COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2401

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

May 22, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

ANNUAL FEES FOR HAZARDOUS WASTE GENERATOR/TIERED PERMITTING, HAZARDOUS MATERIALS HANDLER, AND CALIFORNIA ACCIDENTAL RELEASE PREVENTION PROGRAM PERMITS FOR FISCAL YEAR 2007-08 (ALL DISTRICTS) (3 VOTES)

IT IS RECOMMENDED THAT YOUR HONORABLE BOARD ACTING AS THE GOVERNING BODY OF THE CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY (DISTRICT) AFTER THE PUBLIC HEARING:

1. Approve the adjustments in annual fees and cost recovery hourly rates for Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, and California Accidental Release Prevention (Cal-ARP) Programs for Fiscal Year 2007-08 shown on the attached fee schedule, developed in accordance with the annual adjustment provisions of the County Code as delineated in Sections 12.52.070, 12.56.070, 12.60.080, and 12.64.070, and approved by the Auditor-Controller.

2. Find that the adjustment of the annual fees adopted for the purpose of meeting operational expenses is exempt from the California Environmental Quality Act pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of Title 14 of the California Code of Regulations (the State CEQA Guidelines).

3. Adopt the attached ordinance amending Title 12 – Environmental Protection of the County Code to revise annual permit fees and language to improve enforcement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The annual fee adjustments established in accordance with provisions in the County Code will accomplish the following:

1. Allocate fees based on program costs, staffing requirements, the time and activity needed to properly administer each program and fee group, and the number of facilities falling under each fee group.

2. Promote full cost recovery for the Cal-ARP, Hazardous Materials Handler, and Hazardous Waste Generator/Tiered Permitting Programs that includes investigation, site mitigation, and emergency operations services.

3. Facilitate the single fee billing process mandated by the Unified Program by establishing fair and equitable fees to be billed for Fiscal Year 2007-08.

4. Provide the additional staffing resources needed to adequately manage and regulate the growth in the number of facilities and environmental programs for which the District is responsible over the past ten years.

5. Improve enforcement of permit requirements particularly for facilities found operating without the necessary permits and improve enforcement options by adopting changes recommended by the District Attorney to clarify ordinance language.

This Department implements the Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, and the Cal-ARP Programs under the auspices of the Unified Program. State law and County Code allow for the recovery of reasonable and necessary costs to administer these programs. Your Honorable Board established annual fees and adjustment provisions for each of these programs to recover the costs of implementation. Cost recovery hourly rates were also established for emergency responses and site mitigation oversight.

The annual adjustment provisions established in the County Code maintain the same fee methodology as originally established by your Board. The proposed adjustments incorporate changes in program costs that result from changes in salaries, employee benefits and overhead rates and the number of regulated facilities falling within each established fee category. Similarly, annual adjustments to cost recovery rates reflect changes in Departmental costs to administer those services. Last year, the District recommended no fee adjustments for Fiscal Year 2006-07 utilizing the same fee methodology. Additionally, enhanced efforts are being employed to ensure all businesses subject to program

requirements are paying appropriate fees and not placing an unfair burden on compliant businesses. Ordinance language amendments recommended by the District Attorney have been included to clarify permit enforcement provisions in the County Code.

Four additional Hazardous Materials Specialists and two clerical support items are required to meet the added regulatory responsibilities placed upon the District due to the growth in the number of regulated facilities and programs falling under the District's jurisdiction. Since 1997, when the Unified Program first came into existence, the District has assumed additional jurisdictional responsibilities for the Cities of El Monte, Manhattan Beach, Inglewood, Gardena, Signal Hill, and La Habra. Since 1997, facility and program element inventories have increased twenty percent without the benefit of additional staffing necessary to adequately meet State mandates. Furthermore, the Department has assumed additional program responsibilities since the beginning of the Unified Program. These include newly opened business facilities, ownership changes, new classes of hazardous waste, and determinations of appropriate program categories for existing facilities.

Implementation of Strategic Plan Goals:

Fiscal Responsibility: Adoption of the proposed ordinance will facilitate the recovery of implementation costs for all regulatory programs administered by the District. The fees allocate costs in a fair and equitable manner to the regulated community and promote compliance from every business subject to program requirements. Adoption will also facilitate the billing process for the single fee system mandated by the Unified Program. Changes in enforcement language will facilitate improved enforcement of permit requirements and will promote compliance from all facilities that requires a permit.

Public Safety: Adoption of the ordinance will improve and facilitate a number of enforcement options for facilities found operating without the necessary hazardous waste and hazardous materials permits, including referral to the District Attorney for criminal enforcement actions. Facilities that are operating without inspection oversight and not in compliance with regulatory requirements pose a risk to the community by handling hazardous materials or generating/ disposing of hazardous wastes improperly. Enforcement of permit requirements for all facilities will benefit public safety. The additional staffing resources will improve public safety by ensuring that all regulated facilities have the appropriate regulatory oversight.

FISCAL IMPACT/FINANCING:

Fees are apportioned in accordance with program costs to ensure recovery of projected program implementation costs. Current program costs are offset by a combination of fees and direct cost recovery billing for specific services. The proposed revisions in annual fees for the Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler and Cal-ARP Programs will allow recovery of the reasonable and necessary costs to implement the programs.

The fee proposal will also allow for the additional staffing resources necessary for the District to meet its regulatory responsibilities considering the growth in the number of facilities and environmental programs falling under the District's jurisdiction. The additional staff will also allow the District to implement and strengthen programs to identify un-permitted facilities that are subject to regulatory oversight.

Strengthening the language for enforcement of permit requirements will facilitate various enforcement options and allow more effective enforcement of permit requirements on facilities found operating without the necessary permits. Capturing additional facilities within the permit universe will benefit public safety by ensuring more facilities fall under inspection and regulatory oversight. This would benefit the regulated community by ensuring everyone is paying their fair share of the program implementation costs.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The fee revisions will be effective in all areas under the jurisdiction of the Los Angeles County Certified Unified Program Agency (CUPA) for Fiscal Year 2007-08. Invoices for these facilities will be generated and mailed throughout the fiscal year. The Cities of Los Angeles and Santa Monica will generate annual fee invoices in July 2007 for Fiscal Year 2007-08 for the Hazardous Waste Generator/Tiered Permitting Program. Also, Orange County will generate annual fee invoices in July 2007 for Fiscal Year 2007-08 for the Hazardous Materials Handler and Cal- ARP Programs facilities in the City of La Habra. These agencies are awaiting any changes in our fee schedule.

California Health and Safety Code, Sections 25404.5(a)(2) and (3), grant authorization to the governing body of the local CUPA to establish fees to recover reasonable and necessary program costs. The Auditor-Controller has reviewed and approved the cost basis and fee adjustments.

This request for approval of the revised fees is made after compliance with all public notification and hearing requirements as specified in Sections 6062(a) and 66018 of the Government Code. Changes in the enforcement provisions have been suggested by the District Attorney and the proposed language changes have been approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION:

The annual adjustments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(8) and Section 15273 of the CEQA Guidelines because they involve fees to recover operating costs.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

The approval of the annual fee adjustments for the Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, Cal-ARP Programs and for the cost recovery programs will serve to establish the reasonable and necessary fees for Fiscal Year 2007-08, facilitate the fiscal year billing process mandated by the Unified Program, and assure full recovery of program implementation costs. The annual adjustments fairly allocate changes in program costs to regulated facilities while maintaining the integrity of the original fee methodologies.

CONCLUSION:

Upon approval by the Board of Supervisors, please instruct the Executive Officer to return the adopted stamped copy of the letter and attachments to the following office:

Consolidated Fire Protection District of Los Angeles County
Health Hazardous Materials Division
5825 Rickenbacker Road
Commerce, CA 90040
Attention: William Jones, Chief

Respectfully submitted,

P. MICHAEL FREEMAN

PMF:yh

Attachments

c: Chief Administrative Officer
Auditor-Controller
County Counsel
Executive Officer, Board of Supervisors

FEE CHANGES FOR FY 07-08
[Full Staffing with 4 Additional HMS and 2 Additional ITC Positions]

Hazardous Waste Generator Annual Fees				
Fee Category	Description	Current Fee	Proposed Fee	Change
1000	Silver Waste	$241	$286	$45
1001 / 1101	0-5 Employees	$483	$571	$88
1002 / 1102	6-19 Employees	$678	$794	$116
1003 / 1103	20-100 Employees	$927	$1,081	$154
1004 / 1104	101-500 Employees	$1,348	$1,569	$221
1005 / 1105	>500 Employees	$2,307	$2,688	$381
Tiered Permit Annual Fees				
Fee Category	Description	Current Fee	Proposed Fee	Change
CE	Conditionally Exempt	$116	$125	$9
CA	Conditionally Authorized	$811	$899	$88
PBR	Permit by Rule	$1,155	$1,285	$130
Hazardous Material Handler Annual Fees				
Fee Category	Description	Current Fee	Proposed Fee	Change
3000	Small Quantity Handler	$180	$216	$36
3001	Minor Handler	$261	$310	$49
3002	Moderate Handler	$336	$396	$60
3003	Major Handler	$467	$543	$76
3004	Major Handler – Large Volume	$671	$768	$97
3005	Major Handler – Complex	$1,057	$1,193	$136
Hourly Cost Recovery Charges and Miscellaneous Fees				
Emergency Response Initial Fee		$404	$466	$62
Emergency Response Hourly Fee		$101.07	$116.67	$15.60
Site Mitigation Initial Fee		$1,717	$1,974	$257
Site Mitigation Hourly Fee		$114.45	$131.58	$17.13
Re-inspection Fee		$285	$285	$0
Late Submittal Fee		$285	$285	$0

CAL ARP FEES

Fee Group	Risk Unit Range	Facility Count	Current Fees	Proposed Fees	Change
3501	0-<5	90	$339	$383	$44
3502	5-<15	97	$595	$672	$77
3503	15-<50	59	$1,070	$1,207	$137
3504	50-<100	14	$2,046	$2,310	$264
3505	100-<250	20	$3,459	$3,904	$445
3506	250-<500	9	$5,579	$6,297	$718
3507	500-<1,000	4	$10,100	$11,401	$1,301
3508	1,000-<3,000	6	$15,427	$17,414	$1,987
3509	3,000-<10,000	5	$20,587	$23,239	$2,652
3510	>=10,000	1	$25,734	$29,048	$3,314

ANALYSIS

This ordinance amends Title 12 - Environmental Protection of the Los Angeles County Code to revise fees for the hazardous materials, hazardous waste, and the California Accidental Release Prevention programs; and to revise language to allow for improved enforcement against businesses found to be operating without a valid permit.

RAYMOND J. FORTNER, JR.
County Counsel

By (for) SCOTT KUHN
Senior Deputy County Counsel
Public Works Division

RW:gjh

04/09/07 (requested)

04/27/07 (revised)

439791_2

ORDINANCE NO._____

An ordinance amending Title 12 - Environmental Protection of the Los Angeles County Code, relating to unified program permit requirements and hazardous materials and hazardous waste permit fees.

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.

The following definitions govern the construction of this chapter:

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 ~~S~~section 25404.

B. "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association. "Business" includes a business organized for profit and a non-profit business. "Business" also includes every government agency.

C. "Business concern" means any sole proprietorship, corporation, association, firm, partnership, trust, or other form of commercial or non-commercial organization.

D. "California Environmental Protection Agency" or "Cal-EPA" means the California Environmental Protection Agency for the state of California.

E. "Certified Unified Program Agency" or "CUPA" means the agency certified by the Secretary to implement the unified program specified in this chapter within a jurisdiction.

F. "Chief" means the division chief of the health hazardous materials division of the forester and fire warden or his/her duly authorized representative.

G. "Expired permit" means a Unified Program Facility Permit for which payment of the renewal fees and applicable penalties has not been made on or before the delinquency date of the invoice as defined in Section 12.50.055 of the County Code.

~~G~~H. "Fire chief" means the chief of the Consolidated Fire Protection District of Los Angeles County.

~~H~~I. "Forester and fire warden" means the Consolidated Fire Protection District of Los Angeles County and the forester and fire warden of the county of Los Angeles, (collectively known as the "Los Angeles County Fire Department"), or any representative of the forester and fire warden duly authorized to carry out the provisions of this chapter.

~~I~~J. "Implementation plan" means the implementation plan of the Los Angeles County Certified Unified Program Agency ("LACoCUPA") as approved by the Secretary to implement the provisions of the Act within the jurisdiction of the LACoCUPA.

~~J~~K. "LACoCUPA" means the forester and fire warden as the designated agency certified by the Secretary to implement the unified program specified in this chapter within the county of Los Angeles.

~~K~~L. "Participating agency" or "PA" means an agency which has a written agreement with the CUPA pursuant to subsection 25404.3(d) of the H&SC, and is approved by the Secretary to implement and enforce one or more of the unified program elements specified in subsection 25404(c) of the H&SC in accordance with the provisions of ~~S~~sections 25404.1 and 25404.2 of the H&SC.

~~L~~M. "Person" shall have the meaning set forth in ~~S~~section 25118 of the H&SC and means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, district, commission, state, or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

~~M~~N. "Program elements" means the six unified program elements specified in subsection 25404(c) of the H&SC, the administration of which are being consolidated under the unified program. "Program element" refers to any of the program elements.

~~N~~O. "Secretary" means the Secretary of the California Environmental Protection Agency.

~~O~~P. "Unified program facility" or "facility" means all contiguous land and structures, other appurtenances, and improvements on the land which are subject to the requirements listed in subsection 25404(c) of the H&SC.

~~P~~Q. "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 or licenses issued pursuant to: Section 25284 of the H&SC 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; 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 12.50.085 is hereby amended to read as follows:

12.50.085 Permit -- Period of validity -- Renewals.

Unified program facility permits required by this chapter shall be issued for a period of one year. A valid permit shall be renewable from year to year upon payment, on or before the delinquency date, as defined in Section 12.50.055 of this chapter, contained in the invoice for each such year, of the fees assessed pursuant to Sections 12.50.040 and 12.50.050 of this chapter, or upon payment of such fees and any late payment penalty imposed pursuant to Section 12.50.060 of this chapter, provided the facility is in compliance with all conditions and limitations of such permit. Unified program facility permits shall be deemed to have expired if payment of the renewal fees and applicable penalties has not been made on or before the delinquency date of the invoice, as defined in Section 12.50.055 of this chapter.

SECTION 3. Section 12.50.105 is hereby amended to read as follows:

12.50.105 Notice of permit hearing.

If the chief makes a preliminary determination that a person, business, or business concern to whom a unified program facility permit has been issued may not be conducting the permitted activities in accordance with applicable statutes, regulations, or minimum standards such that permit suspension or revocation may be required or has failed to ~~timely~~ pay the permit fees on or before the delinquency date of the invoice, as defined in Section 12.50.055 of this chapter, the chief shall so notify such person, business, or business concern. The written notice shall briefly describe the violation and specify a time and place of a hearing at which such person, business, or business concern will be afforded an opportunity to present evidence showing there has been no such violation or that the violation has been corrected. The notice shall state that failure to appear and present such evidence may result in suspension or revocation of the permit.

SECTION 4. Section 12.50.115 is hereby amended to read as follows:

12.50.115 Operating without a permit -- Deemed misdemeanor -- Penalty.

Any person who violates the requirements of Sections 12.50.075, ~~or~~ 12.50.100, or 12.50.112 of this chapter, shall be guilty of a misdemeanor, punishable by fine not to exceed $1,000.00, or by imprisonment in the County Jail for a period not exceeding six months, or both, pursuant to Section 1.24.020.A of the County Code.

The provisions of this section are in addition to and independent of any other sanctions, penalties, or liabilities which are or may be imposed under this chapter, state laws, and regulations applicable to the program elements which apply to the facility, other chapters of the County Code related to program elements applicable to the person, business, or business concern, or any other provisions of the Act.

SECTION 5. Section 12.50.120 is hereby amended to read as follows:

12.50.120 Operating without a permit -- Injunctive relief.

Any person violating Section 12.50.075, ~~or~~ 12.50.100, or 12.50.112 of this chapter, may be enjoined from such violation by any court of competent jurisdiction. The remedy provided by this section is additional to and cumulative with any other remedy provided by law.

SECTION 6. Section 12.52.015 is hereby amended to read as follows:

12.52.015 Definitions.

The following definitions govern the construction of this chapter:

A. "Act" means the California Hazardous Waste Control Act, Chapter 6.5, Division 20, California Health and Safety Code. "Act" also means the California Unified Hazardous Waste and Hazardous Materials Management Regulatory Program, Chapter 6.11, Division 20, California Health and Safety Code.

B. "Activity" means the handling or generating of hazardous waste or extremely hazardous waste.

C. "Business" means the conduct of activity and is not limited to a commercial or proprietary activity.

D. "Business concern" means any sole proprietorship, corporation, association, firm, partnership, trust, or other form of commercial organization.

E. "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.

F. "Expired permit" means a Unified Program Facility Permit or Hazardous Waste License for which payment of the renewal fees and applicable penalties has not been made on or before the delinquency date of the invoice as defined in Section 12.50.055 of the County Code.

~~F~~G. "Extremely hazardous waste" means any hazardous waste or mixture of hazardous wastes which, if human exposure should occur, may likely result in death, disabling personal injury or serious illness caused by the hazardous waste or mixture of hazardous wastes because of its quantity, concentration, or chemical characteristics.

~~G~~H. "Forester and fire warden" means the Consolidated Fire Protection District of Los Angeles County commonly known as the Los Angeles County fire department.

~~H~~I. "Handling" means the transporting or transferring from one place to another, or pumping, processing, storing, or packaging of hazardous waste, but does not include the handling of any substance before it becomes a waste.

~~I~~J. "Hazardous waste" means a waste, or combination of wastes, as defined in Section 25117 of the California Health and Safety Code or a waste that is hazardous according to the criteria set forth in Chapter 10, Division 4.5, Title 22 of the California Code of Regulations.

Unless expressly provided otherwise, the term "hazardous waste" shall be understood to also include extremely hazardous waste.

~~J~~K. "Hazardous waste generator" means any person, business or business concern which produces hazardous waste.

~~K~~L. "Hazardous waste license" is the license issued by the county to any hazardous waste generator who falls under the inspection authority of the forester and fire warden as defined in Section 12.50.025 of the County Code. "Hazardous waste license" also means a "unified program facility permit," defined in Section 12.50.010 P of the County Code, issued pursuant to Chapter 12.50 of the County Code to a "unified program facility," defined in Section 12.50.010.O of the County Code, which generates hazardous waste.

~~L~~M. "Large quantity generator" means a person, business or business concern which generates more than 10,000 pounds of hazardous waste in any month.

~~M~~N. "Location" means a room, enclosure, building, lot, or contiguous group of lots.

~~N~~O. "Minimum standards and regulations" means the minimum standards and regulations respecting hazardous and extremely hazardous wastes adopted by the State Department of Toxic Substance Control pursuant to ~~S~~section 25150 of the California Health and Safety Code.

~~O~~P. "Notice of violation" means a written notice issued to a hazardous waste generator 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.

~~P~~Q. "Person" shall have the meaning as set forth in ~~S~~section 25118 of the California Health and Safety Code and means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, city and county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

~~Q~~R. "Recyclable material" has the meaning as defined in ~~S~~section 25120.5 of the California Health and Safety Code.

~~R~~S. "Recycle" means to use, reuse, or reclaim a hazardous waste or a substance from a hazardous waste, and includes the recovery of resources from a hazardous waste.

~~S~~T. "Tier of permit" or "permit tier" means the type of permit authorized under the Act, or regulations adopted pursuant to the Act, for hazardous waste generators

conducting treatment of hazardous waste. The three permit tiers are as follows: (1) permit-by-rule authorized pursuant to regulations adopted by the Department of Toxic Substances Control of the California Environmental Protection Agency; (2) conditional authorization pursuant to ~~S~~section 25200.3 of the California Health and Safety Code; and (3) conditional exemption pursuant to ~~S~~section 25201.5 of the California Health and Safety Code.

~~T~~U. "Treatment" means treatment as defined in ~~S~~section 25123.5 of the California Health and Safety Code.

~~U~~V. "Waste" means waste as defined in ~~S~~section 25124 of the California Health and Safety Code.

SECTION 7. Section 12.52.040 is hereby amended to read as follows:

12.52.040 Permit -- Period of validity -- Renewals.

Unified program facility permits for the hazardous waste program element required by this chapter shall be issued for a period of one year. A valid permit shall be renewable from year to year upon payment, on or before the delinquency date contained in the invoice for each such year, of the fees assessed pursuant to Section 12.52.070 of this chapter, or upon payment of such fees plus any late payment penalty imposed pursuant to Section 12.52.080 of this chapter, provided the facility is in compliance with all conditions and limitations of such permit. Unified program facility permits shall be deemed to have expired if payment of the renewal fees and applicable penalties has not been made on or before the delinquency date of the invoice as defined in Section 12.50.055 of this chapter.

SECTION 8. Section 12.52.065 is hereby amended to read as follows:

12.52.065 Operating without a permit -- Deemed misdemeanor -- Penalty.

Any person who violates the requirements of Section 12.52.020, 12.52.040, or 12.52.060 of this chapter shall be guilty of a misdemeanor, punishable by fine not to exceed $1,000.00, or by imprisonment in the County Jail for a period not exceeding six months, or both, pursuant to Section 1.24.020.A of the County Code.

The provisions of this section are in addition to and independent of any other sanctions, penalties, or liabilities which are or may be imposed under this chapter, state laws, and regulations applicable to the program elements which apply to the facility, other chapters of the County Code related to program elements applicable to the person, business, or business concern, or any other provisions of the Act.

SECTION 9. 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 2005~~5~~7-2006~~6~~8 fiscal year, 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 5	$~~483~~571.00
2	6 to 19	~~678~~794.00
3	20 to 100	~~927~~1,081.00
4	101 to 500	~~1,348~~1,569.00
5	501 or more	~~2,307~~2,688.00

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 1 fee. Beginning with the 200~~5~~7-200~~6~~8 fiscal year, this fee shall be $~~241~~286.00.

B. Beginning with the 200~~5~~7-200~~6~~8 fiscal year, 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)	$~~1,155~~1,285.00
(2) Conditional Authorization (CA)	~~811~~899.00
(3) Conditional Exemption (CE)	~~116~~125.00

C. Every hazardous waste generator that has been issued a notice of violation as specified in Section 12.52.015.O 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 may be charged a reinspection fee for each reinspection required to verify compliance with the notice of violation. Beginning with fiscal year 2005-2006, the reinspection fee shall be $285.00.

D. Beginning with the 2000-2001 fiscal year, 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 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 Fees. Tiered permit fees 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 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 permittees in each fee group.

3. Reinspection Fees. Reinspection fees shall be determined based on the annualized cost to the forester and fire warden to conduct reinspections of hazardous waste generators, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to conduct reinspections of hazardous waste generators calculated from rates contained in the forester and fire warden's rate package, as approved by the auditor-controller, divided by the annual number of reinspections conducted.

SECTION 10. Section 12.52.090 is deleted in its entirety.

SECTION 11. Section 12.52.095 is hereby amended to read as follows:

12.52.095 Operating without a license -- Injunctive relief.

Any person violating Section 12.52.020, 12.52.040, or 12.52.06~~5~~0 of this chapter, may be enjoined from such violation by any court of competent jurisdiction. The remedy provided by this section is additional to and cumulative with any other remedy provided by law.

SECTION 12. Section 12.56.020 is hereby amended to read as follows:

12.56.020 Emergency response cost recovery.

A. Those costs of an emergency response incurred by the forester and fire warden, including costs of any deputy health officer, public officer and related personnel, necessary to protect the public from a threat to health and safety by actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a

hazardous material, are a charge against any person whose intentional or negligent action causes the incident, if one or more of the following occurs:

1. A response is necessary to mitigate an emergency on any business property or transportation incident site to prevent loss of life or injury.

2. The incident results in the spread of hazardous materials or fire posing a real and imminent threat to health and safety of any person on or near the business property or any transportation incident site.

3. Evacuation beyond the business property or transportation incident site where the incident originates is necessary to prevent loss of life or injury due to a release or threatened release.

4. The incident results in the spread of hazardous materials or fire posing a real and imminent threat to public health and safety beyond the property lines of a business or the immediate surroundings of a transportation incident site.

5. The incident results in any threat to the environment.

B. Any person whose intentional or negligent action caused the incident, as specified in Section 12.56.020.A, 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 ~~1996-97~~2007-08,

the administrative charge shall be $~~188~~466.00 and the personnel hourly rates shall be ~~as follows~~charged at the rate of $116.67 per hour.

~~**Position Hourly Rate**~~

~~Hazardous Materials Specialist II $107.03~~

~~Supervising Hazardous Materials Specialist 118.84~~

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 13. 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), ~~S~~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 ~~1999-2000~~2007-08, this fee shall be $~~1,606~~1,974.00 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 ~~1999-2000~~2007-08, the hourly rate shall be $~~90.51~~131.58.

SECTION 14. 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 200~~5~~7-200~~6~~8 fiscal year, 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 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	$~~180~~216.00
II	Minor Handler 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	~~261~~310.00

III	Moderate Handler 501 - 2,750 gallons or 5,001 - 25,000 pounds or 2,001 - 10,000 cubic feet	~~336~~396.00
IV	Major Handler 2,751 - 50,000 gallons or 25,001 - 500,000 pounds or 10,001 - 200,000 cubic feet	~~467~~543.00
V	Major Handler - Large Volume 50,001 gallons and over or 500,001 pounds and over or 200,001 cubic feet and over	~~671~~768.00

VI	Major Handler - Complex 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.	~~1,057~~1,193.00

The following definitions govern the construction of this Section 12.64.040:

"Refinery" means a plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline, or other hydrocarbon sources.

"Chemical plant" means a large integrated plant or that portion of such a plant other than a refinery or distillery where liquids are produced by chemical reactions or used in chemical reactions.

"Distillery" means a plant or that portion of a plant where liquids produced by fermentation are concentrated, and where the concentrated products may also be mixed, stored, or packaged.

"Bulk plant or terminal" means that portion of a property where liquids are received by tank vessel, pipelines, tank car, or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

Fee Group	**Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year**	**Annual Fee**
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

Exception:

Any facility with underground fuel tanks, regardless of quantity shall be considered to be a Fee Group II facility, unless the total quantity of hazardous materials handled other than motor vehicle fuels at any one time during the reporting year

exceeds the Fee Group II quantity limits in which event the facility shall fall into the appropriate Fee Group category above based upon the total quantity of hazardous materials handled other than motor vehicle fuels.

Exemption:

Any person, business or business concern which conducts, exclusively for charitable purposes, an activity for which a fee is required under this chapter and from which no person benefits through the distribution of profits, payment of excessive charges or compensation, or the more advantageous pursuit of their business or profession shall not be charged any fee. Facts supporting entitlement to such exemption from a fee requirement shall be shown by affidavit filed with the forester and fire warden.

Any person, business or business concern which conducts an activity for which a fee is required to be paid by this chapter shall be deemed to qualify for a fee exemption if it complies with section 214 of the California Revenue and Taxation Code ~~as~~ is now and hereafter amended.

Exception:

When a business is a farm which both receives from and submits its business plan and/or inventory forms directly through the office of the county agricultural commissioner, any fees, annual adjustments, or late fees shall be established by and paid to the office of the county agricultural commissioner.

SECTION 15. 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 of this chapter, 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 200~~5~~7-200~~6~~8 fiscal year, 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	$~~339~~383.00
II	=>5 and <15	~~595~~672.00
III	=>15 and <50	~~1,070~~1,207.00
IV	=>50 and <100	~~2,046~~2,310.00
V	=>100 and <250	~~3,459~~3,904.00
VI	=>250 and <500	~~5,579~~6,297.00
VII	=>500 and <1,000	~~10,100~~11,401.00
VIII	=>1,000 and <3,000	~~15,427~~17,414.00
IX	=>3,000 and <10,000	~~20,587~~23,239.00
X	=>10,000	2~~5,734~~9,048.00

Where:

The total risk units for each regulated substance are determined by dividing the reported daily maximum quantity in pounds by the threshold quantity for that regulated substance and the total risk units for each stationary source are determined by adding together the risk units determined for each regulated substance at that stationary source.

C. Any third party technical review required by the forester and fire warden shall be a cost paid by the stationary source.

D. RS fees may be adjusted annually by the Board of Supervisors to recover the annualized cost to the forester and fire warden to administer the California Accidental Release Prevention program, where the annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the California Accidental Release Prevention program calculated from rates contained in the forester and fire warden's rate package, as approved by the auditor-controller.

Exemption:

Any person, business, or business concern which conducts, exclusively for charitable purposes, an activity for which a fee is required under this chapter and from which no person benefits through the distribution of profits, payment of excessive charges or compensation, or the more advantageous pursuit of their business or

profession shall not be charged any fee. Facts supporting entitlement to such exemption from a fee requirement shall be shown by affidavit filed with the forester and fire warden.

Any person, business, or business concern which conducts an activity for which a fee is required to be paid by this chapter shall be deemed to qualify for a fee exemption if it complies with section 214 of the California Revenue and Taxation Code ~~as now and hereafter amended~~.

[1250010LRFIRE]