

CHAPTER 13.5
UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES

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Sec. 13.5-10. Purpose

It is the purpose of this chapter to adopt for the County of Solano the standards for construction and monitoring of facilities used for the underground storage of hazardous substances, and the procedure for issuance of permits for the use of these facilities set forth in division 20, chapter 6.7, California Health and Safety Code, §25280, et seq.

(Ord. No. 1219, §1; Ord. No. 1428, §1)

Sec. 13.5-11. Conformance with state standards

All of the provisions contained in division 20, chapter 6.7, "Underground Storage of Hazardous Substances", California Health and Safety Code §25280 et seq.) as it now exists and as it may be amended in the future, and all regulations adopted, shall be applicable in the county of Solano and implemented by the permitting authority as required by Health and Safety Code §25299.1(a).

(Ord. No. 1428, §1)

Sec. 13.5-12. Definitions

The following words and phrases, whenever used in this chapter, shall be construed as hereafter provided. Words not otherwise defined in this chapter shall have the meaning ascribed to them in the Health and Safety Code of the state, division 20, chapter 6.7, "Underground Storage of Hazardous Substances".

- (a) **Board** means the Solano county board of supervisors.
- (b) **Facility** means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.
- (c) **Federal act** means subchapter IX (commencing with section 6991) of chapter 82 of title 42 of the United States Code, as added by the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616), or as it may subsequently be amended or supplemented.
- (d) **Hazardous substance** means all of the following liquid and solid substances, unless the State Water Resources Control Board determines the substance could not adversely affect the quality of the waters of the county or the region:
 - (1) Substances on the list prepared by the Director of the Department of Industrial Relations pursuant to section 6382 of the Labor Code of the state.
 - (2) Hazardous substances, as defined in section 25316 of the Health and Safety Code of the state.
 - (3) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.
 - (4) Any regulated substance, as defined in subsection (2) of section 6991 of title 42 of the United States Code, as that section read on January 1, 1989, or as it may subsequently be amended or supplemented.
- (e) **Owner** means the owner of an underground storage tank.
- (f) **Operator** means any person in control of, or having daily responsibility for, the daily operation of an underground storage tank system.
- (g) **Permitting authority** means the director of the department of environmental management, or the director's designee.
- (h) **Person** means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership and association. Person also

includes any city, county, district, the state, or any department or agency thereof, or the United States to the extent authorized by federal law.

(i) Storage or store means the containment, handling or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the State Department of Health Services pursuant to sections 25200, or granted interim status under section 25200.5 of the Health and Safety Code of the state, and has submitted to the permitting authority, documentation verifying the issuance of the permit or the granting of the interim status.

(j) **Underground storage tank** means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

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

(2) A tank which is located on a farm or at the residence of a person, which has a capacity of 1,100 gallons of less, and which stores home heating oil for consumptive use on the premises where stored.

(3) Structures such as sumps, separators, storm drains, catch basins, oilfield gathering lines, refinery separation pumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under section 25291 or 25292, California Health and Safety Code, and sumps or other structures defined as underground storage tanks under the federal act are not exempted by this section. Structures identified in this paragraph may be regulated by the State Water Resources Control Board and any Regional Water Quality Control Board pursuant to the Porter-Cologne Water Quality Control Act [Division 7 (commencing with section 13000) of the Water Code] to ensure that they do not pose a threat to water quality.

(Ord. No. 1219, §1; Ord. No. 1428, §1)

Sec. 13.5-13. Design standards and monitoring systems for all underground tank facilities

The standards for the design, monitoring, repair or closure of an underground storage tank or facility shall be as set forth in division 20, chapter 6.7, California Health and Safety Code, section 25280 et seq. as presently enacted and as it may be amended in the future.

(Ord. No. 1219, §1; Ord. No. 1428, §1)

Sec. 13.5-14. Permit required

(a) No person shall own or operate a facility for the underground storage of any hazardous substance within Solano County, unless by authority of a valid, unexpired and unrevoked permit to operate issued to the owner pursuant to the provisions of sections 13.5.13.

(b) A person shall be deemed to operate a facility and violate this section if the person, without a required permit to operate in effect, supervises, inspects, directs, organizes, manages or controls or is in any way responsible for or in charge of the facility for which the permit is required.

(c) This section does not obviate the requirements to obtain valid permits pursuant to Titles 13 and 28 of this Code, or compliance with other applicable ordinances, including but not limited to, the Solano County Zoning code.

(Ord. No. 1428, §1)

Sec. 13.5-15. Application filing

All applications for a permit to operate shall be filed with the department of environmental management, division of environmental health.

(Ord. No. 1428, §1)

Sec. 13.5-16. Application contents

The application for a permit to operate shall be filed on a form and contain such information as is prescribed by the permitting authority, including the following:

(a) A description of the age, size, type, location, uses, and construction of the underground storage tank or tanks.

(b) A list of all the hazardous substances which are or will be stored in the underground storage tank or tanks, specifying the hazardous substances for each underground storage tank.

(c) A description of the monitoring program for the underground storage tank system.

(d) The name and address of the person, firm, or corporation which owns the underground storage tank system and, if different, the name and address of the person who operates the underground storage tank system.

(e) The address of the facility at which the underground storage tank system is located.

(f) The name of the person making the application.

(g) The name and twenty-four hour phone number of the contact person in the event of an emergency involving the facility.

(h) If the owner or operator of the underground storage tank is a public agency, the application shall include the name of the supervisor of the division, section or office which operates the tank.

(i) Such other and further information as is necessary to administer the provisions of this chapter.

(Ord. No. 1428, §1)

Sec. 13.5-17. Issuance

The permitting authority shall act upon the application not later than ninety days after the date it is accepted as complete unless the applicant has filed with the permitting authority, written notice of a request and received written approval for extension of the time within which action is taken on the grounds that additional time is required to prepare or present plans or other information, obtain zoning variances or other permits, make other corrections remedying inconsistencies with the provisions of this chapter; or the permitting authority has on file a written notice from a public agency showing just cause for an extension or time, and has approved an extension of time pursuant thereto.

(Ord. No. 1428, §1)

Sec. 13.5-18. Term

The term of the permit to operate shall not exceed five years.

(Ord. No. 1428, §1)

Sec. 13.5-19. Contents of permit

(a) The permit to operate shall contain a complete description of the enterprise for which it is issued, the date of issuance and date of expiration, and a description of any and all conditions upon which the permit has been issued. A copy of the permit shall be kept on the premises and shall be made available to the permitting authority upon demand.

(b) The permittee shall notify the permitting authority in writing within 30 days of any changes in the usage of the underground storage tank, including the storage of new hazardous substances, changes in monitoring procedures, and if there has been any unauthorized release from the underground storage tank as specified in section 25294 or 25295 of the Health and Safety Code of the state.

(Ord. No. 1428, §1)

Sec. 13.5-20. Monitoring

The operator of the underground storage tank system shall monitor the tank system facility using the method specified in the permit for the tank system. Records of monitoring, testing, repairing, and closure shall be kept in sufficient detail to enable the permitting authority to determine that the operator has undertaken all monitoring activities required by the permit to operate and to determine that the tank system is in compliance with the applicable provisions of division 20, chapter 6.7, California Health and Safety Code, section 25280 et seq. as it now exists and as it may be amended in the future.

If the operator is not the owner, the owner shall provide a copy of the permit to the operator, enter into a written contract with the operator which requires the operator to monitor the tank system as set forth in the permit, and provide the operator with a copy of section 13.5.13023, or a summary of this section, in the form which the permitting authority specifies by regulation. The owner shall notify the permitting authority within 30 days of any change of operator.

(Ord. No. 1428, §1)

Sec. 13.5-21. Fees

The board may, by resolution and from time to time, prescribe fees for the issuance and renewal of a permit to operate and fees for the filing of appeals relating to demand of such permits or the revocation thereof. The amount of such fees will be provided by resolution of the board.

(Ord. No. 1428, §1)

Sec. 13.5-22. Transferability

(a) Except as provided in subsection (b), no person shall operate an underground storage tank unless a permit to operate has been issued. Any person who is to assume the ownership of an underground storage tank from the previous owner shall complete the form accepting the obligations of the permit and submit the completed form to the permitting authority within thirty days after the ownership of the underground storage tank is to be transferred. The permitting authority may review and modify or terminate the transfer of the permit to operate the underground storage tank upon receiving the completed form.

(b) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid permit to operate has been issued shall have thirty days after the date of assumption of ownership to apply for a permit to operate or, if accepting a transferred permit, shall submit to the permitting authority the completed form accepting the obligation of the transferred permit, as specified in subsection (a). During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.

(Ord. No. 1428, §1)

Sec. 13.5-23. Violations

(a) In addition to the provisions of division 20, chapter 6.7, California Health and Safety Code, section 25280 et seq., as it now exists and as it may be amended in the future, a violation of any of the provisions of this chapter, or failure to comply with any of the regulatory requirements of this chapter, is an infraction subject to the procedures described in sections 19.6 through 19.8 of the Penal Code of the state, and punishable by (1) a fine not exceeding fifty dollars for a first violation; (2) a fine not exceeding one hundred dollars for a second violation; (3) a fine not exceeding two hundred fifty dollars for each additional violation of the same ordinance provision within one year.

(b) Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by any such person, and shall be punished accordingly.

(Ord. No. 1428, §1)

Sec. 13.5-24. Inspections

In order to carry out the purposes of this chapter, any duly authorized representative of the permitting authority has the authority to inspect any place where underground storage tanks are located or to inspect real property which is within two thousand feet of any place where underground storage tanks are located.

(Ord. No. 1428, §1)

Sec. 13.5-25. Hearing authority

Whenever the term "hearing authority" is utilized in this title, it shall be deemed to refer to one or more persons assigned the responsibility of conducting a hearing by the county administrator. The county administrator shall be authorized to assign hearing responsibilities from time to time to either:

(a) County management personnel whom the county administrator finds are qualified by training and experience to conduct such hearings;

(b) Any person or persons qualified by training or experience who the county administrator may employ or who are retained by contract to conduct such hearings; or

(c) Administrative law judges assigned to the state office of Administrative Hearings.

The county administrator is hereby authorized to contract in the name of the county for the retention of hearing services at rates which do not exceed financial limitations established by the county's annual budget.

(Ord. No. 1428, §1)

Sec. 13.5-26. Appeals

Any decision of the permitting authority may be appealed to the hearing authority. Any such appeal shall be in writing, shall state the specific reasons therefore, and grounds asserted for relief, and shall be filed with the director of the department of environmental management or the director's designee not later than fifteen days after the date of service. If an appeal is not filed within the time or in the manner prescribed in this section, the right to review of the action against which complaint is made shall be waived.

(Ord. No. 1428, §1)

Sec. 13.5-27. Appeal hearing

Not later than thirty days, or longer if a notice of continuance is mailed to the appellant, following the date of filing an appeal within the time and in the manner prescribed by section 13.5.26, the hearing authority shall conduct a hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of hearing shall be mailed to the appellant not later than ten days preceding the date of the hearing.

During the hearing, the burden of proof shall rest with the appellant. The provisions of the California Administrative Procedure Act (commencing with section 11500 of the Government Code) shall not be applicable to such hearings; nor shall formal rules of evidence in civil or criminal judicial proceedings be so applicable. At the conclusion of the hearing, the hearing authority shall prepare a written decision which either grants or conditionally grants or denies the appeal, and contains findings of fact and conclusions. Notice of the written decision, including a copy thereof, shall be filed with the director of the department of environmental management or the director's designee, and mailed to the appellant not later than seven days following the date on which the hearing is closed.

(Ord. No. 1428, §1)

Sec. 13.5-28. Finality of determination

The decision by the hearing authority shall become final upon the date of filing and mailing.

(Ord. No. 1428, §1)

Sec. 13.5-29. Grounds for revocation

(a) Any permit to operate issued pursuant to this chapter may be revoked or modified during its term for cause including, but not limited to, any of the following:

(1) That an unauthorized release has occurred section 25295 of the Health and Safety Code of the State;

(2) That modifications have been made to the underground storage tank system in violation of the permit to operate;

(3) That the holder of the permit has violated one or more conditions upon which the permit has been issued.

(4) Obtaining the permit is misrepresentation or intentional failure to fully disclose all relevant facts.

(b) The permitting authority shall revoke the permit of an underground storage tank if the owner or operator is not in compliance with article 3 (commencing with section 25299.30) of chapter 6.75, California Health and Safety Code, on the date three months after the date on which the owner or operator of the tank first becomes subject to article 3 (commencing with section 25299.30) of chapter 6.75, California Health and Safety Code.

(Ord. No. 1428, §1)

Sec. 13.5-30. Method of revocation

The permitting authority may revoke a permit to operate by issuing a written notice of revocation, stating the reasons, and serving same, together with a copy of the provisions of this chapter, upon the holder of the permit. The revocation shall become effective fifteen days after the date of service, unless the holder of the license files an appeal within the time and in accordance with the provisions of section 13.5.26. If such an appeal is filed, the revocation shall not become effective until a final decision on the appeal is issued.

(Ord. No. 1428, §1)

Sec. 13.5-31. Administration

Except as otherwise provided, the director of the department of environmental management or the director's designee is charged with the responsibility of administering this chapter, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this title as he or she deems necessary to implement such purposes, intent and express terms.

(Ord. No. 1219, §1; Ord. No. 1428, §1)