



## Legislation Text

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**File #:** 19-1514, **Version:** 2

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Environmental Management Department recommending the Board ~~adopt and authorize the Chair to sign~~ approve the Final Passage (Second Reading) of Ordinance **5114** amending in its entirety Chapter 8.38 - Hazardous Materials, Ordinance No. 4101 of the El Dorado County Ordinance Code pertaining to Hazardous Materials, thereby repealing in their entirety both Chapter 8.40 - Underground Storage Tanks, and Chapter 8.41 - Fuel Containing MTBE, and consolidating Chapter 8.40 into the revised Chapter 8.38.

**FUNDING:** General Fund / Hazardous Materials Permit fees (no change to current cost or revenue).

**DISCUSSION / BACKGROUND:**

On December 10, 2019 (Item 43), the Board continued this matter to December 17, 2019 for Final Passage (Second Reading).

Environmental Management Department (Environmental Management), is recommending the Board amend Title 8, Public Health & Safety, Chapter 8.38 - Hazardous Materials, within the County (Ordinance 4101), in its entirety in order to incorporate all regulated elements of the Certified Unified Program Agency (CUPA) pertaining to facilities that generate, store, or treat hazardous materials or hazardous waste. Additionally, Environmental Management is recommending the Board, upon adoption of the amended Chapter 8.38 - Hazardous Materials, repeal in their entirety Chapter 8.40 - Underground Storage Tanks, and Chapter 8.41 - Fuel Containing MTBE. Consistent with Board Policy A-3, Ordinances - New or Amended, the Board provided conceptual approval on April 23, 2019 (Item No. 16, File No. 19-0577) to amend Chapter 8.38 and repeal Chapters 8.40 and 8.41 in order to better align with and comply with revisions to local and state regulations.

### Chapter 8.38 - Hazardous Materials

The Board first adopted Chapter 8.38 - Hazardous Materials in 1990. This ordinance has since been revised in 1992 and most recently in 1997. The 1997 version allowed the County to align its hazardous materials program with the State's requirements under the CUPA as provided for under California Code of Regulations Title 27, Division 1, Subdivision 4, and under Senate Bill 1082. The current program only permits Underground Storage Tanks (USTs), which are currently addressed in a separate ordinance under Chapter 8.40 - Underground Storage Tanks. The proposed amendment to Chapter 8.38 - Hazardous Materials will repeal the current ordinance regarding USTs and incorporate those provisions, as amended, in order to have one (1) ordinance that will fully support Environmental Management's CUPA program with the introduction of a consolidated hazardous materials permit structure for business facilities dealing with the storage and handling of hazardous materials within the County's jurisdiction that will cover all regulated elements of the CUPA program.

### Chapter 8.40 - Underground Storage Tanks

The Board first adopted Chapter 8.40 - Underground Storage Tanks in 1997. As part of the proposed ordinance revision, the 1997 version will be repealed in its entirety and will be replaced by the revised Hazardous Materials ordinance. Upon repealing the UST ordinance and consolidating it into the proposed Hazardous Materials ordinance, the County's practices and regulations will better align with

the State of California Health and Safety Code sections 25280 through 25299.8, and Title 23 of the California Code of Regulations. The UST program will also become part of Environmental Management's consolidated CUPA program.

#### Chapter 8.41 - Fuel Containing MTBE

The Board first adopted Chapter 8.41 - Fuel Containing MTBE in 2000, Ordinance No. 4553, and it was specific to the Lake Tahoe Basin. In 2004, the State of California banned fuel containing methyl tertiary butyl ether (MTBE). The current County ordinance will be repealed in its entirety and will not be replaced or consolidated into the amended Hazardous Materials ordinance as these specific matters are now dealt with at the State level.

The revised ordinance proposes to delete in their entirety sections 8.38, 8.40 and 8.41 of the current ordinance and replace it with a consolidated ordinance that will create a Certified Unified Program Agency Permit structure for business facilities within County jurisdiction and better align the County ordinance with State and Federal regulations dealing with hazardous materials storage and handling.

Environmental Management processes invoices for all CUPA program elements; however, an actual permit is only issued for commercial Underground Storage Tanks. The proposed Hazardous Materials ordinance introduces a Consolidated Permit to Operate for all activities regulated by the revised Chapter 8.38. The consolidated permit will combine hazardous materials reporting, hazardous waste generation, hazardous waste treatment, underground storage tanks, above ground storage tanks, and California accidental release prevention program(CalARP) into one (1) consolidated permit. The revised ordinance will also reduce the amount of paperwork utilized within the CUPA program by fully implementing the State mandated California Environmental Reporting System (CERS). Promulgated in 2013, CERS mandates all businesses that are regulated under the CUPA program submit their hazardous materials reporting data into CERS electronically and that all regulatory reviews of these documents also be conducted electronically.

Significant proposed changes to Chapter 8.38, other than those detailed above, include, but are not limited to, the following:

- Changing the title of the Ordinance to Hazardous Materials, upon the repeal and consolidation of Chapter 8.40;
- Expanding and revising the definitions section of Chapter 8.38;
- Incorporating state laws and regulations for implementation and administration of the CUPA program;
- Establishing a program for issuance of Consolidated Permit to Operate for regulated activities; and
- Updating the administrative enforcement procedures for violations and the process for permit approval, denial, modification, suspension, or revocation.

Environmental Management will be returning to the Board on December 17, 2019, for the Second Reading of Chapter 8.38 of the Ordinance Code.

#### **ALTERNATIVES**

The Board may choose not to amend Chapter 8.38 of the Ordinance Code. This would limit Environmental Management's ability to enforce hazardous materials and other CUPA program

elements consistent with State regulations and requirements.

#### **PRIOR BOARD ACTION**

See Discussion/Background above.

#### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

N/A

#### **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item, continuing the action to December 17, 2019, for final passage.

#### **FINANCIAL IMPACT**

There is no change to Net County Cost associated with the proposed ordinance revision. The introduction of the Consolidated Permit to Operate is not anticipated to generate additional permit revenue. This consolidated permit will capture various permits and fees under one (1) permit; however, there will not be additional permit fees charged, with the exception of the California Accidental Release Prevention (CalARP) permit fee which was approved by the Board upon the adoption of Environmental Management's Fiscal Year 2019/20 fee schedule. At this time, there are no current regulated facilities that meet the CalARP criteria.

#### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Publish the Summary Ordinance in the appropriate local newspaper(s) following Board approval of the introduction (First Reading) of the Ordinance; and
- 2) Continue this agenda item to December 17, 2019 for Final Passage of the Ordinance.

#### **STRATEGIC PLAN COMPONENT**

Good Governance, Healthy Communities, Public Safety

#### **CONTACT**

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