



Legislation Text

File #: 11-0048, **Version:** 1

HEARING - Consider adoption of Resolution to set annual fees to fund the implementation of the Above Ground Petroleum Storage Act. (Est. Time: 15 Min.)

Resolution 018-2011

Funding: Non-General Fund/County Service Area 10

Fiscal Impact/Change to Net County Cost: Initial annual program revenue is estimated to be \$20,000. There is no change in Net County Cost.

Background:

1970 - Federal Water Quality Improvement Act

In 1970, Congress enacted the Water Quality Improvement Act. The Act prohibited discharges of harmful quantities of oil into navigable waters of United States. In 1974, Part 112 of Title 40 of the Code of Federal Regulations became effective. These regulations applied to non-transportation related onshore and offshore facilities that could reasonably be expected to discharge oil into or upon navigable waters of United States or adjoining shorelines in the event of a release. These regulations required operators of applicable facilities prepare a Spill Prevention Control and Countermeasures (SPCC) Plan by July 10, 1974. Implementation of the SPCC Plan was to be accomplished by January 10, 1975.

1990 - California Aboveground Petroleum Storage Act

In 1990, California enacted the Aboveground Petroleum Storage Act. The State Water Resources Control Board implemented the Act. Owners or operators of facilities having a single tank with a capacity greater than 660 gallons or a cumulative storage capacity greater than 1,320 gallons were required to take actions to prevent spills. Required actions included implementing a Spill Control Countermeasures Plan in accordance with Part 112 of Title 40 of the Code of Federal Regulations, annually submitting a storage statement, paying a fee and in some cases implement a monitoring program. The storage statement included facility information, contact person and specific information on tanks exceeding 10,000 gallons.

State Water Resources Control Board Fees:

In 1990, tank facility owners/operators submitted the following fees to SWRCB:

Storage Capacity (gallons)	Per Facility Fee (US Dollars)
Less than 10,000	\$0
10,000 - 100,000	\$50
100,001 - 1,000,000	\$100
1,000,001 - 10,000,000	\$200
10,000,001 - 100,000,000	\$500

100,000,001 or greater	\$1,000
------------------------	---------

In 1992, State Water Resources Control Board the fees were increased to:

Storage Capacity (gallons)Per Facility Fee (US Dollars)	
Less than 10,000	\$100
10,000 - 100,000	\$200
100,001 - 1,000,000	\$400
1,000,001 - 10,000,000	\$1,600
10,000,001 - 100,000,000	\$8,000
100,000,001 or greater	\$30,000

Program Requirements:

Owners of tank facilities were required to:

1. By January 1, 1991, prepare and implement a Spill Control Countermeasures Plan.
2. Within 180 days after preparing a Spill Control Countermeasures Plan, establish a monitoring plan if the Regional Water Quality Control Board (Regional Board) determined a discharge would affect surface waters, groundwater or sensitive ecosystems. Where a discharge may affect surface waters, groundwater or a sensitive ecosystem, other requirements applied.

Farms, nurseries, logging and construction sites had reduced requirements, if total capacity was less than 100,000 gallons and the largest tank capacity was less than 20,000 gallons. Requirements for these facility owners included:

1. Conduct daily inspections of petroleum storage tanks;
2. Allow inspections by Regional Board;
3. Install secondary containment for the entire capacity of the largest tank plus precipitation if the Regional Board determines that installation is necessary to protect the State's waters.

1993 - Certified Unified Program Agencies

Industry supported SB 1082, approved by the Governor on September 20, 1993, which required local jurisdictions to implement a State-mandated Certified Unified Hazardous/Waste program (CUPA) to consolidate hazardous materials and hazardous waste inspection and enforcement activities into individual agencies. The County of El Dorado Board of Supervisors adopted Resolution 311-95 authorizing Environmental Management to execute a CUPA application to CalEPA. The County of El Dorado Environmental Management Department received certification from CalEPA in 1996.

During the period from 1996-2008, CUPA's Aboveground Petroleum Storage Act responsibility was limited to requesting Spill Control Countermeasures Plans during inspections and notifying the Regional Board if a facility did not have a Spill Control Countermeasures Plan. CUPAs did not have full Aboveground Petroleum Storage Act inspection and compliance authority.

2008 - Aboveground Petroleum Storage Act:

On January 1, 2008, California Assembly Bill 1130 transferred authority and responsibility of the established Aboveground Petroleum Storage Act program from the State Water Resources Control

Board to the CUPAs (Health and Safety Code Sections 25270-25270.13). Accumulated Aboveground Petroleum Storage Act funds collected by the Water Board were allocated to the CUPAs to initiate the program. CUPA inspectors were required to complete an Aboveground Petroleum Storage Act training program and pass a State exam. Three Environmental Management staff members have completed the training. Aboveground Petroleum Storage Act implementation was incorporated into the CUPA Inspection and Enforcement program.

CUPAs are required to verify compliance, implement and enforce the Aboveground Petroleum Storage Act program for facilities storing 1320 gallons or more of petroleum. Under the 2008 Above Ground Storage Act the 660 gallon single tank threshold no longer applies. CUPAs are required to conduct compliance inspections at tank facilities with a capacity \geq 10,000 gallons of petroleum at least once every 3 years. Under the Hazardous Materials Business Plan program CUPAs are also required to perform compliance inspections at facilities storing $>$ 55 gallons of hazardous materials (including petroleum) at least once every 3 years. For Aboveground Petroleum Storage Act facilities storing 1320 to 9,999 gallons, Aboveground Petroleum Storage Act compliance is determined during the triennial HMBP inspection.

CUPAs were prevented from collecting Aboveground Petroleum Storage Act fees until January 1, 2010. AB 1130 requires CUPAs to establish a fee at a level sufficient to pay necessary and reasonable costs incurred in Aboveground Petroleum Storage Act program administration. The fees are to include inspection, enforcement and administrative costs. To date Environmental Management staff have identified 116 facilities subject to Aboveground Petroleum Storage Act.

2010

During routine hazardous materials facility inspections Environmental Management Staff have advised facility operators of the shift of responsibility from the State to the County. In addition, all Aboveground Petroleum Storage Act facility operators were notified of two Aboveground Petroleum Storage Act workshops by direct mail. Workshops were conducted in Placerville and South Lake Tahoe. Topics discussed were the transfer of this established program from the State to the CUPA, fees for administration and program compliance requirements. The Placerville workshop was attended by one Aboveground Petroleum Storage Act facility operator. The South Lake Tahoe workshop was attended by two facility operators. The operators were advised that the Environmental Management Department would propose to the Board of Supervisors the collection of fees at the same rates charged by the State since 1992. The State will no longer be collecting Aboveground Petroleum Storage Act fees.

Reason for Recommendation:

The Aboveground Petroleum Storage Act is an established program that is being transferred from the State to the Counties. Implementation by the County will be done at no increase in cost and will provide program efficiency by minimizing inspection duplication activities for hazardous materials facilities. The Environmental Management Department is requesting authority to collect fees to fund the inspection, compliance and administrative functions of the Aboveground Petroleum Storage Act program. The fees will be set at the same rates charged by the State since 1992 which are as follows:

Storage Capacity (gallons)Per Facility Fee (US Dollars)	
Less than 10,000	\$100
10,000 - 100,000	\$200
100,001 - 1,000,000	\$400
1,000,001 - 10,000,000	\$1,600
10,000,001 - 100,000,000	\$8,000
100,000,001 or greater	\$30,000

Action to be taken following Board approval:

Upon execution by the Chair, the Board Clerk's Office will forward executed Resolution to Environmental Management Department for implementation.

Contact: Gerri Silva, MS, REHS, Environmental Management Director