

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 8, 2022

TO: Honorable Members of the Rules, Elections & Intergovernmental Relations Committee

FROM:

Sharon M. Tso
Chief Legislative Analyst



Council File No: 22-0002-S85
Assignment No: 22-05-0303

SUBJECT: Resolution (O'Farrell - Koretz) to support administrative action which would allow the Los Angeles Fire Department (LAFD) Certified Unified Program Agency (CUPA) to assume sole administration of the Hazardous Waste Program and Emergency Response.

CLA RECOMMENDATION: Adopt the attached Resolution (O'Farrell - Koretz) to include in the City's 2021-2022 State Legislative Program SUPPORT for administrative action which would allow the Los Angeles Fire Department (LAFD) Certified Unified Program Agency (CUPA) to assume sole administration of the Hazardous Waste Program and Emergency Response.

SUMMARY

Resolution (O'Farrell – Koretz), introduced May 24, 2022, advises that in order to consolidate the administration and implementation of hazardous materials regulation, state law establishes CUPAs to administer unified hazardous material programs at the local level. CUPAs are responsible for environmental assessment and corrective action in relation to the generation of hazardous waste. In Los Angeles, these responsibilities are fulfilled by the LAFD CUPA through the Hazardous Material Regulatory Program. This program is implemented in partnership with the Los Angeles County CUPA as outlined by a 1997 Participatory Agreement. According to the Resolution, in recent years the LA County CUPA has not met program expectations and objectives, creating a backlog of inspections and enforcement actions that have resulted in several preventable hazardous materials incidents that have threatened public safety.

The Resolution further advises that in an effort to address these challenges, the City and County entered into dispute resolution negotiations, entering into a Program Improvement Agreement (PIA) in 2008. The objectives of which were not satisfactorily met, resulting in the application of the City to the California Environmental Protection Agency to assume sole administration of the Hazardous Waste Program and Emergency Response program implemented by the County. Assuming sole administration would allow the City to dedicate the appropriate level of resources to enforce hazardous waste regulations.

The Resolution recommends that the City support administrative action which would allow the LAFD CUPA to assume sole administration of the Hazardous Waste Program and Emergency Response.

BACKGROUND

In 1993, the Unified Program was established by the State to consolidate regulation of hazardous materials and waste, which was distributed among several local and states agencies. The Unified Program enabled the consolidation and coordination of administration, permit, inspection, and enforcement

activities. City and County agencies were designated as CUPAs, receiving authority to enforce hazardous materials regulations in their jurisdictions. Under the Unified Program, local agencies can apply to become a participating agency and implement designated elements of the hazardous materials program.

The CUPA for the City of Los Angeles is the LAFD CUPA which administers implementation of the hazardous materials response within the City. In 1997, the LAFD CUPA entered into a participating agency agreement with the Los Angeles County Fire Department's (LACoFD) Health Hazardous Materials Division (HHMD) to implement the Hazardous Waste Generator Program, site remediation, and emergency response for hazardous materials incidents within the City.

Due to challenges in program implementation met with the County, the City executed a Program Improvement Agreement (PIA) with the County, which has provided guidance for Unified Program implementation for the past two and half years. The LAFD has indicated that the County has failed to inspect over 100 facilities and comply with the three-year inspection mandate, failed to identify and permit hazardous waste generators, and have not demonstrated a desire to correct deficiencies identified in the PIA.

Accordingly, the LAFD is requesting approval from the California Environmental Protection Agency (CalEPA) to amend the LAFD CUPA Program to allow direct implementation of the Hazardous Waste Generator Program without a participating agency agreement. This would allow the LAFD CUPA to be a complete unified program and implement all unified program elements which includes the hazardous waste generator programs. In addition to being able to more adequately respond to hazardous materials incidents, the LAFD will be able to implement the program more efficiently, generating a projected \$800,000 in savings for the City.

Support for administrative action which would allow the LAFD CUPA to assume sole administration of the Hazardous Waste Program and Emergency Response is consistent with past City actions to regulate hazardous materials, ensure the safety of Los Angeles residents, and increase efficiencies within the City.

DEPARTMENTS NOTIFIED

Los Angeles Fire Department



Andy Galan
Analyst

Attachments: 1. Resolution (O'Farrell - Koretz)

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state, or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, in order to consolidate administration and ensure the consistency of hazardous materials regulation, existing state law establishes Certified Unified Program Agencies (CUPAs) to administer unified hazardous materials programs at the local level; and

WHEREAS, CUPAs are responsible for environmental assessment and corrective action in relation to the generation of hazardous waste, with said responsibilities fulfilled in Los Angeles by the Los Angeles Fire Department (LAFD) CUPA through the Hazardous Materials Regulatory Program; and

WHEREAS, as outlined by a 1997 Participating Agency Agreement, the Los Angeles County CUPA implements the Hazardous Waste Program and Emergency Response in partnership with the City of Los Angeles; and


WHEREAS, in recent years the County CUPA has not met program expectations and objectives, creating a backlog of inspections and enforcement actions that have resulted in a number of preventable hazardous material incidents that threaten public safety; and

WHEREAS, in an effort to address these challenges, the City and County entered into dispute resolution negotiations, and in 2008, entered into a Program Improvement Agreement (PIA), the objectives of which were not satisfactorily met by the County; and

WHEREAS, the City has applied to the California Environmental Protection Agency to assume sole administration of the Hazardous Waste Program and Emergency Response currently implemented by the County, allowing the City to dedicate the appropriate level of resources to enforce hazardous waste regulations;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program SUPPORT for administrative action which would allow the Los Angeles Fire Department Certified Unified Program Agency to assume sole administration of the Hazardous Waste Program and Emergency Response.

PRESENTED BY:


MITCH O'FARRELL
Councilmember, 13th District

SECONDED BY:



ORIGINAL

MAY 24 2022

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