, chemical inventory information, a site map, emergency response/contingency plan, and a training plan as provided in section 25505 of the California Health and Safety Code to the CERS within 30 days of the commencement of operation of the business;

2. Correction and resubmission within 30 days of any defects in the business plan requested to be corrected by the CUPA pursuant to section 25508(a)(2) of the Act;

3. Submission of a modified business plan or inventory within 30 days of changes that require resubmission pursuant to section 25508.1 of the Act; and

4. Resubmission of the inventory portion of the business plan and/or a certification statement annually including the site map, contingency plan, and the employee training plan annually to CERS by the due date established by the CUPA, pursuant to section 25508(a)(2) of the Act.

B. Every business which handles regulated substances shall be required to submit, by the due date established by the CUPA, a registration form and/or certification statement to the CUPA in accordance with the regulations adopted pursuant to section 25534.05 of the Act and the requirements of the CUPA pursuant to section 25534.05 of the Act.

C. Any information requested by the CUPA necessary to make a determination of the likelihood of a regulated substance accident risk, pursuant to sections 25534(a) and 25534.5 of the Act, shall be submitted within 30 days.

~~D. Any risk management plan required to be submitted pursuant to section 68.150 of Title 40 of the Code of Federal Regulations shall be submitted no later than the latest date specified in that section. If the administering agency determines pursuant to section 25534 of the Act that a person or stationary source is required to prepare and submit a risk management plan, the person or stationary source shall submit the risk management plan, in accordance with a schedule established by the administering agency, after consultation with the stationary source. Risk management~~

plans shall be submitted pursuant to Section 2745.1 of Title 19 of the California Code of Regulations.

E. Any requested corrections of the risk management plan shall be submitted within 60 days pursuant to Section 25535 of the Act.

SECTION 8. Section 12.64.040 is hereby amended to read as follows:

12.64.040 Annual Fees to Be Paid by Handlers of Hazardous

Materials.

Beginning with the ~~2019-2020~~ fiscal year 2020-2021, the annual fee required to be paid to the Forester and Fire Warden by every handler of hazardous materials for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
I	Small Quantity Handler	<u>\$282313</u>
	55—500 gallons or	
	500—5,000 pounds or	
	200—2,000 cubic feet or	
	TQ or greater quantity of a RS if less than 500 pounds	
	And no more than one hazardous material handled	
II	Minor Handler	<u>\$409454</u>
	55—500 gallons or	
	500—5,000 pounds or	
	200—2,000 cubic feet or	
	TQ or greater quantity of a RS if less than 500 pounds	
	And more than one hazardous material handled	
III	Moderate Handler	<u>\$523581</u>

	501—2,750 gallons or	
	5,001—25,000 pounds or	
	2,001—10,000 cubic feet	
IV	Major Handler	<u>\$724,804</u>
	2,751—50,000 gallons or	
	25,001—500,000 pounds or	
	10,001—200,000 cubic feet	
V	Major Handler—Large Volume	<u>\$1,031,145</u>
	50,001 gallons and over or	
	500,001 pounds and over or	
	200,001 cubic feet and over	
VI	Major Handler—Complex	<u>\$1,591,767</u>
	175,001 gallons and over or	
	700,001 pounds and over or	
	250,001 cubic feet and over or	
	A total quantity of two or more hazardous materials when expressed in or converted to pounds that equals 500,000 pounds or greater;	
	AND	
	Which is either a refinery, chemical plant, distillery, bulk plant, or terminal as defined herein.	
VII	Exempt Handler less than 55 gallons and less than 500 pounds and less than 200 cubic feet and, for RS, less than TQ quantity of RS	No Fee

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SECTION 9. Section 12.64.045 is hereby amended to read as follows:

12.64.045 Late Submittal and Noncompliance Penalty for the California Environmental Reporting System (CERS) to be Paid by Handlers of Hazardous Materials.

A noncompliance penalty of ~~\$437~~495 will be charged to each handler of hazardous materials who fails, after reasonable notice, to electronically submit a business plan to CERS, or who fails to correct the violations or deviations by the correction date as set forth in the notice of violation pursuant to section 25508(a)(3) of the Act.

SECTION 10. Section 12.64.050 is hereby amended to read as follows:

12.64.050 Additional Fees — Regulated Substances.

A. Every business with a covered process shall in addition to the fee specified in Section 12.64.040, be required to pay an annual RS fee to the Forester and Fire Warden for the administration and enforcement of RS registration, risk assessment, and risk mitigation in accordance with compliance under the Act.

B. Beginning with the ~~2019-2020~~ fiscal year 2020-2021, the annual fee for the issuance of a unified program facility permit for a stationary source, required to be paid to the Forester and Fire Warden by every person, business, or business concern handling, storing, or using a regulated substance above threshold quantities (RS fee) shall be as follows:

Fee Group	Risk Unit	Annual Fee
I	>0 and <5	\$ <u>632,662</u>
II	=>5 and <15	\$ <u>1,109,191</u>
III	=>15 and <50	\$ <u>1,895,051</u>
IV	=>50 and <100	\$ <u>3,664,036</u>
V	=>100 and <250	\$ <u>6,222,881</u>
VI	=>250 and <500	\$ <u>10,107,917</u>
VII	=>500 and <1,000	\$ <u>17,687,188</u>
VIII	=>1,000 and <3,000	\$ <u>27,461,759</u>
IX	=>3,000 and <10,000	\$ <u>36,437,022</u>
X	Refineries =>10,000	\$ <u>120,019,946</u>
XI	Refineries - Tier III (1-10 processes)	\$ <u>72,781</u>
XII	Refineries - Tier II (11-20 processes)	\$ <u>105,863</u>
XIII	Refineries - Tier I (>20 processes)	\$ <u>277,889</u>

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SECTION 11. Section 12.64.060 is hereby amended to read as follows:

12.64.060 Late Submittal Penalty.

A late submittal penalty shall apply to the filing of Regulated Substance (RS) registration requirements, as follows:

Each stationary source failing to submit the required RS reporting documents in accordance with the established due date and reporting requirements of the CUPA as specified in Section 12.64.030, shall be levied a late submittal penalty commensurate to the additional administrative costs as determined by the CUPA and approved by the County Auditor-Controller. The date

of submittal is determined by the date payment is received. The late submittal penalty shall be ~~\$437495~~.

SECTION 12. Section 12.64.070 is hereby amended to read as follows:

12.64.070. Fee schedule—Annual adjustment procedure.

The schedule of fees contained in Sections 12.64.040 through 12.64.060 inclusive shall be adjusted annually by the following procedure:

The annual adjustment shall be the result of computing the change in the annualized cost to the ~~administering unified program agency~~ for administering the program, where "annualized cost" is defined as the program cost which includes applicable salary, employee benefits and overhead calculated from rates contained in the ~~administering unified program agency's~~ rate package, as approved by the County Auditor-Controller. Program Cost = Agency Personnel Salaries + Employee Benefits + Overhead.

The program cost is annually reallocated among handlers based upon:

- A. Disclosure Unit. The number of handlers in each fee group and time involved in processing the required documents in each group;
- B. RMP Unit. Total county risk units and each handler's risk units involved in calculating the risk unit rate, the average personnel time involved in conducting inspections, incident investigations, and RMP preparations reviews, evaluations, audits, and the personnel hourly rates determined in accordance with Section 12.64.050.

Where:

Disclosure unit is the unit assigned to administer the hazardous materials disclosure program (Section 12.64.040) and RMP/CalARP unit is the unit assigned to administer the RS registration and risk management programs (Section 12.64.050).

SECTION 13. Section 12.70.050 is hereby amended to read as follows:

12.70.050 Annual Fees to Be Paid by Operators of Aboveground Tank Facility.

Beginning with the ~~2019-2020~~ fiscal year 2020-2021, the annual fee required to be paid to the Forester and Fire Warden by the operator of each tank facility for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Petroleum in Aboveground Storage Tanks at Each Tank Facility During the Reporting Year	Annual Fee for Each Tank Facility
I	Less than 10,000 gallons	<u>\$254,291</u>
II	10,000 to 100,000 gallons	<u>\$813,931</u>
III	100,001 to 1,000,000 gallons	<u>\$1,2201,397</u>
IV	1,000,001 to 10,000,000 gallons	<u>\$1,6271,863</u>
V	10,000,001 to 100,000,000 gallons	<u>\$7,3728,440</u>
VI	More than 100,000,000 gallons	<u>\$15,38017,607</u>
VII	Exempt Handler Less than 1,320 gallons	No Fee

[1250010JTCC]

SECTION 14 This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Chair

ATTEST:

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting _____ the foregoing
of _____ May 26, 2020
ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the
following vote, to wit:

Ayes

Noes

Supervisors Hilda Solis
Mark Ridley-Thomas
Sheila Kuehl
Janice Hahn
Kathryn Barger

Supervisors None

Effective Date: June 25, 2020
Operative
Date: _____

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles



APPROVED AS TO FORM:
MARY C. WICKHAM
County Counsel

By _____
Lester J. Tolnai
Chief Deputy County Counsel