

EXECUTIVE ORDER NO. 109

TO: All Agencies under the Mayor
FROM: Michael B. Hancock, Mayor
DATE: May 22, 2014
SUBJECT: Implementation of City Policy and Procedures for the Operation of City-Owned Aboveground and Underground Storage Tanks

Purpose. Executive Order No. 109, "Implementation of City Policy and Procedures for the Operation of City-Owned Above and Below Ground Storage Tanks", dated May 20, 2003 is hereby canceled and superseded by this Executive Order.

This Executive Order establishes the policy of the City and County of Denver (the City) concerning storage tanks owned or operated by the City. It is the policy of the City to reduce the potential threat to human health and the environment from the operation of storage tanks, including aboveground and underground tanks used to contain petroleum products, other regulated substances, and waste. Additionally, it is the City's policy to ensure compliance with all applicable federal, state, and local regulations, and to minimize the City's risk of environmental and financial liability through compliant operation of such storage tanks while servicing the City's fleet fueling and materials management needs.

- 1.0 **Applicable Authority.** The applicable authority relevant to the provisions and requirements of this Executive Order No. 109 is found in Section 2.2.10 of the Revised Charter.
- 2.0 **General Information and Applicability.** All Departments and Agencies under the Mayor, except the Department of Aviation, shall comply with the policies, procedures, and requirements listed in this Executive Order.
- 3.0 **Program Objectives.** The primary objectives of this Executive Order are to establish a framework for collaboration between Department of Environmental Health (DEH) Storage Tanks Program and individual Tank Operating Agencies for storage tanks operation, implement measures to address operational needs, and manage compliance with all applicable federal, state and local laws and regulations.
- 4.0 **Program Assignments.** The DEH Storage Tanks Program, which includes active tank management and site assessment and remediation, shall provide technical services and specialized contractor support required to effectively implement this Executive Order. DEH's Storage Tanks Program shall serve as the technical consultant to each applicable Tank Operating Agency. The technical support and services that DEH's Storage Tanks Program shall provide include, but are not limited to the following:
 - 4.1. Provide informational, technical, training, specialized commercial contractor, and consulting support to assist Tank Operating Agencies.
 - 4.2. Coordinate, standardize, and centralize registration, record keeping and reporting, inspection, renovation, repair, and replacement in accordance with all applicable federal, state and local regulations.
 - 4.3. Maintain a current inventory of all City storage tanks, including their location, capacity, product stored, integrity, estimated remaining useful life, and regulatory compliance status.

- 4.4. See Section 9.0 of this Executive Order for operations and maintenance responsibilities for DEH's Storage Tanks Program and Tank Operating Agencies.

5.0 New and Replacement Storage Tanks

- 5.1. City agencies or departments seeking to install a new storage tank or replace an existing tank shall present information on the proposed new tank to DEH's Storage Tanks Program for review. The Storage Tanks Program shall collaborate with the designated agency project manager to approve, reject, or approve with modifications the proposed tank.
- 5.2. Upon approval of the proposed new storage tank the agency project staff shall ensure completion of all required permit applications and any additional documentation needed for submission to local, state, and federal regulatory authorities. The DEH Storage Tanks Program will provide oversight and direction as needed so that permits, regulatory submittals, and other recordkeeping and documentation meet Storage Tanks Program needs and standards.
- 5.3. During storage tank system design, specification, and installation, the DEH Storage Tanks Program shall provide technical advice and direction to the Tank Operating Agency and their project manager responsible for the tank installation.

6.0 Releases

- 6.1. Upon detection of a suspected release from a storage tank, the Tank Operating Agency shall inform DEH's Storage Tanks Program within 24 hours of the release and shall be available to provide specific information regarding the circumstances associated with the release. Failure to meet the 24-hour reporting requirement may subject the City to regulatory fines and penalties. The Tank Operating Agency must also report immediately to the Denver Fire Department any known release or spill that creates a risk of fire or acute risk to public health.
- 6.2. Upon notification of a suspected release, DEH's Storage Tanks Program will notify the State's tank regulating agency within 24 hours of the suspected release and will initiate and direct an investigation within 7 days of the suspected release to confirm whether a release has occurred.
- 6.3. Once a release has been confirmed, DEH's Storage Tanks Program will coordinate with the Tank Operating Agency to initiate and direct appropriate response actions in compliance with applicable regulatory requirements.

7.0 Acquisition of Property Containing Storage Tanks

- 7.1. No City agency or department shall acquire property containing storage tanks without providing notification to DEH prior to acquiring the property.
- 7.2. Any City agency or department intending to acquire a property with a tank system must notify DEH prior to the acquisition. An environmental review of any property acquisition is required by Executive Order 100. DEH will initiate and direct clean-up and tank closure activities, if needed, and as required by the State regulatory authorities.
- 7.3. Should an agency acquire property with a tank system without an environmental review by DEH prior to acquisition, the agency acquiring the property may be wholly or partially responsible for the cost of removal and remediation of the tank system.

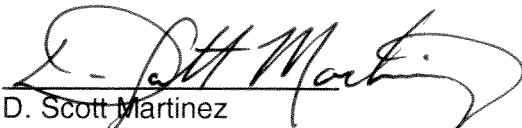
8.0 City-Contracted Activities

- 8.1. Any City-contracted business entity that operates storage tanks on City-owned property for any purpose shall be responsible for complying with all applicable federal, state, and local regulations regarding storage tanks and shall follow instructions from DEH's Storage Tanks Program if needed to come into compliance.
- 8.2. Any new or renewal contract that involves the operation of a storage tank on City-owned property and entered into by the City following the effective date of this Executive Order shall contain the following provisions:
 - 8.2.1. Failure on the part of the contractor to adhere to local, state, and federal regulations pertaining to regulated storage tanks shall be sufficient grounds for terminating a contract.
 - 8.2.2. Contract termination shall not release the contractor from any liability resulting from a release that occurred while its contract was in effect including any fines, civil penalties, or damages.
 - 8.2.3. The contractor shall be responsible for continuous safe use and management of any storage tank on City property used by the contractor in the performance of their contract services or any contractor-owned storage tanks in the performance of a City contract until ownership is transferred or permanent closure and removal of the storage tank from City-owned property and any remedial action required by local, state, or federal regulations is completed and deemed acceptable by the applicable regulating agency.


9.0 Operations and Maintenance Responsibility. The roles and responsibilities of the Tank Operating Agency and DEH's Storage Tanks Program for planning, management, and operations and maintenance of storage tanks shall be defined and explained in a separate memorandum attachment. See Memorandum 109A: *Storage Tank Consolidated Management Plan*.


10.0 Memorandum Attachments. The DEH, which is responsible for the content of this Executive Order, shall have the authority to issue and attach procedural Memoranda to this Executive Order for purposes of implementing this Executive Order. Memoranda attached to the Executive Order shall become a part of the Executive Order. Any revisions to this Executive Order or Memorandum Attachments shall involve collaboration with and input from Tank Operating Agencies.

Approved for Legality:



D. Scott Martinez
City Attorney for the City and County
Of Denver

Approved:



Michael B. Hancock
MAYOR




Kim Day
Manager of Aviation



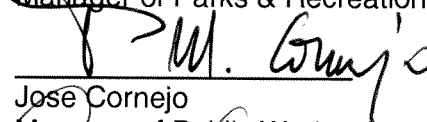
Doug Linkhart
Manager of Environmental Health




Adrienne Benavidez
Manager of General Services



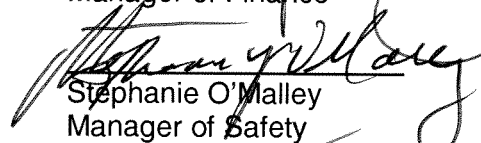
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Manager of Community Planning &
Development

MEMORANDUM 109A

TO: All Agencies Under the Mayor
FROM: Doug Linkhart, Manager
Department of Environmental Health
DATE: May 22, 2014
SUBJECT: Storage Tanks Program Consolidated Management Plan

This Memorandum 109A augments Executive Order No. 109 and establishes a consolidated planning and management process associated with City owned storage tanks. The purpose of this Memorandum is to define the roles and responsibilities of parties involved in on-going storage tank operations and maintenance, environmental protection and compliance, storage tank acquisition, and capital expenditure decisions. The need to define roles and responsibilities and coordinate activities is driven by state and federal regulations and the city's environmental sustainability goals.

For purposes of this Memorandum 109A, the following terms are applicable:

- "Storage tank" means City-owned underground and aboveground bulk containers (excluding drums) of any size that are used to contain petroleum products, other regulated substances, bulk chemical products, and wastes, and includes associated piping, attached product dispensing equipment, and monitoring and release prevention devices.
- "Tank Operating Agency" is the department or agency who is the primary user of one or more storage tank(s), or the purchaser of the storage tank and ancillary equipment, or the agency responsible for purchasing product to fill the storage tank. The Tank Operating Agency is not necessarily the occupant of the facility at which the tank is located.
- "DEH" is the Department of Environmental Health, Environmental Quality Division.
- "Storage Tanks Program" is the DEH program responsible for compliance assurance, environmental protection, and liability management associated with the City's storage tanks.
- "Independent Cultural Facilities" include the Denver Museum of Nature & Science, Denver Botanic Gardens, Denver Zoo, and Denver Art Museum.

The goals of the Storage Tanks Program Consolidated Management Plan are to provide a process for the City to ensure that appropriate priority and expertise is established and maintained in order to effectively manage environmental risk and liability; ensure conformance with applicable federal and state regulations and local codes; provide technical guidance and consulting support for installation, ongoing management, and closure of tanks and tank systems; provide tank site investigation and clean-up; and provide expert direction and oversight to on-call service providers who perform tank technical services and environmental clean-up.

1.0 **DEH** shall be responsible for the following activities related to long-term storage tank planning and management and environmental protection and compliance:

- 1.1. DEH will collaborate with tank operating agencies regarding on-going capital planning to identify and prioritize capital funding allocations for discretionary and required projects involving tank infrastructure and assets. DEH will identify and recommend capital funding project initiatives or objectives to be accomplished within the specified planning period. Funding requests for storage tank projects will be managed in accordance with the planning mandates and guidelines established by the Budget and Management Office (BMO) Capital

Improvements Program (CIP). Using the CIP process, BMO will guide capital expenditure decisions for approved projects, both required and discretionary.

- 1.2. Despite best planning efforts, situations might arise that require emergency or urgent major repair or replacement of tanks or tank system components. DEH will address these situations on a case-by-case basis, coordinating closely with the affected Tank Operating Agency, BMO, and state regulatory agencies as necessary. Some projects may be driven by state regulatory agencies with respect to timing, actions, and costs. DEH will coordinate with BMO regarding contingency funding decisions for capital needs or expenditures associated with unanticipated projects.
- 2.0 Capital projects, including bond-funded projects, that involve installation of new tank systems at City facilities or major renovations at existing facilities shall include DEH early in the project planning and design phase to ensure that the design incorporates features that optimize short-term and long-term operational compliance and helps reduce future environmental and financial liability to the City.
- 3.0 **DEH** shall be responsible for on-going tank operation oversight, including repair and maintenance activities that impact environmental protection and compliance. DEH will plan for and ensure completion of on-going month-to-month and year-to-year tasks associated with maintenance, repair, and testing of tanks and tank systems at existing facilities. DEH will be responsible for expenditures (except as noted in 3.12 below) associated with the following specific activities:
 - 3.1. Air emissions permitting and tank registration, including regulatory fees and assessments (initial submittals, annual renewal, and periodic revisions/changes) associated with air emission permits and tank registration
 - 3.2. Periodic tank system testing and reporting
 - 3.3. Repair, replacement, and maintenance of automatic tank gauge (ATG) hardware and software, including hardware for remote ATG communications
 - 3.4. Repair, replacement, and maintenance of probes, sensors, interstitial monitoring equipment, and any soil vapor or groundwater monitoring equipment
 - 3.5. Repair and replacement of underground and aboveground petroleum product piping
 - 3.6. Mechanical and electronic leak and overflow protection, alarms, signage, and labeling to meet local, State, and Federal standards and requirements
 - 3.7. Repair and/or replacement of cathodic protection systems, including electrical and bonding materials
 - 3.8. Spill Prevention Control and Countermeasures plan development, training, and implementation
 - 3.9. Coordination of spill response activities, including clean-up, remediation, required notification, and reporting
 - 3.10. Collection, management, and disposal of wastes generated as a result of tank operations
 - 3.11. Oversight of tank system inspections and records generation conducted by Tank Operating Agency personnel
 - 3.12. Exception: Due to a Tank Operating Agency's action or inaction resulting from negligence, carelessness, or failure to follow best management practices the Tank Operating Agency may be liable for fines, penalties, or reductions in remediation reimbursements imposed by the State's tank regulating agency.
- 4.0 **DEH** shall be responsible for closure and removal of unwanted, abandoned, or failed tanks and tank systems (except as noted in Section 4.4 below), including environmental clean-up, to include the following activities:
 - 4.1. Site characterization and clean-up, including consultant costs for investigation, sampling, remediation, and on-going services

- 4.2. Collection, management, and disposal of wastes generated as a result of tank closure and clean-up activities
 - 4.3. Disposal of the bulk empty tank shell and piping of removed tanks
 - 4.4. Exception: Due to a Tank Operating Agency's action or inaction resulting from negligence, carelessness, or failure to follow best management practices the Tank Operating Agency may be liable for fines, penalties, or reductions in remediation reimbursements imposed by the State's tank regulating agency.
- 5.0 **DEH** shall be responsible for anticipated routine maintenance and parts replacement, and general preventative maintenance activities indicated below for all tank operating agencies **except** Public Works Fleet Management and Independent Cultural Facilities:
- 5.1. Repair and replacement of tank system components, including but not limited to pumps, dispensers, hoses, nozzles, filters, caps, covers, sub-grade caps, hatches, manways; fill, extraction, and test ports; vents; and protective and supporting concrete pavement
 - 5.2. Purchase and installation of basic safety and emergency response equipment, including but not limited to fire extinguishers and spill response supplies
 - 5.3. Purchase, installation and/or construction of ancillary infrastructure and required engineering controls, including but not limited to: dikes, embankments, safety barriers, fencing, lighting, etc.
- 6.0 **All** tank operating agencies shall be responsible for activities and expenditures associated with on-going, day-to-day tank operational maintenance and management activities indicated below:
- 6.1. Fuel purchase and delivery
 - 6.2. Purchase and delivery and replenishment of all consumables typically used at fuel dispensing facilities, including but not limited to: spill absorbent, rags, towels, and cleaning products.
 - 6.3. Installation, maintenance, and service of telephones, communication lines, and communications equipment and network access for remote tank system monitoring and communication
 - 6.4. Personnel and material costs associated with tank site basic maintenance, including but not limited to:
 - 6.4.1. Daily, weekly, and/or monthly inspection of tank equipment and components by Tank Operating Agency personnel, including:
 - 6.4.1.1. Completion and submittal of inspection forms required by DEH's Storage Tanks Program to support applicable records and reporting requirements
 - 6.4.1.2. Adherence to procedures for timely follow-up and reporting of irregular, abnormal, or uncharacteristic operating conditions
 - 6.4.2. Maintenance of required A/B/C Operator training and certification
 - 6.4.3. Fire Extinguisher care and annual recertification
 - 6.4.4. Tank site housekeeping such as sweeping and removal of debris, trash, soil, and combustible material
 - 6.4.5. Weed control and landscape maintenance
 - 6.4.6. Removal of accumulated stormwater, soil, and materials that promote accelerated corrosion or deterioration of tank equipment and components or product contamination.
 - 6.5. Ancillary services after tank closure/removal are complete and environmental clean-up, if necessary, is concluded, such as landscaping and landscape restoration
- 7.0 In addition to items listed in section 6.0 above, **Public Works Fleet Management** and **Independent Cultural Facilities** shall be responsible for on-going operational maintenance and management activities indicated below, including implementation of best tank management practices to minimize environmental risk and liability.

- 7.1. Repair and replacement of tank system components, including but not limited to dispensers, hoses, nozzles, filters, caps, covers, sub-grade caps, hatches, manways; fill, extraction, and test ports; vents; and protective and supporting concrete pavement
- 7.2. Purchase and installation of basic safety and emergency response equipment; including but not limited to fire extinguishers and spill response supplies
- 7.3. Purchase, installation and/or construction of ancillary infrastructure and required engineering controls, including but not limited to: dikes, embankments, safety barriers, fencing, lighting, etc.
- 7.4. Installation, maintenance, and service of telephones, communication lines, and communications equipment and network access for remote monitoring and communication