

## CHAPTER 4

## UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES

**384-1. PURPOSE AND INTENT.**

This chapter is adopted pursuant to the authority of Chapter 6.7 of Division 20 of the Health and Safety Code (Section 25280 et seq.), which authorizes a county to adopt an ordinance implementing and enforcing the provisions of state law regulating the underground storage of hazardous substances, and any local regulations consistent therewith.

It is the purpose of this chapter to establish local regulations for the implementation of state and federal laws which regulate the underground storage of hazardous substances, including Chapter 6.7 of Division 20 of the Health and Safety Code, and the regulations adopted pursuant thereto; and further, to adopt additional local regulations consistent with state law.

The provisions of this chapter are intended to be consistent with the provisions of state law, and in the event of conflict, state law shall prevail.

**384-2. INCORPORATION BY REFERENCE OF STATE STATUTES.**

The provisions of Chapter 6.7 of Division 20 of the Health and Safety Code (Section 25280 et seq.) and the regulations adopted pursuant thereto as set forth in Title 23, chapter 3, subchapter 16 of the California Code of Regulations (Section 2610 et seq), including subsequent amendments and revisions, are hereby adopted and incorporated by reference as a part of this chapter and shall have the same force and effect as if set out in full herein.

**384-3. DEFINITIONS.**

Terms used in this chapter shall have the same meaning as provided by the definitions set forth in the appropriate section of Chapter 6.7 of Division 20 of the Health and Safety Code and subchapter 16 of chapter 3 of Title 23 of the California Code of Regulations.

**384-4. LOCAL AGENCY RESPONSIBLE FOR ENFORCEMENT.**

The Health Department of the County of Humboldt is designated as the local agency responsible for administering and enforcing the provisions of this chapter.

**384-5. OPERATING PERMIT.**

(a) No person shall own or operate a facility for the underground storage of any hazardous substance unless by authority of a valid, unexpired and unrevoked permit to operate issued to the owner by the Health Department.

(b) A person shall be deemed to operate a facility and be in violation of this section if such person, without a required permit, supervises, inspects, directs, organizes, manages or controls or is 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 other provisions of this Code, or compliance with applicable ordinances, including but not limited to the Humboldt County Zoning Ordinance.

**384-6. CONSTRUCTION PERMIT.**

(a) No person shall commence any activity at an underground storage tank

facility which activity may involve new construction, upgrading, repair, modification, or closure of one or more tank systems or of part of any tank system, without having first obtained a construction permit from the Health Department.

(b) The application for the construction permit shall provide sufficient information to demonstrate to the Health Department that the proposed work will comply with all applicable provisions of this chapter and any standards and specifications set forth by the Health Officer.

(c) Any person who shall commence any work for which a permit is required by this section, without having first obtained a permit or approval, shall be required, if subsequently granted a permit for the work, to pay double the standard permit fee.

(d) The above provisions shall not apply to emergency work required to protect the environment or public health or safety. In such cases, the person responsible for the work shall:

(1) satisfy the Health Department that such work was urgently necessary; and

(2) demonstrate that all work performed was in conformance with this chapter and with any standards specified by the Health Department at the time of the emergency work.

**384-7. FILING APPLICATIONS.**

All applications for permits required by this chapter shall be filed in the office of the Department of Public Health, Division of Environmental Health, of the County of Humboldt.

**384-8. FEES.**

The Board of Supervisors shall establish by resolution or ordinance fees to be paid by any person who submits an application for a permit to operate, close, install, repair, modify or upgrade an underground storage tank system, or to renew a permit. The fees shall be set at a level sufficient to pay the necessary and reasonable costs incurred by the Health Department in administering the provisions of this chapter. The fees collected shall include any surcharge required by law to be collected to cover the costs of the State Water Resources Control Board in carrying out its responsibilities, and the costs to the Health Department of collecting the surcharge.

**384-9. OVERFILL PREVENTION AND CONTAINMENT.**

Overfill prevention and containment shall be installed on all new and existing underground storage tanks in Humboldt County on or before January 1, 1992, or sooner if required by subsections (a) or (b) of this section.

(a) Overfill prevention must be installed concurrently when:

(1) making any upgrade or repair of an underground storage tank system;

(2) installing any soil vadose zone or groundwater monitoring well;

(3) installing a vapor recovery system;

(4) replacing ten percent (10%) or more of the piping portion of an underground storage tank;

(5) direct access to an underground storage tank is made by excavation.

(b) Overfill prevention must be installed within thirty (30) days of discovery of soil or groundwater contamination which will, or is likely to, require hydro-geological investigation.

#### **384-10. UPGRADE REQUIRED FOR RE-USE.**

The owner or operator of any existing underground storage tank system for which a permit to operate has not been issued, or which is not registered, must upgrade the underground storage tank system within one year from the first day of non-compliance, prior to returning the system to service.

The upgrade must comply with the current California Underground Tank Regulations Upgrade Requirements. In the case of underground storage tank systems which are not in compliance on the effective date of this chapter, the one year period shall commence with the effective date of this chapter.

#### **384-11. TESTING REQUIRED FOR RE-USE.**

New underground storage tank systems for which the owner or operator has not been issued a permit to operate for a period of one year due to lack of compliance must be tested in accordance with The California Underground Storage Tank Regulations, and all leak detection and spill prevention equipment must be tested and certified by a Special Inspector and approved by the Health Department before it is returned to service.

#### **384-12. CLOSURE REQUIRED.**

Existing underground storage tank systems which have not met the requirements of this chapter for a period of one year shall be closed under permit. In the case of underground storage tank systems which are not in compliance on the effective date of this chapter, the one year period shall commence with the effective date of this chapter.

#### **384-13. ENFORCEMENT AND PENALTIES.**

(a) Any person who violates or causes or permits the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or imprisonment in the county jail for a term not exceeding six (6) months, or both such fine and imprisonment.

(b) Any underground storage tank operated, constructed or maintained in violation of the provisions of this chapter shall be and hereby is declared to be a nuisance and may be abated, removed or enjoined in any manner authorized by law.

(c) The remedies provided herein shall be cumulative and in addition to any other remedies authorized by law.

(d) The Health Officer of the County of Humboldt shall be responsible for the enforcement of the provisions of this chapter.

**384-14. GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF PERMIT.**

Any permit issued pursuant to this Chapter may be revoked, suspended, or modified during its term for cause, including, but not limited to, any of the following:

(a) An unauthorized release pursuant to Section 25295 of the Health and Safety Code.

(b) A change in any condition that requires modification or termination of the operation of the underground storage tank.

(c) Violation of any of the terms or conditions of the permit.

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

**384-15. METHOD OF REVOCATION, SUSPENSION OR MODIFICATION.**

The Health Officer may revoke, suspend, or modify a permit by issuing a written notice describing the action taken and stating the reasons therefor, and serving the same, together with a copy of the provisions of this Chapter, upon the holder of the permit. The action taken shall become effective ten (10) days after the date of service, unless the holder of the permit files an appeal in accordance with the provisions of Section 384-13 of this Code. If an appeal is filed, the action taken shall not become effective until the appeal is decided by the Board of Supervisors.

**384-16. APPEALS.**

(a) Any person whose application for a permit has been denied, or granted conditionally, or whose permit has been revoked, suspended, or modified, or whose variance request has been denied, may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within ten (10) days from the date of the action taken. The notice of appeal shall be in writing, shall state the specific reasons therefor and grounds asserted for relief, and shall be accompanied by the required filing fee. The appellant shall file a copy of the notice of appeal with the Health Officer on the day of filing with the Clerk of the Board.

(b) The Board of Supervisors shall cause the matter to be set for hearing not later than thirty (30) days from the date the notice of appeal was filed with the Clerk of the Board, unless the parties agree to a later setting. The Clerk of the Board shall notify the appellant and the Health Department, in writing, of the time set at least ten (10) days prior to the hearing.

(c) At the hearing, the burden of proof shall rest with the appellant. After such hearing, the Board of Supervisors shall either grant, conditionally grant, or deny the appeal.

**384-17. ADMINISTRATION.**

Except as otherwise provided, the Health Officer of the County of Humboldt shall administer this Chapter. In administering this Chapter, the Health Officer shall have the authority to adopt standards and specifications consistent with the best available technology and current practices, consistent with state law.