

File No. 100721

Committee Item No. 13

Board Item No. 45

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 6/21/10

Board of Supervisors Meeting

Date 6/29/10

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
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OTHER

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Completed by: Gail Johnson

Date 6/18/10

Completed by: [Signature]

Date 6/24/10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

27

01/25/10

1 [Aboveground Storage Tank Fees.]

2
3 Ordinance amending San Francisco Health Code Sections 1102 and 1176 by adding
4 aboveground storage tank definitions and fees.

5 NOTE: Additions are single-underline italics Times New Roman;
6 deletions are ~~strike-through italics Times New Roman~~.
7 Board amendment additions are double-underlined;
8 Board amendment deletions are ~~strikethrough normal~~.

8 Be it ordained by the People of the City and County of San Francisco:

9 Section 1. The San Francisco Health Code is hereby amended by amending Sections
10 1102 and 1176, to read as follows:

11 **SEC. 1102. DEFINITIONS.**

12 In addition to the general definitions applicable to this Code, whenever used in this
13 Article, the following terms shall have the meanings set forth below:

14 (a) "Aboveground storage tank" is defined in California Health and Safety Code Section
15 25270.2, or any successor provisions.

16 (b) "Aboveground petroleum storage facility" or "APS facility" means any facility regulated
17 under California Health and Safety Code Section 25270 et seq. or any successor provisions.

18 Aboveground petroleum storage facilities with storage capacity of 1320 to 10,000 gallons are further
19 classified as Tier 1 or Tier 2, which are defined as follows:

20 (1) "Tier 1 APS facility" means any aboveground petroleum storage facility with
21 aggregate aboveground oil storage capacity of 10,000 gallons or less and no individual aboveground
22 oil storage container with a capacity greater than 5,000 gallons.

23 (2) "Tier 2 APS facility" means any aboveground petroleum storage facility with
24 aggregate aboveground oil storage capacity of 10,000 gallons or less with at least one individual
25 aboveground oil container with a capacity greater than 5,000 gallons.

1 (c)(b) "Business" means an employer, self-employed individual, trust, firm, joint stock
2 company, corporation including a government corporation, partnership, association, city,
3 county, city and county, district, the State and any agency, department, office, board,
4 commission, or bureau of State government, including, but not limited to, the campuses of the
5 California Community Colleges, the California State University, and the University of
6 California, and the federal government, to the extent authorized by federal law.

7 For the purpose of the application of this Article to the City and County of San
8 Francisco, "business" includes any office or department under any elected or appointed
9 official or under any board or commission.

10 (d)(b) "Certificate of registration" means any Hazardous Materials Certificate of
11 Registration, including any addenda thereto, and any temporary certificate of registration
12 issued pursuant to this Article.

13 (e)(e) "Chemical name" means the scientific designation of a substance in accordance
14 with the International Union of Pure and Applied Chemistry or the system developed by the
15 Chemical Abstracts Service.

16 (f)(d) "Chief of Department" means the Chief of the San Francisco Fire Department or
17 the Chief's designee.

18 (g)(e) "City Planning Code" means Part II, Chapter 3 of the San Francisco Municipal
19 Code.

20 (h)(f) "Common name" means any designation or identification, such as a code name,
21 code number, trade name, or brand name, used to identify a substance other than by its
22 chemical name.

23 (i)(g) "Contiguous" means without separation by a public street, alley, sidewalk or
24 other public place or right-of-way even if connected by underground or overhead structures,
25 such as but not limited to bridges or passageways.

1 ~~(j)(7)~~ "Department" means the San Francisco Department of Public Health.

2 ~~(k)(7)~~ "Director of Health" means the Director of the San Francisco Department of
3 Public Health or the Director's designee.

4 ~~(l)(7)~~ "Environmental Health Section" means the Environmental Health Section in the
5 Community Health and Safety Branch of the Public Health Division of the San Francisco
6 Department of Public Health.

7 ~~(m)(7)~~ "Establishment" means a single business operation conducted on the same or
8 contiguous parcels of property under the same ownership or entitlement to use, and the
9 building or buildings, appurtenant structures, and surrounding land area used by the
10 establishment at that location or site. To be considered a single business operation, all
11 business operations at the location must be under the direction and control of the same
12 primary response person and accessible from the same public street entrance.

13 ~~(n)(7)~~ "Etiologic agent" means a viable microorganism, or its toxin, which is listed in the
14 regulations of the Department of Health and Human Services at Section 72.3 of Title 42 of the
15 Code of Federal Regulations, which regulations are incorporated into this Article by reference,
16 or which causes or may cause severe, disabling or fatal disease in a healthy population. For
17 purposes of this definition, "etiologic agent" does not include human or animal materials
18 including but not limited to excreta, secreta, blood, and its components, tissue and tissue
19 fluids being handled for purpose of diagnosis or in waste form.

20 ~~(o)(7)~~ "Fire Code" means Part II, Chapter 4 of the San Francisco Municipal Code.

21 ~~(p)(7)~~ "Freight forwarding and freight transportation services" means an establishment
22 which packs, crates, prepares for shipping, warehouses, or otherwise handles hazardous
23 materials in transit or operates a terminal through which hazardous materials pass, including
24 but not limited to establishments specified in Codes 4231, 4731 and 4783 of the Manual of
25

1 Standard Industrial Classification Codes, published by the United States Office of
2 Management and Budget, 1987 Edition.

3 ~~(q)(e)~~ "Handle" means to use, generate, process, produce, package, treat, store, emit,
4 discharge, or dispose of a hazardous material in any fashion.

5 ~~(r)(p)~~ "Handler" means any person or business which handles a hazardous material.

6 ~~(s)(g)~~ "Hazardous material" means any material that, because of its quantity,
7 concentration, or physical or chemical characteristics, poses a significant present or potential
8 hazard to human health and safety or to the environment if released into the workplace or the
9 environment. "Hazardous materials" include, but are not limited to, hazardous substances,
10 hazardous waste, and any material which a handler or the Department has a reasonable
11 basis for believing would be injurious to the health and safety of persons or harmful to the
12 environment if released into the workplace or the environment.

13 A mixture shall be deemed to be a hazardous material if it contains either one-tenth of
14 one percent or more of any carcinogen or one percent or more of any other hazardous
15 material.

16 ~~(t)(+)~~ "Hazardous materials plan" means a document consisting of, at a minimum,
17 general business information about an establishment, an inventory of hazardous materials
18 handled at the establishment, an emergency response plan for the establishment, an
19 employee training plan for handling hazardous materials, a facility map and such other
20 information as is required by this Article and regulations adopted by the Health Commission
21 pursuant to this Article in order to obtain a certificate of registration.

22 ~~(u)(s)~~ "Hazardous materials release site" means an establishment, UST, premises or
23 real property containing a release or threatened release.

24 ~~(v)(t)~~ "Hazardous substance" means any substance or chemical product for which one
25 of the following applies:

1 (1) The manufacturer or producer is required to prepare or prepares a Material Safety
2 Data Sheet (MSDS) for the substance or product pursuant to the California Hazardous
3 Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of
4 Part 1 of Division 5 of the California Labor Code) or pursuant to the federal Occupational
5 Safety and Health Act of 1970 and regulations promulgated under that Act (commencing with
6 Section 651 of Title 29 of the United States Code);

7 (2) The substance is listed as a radioactive material in Appendix B of Part 20 of
8 Chapter 1 of Title 10 of the Code of Federal Regulations, maintained and updated by the
9 Nuclear Regulatory Commission;

10 (3) The substances listed pursuant to Parts 172 and 173 of Title 49 of the Code of
11 Federal Regulations;

12 (4) The materials listed in Subdivision (b) of Section 6382 of the California Labor
13 Code;

14 (5) The chemicals listed in Subdivisions (b) and (c) of Section 12000 of Title 22 of the
15 Code of California Regulations, which Section is incorporated into this Article by reference;

16 (6) The substances listed as hazardous substances in Subsection (f) of Section 25281
17 of the California Health and Safety Code.

18 ~~(w)~~ "Hazardous waste" means hazardous waste, as defined in Sections 25115,
19 25117, and 25316 of the California Health and Safety Code.

20 ~~(x)~~ "Health Commission" means the San Francisco Health Commission.

21 ~~(y)~~ "Laboratory" means a business or part of a business operated by scientists or
22 engineers, or by students or technicians under their supervision, for the following purposes:
23 investigation of physical, chemical or biological properties of substances; development of new
24 or improved chemical processes, products, or applications; analysis, testing, or quality control;
25 or instruction and practice in a natural science or in engineering. These operations are

1 characterized by the use of a relatively large and variable number of chemicals on a scale in
2 which the containers used for reactions, transfers, and other handling of chemicals are
3 normally small enough to be easily and safely manipulated by one person.

4 ~~(z)(x)~~ "MSDS" means a Material Safety Data Sheet prepared pursuant to Section 6390
5 of the California Labor Code and Section 5194 of Title 8 of the Code of California Regulations,
6 or pursuant to the regulations of the Occupational Safety and Health Administration of the
7 U.S. Department of Labor in Subsection (g) of Section 1910.1200 of Title 29 of the Code of
8 Federal Regulations, which Section is incorporated into this Article by reference.

9 ~~(aa)(y)~~ "Operator" means any person in control of, or having daily responsibility for, the
10 daily operation of an underground storage tank system.

11 ~~(bb)(z)~~ "Owner" means the owner of an underground storage tank or the person or
12 persons named on the last assessment rolls of the City and County of San Francisco as the
13 owner of (i) the real property where an underground storage tank is located, or (ii) for
14 underground storage tanks located under the surface of any improved or unimproved public
15 street, sidewalk, alley, court or other place dedicated for or subject to an easement for public
16 access, the immediately adjacent real property that is or was served by the underground
17 storage tank.

18 ~~(cc)(aa)~~ "Permit" means any permit to operate an underground storage tank, including
19 any addenda thereto, issued pursuant to this Article.

20 ~~(dd)(bb)~~ "Permittee" means any person to whom a permit is issued pursuant to this
21 Article and any authorized representative, agent or designee of such person.

22 ~~(ee)(ee)~~ "Person" means an individual, trust, firm, joint stock company, corporation
23 including a government corporation, partnership, association, city, county, city and county,
24 district, the State, any department or agency thereof or the United States, to the extent
25 authorized by federal law.

1 For the purpose of the application of this Article to the City and County of San
2 Francisco, a "person" includes any office or department under any elected or appointed
3 official or under any board or commission.

4 ~~(ff)(dd)~~ "Pipe" means pipe as defined in Sections 25281(l) and 25281.5 of the
5 California Health and Safety Code.

6 ~~(gg)(ee)~~ "Primary response person" means the individual representing the business
7 who can provide technical information and assistance in the event of a release or threatened
8 release of hazardous materials and has full facility access, site familiarity and authority to
9 make decisions for the business regarding implementation of appropriate site mitigation.

10 ~~(hh)(ff)~~ "Registered quantity limit" means the maximum amount of hazardous material
11 that can be stored in an establishment pursuant to a certificate of registration. The Director
12 shall set separate registered quantity limits for an establishment for which a certificate of
13 registration is obtained in accordance with the requirements of this Article.

14 ~~(ii)(gg)~~ "Registrant" means any business to whom a certificate of registration is issued
15 pursuant to this Article and any authorized representative, agent or designee of such
16 business.

17 ~~(ij)(hh)~~ "Release" means any spilling, leaking, pumping, pouring, emitting, emptying,
18 discharging, injecting, escaping, leaching, dumping, or disposing of a hazardous material into
19 the environment unless permitted or authorized by a regulatory agency.

20 ~~(kk)(ii)~~ "Responsible party" means (i) for a hazardous materials release site, a person
21 or business that owns, operates, occupies or controls the hazardous materials release site, or
22 (ii) for a UST or establishment containing hazardous materials that is subject to closure under
23 this Article, the person or business that owns or operates the UST or establishment and the
24 owner of the real property upon which the UST or establishment is located.

1 ~~(ll)(jj)~~ "SIC Code" means the identification number assigned to specific types of
2 businesses by the Manual of Standard Industrial Classification Codes, published by the
3 United States Office of Management and Budget.

4 ~~(mm)(kk)~~ "Spill" means any uncontrolled release of a hazardous material.

5 ~~(nn)(ll)~~ "Storage" means the containment, handling, use, generation, processing,
6 production, packaging, emitting, discharging, disposal or treatment of hazardous materials.

7 ~~(oo)(mm)~~ "Sump" means a pit or other subsurface container in which liquids collect.

8 ~~(pp)(nn)~~ "Threatened release" means a condition creating a substantial probability of
9 harm, when the probability and potential extent of harm make it reasonably necessary to take
10 immediate action to prevent, reduce, or mitigate damages to persons, property, or the
11 environment.

12 ~~(qq)(oo)~~ "Trade secret" means trade secrets as defined in Subdivision (d) of Section
13 6254.7 of the California Government Code and Section 1060 of the California Evidence Code.

14 ~~(rr)(pp)~~ "Unauthorized release" means any release of any hazardous material that
15 does not conform to the provisions of this Article or is not otherwise authorized by law or a
16 governmental agency, including, but not limited to, the federal Environmental Protection
17 Agency, the California Environmental Protection Agency, or the Department of Public Works
18 pursuant to the San Francisco Industrial Waste Ordinance.

19 ~~(ss)(qq)~~ "Underground storage tank" means any one or combination of tanks, including
20 pipes connected thereto, which is used for the storage of hazardous substances as defined in
21 Subsection (f) of Section 25281 of the California Health and Safety Code and which is located
22 substantially or totally beneath the surface of the ground.

23 "Underground storage tank" does not include any of the following:

24 (1) A tank with a capacity of 1,100 gallons or less which is located on a farm and which
25 stores motor vehicle fuel used primarily for agricultural purposes and not for resale;

1 (2) A tank which is located on a farm, at a residence of a person, or under public
2 property adjacent to the residence of a person, which has the capacity of 1,100 gallons or
3 less, and which is used to store home heating oil for consumptive use on the farm or at the
4 residence. A tank which is no longer used to provide home heating oil to the farm or residence
5 is not exempted by this Section;

6 (3) Structures such as sumps, separators, storm drains, catchbasins, oil-field gathering
7 lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and
8 unlined pits. Sumps which are part of a monitoring system required under Sections 25291 or
9 25292 of the California Health and Safety Code and sumps or other structures defined as
10 underground storage tanks under Subchapter IX (commencing with Section 6991) of Chapter
11 82 of Title 42 of the United States Code are not exempted by this Section;

12 (4) A tank holding hydraulic fluid for a closed loop mechanical system that uses
13 compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

14
15 **SEC. 1176. - HAZARDOUS MATERIALS FEE SCHEDULE.**

16 (a) Fees Generally. Fees for services and regulatory functions of the Department of
17 Public Health pursuant to this Article shall be as provided in this Section.

18 (b) State Surcharge. Registrants and permittees subject to the requirements of this
19 Article shall pay the annual State surcharge for general program oversight, along with any
20 program-specific service charges established by the Secretary of the California Environmental
21 Protection Agency pursuant to Health and Safety Code Section 25404.5(b).

22 (c) Hazardous Materials Registration Fees.

23 (1) Registration fees shall be payable on the filing of a complete application for a
24 certificate of registration and on annual renewal. On the filing of an addendum disclosing
25 increased quantities or previously undisclosed hazardous materials, a registration fee is due

1 equal to the difference between the most recently charged registration fee and the fee due
2 taking into account the information in the addendum.

3 (2) Registration fees shall be as follows:

4 (A) Temporary certificate of registration, \$172;

5 (B) Freight forwarding and freight transportation services establishments, \$371;

6 (C) For all other registrants subject to this Article, a fee determined by the total
7 quantity of liquids, quantity of solids and quantity of gases required to be registered by the
8 establishment, excluding hazardous materials contained in underground storage tanks. The
9 applicable fee shall be determined by adding together the appropriate quantity groups as set
10 forth in Chart I for liquids, solids and gases at the establishment (excluding hazardous
11 materials contained in underground storage tanks) in order to arrive at a quantity group total.
12 The corresponding fee for each quantity group total is set forth in Chart II.

13 (D) An establishment required to obtain a UST permit which does not have any
14 aboveground storage of hazardous materials subject to this Article shall be exempt from
15 payment of a registration fee.

16 **CHART I
QUANTITY GROUPS**

17 Group	Quantity of Liquids	Quantity of Solids	Quantity of Gases
18 No.	(Gallons)	(Pounds)	(Cubic Feet)
19 1	Less than 55	less than 500	less than 200
20 2	55 — 99	500 — 999	200 — 1,499
21 3	100 — 499	1,000 — 1,499	1,500 — 2,499
22 4	500 — 999	1,500 — 1,999	2,500 — 3,999
23 5	1,000 — 1,499	2,000 — 3,499	4,000 — 4,999
24 6	1,500 — 1,999	3,500 — 4,999	5,000 — 5,999
25 7	2,000 — 2,749	5,000 — 7,499	6,000 — 6,999

1	8	2,750 — 3,499	7,500 — 9,999	7,000 — 7,999
2	9	3,500 — 4,499	10,000 — 14,999	8,000 — 8,999
3	10	4,500 — 5,499	15,000 — 19,999	9,000 — 9,999
4	11	5,500 — 6,499	20,000 — 24,999	10,000 — 12,499
5	12	6,500 — 7,499	25,000 — 29,999	12,500 — 14,999
6	13	7,500 — 8,999	30,000 — 39,999	15,000 — 17,499
7	14	9,000 — 9,999	40,000 — 49,999	17,500 — 19,999
8	15	10,000 or greater	50,000 or greater	20,000 or greater

CHART II

CERTIFICATE OF REGISTRATION FEE SCHEDULE

Quantity	Fiscal Year
Group Total	2008 - 2009
1	\$284
2	\$296
3	\$321
4	\$384
5	\$436
6	\$487
7	\$540
8	\$593
9	\$644
10	\$694
11	\$772

1	12	\$851
2	13	\$928
3	14	\$1,005
4	15	\$1,085
5	16	\$1,160
6	17	\$1,239
7	18	\$1,316
8	19	\$1,395
9	20	\$1,483
10	21	\$1,574
11	22	\$1,665
12	23	\$1,756
13	24	\$1,848
14	25	\$1,937
15	26	\$2,029
16	27	\$2,118
17	28	\$2,222
18	29	\$2,324
19	30	\$2,429
20	31	\$2,532
21	32	\$2,636
22	33	\$2,738
23	34	\$2,842
24	35	\$2,945
25	36	\$3,048

1	37	\$3,153
2	38	\$3,256
3	39	\$3,334
4	40	\$3,411
5	41	\$3,489
6	42	\$3,577
7	43	\$3,618
8	44	\$3,671
9	45	\$3,722

(d) UST Permit Fees. A person required to obtain a UST permit shall pay an annual fee for each tank at each site \$327.

(e) Aboveground Petroleum Storage Fees. An owner or operator of an aboveground petroleum storage facility shall pay the following annual fee:

<u>Facility Category</u>	<u>Facility Petroleum Storage Capacity (gallon)</u>	<u>Annual Fee</u>
<u>1.1</u>	<u>1320 to 10,000</u> <u>(Tier 1 APS Facility)</u>	<u>\$565</u>
<u>1.2</u>	<u>1320 to 10,000</u> <u>(Tier 2 APS Facility)</u>	<u>\$785</u>
<u>2</u>	<u>10,001 to 100,000</u>	<u>\$1003</u>
<u>3</u>	<u>100,001 to 1,000,000</u>	<u>\$1130</u>
<u>4</u>	<u>1,000,001 to 10,000,000</u>	<u>\$1256</u>
<u>5</u>	<u>10,000,001 to 100,000,000</u>	<u>\$1506</u>
<u>6</u>	<u>≥100,000,001</u>	<u>\$1695</u>

(f) Miscellaneous Other Fee Schedules. Other hazardous materials fees shall be as follows:

Miscellaneous Other Fee Schedules. Other hazardous materials fees shall be as follows:

Type of Fee	Fiscal Year
	2008-2009
Application fee for UST repair, modification, removal or closure approval and up to three hours field inspection, per site	\$877
Field inspection fee, per hour (business hours)	\$166
Field inspection fee, per hour (Sat., Sun., evenings)	\$250
Permit Review by Department of City Planning	\$85
Closure plan processing fee and up to three hours of plan review	\$543
Closure plan review exceeding three hours, per hour	\$166
Consultation fee, per hour	\$166
Director's Hearing pursuant to Sections 1137(a)(3), (4), (5) and (7)	\$266

1 Application fee for a Voluntary
2 Remedial Agreement with the \$476
3 Director
4 Voluntary Remedial
5 Agreement Fee, hourly rate \$166

6 ~~(g)~~ Additional Fees as Penalties. Additional fees assessed pursuant to Sections
7 1120 and 1120.1 shall be as follows:

8 TYPE OF FEE AMOUNT

9 Fiscal Year

10 2008-2009

11 Site investigation (maximum) \$1,084

12 Failure to timely obtain a Certificate of Registration or obtain a UST permit, unless
13 otherwise provided in this section \$446

14 Failure to timely register a temporary storage facility \$172

15 Failure to obtain approval to modify, repair, close, or remove an UST \$1,084

16 Failure to schedule a site inspection prior to the modification, closure, or removal of an
17 UST \$542

18 ~~(h)~~ Application Fee for New Certificate of Registration. Registrants and permittees
19 shall pay an application fee for a new Certificate of Registration \$172.

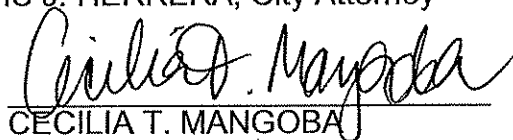
20 ~~(i)~~ Hazardous Materials and Hazardous Waste Base Fee. Any business that is
21 subject to requirements of Articles 21, 21A and/or 22 shall pay an annual base fee \$172; this
22 subsection shall not apply to Minimal Quantity Generator as defined in Section 1204(b) of
23 Article 22 of this Code.

24 ~~(j)~~ Beginning with fiscal year 2007-2008, no later than April 15 of each year, the
25 Controller shall adjust the fees provided in this Article to reflect changes in the relevant

1 Consumer Price Index, without further action by the Board of Supervisors. In adjusting the
2 fees, the Controller may round these fees up or down to the nearest dollar, half-dollar or
3 quarter-dollar. The Director shall perform an annual review of the fees scheduled to be
4 assessed for the following fiscal year and shall file a report with the Controller no later than
5 May 1st of each year, proposing, if necessary, an adjustment to the fees to ensure that costs
6 are fully recovered and that fees do not produce significantly more revenue than required to
7 cover the costs of operating the program. The Controller shall adjust fees when necessary in
8 either case.

9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By:


12 CECILIA T. MANGOBA
13 Deputy City Attorney
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LEGISLATIVE DIGEST

[Aboveground Storage Tank Fees]

Ordinance amending San Francisco Health Code Sections 1102 and 1176 by adding aboveground storage tank definitions and fees

Existing Law

In order to protect public health and the environment, Article 21 of the Health Code establishes a comprehensive program for regulation of facilities that handle hazardous materials. The program is implemented and administered by the Department of Public Health. Existing law establishes fees to support such programs; such fees cover program costs as required by Section 10.19-3 of the Administrative Code.

There currently exist no fees for aboveground petroleum storage tank facilities.

Amendments to Current Law

The proposed amendments would add definitions and fees for aboveground petroleum storage tanks.

Background Information

California Health and Safety Code Sections 25270 et seq. authorize the local Unified Program Agency (in San Francisco, the Department of Public Health) to regulate and charge fees for these facilities.



TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *For* Mayor Gavin Newsom *ST*
RE: Aboveground Storage Tank Fees
DATE: June 1, 2010

Dear Madame Clerk:

Attached for introduction to the Board of Supervisors is the ordinance amending San Francisco Health Code Sections 1102 and 1176 by adding aboveground storage tank definitions and fees.

I request that this item be calendared in Budget and Finance Committee.

Should you have any questions, please contact Starr Terrell (415) 554-5262.

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