Statutes of
Chapter 6.7
Health and Safety Code

Underground Storage
Of Hazardous Substances

January 1, 2024
with January 1, 2026 amendments

California Health & Safety Code
Statutes of Chapter 6.7
Underground Storage of Hazardous Substances

Table of Contents

SECTION		PAGE
25280	Legislation Findings and Declarations	1
25280.5	Additional Legislative Findings and Declarations	2
25280.6	Compliance by Owner or Operator of Underground Storage Tank with Requirements of this Chapter	2
25281	Definitions	2-8
25281.5	"Pipe" Defined; Exclusions	8-9
25281.6	Emergency Generator Tank Systems Located in Below-Grade Structure	9-10
25282	Master List of Hazardous Substances	10
25283	Implementation of Chapter; Responsible Governmental Body; Proration of Revenue	10-11
25283.1	Joint Powers Agreement	11
25283.5	Exemptions from Chapter; Underground Storage Tanks; Criteria	11-12
25284	Permit to Own or Operate Underground Storage Tank; Transferred Permits; Compliance Requirements	12-13
25284.1	Board Action for Prevention of Unauthorized Releases; Field-Based Research Program; Review of Requirements for Petroleum Underground Storage Tank System Installation and Removal Contractors	13-16
25284.2	Spill Containment Structures; Testing Requirements	16
25284.4	Tank Integrity Licensing; Fees; Examination; Field Experience; Course of Studies; Civil Liability of Testers; Sanctions	16-19
25285	Permit; Term; Inspection; Fee and Surcharge	19-20
25285.1	Revocation or Modification of Permit; Justifiable Reasons	20
25286	Application for Permit or Renewal; Form; Fee; Conditions; Copies; Contents; Storage of Unlisted Substances	20-22
25287	Fees for Permit; Amount; Surcharge; Waiver; Exemption Application	22-23
25288	Inspection of Tank Systems; Employment of Special Inspectors; Report with Recommendations	23-24
25289	Authority to Inspect Location of Tank Systems, Recordings, and Surrounding Real Property; Monitoring and Testing	24
25290	Trade Secrets; Definition; Disclosure; Identification of Information on Application for Permit	24-25
25290.1	Design and Construction Requirements for Underground Storage Tanks Installed on or After July 1, 2004	25-27

SECTION		PAGE
25290.1.1	Vacuum or Pressure Notice to Comply	27-28
25290.1.2	Enhanced Vapor Recovery Agency Coordination	28-29
25290.2	Design and Construction Requirements for Underground Storage Tanks Installed on or After July 1, 2003 and Before July 1, 2004	29-30
25291	Underground Storage Tanks Installed After January 1, 1984; Requirements	31-33
25292	Underground Storage Tanks Installed on or Before January 1, 1984; Actions to Monitor; Replacement or Upgrading; Automatic Line Leak Detectors	33-35
25292.05	Permanent Closure of Single-Walled Underground Storage Tanks	35-36
25292.1	Underground Tank Systems; Operations Requirements	36
25292.2	Evidence of Financial Responsibility	36
25292.3	Violations; Notice Requirements; Deposits of Petroleum into Non-Compliant Systems Prohibited	36-38
25292.4	Underground Storage Tank Systems with Single-Walled Component Located Near Public Drinking Water Wells; Enhanced Leak Detection or Monitoring	38
25292.5	Systems Located Within Specified Distance or Public Drinking Water; Enhanced Leak Detection Testing Requirements; Notification of Requirements	39
25293	Monitoring of Tank Systems by Operator; Records	39
25294	Unauthorized Release; Conditions Requiring Recordation on Operator's Monitoring Reports	39-40
25295	Unauthorized Release; Reporting Requirements; Review of Permit; Annual Report to Legislature	40-41
25295.5	Unauthorized Release; Spill or Overfill; Notification; Qualification for Funds	42
25296	Unauthorized Release; Underground Storage Tank Containing Motor Vehicle Fuel Not Under Pressure; Repair Requirements	42-44
25296.09	Santa Clara Valley Water District	44-45
25296.10	Corrective Action Requirements in Response to Unauthorized Releases	45-48
25296.15	Soil and Groundwater Testing for MTBE; Prerequisite to Closure Letters	48
25296.20	Corrective Actions or Site Closure Proposals; Notification to All Current Record Owners of Fee Title	49
25296.25	Suspension of Corrective Actions or Investigation Work	49-50
25296.30	Methyl Tertiary-Butyl Ether (MTBE) and Other Ether-Based Oxygenates in Groundwater; Development of Guidelines for Investigation and Cleanup	50
25296.35	Discharges; Data Storage and Retrieval; Access	50-51
25296.40	Closure of Tank Case Not Granted; Petition for Review	51-52
25297	Authority to Remedy Effects and Remove Hazardous Substance Release	52

SECTION		PAGE
25297.01	Local Oversight Program; Certification; Procedures; Review	52-53
25297.1	Local Oversight Program for the Abatement of Unauthorized Releases of Hazardous Substances from Underground Storage Tanks; Participation by Local Agencies; Funding; Administrative and Technical Procedures; Expenditures; Costs	53-58
25297.15	Cleanup or Site Closure Proposals; Notification to Current Records Owners of Fee Title	58
25297.2	Immunity from Liability; Local Agencies	58
25297.3	Leaking Underground Storage Tank Cost Recovery Fund	59-60
25298	Abandonment, Closing, or Temporary Ceasing of Operation of Underground Storage Tank	60
25298.5	Analysis Required to be Performed by Accredited Laboratories	60
25299	Violations; Civil and Criminal Penalties	61-63
25299.01	Injunctions; Restraining Orders or Other Orders	63-64
25299.02	Civil Actions; Joinder or Consolidation	64
25299.03	County in which Civil Action is Brought	64
25299.04	Temporary Restraining Order, Preliminary or Permanent Injunction; Proofs	64
25299.05	Civil Liability	64
25299.1	City or County Exempt from Provisions of this Chapter	64-65
25299.2	Local Regulations, Requirements, or Standards of Performance	65
25299.3	Regulations	65-66
25299.4	Additional Standards; Site-Specific Variance; Fee	66-67
25299.5	Construction of Chapter	68
25299.6	Accident or Spill Prevention Plan or Responsible Plan; Format	68
25299.7	Board as Lead Agency for Purposes of Federal Act; Procedures and Implementation Plans; Regulations	68-69
25299.8	Upgrade Compliance Certificate Requirements; Pending Legislation; Application of 2002 Legislation	69

HEALTH & SAFETY CODE
SECTIONS 25280-25299.8

§ 25280. Legislative Findings and Declarations

(a) The Legislature finds and declares as follows:

(1) Substances hazardous to the public health and safety and to the environment are stored prior to use or disposal in thousands of underground locations in the state.

(2) Underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of the ground and underlying aquifers, and may pose other dangers to public health and the environment.

(3) In several known cases, underground storage of hazardous substances, including, but not limited to, industrial solvents, petroleum products, and other materials, has resulted in undetected and uncontrolled releases of hazardous substances into the ground. These releases have contaminated public drinking water supplies and created a potential threat to the public health and to the waters of the state.

(4) The Legislature has previously enacted laws regulating the management of hazardous wastes, including statutes providing the means to clean up releases of hazardous substances into the environment when the public health, domestic livestock, wildlife, and the environment are endangered. Current laws do not specifically govern the construction, maintenance, testing, and use of underground tanks used for the storage of hazardous substances, or the short-term storage of hazardous wastes prior to disposal, for the purposes of protecting the public health and the environment.

(5) The protection of the public from releases of hazardous substances is an issue of statewide concern.

(b) The Legislature therefore declares that it is in the public interest to establish a continuing program for the purpose of preventing contamination from, and improper storage of, hazardous substances stored underground. It is the intent of the Legislature, in enacting this chapter, to establish orderly procedures that will ensure that newly constructed underground storage tanks meet appropriate standards and that existing tanks be properly maintained, inspected, tested, and upgraded so that the health, property, and resources of the people of the state will be protected.

§ 25280.5. Additional Legislative Findings and Declarations

The Legislature finds and declares all of the following:

(a) Subchapter IX (commencing with Section 6991) of Chapter 82 of Title 42 of the United States Code provides for regulation of underground storage tanks and allows underground storage tanks to be regulated pursuant to a state program, in lieu of a federal program, in states which are authorized to implement these provisions.

(b) It is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this chapter, to authorize the state to implement the provisions of Subchapter IX (commencing with Section 6991) of Chapter 82 of Title 42 of the United States Code, including any acts amending or supplementing Subchapter IX and any federal regulations and guidelines adopted pursuant to Subchapter IX.

§ 25280.6. Compliance by Owner or Operator of Underground Storage Tank with Requirements of this Chapter

Either the owner or operator of an underground storage tank may comply with the requirements of this chapter that apply to the owner or operator of an underground storage tank. Both the owner and the operator of an underground storage tank are responsible for complying with this chapter and if an underground storage tank is not in compliance with this chapter, both the owner and the operator of that underground storage tank are in violation of that requirement.

§ 25281. Definitions

For purposes of this chapter and unless otherwise expressly provided, the following definitions apply:

(a) "Automatic line leak detector" means any method of leak detection, as determined in regulations adopted by the board, that alerts the owner or operator of an underground storage tank to the presence of a leak. "Automatic line leak detector" includes, but is not limited to, any device or mechanism that alerts the owner or operator of an underground storage tank to the presence of a leak by restricting or shutting off the flow of a hazardous substance through piping, or by triggering an audible or visual alarm, and that detects leaks of three gallons or more per hour at 10 pounds per square inch line pressure within one hour.

(b) "Board" means the State Water Resources Control Board. "Regional board" means a California regional water quality control board.

(c) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the tank system.

(d) (1) "Certified Unified Program Agency" or "CUPA" means the agency certified by the Secretary for Environmental Protection to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

(2) "Participating Agency" or "PA" means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary to implement or enforce the unified program element specified in paragraph (3) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.

(3) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce the unified program element specified in paragraph (3) of subdivision (c) of Section 25404. For purposes of this chapter, a UPA has the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 to 25404.2, inclusive, to implement and enforce only those requirements of this chapter listed in paragraph (3) of subdivision (c) of Section 25404 and the regulations adopted to implement those requirements. Except as provided in Section 25296.09, after a CUPA has been certified by the secretary, the UPA shall be the only local agency authorized to enforce the requirements of this chapter listed in paragraph (3) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA. This paragraph shall not be construed to limit the authority or responsibility granted to the board and the regional boards by this chapter to implement and enforce this chapter and the regulations adopted pursuant to this chapter.

(e) "Department" means the Department of Toxic Substances Control.

(f) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(g) "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 (Public Law 98-616), or as it may subsequently be amended or supplemented.

(h) "Hazardous substance" means either of the following:

(1) All of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(A) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(B) Hazardous substances, as defined in subdivision (a) of Section 78075.

(C) Any substance or material that 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.

(2) Any regulated substance, as defined in subsection (7) of Section 6991 of Title 42 of the United States Code, as that section read on January 1, 2012, or as it may subsequently be amended or supplemented.

(i) "Local agency" means one of the following, as specified in subdivision (b) of Section 25283:

(1) The unified program agency.

(2) Before July 1, 2013, a city or county.

(3) On and after July 1, 2013, a city or county certified by the board to implement the local oversight program pursuant to Section 25297.01.

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

(k) "Owner" means the owner of an underground storage tank.

(l) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the state, another state of the United States, any department or agency of this state or another state, or the United States to the extent authorized by federal law.

(m) "Pipe" means any pipeline or system of pipelines that is used in connection with the storage of hazardous substances and that is not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

(n) “Primary containment” means the first level of containment, such as the portion of a tank that comes into immediate contact on its inner surface with the hazardous substance being contained.

(o) “Product tight” means impervious to the substance that is contained, or is to be contained, so as to prevent the seepage of the substance from the containment.

(p) “Release” means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into or on the waters of the state, the land, or the subsurface soils.

(q) “Secondary containment” means the level of containment external to, and separate from, the primary containment.

(r) “Single walled” means construction with walls made of only one thickness of material. For purposes of this chapter, laminated, coated, or clad materials are considered single walled.

(s) “Special inspector” means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground storage tanks.

(t) (1) “Storage” or “store” means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years.

(2) “Storage” or “store” does not include 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 department pursuant to Section 25200 or 25201.6 or granted interim status under Section 25200.5.

(3) “Storage” or “store” does not include the storage of hazardous wastes in an underground storage tank if all of the following apply:

(A) The facility has been issued a unified program facility permit pursuant to Section 25404.2 for generation, treatment, accumulation, or storage of hazardous waste in a tank.

(B) The tank is located in an underground area, as defined in Section 280.12 of Title 40 of the Code of Federal Regulations.

(C) The tank is subject to Chapter 6.67 (commencing with Section 25270).

(D) The tank complies with the hazardous waste tank standards pursuant to Article 10 (commencing with Section 66265.190) of Chapter 15 of Title 22 of the California Code of Regulations.

(4) "Storage" or "store" does not include the storage of hazardous wastes in an underground storage tank if all of the following apply:

(A) The facility has been issued a unified program facility permit pursuant to Section 25404.2 for generation, treatment, accumulation, or storage of hazardous waste in a tank.

(B) The tank is located in a structure that is at least 10 percent below the ground surface, including, but not limited to, a basement, cellar, shaft, pit, or vault.

(C) The structure in which the tank is located, at a minimum, provides for secondary containment of the contents of the tank, piping, and ancillary equipment, until cleanup occurs.

(D) The tank complies with the hazardous waste tank standards pursuant to Article 10 (commencing with Section 66265.190) of Chapter 15 of Title 22 of the California Code of Regulations.

(u) "Tank" means a stationary device designed to contain an accumulation of hazardous substances that is constructed primarily of nonearthen materials, including, but not limited to, wood, concrete, steel, or plastic that provides structural support.

(v) "Tank integrity test" means a test method capable of detecting an unauthorized release from an underground storage tank consistent with the minimum standards adopted by the board.

(w) "Tank tester" means an individual who performs tank integrity tests on underground storage tanks.

(x) "Unauthorized release" means any release of any hazardous substance that does not conform to this chapter, including an unauthorized release specified in Section 25295.5.

(y) (1) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances

and that is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

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

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

(C) Structures, such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, and lined and unlined pits, sumps, and lagoons. A sump that is a part of a monitoring system required under Section 25290.1, 25290.2, 25291, or 25292 and sumps or other structures defined as underground storage tanks under the federal act are not exempted by this subparagraph.

(D) A tank holding hydraulic fluid or dielectric fluid for a closed loop mechanical system that uses compressed air, hydraulic fluid, or dielectric fluid to operate lifts, to operate elevators, to act as an electric cooling or insulation system, and other similar devices.

(E) A tank in an underground area, as defined in Section 25270.2, and associated piping, that is subject to Chapter 6.67 (commencing with Section 25270).

(2) Structures identified in subparagraphs (C) and (D) of paragraph (1) may be regulated by the board and any regional 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.

(z) "Underground tank system" or "tank system" means an underground storage tank, connected piping, ancillary equipment, and containment system, if any.

(aa) (1) "Unified program facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements of paragraph (3) of subdivision (c) of Section 25404.

(2) "Unified program facility permit" means a permit issued pursuant to Chapter 6.11 (commencing with Section 25404), and that encompasses the permitting requirements of Section 25284.

(3) "Permit" means a permit issued pursuant to Section 25284 or a unified program facility permit as defined in paragraph (2).

§ 25281.5. "Pipe" Defined; Exclusions

(a) Notwithstanding subdivision (m) of Section 25281, for purposes of this chapter "pipe" means all parts of a pipeline, or system of pipelines, used in connection with the storage of hazardous substances, including, but not limited to, valves and other appurtenances connected to the pipe, pumping units, fabricated assemblies associated with pumping units, and metering and delivery stations and fabricated assemblies therein, but does not include any of the following:

(1) An interstate pipeline subject to Part 195 (commencing with Section 195.0) of Subchapter D of Chapter 1 of Title 49 of the Code of Federal Regulations.

(2) An intrastate pipeline subject to the Elder California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code).

(3) Unburied delivery hoses, vapor recovery hoses, and nozzles that are subject to unobstructed visual inspection for leakage.

(4) Vent lines, vapor recovery lines, and fill pipes that are designed to prevent, and do not hold, standing fluid in the pipes or lines.

(b) In addition to the exclusions specified in subdivision (y) of Section 25281, "underground storage tank" does not include any of the following:

(1) Vent lines, vapor recovery lines, and fill pipes that are designed to prevent, and do not hold, standing fluid in the pipes or lines.

(2) Unburied fuel delivery piping at marinas if the owner or operator conducts daily visual inspections of the piping and maintains a log of inspection results for review by the local agency. The exclusion provided by this paragraph does not apply if the board adopts regulations pursuant to Section 25299.3 that address the design, construction, upgrade, and monitoring of unburied fuel delivery piping at marinas.

(3) Unburied fuel piping connected to an emergency tank system, if the owner or operator conducts a visual inspection of the piping each time the tank system is operated, but no less than monthly, and maintains a log of inspection results for review by the local agency. The exclusion provided by this paragraph does not apply if the board adopts regulations pursuant to Section 25299.3 that address the design,

construction, upgrade, and monitoring of unburied fuel supply and return piping connected to emergency tank systems.

(c) For purposes of this chapter, "emergency tank system" means an underground storage tank that stores diesel fuel or kerosene solely for use by one or more of the following stationary emergency devices:

(1) An emergency generator that provides power supply in the event of a commercial power failure or disruption, a legally required standby system, or an optional standby system, as defined in Articles 700, 701, and 702 of the National Electrical Code of the National Fire Protection Association (NFPA).

(2) A fire suppression system used to extinguish control, or prevent spreading of fires, as defined in the California Fire Code and in NFPA 17A: Standard for Wet Chemical Extinguishing Systems.

(3) A steam generation pressure tank, as defined in NFPA 85: Boiler and Combustion Systems Hazards Code.

§ 25281.6. Emergency Tank System Located in Below-Grade Structure

(a) A tank located in a below-grade structure and connected to an emergency tank system, as defined in subdivision (c) of Section 25281.5, is exempt from the requirements of this chapter if all of the following conditions are met:

(1) The tank is situated above the surface of the floor in such a way that all of the surfaces of the tank can be visually inspected by either direct viewing, through the use of visual aids, including, but not limited to, mirrors, cameras, or video equipment, or monitored through the use of a continuous leak detection and alarm system capable of detecting unauthorized releases of hazardous substances.

(2) For a single-walled tank, in addition to all the other requirements in this section, the structure, or a separate discrete secondary structure able to contain the entire contents of the liquid stored in the tank, is sealed with a material compatible with the stored product.

(3) The owner or operator of the tank conducts a visual inspection of the tank each time the emergency tank system is operated, or at least once a month, and maintains a log of inspection dates for review by the local agency.

(4) The tank or combination of tanks in the below-grade structure has a cumulative capacity of less than 1,320 gallons of diesel fuel.

(b) Nothing in this section excludes an emergency tank system from other applicable laws, codes, and regulations.

(c) The exclusion provided by this section does not apply if the board adopts regulations pursuant to Section 25299.3 that address the design, construction, upgrade, and monitoring of underground storage tanks contained in below-grade structures that are connected to emergency tank systems.

§25282. Master List of Hazardous Substances

(a) The department shall compile a comprehensive master list of hazardous substances. The master list shall be made available to the public and mailed to each local agency no later than June 30, 1984, notwithstanding any other provision of law, including Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Local agencies and owners or operators of underground storage tanks shall use the master list or, when adopted, the revised list adopted pursuant to subdivision (b), to determine which underground storage tanks require permits pursuant to this chapter. Hazardous substances included on the list may be denominated by scientific, common, trade, or brand names.

(b) The department may revise, when appropriate, the master list of all the hazardous substances specified in subdivision (a). The revised list of hazardous substances shall be prepared and adopted, and may be further revised, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 25283. Implementation of Chapter; Responsible Governmental Body; Proration of Revenue

(a) This chapter shall be implemented by the board, by the regional board, and by the local agency, as defined in subdivision (b), pursuant to the regulations adopted by the board.

(b) For purposes of this chapter, "local agency" means the following:

(1) (A) A local agency means the unified program agency for purposes of implementing the unified program, as specified in paragraph (3) of subdivision (c) of Section 25404, including the requirements of this chapter and the requirements of any underground storage tank ordinance adopted by a city or county.

(B) Consistent with paragraph (3) of subdivision (c) of Section 25404, for purposes of this chapter, a unified program agency does not implement those responsibilities assigned to the state board pursuant to Section 25297.1 or the corrective action requirements of Sections 25296.10 to 25296.40, inclusive.

(2) Before July 1, 2013, a local agency means a city or county for purposes of implementing the corrective action requirements of all of the following:

(A) Sections 25296.10 to 25296.40, inclusive.

(B) Sections 25296.09, 25297, 25297.2, and 25298.5.

(C) Sections 25299 to 25299.3, inclusive, with regard to implementing those corrective action requirements.

(D) Any other provision of this chapter that relates to implementing a corrective action.

(3) On and after July 1, 2013, a local agency means a city or county that is certified by the board to implement the local oversight program pursuant to Section 25297.01 for purposes of implementing the corrective action requirements of all of the following:

(A) Sections 25296.10 to 25296.40, inclusive.

(B) Sections 25296.09, 25297, 25297.2, and 25298.5.

(C) Sections 25299 to 25299.3, inclusive, with regard to implementing those corrective action requirements.

(D) Any other provision of this chapter that relates to implementing a corrective action.

§ 25283.1. Joint Powers Agreement

This chapter does not prohibit any county from entering into a joint powers agreement with other counties for the purposes of enforcing this chapter.

§ 25283.5. Exemptions from Chapter; Underground Storage Tanks; Criteria

(a) An underground storage tank that meets all of the following criteria is exempt from the requirements of this chapter:

(1) All exterior surfaces of the tank, including connected piping, and the floor directly beneath the tank, can be monitored by direct viewing.

(2) The structure in which the tank is located is constructed in such a manner that the structure, at a minimum, provides for secondary containment of the contents of the tank, as determined by the local agency designated pursuant to Section 25283.

(3) The owner or operator of the underground storage tank conducts weekly inspections of the tank and maintains a log of inspection results for review by the local agency designated pursuant to Section 25283, as requested by the local agency.

(4) Except as provided in paragraph (5), the local agency designated pursuant to Section 25283 determines that the underground storage tank meets requirements that are equal to or more stringent than those imposed by this chapter.

(5) If the underground storage tank is installed on or after July 1, 2003, notwithstanding Sections 25290.1 and 25290.2, the local agency determines the tank meets both of the following:

(A) Requirements that are equal to, or more stringent than, the requirements of paragraphs (1) to (6), inclusive, of subdivision (a) and subdivisions (b) to (i), inclusive, of Section 25291.

(B) Notwithstanding Section 25281.5, any portion of a vent line, vapor recovery line, or fill pipe that is beneath the surface of the ground is subject to regulation as a "pipe," as defined in subdivision (m) of Section 25281.

(b) This section does not prohibit a local fire chief or an enforcement agency, as defined in Section 16006, from enforcing the applicable provisions of the local or state fire, building, or electrical codes.

§ 25284. Permit to Own or Operate Underground Storage Tank; Transferred Permits; Compliance Requirements

(a) (1) Except as provided in subdivision (c), no person may own or operate an underground storage tank unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located.

(2) If the operator is not the owner of the tank, or if the permit is issued to a person other than the owner or operator of the tank, the permittee shall ensure that both the owner and the operator of the tank are provided with a copy of the permit.

(3) If the permit is issued to a person other than the operator of the tank, that person shall do all of the following:

(A) Enter into a written agreement with the operator of the tank to monitor the tank system as set forth in the permit.

(B) Provide the operator with a copy or summary of Section 25299 in the form that the board specifies by regulation.

(C) Notify the local agency of any change of operator.

(b) Each local agency shall prepare a form that provides for the acceptance of the obligations of a transferred permit by any person who is to assume the ownership of an underground storage tank from the previous owner and is to be transferred the permit to operate the tank. That person shall complete the form accepting the obligations of the permit and submit the completed form to the local agency within 30 days from the date that the ownership of the underground storage tank is to be transferred. A local agency may review and modify, or terminate, the transfer of the permit to operate the underground storage tank, pursuant to the criteria specified in subdivision (a) of Section 25295, upon receiving the completed form.

(c) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days from the date of assumption of ownership to apply for an operating permit pursuant to Section 25286 or, if accepting a transferred permit, shall submit to the local agency the completed form accepting the obligations of the transferred permit, as specified in subdivision (b). 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.

(d) A permit issued pursuant to this section shall apply and require compliance with all applicable regulations adopted by the board pursuant to Section 25299.3.

§ 25284.1. Board Action for Prevention of Unauthorized Releases; Field-Based Research Program; Review of Requirements for Petroleum Underground Storage Tank System Installation and Removal Contractors

(a) The board shall take all of the following actions with regard to the prevention of unauthorized releases from petroleum underground storage tanks:

(1) On or before June 1, 2000, initiate a field-based research program to quantify the probability and environmental significance of releases from underground storage tank systems meeting the 1998 upgrade requirements specified in Section 25284, as

that section read on January 1, 2002. The research program shall do all of the following:

(A) Seek to identify the source and causes of releases and any deficiencies in leak detection systems.

(B) Include single-walled, double-walled, and hybrid tank systems, and avoid bias towards known leaking underground storage tank systems by including a statistically valid sample of all operating underground storage tank systems.

(C) Include peer review.

(2) Complete the research program on or before June 1, 2002.

(3) Use the results of the research program to develop appropriate changes in design, construction, monitoring, operation, and maintenance requirements for tank systems.

(4) On or before January 1, 2001, adopt regulations to do all of the following:

(A) (i) Require underground storage tank owners, operators, service technicians, installers, and inspectors to meet minimum industry established training standards and require tank facilities to be operated in a manner consistent with industry established best management practices.

(ii) The board shall implement an outreach effort to educate small business owners or operators on the importance of the regulations adopted pursuant to this subparagraph.

(B) (i) Except as provided in clauses (ii) and (iii), require testing of the secondary containment components, including under-dispenser and pump turbine containment components, upon initial installation of a secondary containment component and periodically thereafter, to ensure that the system is capable of containing a release from the primary containment until the release is detected and cleaned up. The board shall consult with the petroleum industry and local governments to assess the appropriate test or tests that would comply with this subparagraph.

(ii) Secondary containment components that are part of an emergency tank system may be tested using enhanced leak detection, if the test is performed at the frequency specified by the board for testing of secondary containment pursuant to Section 2644.1 of Title 23 of the California Code of Regulations. If the results of the enhanced leak

detection test indicate that any component of the emergency tank system is leaking liquid or vapor, the owner or operator shall take appropriate actions to correct the leakage, and the owner or operator shall retest the system using enhanced leak detection until the system is no longer leaking liquid or vapor.

(iii) Any tank or piping that is part of an emergency tank system and located within a structure as described in paragraph (2) of subdivision (a) of Section 25283.5 is exempt from the secondary containment testing required by clause (i) if the owner or operator conducts a visual inspection of the tank or piping each time the tank system is operated, but no less than monthly, and maintains a log of inspection results for review by the local agency. This clause does not apply if the board adopts regulations pursuant to Section 25299.3 that address the design, construction, upgrade, and monitoring of unburied tanks that are part of an emergency tank system.

(C) Require annual testing of release detection sensors and alarms, including under-dispenser and pump turbine containment sensors and alarms. The board shall consult with the petroleum industry and local governments to assess the appropriate test or tests that would comply with this subparagraph.

(5) (A) Require an owner or operator of an underground storage tank installed after July 1, 1987, if a tank is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database, to have the underground storage tank system fitted, on or before July 1, 2001, with under-dispenser containment or a spill containment or control system that is approved by the board as capable of containing any accidental release.

(B) Require all underground storage tanks installed after January 1, 2000, to have the tank system fitted with under-dispenser containment or a spill containment or control system to meet the requirements of subparagraph (A).

(C) Require an owner or operator of an underground storage tank that is not otherwise subject to subparagraph (A), and not subject to subparagraph (B), to have the underground storage tank system fitted to meet the requirements of subparagraph (A), on or before December 31, 2003.

(D) On and after January 1, 2002, no person shall install, repair, maintain, or calibrate monitoring equipment for an underground storage tank unless that person satisfies both of the following requirements:

(i) The person has fulfilled training standards identified by the board in regulations adopted pursuant to this section.

(ii) The person possesses a tank testing license issued by the board pursuant to Section 25284.4, or a Class "A" General Engineering Contractor License, C-10 Electrical Contractor License, C-34 Pipeline Contractor License, C-36 Plumbing Contractor License, or C-61 (D-40) Limited Specialty Service Station Equipment and Maintenance Contractor License issued by the Contractors State License Board.

(E) Loans and grants for the installation of under-dispenser containment or a spill containment or control system shall be made available pursuant to Chapter 6.76 (commencing with Section 25299.100).

(6) Convene a panel of local agency and regional board representatives to review existing enforcement authority and procedures and to advise the board of any changes that are needed to enable local agencies to take adequate enforcement action against owners and operators of noncompliant underground storage tank facilities. The panel shall make its recommendations to the board on or before September 30, 2001. Based on the recommendations of the panel, the board shall also establish effective enforcement procedures in cases involving fraud.

(b) On or before July 1, 2001, the Contractors State License Board, in consultation with the board, the petroleum industry, air pollution control districts, air quality management districts, and local governments, shall review its requirements for petroleum underground storage tank system installation and removal contractors and make changes, where appropriate, to ensure these contractors are qualified.

§ 25284.2. Spill Containment Structures; Testing Requirements

The owner or operator of an underground storage tank with a spill containment structure designed to prevent a release in the event of a spill or overfill while a hazardous substance is being placed in the tank shall annually test the spill containment structure to demonstrate that it is capable of containing the substance until it is detected and cleaned up.

§ 25284.4. Tank Integrity Licensing; Fees; Examination; Field Experience; Course of Studies; Civil Liability of Testers; Sanctions

(a) All tank integrity tests required by this chapter or pursuant to any local ordinance in compliance with Section 25299.1 shall be performed only by, or under the direct and personal supervision of, a tank tester with a currently valid tank testing license issued pursuant to this section. No person shall engage in the business of tank integrity testing, or act in the capacity of a tank tester, within this state without first obtaining a tank testing

license from the board. Any person who violates this subdivision is guilty of a misdemeanor and may be subject to civil liability pursuant to subdivision (g).

(b) Any person proposing to conduct tank integrity testing within the state shall apply to the board for a tank testing license, and shall pay the appropriate fee established by the board. A license issued pursuant to this section shall expire three years after the date of issuance and shall be subject to renewal, except as specified in this section. If the tank tester fails to renew the tank tester's license within three years of the license's expiration date, the license shall lapse and the person shall apply for a new tank testing license and shall meet the same requirements of this section for a new applicant. A tank tester shall pay a fee to the board at the time of licensing and at the time of renewal. The board shall adopt a fee schedule for the issuance and renewal of tank testing licenses to cover the necessary and reasonable costs of administering and enforcing this section.

(c) (1) The board may establish any additional qualifications and standards for the licensing of tank testers. Each applicant for licensing as a tank tester shall pass an examination specified by the board and shall have completed a minimum of either of the following:

(A) One year of qualifying field experience by personally testing a number of underground storage tanks specified by the board.

(B) Completed six months of field experience by personally testing a number of underground storage tanks specified by the board and have successfully completed a course of study applicable to tank testing that is satisfactory to the board.

(2) The examination required by paragraph (1) shall, at a minimum, test the applicant's knowledge of all of the following:

(A) General principles of tank and pipeline testing.

(B) Basic understanding of the mathematics relating to tank testing.

(C) Understanding of the specific test procedures, principles, and equipment for which the tank tester will be qualified to operate.

(D) Knowledge of the regulations and laws governing the regulation of underground storage tanks.

(E) Proper safety procedures.

(d) The board shall maintain a current list of all persons licensed pursuant to this section, including a record of enforcement actions taken against these persons. This list shall be made available to local agencies and the public on request.

(e) A tank tester may be liable civilly in accordance with subdivision (g) and, in addition, may be subject to administrative sanctions pursuant to subdivision (f) for performing or causing another to perform, any of the following actions:

(1) Willfully or negligently violating, or causing, or allowing the violation of, this chapter or any regulations adopted pursuant to this chapter.

(2) Willfully or negligently failing to exercise direct and personal control over an unlicensed employee, associate, assistant, or agent during any phase of tank integrity testing.

(3) Without regard to intent or negligence, using or permitting a licensed or unlicensed employee, associate, assistant, or agent to use any method or equipment that is demonstrated to be unsafe or unreliable for tank integrity testing.

(4) Submitting false or misleading information on an application for license.

(5) Using fraud or deception in the course of doing business as a tank tester.

(6) Failing to use reasonable care, or judgment, while performing tank integrity tests.

(7) Failing to maintain competence in approved tank testing procedures.

(8) Failing to use proper tests or testing equipment to conduct tank integrity tests.

(9) Any other action that the board may, by regulation, prescribe.

(f) (1) The board may suspend the license of a tank tester for a period of up to one year, and may revoke, or refuse to grant or renew, a license and may place on probation, or reprimand, the licensee upon any reasonable ground, including, but not limited to, those violations specified in subdivision (e). The board may investigate any licensed tank tester after receiving a written request from a local agency.

(2) The board shall notify the tank tester of any alleged violations and of proposed sanctions, before taking any action pursuant to this subdivision. The tank tester may request a hearing, or submit a written response within 30 days of the date of notice.

Any hearing conducted pursuant to this subdivision shall be conducted in accordance with the hearing procedure specified in subdivision (g). After the hearing, or at a time after the 30-day response period, the board may impose the appropriate administrative sanctions authorized by this subdivision if it finds that the tank tester has committed any of the alleged violations specified in the notice.

(g) (1) The board may impose civil liability for a violation of subdivision (a) or (e) in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 of Division 7 of the Water Code, in an amount that shall not exceed five hundred dollars ($500) for each day in which the violation occurs, except that the chief of the division of water quality of the board or any other person designated by the board shall issue the complaint to the violator. The complaint shall be issued based on information developed by board staff or local agencies. Any hearing on the complaint shall be made before the board, or a panel thereof, consisting of one or more board members. The decision of the board shall be final upon issuance and may be reviewed pursuant to Article 3 (commencing with Section 13330) of Chapter 5 of Division 7 of the Water Code within 30 days following issuance of the order.

(2) Civil liability for a violation of subdivision (a) or (e) may be imposed by a superior court at the request of the board in an amount which shall not exceed two thousand five hundred dollars ($2,500) for each day in which the violation occurs.

(h) Any fees or civil liability collected pursuant to this section shall be deposited in the Underground Storage Tank Tester Account which is hereby created in the General Fund. The money in this account is available for expenditure by the board, upon appropriation by the Legislature, for purposes of implementing the tank tester licensing program established by this section and for repayment of the loan made by Section 13 of Chapter 1372 of the Statutes of 1987.

(i) A tank tester who conducts or supervises a tank or piping integrity test shall prepare a report detailing the results of the tank test and shall maintain a record of the report for at least three years, or as otherwise required by the board. The tank tester shall type or print his or her name and include his or her license number on the report and shall endorse the report under penalty of perjury by original signature

§ 25285. Permit; Term; Inspection; Fee and Surcharge

(a) Except as provided in Section 25285.1, a permit to operate issued by the local agency pursuant to Section 25284 shall be effective for five years. This subdivision does not apply to unified program facility permits.

(b) A local agency shall not issue or renew a permit to operate an underground storage tank to either of the following:

(1) A person operating an underground storage tank while a red tag is affixed pursuant to Section 25292.3.

(2) (A) Except as provided in subparagraph (B), a facility while that facility is subject to an enforcement action seeking to impose administrative liability, civil liability, or criminal liability, pursuant to this chapter or any regulation implementing this chapter, unless the underlying violation or violations that are the subject of that enforcement action have been corrected or otherwise resolved to the satisfaction of the local agency.

(B) A local agency may, but is not required to, issue a permit or renew a permit for a facility, after consultation with the board, while that facility is subject to an enforcement action, as described in subparagraph (A), if the facility is appealing, petitioning, or otherwise seeking reconsideration of the enforcement action.

(c) Except as provided in Section 25404.5, a local agency shall not issue or renew a permit to operate an underground storage tank to any person who has not paid the fee and surcharge required by Section 25287.

§ 25285.1. Revocation or Modification of Permit; Justifiable Reasons

(a) A local agency may revoke or modify a permit issued pursuant to Section 25284 for cause, including, but not limited to, any of the following:

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

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

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

(b) The local agency shall revoke the permit of an underground storage tank issued pursuant to Section 25284 if the owner or operator is not in compliance with Article 3 (commencing with Section 25299.30) of Chapter 6.75 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.

§ 25286. Application for Permit or Renewal; Form; Fee; Conditions; Copies; Contents; Storage of Unlisted Substances

(a) An application for a permit to operate an underground storage tank, or for renewal of the permit, shall be made, by the owner or operator of the tank, or, if there is a CUPA, by the owner or operator of the unified program facility on which the tank is located, on a

standardized form provided by the local agency. Except as provided in Section 25404.5, the permit shall be accompanied by the appropriate fee, as specified in Section 25287. As a condition of any permit to operate an underground storage tank, the permittee shall notify the local agency, within the period determined by the local agency, 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.

(b) (1) The local agencies shall provide the designee of the board with copies of the completed permit applications, using forms, an industry standard computer readable magnetic tape, diskettes, or any other form in a format acceptable to the board.

(2) The board may enter into a contract with any designee of the board for the purpose of administering the underground storage tank permit data base, and reimburse the designee of the board, upon appropriation by the Legislature, for any costs determined by the board to have been necessary and incurred pursuant to this section, including programming, training, maintenance, actual data processing expenditures, and any incidental costs of the operation of the data base related to the permitting of underground storage tanks. In selecting a contractor pursuant to this paragraph, the board shall consider the fiscal impact upon local agencies of converting to the data base systems and procedures employed by that contractor. The permit application information required in subdivision (c) shall be stored in the data base. The designee of the board shall submit to the board a quarterly report, including any information required by the board concerning permit application data. Each local agency shall provide the designee of the board with a copy of the completed permit application within 30 days after taking final action on the application.

(c) The application form shall include, but not be limited to, requests for the following information:

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

(2) 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.

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

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

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

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

(7) The name and 24-hour phone number of the contact person in the event of an emergency involving the facility.

(8) If the owner or operator of the underground storage tank or the owner or operator of the unified program facility on which the tank is located is a public agency, the application shall include the name of the supervisor of the division, section, or office which owns or operates the tank or owns or operates the unified program facility.

(9) The State Board of Equalization registration number issued to the owner of the tank pursuant to Section 50108.1 of the Revenue and Taxation Code.

(10) If applicable, the name and address of the owner and, if different, the operator of the unified program facility on which the tank is located.

(d) If an underground storage tank is used to store a hazardous substance which is not listed in the application, as required by paragraph (2) of subdivision (c), the permittee shall apply for a new or amended permit within 30 days after commencing the storage of that hazardous substance.

§ 25287. Fees for Permit; Amount; Surcharge; Waiver; Exemption; Application

(a) Except as provided in subdivision (c), a fee shall be paid to the local agency by each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. The governing body of the county, or a city which assumes enforcement jurisdiction, shall establish the amount of the fees at a level sufficient to pay the necessary and reasonable costs incurred by the local agency in administering this chapter, including, but not limited to, permitting and inspection responsibilities. The governing body may provide for the waiver of fees when a state or local government agency makes an application for a permit to operate or an application to renew a permit.

(b) This fee shall include a surcharge, the amount of which shall be determined by the Legislature annually to cover the costs of the board in carrying out its responsibilities under this chapter and the costs of the local agency in collecting the surcharges. The local agency may retain 6 percent of any surcharge collected for costs incurred in its collection. The 6 percent of the surcharge retained by the local agency is the local agency's sole source of reimbursement for the cost of collecting the surcharge. The local agency shall transmit all remaining surcharge revenue collected by the local agency to the board within 45 days after receipt pursuant to subdivision (a). The surcharge shall be deposited in the Underground Storage Tank Fund hereby created in the General Fund. The money in this

account is available, upon appropriation by the Legislature, to the board for the purposes of implementing this chapter.

(c) A local agency may waive the fee required by subdivision (a) for an underground storage tank which has a capacity of 5,000 gallons or less, which is located on a farm, and which contains motor vehicle or heating fuel used primarily for agricultural purposes, if the local agency finds that the fee will impose undue economic hardship upon the person applying for the permit. However, the local agency shall not waive the surcharge required under subdivision (b).

(d) A county of the fifth class, as defined in Section 28020 of the Government Code as a county with a population of 1,000,000 and under 1,070,000, and any city located within that county, is exempt from the requirements of collecting or transmitting to the board the surcharge required to be included in fees paid to a local agency pursuant to this section.

(e) This section does not apply in any jurisdiction in which a single fee system, which replaces the fee required by this section, has been implemented pursuant to Section 25404.5.

§ 25288. Inspection of Tank Systems; Employment of Special Inspectors; Report with Recommendations

(a) The local agency shall inspect every underground tank system within its jurisdiction at least once every year. The purpose of the inspection is to determine whether the tank system complies with the applicable requirements of this chapter and the regulations adopted by the board pursuant to Section 25299.3, including the design and construction standards of Section 25290.1, 25290.2, 25291, or 25292, whichever is applicable, whether the owner or operator has monitored and tested the tank system as required by the permit, and whether the tank system is in a safe operating condition.

(b) After an inspection conducted pursuant to subdivision (a), the local agency shall prepare a compliance report detailing the inspection and shall send a copy of this report to the permitholder and the owner or operator, if the owner or operator is not the permitholder. Any report prepared pursuant to this section shall be consolidated into any other inspection reports required pursuant to Chapter 6.11 (commencing with Section 25404), the requirements listed in subdivision (c) of Section 25404, and the regulations adopted to implement the requirements listed in subdivision (c) of Section 25404.

(c) In lieu of the annual local agency inspections, the local agency may require the permitholder to employ a special inspector to conduct the annual inspection. The local agency shall supply the permitholder with a list of at least three special inspectors that are qualified to conduct the inspection. The permitholder shall employ a special inspector from the list provided by the local agency. The special inspector's authority shall be the same as that of the local agency as set forth in subdivision (a).

(d) Within 60 days after receiving a compliance report or special inspection report prepared in accordance with subdivision (b) or (c), respectively, the permitholder shall file with the local agency a plan to implement all recommendations contained in the compliance report or shall demonstrate, to the satisfaction of the local agency, why these recommendations should not be implemented. Any corrective action conducted pursuant to the recommendations in the report shall be taken pursuant to Sections 25296.10 and 25299.36.

§ 25289. Authority to Inspect Location of Tank Systems, Recordings, and Surrounding Real Property; Monitoring and Testing

(a) To carry out the purposes of this chapter or Chapter 6.75 (commencing with Section 25299.10), any duly authorized representative of the local agency, the regional board, or the board has the authority specified in Section 25185, with respect to any place where underground tank systems are located, or in which records relevant to operation of an underground tank system are kept, and in Section 25185.5, with respect to real property which is within 2,000 feet of any place where underground tank systems are located. The authority conferred by this subdivision includes the authority to conduct any monitoring or testing of an underground tank system.

(b) To carry out the purposes of this chapter or Chapter 6.75 (commencing with Section 25299.10), any authorized representative of the local agency, the regional board, or the board may require the owner or operator of an underground storage tank to, upon request, submit any information relevant to the compliance with this chapter or the regulations, to conduct monitoring or testing, and to report the results of that monitoring or testing under penalty of perjury. The burden of the monitoring, testing, and reporting, including costs, shall bear a reasonable relationship to the need for the monitoring, testing, and reporting.

§ 25290. Trade Secrets; Definition; Disclosure; Identification of Information on Application for Permit

(a) "Trade secrets," as used in this chapter, includes, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(b) The board or a local agency may disclose trade secrets received by the board or the local agency pursuant to this chapter to authorized representatives or other governmental agencies only in connection with the board's or local agency's responsibilities pursuant to this chapter. The board and the local agency shall establish procedures to ensure that these trade secrets are utilized only in connection with these responsibilities and are not

otherwise disseminated without the consent of the person who provided the information to the board or the local agency.

(c) Any person providing information pursuant to Section 25286 shall, at the time of its submission, identify all information which the person believes is a trade secret. Any information or record not identified as a trade secret is available to the public, unless exempted from disclosure by other provisions of law.

(d) Where the local agency, by ordinance, provides an alternative to the listing of a substance which is a trade secret, the person storing that substance shall provide the identification of the material directly to the board pursuant to this section.

§ 25290.1. Design and Construction Requirements for Underground Storage Tanks Installed on or After July 1, 2004

(a) Notwithstanding subdivision (o) of Section 25281, for purposes of this section, "product tight" means impervious to the liquid and vapor of the substance that is contained, or is to be contained, so as to prevent the seepage of the substance from the containment.

(b) Notwithstanding Sections 25290.2 and 25291, every underground storage tank installed on or after July 1, 2004, shall meet the requirements of this section.

(c) The underground storage tank shall be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be constructed, operated, and maintained product tight and compatible with the stored product.

(2) Secondary containment shall be constructed, operated, and maintained product tight. The secondary containment shall also be constructed, operated, and maintained in a manner to prevent structural weakening as a result of contact with any hazardous substances released from the primary containment, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) Secondary containment shall be constructed, operated, and maintained to prevent any water intrusion into the system by precipitation, infiltration, or surface runoff.

(4) In the case of an installation with one primary tank, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(5) In the case of multiple primary tanks, the secondary containment shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(d) The underground tank system shall be designed and constructed with a continuous monitoring system capable of detecting the entry of the liquid- or vapor-phase of the hazardous substance stored in the primary containment into the secondary containment and capable of detecting water intrusion into the secondary containment.

(e) The interstitial space of the underground storage tank shall be maintained under constant vacuum or pressure such that a breach in the primary or secondary containment is detected before the liquid or vapor phase of the hazardous substance stored in the underground storage tank is released into the environment. The use of interstitial liquid level measurement methods satisfies the requirements of this subdivision.

(f) The underground storage tank shall be provided with equipment to prevent spills and overfills from the primary tank.

(g) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, those substances shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(h) Underground pressurized piping that conveys a hazardous substance shall be equipped with an automatic line leak detector.

(i) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing requirements for underground storage systems specified in Section 2.4 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association (NFPA 30), as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(j) Before the underground storage tank is placed in use, the underground storage tank shall be tested after installation using one of the following methods to demonstrate that the tank is product tight:

(1) Enhanced leak detection.

(2) An inert gas pressure test that has been certified by a third party and approved by the board.

(3) A test method deemed equivalent to enhanced leak detection or an inert gas pressure test by the board in regulations adopted pursuant to this chapter. An underground storage tank installed and tested in accordance with this subdivision is exempt from the requirements of Section 25292.5.

(k) Notwithstanding Section 25281.5, for any system installed to meet the requirements of this section, those portions of vent lines, vapor recovery lines, and fill pipes that are beneath the surface of the ground are "pipe" as the term is defined in subdivision (m) of Section 25281, and therefore part of the underground storage tank system.

§ 25290.1.1. Vacuum or Pressure Notice to Comply

(a) (1) On the effective date of the act adding this section and for 179 days thereafter, a local agency shall only issue a notice to comply pursuant to this section to an owner or operator of an underground storage tank subject to Section 25290.1 that does not maintain the vacuum or pressure that is required by subdivision (e) of Section 25290.1, except as otherwise provided in this section.

(2) If the violation described in paragraph (1) occurs on or after the 180th day from the effective date of the act adding this chapter, the local agency may take any enforcement action authorized by this chapter.

(b) A local agency shall issue the notice to comply alleging a violation described in paragraph (1) of subdivision (a) by presenting a notice to comply to the owner or operator in writing, which meets all of the following requirements:

(1) The notice to comply shall be written in the course of conducting an inspection by an authorized representative of the local agency.

(2) A copy of the notice to comply shall be presented to a person who is an owner, operator, employee, or representative of the facility being inspected at the time that the notice to comply is written.

(3) The notice to comply shall clearly state that a violation described in paragraph (1) of subdivision (a) was discovered, a means by which compliance may be achieved, and a time limit in which to comply, which shall not exceed 60 days. The local agency may provide a one-time extension of the time limit for compliance specified in the notice, not to exceed an additional 60 days, if the local agency determines that an extension is necessary to ensure compliance.

(4) The notice to comply shall contain a statement that the inspected facility may be subject to reinspection at any time.

(c) (1) On or before five working days after the date the violation described in paragraph (1) of subdivision (a) is corrected, the person cited in the notice to comply or an authorized representative of that person shall sign the notice to comply, shall certify that the violation has been corrected, and shall return the notice to the local agency.

(2) A false certification submitted pursuant to paragraph (1) that the violation is corrected is punishable as a misdemeanor.

(3) The effective date of the certification that the violation has been corrected shall be the date that the certification is postmarked.

(d) Notwithstanding subdivision (a), if a person fails to correct the violation within the prescribed period in the notice, the local agency may take any enforcement action authorized by this chapter.

(e) This section does not do any of the following:

(1) Prevent the reinspection of a facility to ensure compliance.

(2) Prevent a local agency, on a case-by-case basis, from requiring a person subject to a notice to comply to submit reasonable and necessary documentation to support a claim of compliance by the person.

(3) Restrict the power of a city attorney, district attorney, county counsel, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.

(4) Prevent the local agency, state board, or regional board, from cooperating with, or participating in, a proceeding specified in paragraph (3).

(f) Notwithstanding subdivision (a), if the violation described in paragraph (1) of subdivision (a) is intentional or occurs as the result of gross negligence, the local agency may take any enforcement action authorized by this chapter.

§ 25290.1.2. Enhanced Vapor Recovery Agency Coordination

(a) The board and the State Air Resources Board, under the direction of the California Environmental Protection Agency, shall certify to the best of their knowledge, that the equipment that meets the requirements of Section 94011 of Title 17 of the California Code of Regulations for enhanced vapor recovery systems at gasoline dispensing facilities, as implemented by the State Air Resources Board, also meets the requirements of this chapter. The board and the State Air Resources Board shall make this certification collaboratively, using existing resources.

(b) The board and the State Air Resources Board, under the direction of the California Environmental Protection Agency, when making the certification specified in subdivision (a), shall consult with interested parties, including local implementing agencies, underground storage tank system owners and operators, equipment manufacturers, underground storage tank system installers, and environmental organizations.

(c) The board and the State Air Resources Board shall post the certification and any supporting documentation on their Web sites.

(d) This section shall be implemented by the executive directors of the board and of the State Air Resources Board, or by their designees.

§ 25290.2. Design and Construction Requirements for Underground Storage Tanks Installed on or After July 1, 2003 and Before July 1, 2004

(a) Notwithstanding subdivision (o) of Section 25281, for purposes of this section, "product tight" means impervious to the liquid and vapor of the substance that is contained, or is to be contained, so as to prevent the seepage of the substance from the containment.

(b) Notwithstanding Section 25291, every underground storage tank installed on or after July 1, 2003, and before July 1, 2004, shall meet the requirements of this section.

(c) The underground storage tank shall be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product tight and compatible with stored product.

(2) Secondary containment shall be product tight and constructed to prevent structural weakening as a result of contact with any hazardous substances released from the primary containment, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) Secondary containment shall be constructed to prevent any water intrusion into the system by precipitation, infiltration, or surface runoff.

(4) In the case of an installation with one primary tank, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(5) In the case of multiple primary tanks, the secondary containment shall be large enough to contain 150 percent of the volume of the largest primary tank placed in

it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(d) The underground tank system shall be designed and constructed with a continuous monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment and capable of detecting water intrusion into the secondary containment.

(e) The underground storage tank shall be provided with equipment to prevent spills and overfills from the primary tank.

(f) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, those substances shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(g) Underground pressurized piping that conveys a hazardous substance shall be equipped with an automatic line leak detector and shall be tightness tested annually.

(h) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing requirements for underground storage systems specified in Section 2.4 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association (NFPA 30), as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(i) Before the underground storage tank is placed in use, the underground storage tank shall be tested after installation using one of the following methods to demonstrate that the tank is product tight:

(1) Enhanced leak detection.

(2) An inert gas pressure test that has been certified by a third party and approved by the board.

(3) A test method deemed equivalent to enhanced leak detection or an inert gas pressure test by the board in regulations adopted pursuant to this chapter. An underground storage tank installed and tested in accordance with this subdivision is exempt from the requirements of Section 25292.5.

(j) Notwithstanding Section 25281.5, for any system installed to meet the requirements of this section, those portions of vent lines, vapor recovery lines, and fill pipes that are beneath the surface of the ground are “pipe” as the term is defined in subdivision (m) of Section 25281, and therefore part of the underground storage tank system.

§ 25291. Underground Storage Tanks Installed After January 1, 1984; Requirements

Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) The underground storage tank shall be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight and compatible with the substance stored.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the maximum volume of a 24-hour rainfall as determined by a 25-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary containment set forth in this section if all of the following criteria are met:

(A) The outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells.

(B) The system is capable of detecting the entry of hazardous substances from the inner container into the space.

(C) The system is capable of detecting water intrusion into the space from the outer shell.

(7) Underground storage tanks for motor vehicle fuels installed before January 1, 1997, may be designed and constructed in accordance with this paragraph in lieu of the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the underground storage tank to a monitoring well to detect any release of motor vehicle fuels.

(C) The system is designed to provide early leak detection and response, and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25292. This subparagraph does not apply to tanks designed, constructed, and monitored in accordance with paragraph (6).

(E) Pressurized piping systems connected to tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25292 also meet the conditions of this subdivision if the tank meets the conditions of subparagraphs (A) to (D), inclusive. However, any pipe connected to an underground storage tank installed after July 1, 1987, shall be equipped with secondary containment that complies with paragraphs (1) to (6), inclusive.

(b) The underground tank system shall be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment.

(c) The underground storage tank shall be provided with equipment to prevent spills and overflows from the primary tank.

(d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, those substances shall be separated in both the primary and secondary containment to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of monitoring for water intrusion and for removing the water by the owner or operator. This removal system shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Underground pressurized piping that conveys a hazardous substance shall be equipped with an automatic line leak detector and shall be tightness tested annually.

(g) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(h) Before the underground storage tank is placed in service, the underground tank system shall be tested in operating condition using a tank integrity test.

(i) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

§ 25292. Underground Storage Tanks Installed on or Before January 1, 1984; Actions to Monitor; Replacement or Upgrading; Automatic Line Leak Detectors

For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, the following actions shall be taken:

(a) On or before July 1, 1985, the owner or operator shall outfit the underground tank system with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the tank system, and thereafter, the owner or operator shall monitor each tank system, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank system, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank system on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Tank integrity testing for proving the integrity of an underground tank system at time intervals specified by the board.

(2) A groundwater monitoring well or wells that are downgradient and adjacent to the underground tank system, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well.

(3) A continuous leak detection and alarm system that is located in monitoring wells adjacent to an underground tank system and which is approved by the local agency.

(4) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the owner or operator, if all of the following requirements are met:

(A) Inventory records are kept on file for one year and are reviewed quarterly.

(B) The tank system is tested, using the tank integrity test at time intervals specified by the board and whenever there is a shortage greater than the amount which the board shall specify by regulation.

(C) If a pressurized pump system is connected to the tank system, the system has a leak detection device to monitor for leaks in the piping. The leak detection device shall be installed in a manner designed to resist unauthorized tampering and to clearly show by visual inspection if tampering has occurred. The leak detection device shall be tested annually, at a minimum, and all devices found to be not performing in conformance with the manufacturer's leak detection specifications shall be promptly repaired or replaced.

(5) For monitoring underground tank systems that are located on farms and that store motor vehicle or heating fuels used primarily for agricultural purposes, alternative monitoring methods include the following:

(a) If the tank has a capacity of greater than 1,100 gallons but of 5,000 gallons or less, the tank shall be tested using the tank integrity test, at least once every three years, and the owner or operator shall utilize tank gauging on a monthly or more frequent basis, as required by the local agency, subject to the specifications provided in paragraph (7) of subdivision (c) of Section 2641 of Title 23 of the California Code of Regulations, as that section read on August 13, 1985.

(b) If the tank has a capacity of more than 5,000 gallons, the tank shall be monitored pursuant to the methods for all other tanks specified in this subdivision.

(c) The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

(d) On or before December 22, 1998, the underground storage tank shall be replaced or upgraded to prevent releases due to corrosion or spills or overfills for the underground storage tank's operating life.

(e) (1) All existing underground pressurized piping shall be equipped with an automatic line leak detector on or before December 22, 1990, and shall be retrofitted with secondary containment on or before December 22, 1998. Underground pressurized piping shall be tightness tested annually.

(2) Paragraph (1) does not apply to existing pressurized piping containing motor vehicle fuel, if the pipeline is constructed of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic, is equipped with an automatic line leak detector, and is tightness tested annually.

§ 25292.05. Permanent Closure of Single-Walled Underground Storage Tanks

(a) On or before December 31, 2025, the owner or operator of an underground storage tank shall permanently close that underground storage tank in accordance with Section 25298 and the regulations adopted pursuant to that section, if the underground storage tank meets either of the following conditions:

(1) The underground storage tank is designed and constructed in accordance with paragraph (7) of subdivision (a) of Section 25291 and does not meet the requirements of paragraphs (1) to (6), inclusive, of subdivision (a) of Section 25291.

(2) The underground storage tank was installed on or before January 1, 1984, and does not meet the requirements of paragraphs (1) to (6), inclusive, of subdivision (a) of Section 25291.

(b) Notwithstanding subdivision (a), the board may adopt regulations to require the owner or operator of an underground storage tank to permanently close that underground storage tank before December 31, 2025, in accordance with Section 25298 and the regulations adopted pursuant to that section, if the underground storage tank meets the conditions

specified in either paragraph (1) or (2) of subdivision (a) and the underground storage tank poses a high threat to water quality or public health. The board shall consult with stakeholders before adopting regulations pursuant to this subdivision.

§ 25292.1. Underground Tank Systems; Operations Requirements

All underground tank systems shall meet the following operational requirements:

(a) The underground tank system shall be operated to prevent unauthorized releases, including spills and overfills, during the operating life of the tank, including during gauging, sampling, and testing for the integrity of the tank.

(b) Where equipped with cathodic protection, the underground tank system shall be operated by a person with sufficient training and experience in preventing corrosion.

(c) The underground tank system shall be structurally sound at the time of upgrade or repair.

§ 25292.2. Evidence of Financial Responsibility

(a) All owners and operators of an underground tank system shall maintain evidence of financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by a release from the underground tank system, in accordance with regulations adopted by the board pursuant to Section 25299.3. The regulations shall include a schedule that requires that financial responsibility requirements are phased-in for all underground storage tank systems on or before October 26, 1990.

(b) If the owner and the operator are separate persons, either the owner or the operator shall demonstrate compliance with subdivision (a).

(c) An owner may comply with this article by entering into an agreement with the operator of the tank requiring the operator to demonstrate compliance with subdivision (a). However, both the owner and the operator are in violation of subdivision (a) if evidence of financial responsibility is not established and maintained in accordance with this article.

§ 25292.3. Violations; Notice Requirements; Deposits of Petroleum into Non-Compliant Systems Prohibited

(a) Upon the discovery of a significant violation of any requirement in this chapter, or any regulation adopted pursuant to this chapter, that poses an imminent threat to human health or safety or the environment, the local agency or the board may take either of the following actions:

(1) Affix a red tag, in plain view, to the fill pipe of the noncompliant underground storage tank system, providing notice that the prohibitions specified in subdivision (c) apply.

(2)(A) Affix a red tag, as provided in paragraph (1), and issue a written directive to the noncompliant underground storage tank system owner or operator to empty the noncompliant underground storage tank system.

(B) An owner or operator issued a written directive pursuant to subparagraph (A) shall comply with the directive as soon as possible, but no later than 48 hours after receiving the directive.

(b) Upon the discovery of a significant violation of any requirement in this chapter or of any regulation adopted pursuant to this chapter, the local agency or the board may issue a notice of significant violation to the owner or operator. If the board issues a notice of significant violation, the board shall provide a copy of the notice to the local agency no later than two working days after the notice is issued to the owner or operator. The owner or operator who receives a notice of significant violation shall, within seven days from receipt of the notice, correct the violation to the satisfaction of the local agency or the board. If the owner or operator does not correct the violation within seven days, the local agency or the board may affix a red tag to the fill pipe of the noncompliant underground storage tank system and may additionally issue a written directive to empty the noncompliant underground storage tank, as described in paragraphs (1) and (2) of subdivision (a).

(c) (1) (A) A person shall not deliver a hazardous substance into an underground storage tank system that has a red tag affixed to its fill pipe.

(B) A person shall not deposit petroleum into an underground storage tank system that has a red tag affixed to its fill pipe.

(C) A person shall not input into or withdraw from an underground storage tank system that has a red tag affixed to its fill pipe, except to empty the underground storage tank pursuant to a directive issued in accordance with subparagraph (A) of paragraph (2) of subdivision (a).

(2) A person shall not remove, deface, alter, or otherwise tamper with a red tag so that the information contained on the tag is not legible.

(d) Any action taken by the board pursuant to subdivision (a) or (b) shall be taken in consultation with the local agency.

(e) Upon notification by the owner or operator that the significant violation has been corrected, the local agency or the board shall inspect the noncompliant underground storage tank system within five days to determine whether the underground storage tank

system continues to be in significant violation. If the local agency or the board determines that the underground storage tank system is no longer in significant violation, the local agency or the board shall immediately remove the red tag and release the owner or operator from any directive requiring the underground storage tank to be kept empty.

(f) The board shall adopt regulations to define significant violations for purposes of this section.

§ 25292.4. Underground Storage Tank Systems with Single-Walled Component Located Near Public Drinking Water Wells; Enhanced Leak Detection or Monitoring

(a) On and after November 1, 2000, an owner or operator of an underground storage tank system with a single-walled component that is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database, shall implement a program of enhanced leak detection or monitoring, in accordance with the regulations adopted by the board pursuant to subdivision (c).

(b) The board shall notify the owner and operator of each underground storage tank system that is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database, of the owner's and operator's responsibilities pursuant to this section. The board shall provide each local agency with a list of tank systems within the local agency's jurisdiction that are located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database.

(c) The board shall adopt regulations to implement the enhanced leak detection and monitoring program required by subdivision (a). Before adopting these regulations, the board shall consult with the petroleum industry, local governments, environmental groups, and other interested parties to assess the appropriate technology and procedures to implement the enhanced leak detection and monitoring program required by subdivision (a). In adopting these regulations, the board shall consider existing leak detection technology and external monitoring techniques or procedures for underground storage tanks.

(d) If the results of the enhanced leak detection test indicate that any component of the underground storage tank system is leaking liquid or vapor, the owner or operator shall take appropriate actions to correct the leakage, and the owner or operator shall retest the system using enhanced leak detection until the system is no longer leaking liquid or vapor.

§ 25292.5. Systems Located Within Specified Distance or Public Drinking Water; Enhanced Leak Detection Testing Requirements; Notification of Requirements

(a) On or before January 1, 2005, the owner or operator of an underground storage tank system that is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database, and that is not otherwise subject to subdivision (j) of Section 25290.1, subdivision (i) of Section 25290.2, or Section 25292.4, shall test the system once using an enhanced leak detection test. The enhanced leak detection test shall meet the requirements of subsection (e) of Section 2640 of, and Section 2644.1 of, Title 23 of the California Code of Regulations, as those regulations read on January 1, 2003, except that the requirement in those regulations to repeat the test every 36 months shall not apply.

(b) On or before June 1, 2003, the board shall notify the owner and operator of each underground storage tank system that is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database, of the owner's and operators' responsibilities pursuant to this section. The board shall provide each local agency with a list of tank systems within the local agency's jurisdiction that are within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database.

(c) Notwithstanding subdivision (a), if the results of the enhanced leak detection test indicate that any component of the underground storage tank system is leaking liquid or vapor, the owner or operator shall take appropriate actions to correct the leakage, and the owner or operator shall retest the system using enhanced leak detection until the system is no longer leaking liquid or vapor.

§ 25293. Monitoring of Tank Systems by Operator; Records

The owner or operator of the underground tank system shall monitor the tank system using the method specified on the permit for the tank system. Records of monitoring, testing, repairing, and closure shall be kept in sufficient detail to enable the local agency to determine whether the underground tank system is in compliance with the applicable provisions of this chapter, the regulations adopted by the board pursuant to Section 25299.3, and the permit issued for the operation of the tank system.

§ 25294. Unauthorized Release; Conditions Requiring Recordation on Operator's Monthly Reports

Any unauthorized release from the primary containment which the operator is able to clean up within eight hours after the release was detected or should reasonably have been detected, and which does not escape from the secondary containment, does not increase the hazard of

fire or explosion, and does not cause any deterioration of the secondary containment of the underground storage tank, shall be recorded on the operator's monitoring reports.

§ 25295. Unauthorized Release; Reporting Requirements; Review of Permit; Annual Report to Legislature

(a) (1) An unauthorized release that escapes from the secondary containment, or from the primary containment, if no secondary containment exists, increases the hazard of fire or explosion, or causes deterioration of the secondary containment of the underground tank system shall be reported by the owner or operator to the local agency within 24 hours after the release has been detected or should have been detected. The owner or operator of the underground tank system shall transmit the information specified in this paragraph regarding the unauthorized release to the local agency no later than five working days after the date of the occurrence of the unauthorized release. The information shall be submitted to the local agency on a written form or using an electronic format developed by the board and approved by the Secretary for Environmental Protection as consistent with the standardized electronic format and protocol requirements of Sections 71060 to 71065, inclusive, of the Public Resources Code. Either reporting method shall include all of the following:

(A) A description of the nature and volume of the unauthorized release.

(B) The corrective or remedial actions undertaken.

(C) Any further corrective or remedial actions, including investigative actions, that will be needed to clean up the unauthorized release and abate the effects of the unauthorized release.

(D) A time schedule for implementing the actions specified in subparagraph (C).

(E) The source and cause of the unauthorized release.

(F) The underground storage tank system's record of compliance with this chapter, including data on equipment failures.

(G) Any other information the board deems necessary to implement or comply with this chapter, Chapter 6.75 (commencing with Section 25299.10), or the federal act.

(2) The local agency shall review the permit whenever there has been an unauthorized release or when it determines that the underground tank system is unsafe. In determining whether to modify or terminate the permit, the local agency shall consider the age of the tank, the methods of containment, the methods of monitoring, the

feasibility of any required repairs, the concentration of the hazardous substances stored in the tank, the severity of potential unauthorized releases, and the suitability of any other long-term preventive measures that would meet the requirements of this chapter.

(b) (1) Each regional board and local agency shall submit a report to the board for all unauthorized releases, indicating for each unauthorized release the responsible party, the site name, the hazardous substance, the quantity of the unauthorized release if known, the actions taken to abate the problem, the source and cause of the unauthorized release, the underground storage tank system's record of compliance with this chapter, data on equipment failures, and any other information that the board deems necessary to implement this chapter, Chapter 6.75 (commencing with Section 25299.10), or the federal act.

(2) The information required by this subdivision shall be submitted to the board and updated using the board's Internet-accessible database that accepts data pursuant to Section 13196 of the Water Code.

(3) On and before December 1, 2012, and not less than annually thereafter, the board shall post and update on its Internet Web site, the information concerning unauthorized releases in the reports submitted pursuant to this subdivision.

(4) The board may adopt regulations pursuant to Section 25299.3 that specify reporting requirements for the implementation of this section, including, but not limited to, requirements for the electronic submission of the information required in a report submitted pursuant to this subdivision. If the board adopts these regulations, the board shall adopt the regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary to avoid serious harm to the public peace, health, safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11346.1 of the Government Code, the emergency regulations adopted pursuant to this subdivision shall be filed with, but shall not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the board.

(c) The reporting requirements imposed by this section are in addition to any requirements that may be imposed by Sections 13271 and 13272 of the Water Code.

§ 25295.5. Unauthorized Release; Spill or Overfill; Notification; Qualification for Funds

(a) For purposes of this chapter, an unauthorized release includes, but is not limited to, a spill or overfill of a hazardous substance that meets both of the following conditions:

(1) The spill or overfill occurs while the hazardous substance is being placed in an underground storage tank.

(2) The spill or overfill is due to the use of improper equipment, faulty equipment, operator error, or inattention or overfilling.

(b) A person who causes an unauthorized release of a hazardous substance specified in subdivision (a) shall immediately notify the owner or operator of the underground storage tank that a spill has occurred and the owner or operator shall comply with the requirements of Sections 25294 or 25295, whichever is applicable.

(c) A spill or overfill shall not qualify for funds provided pursuant to Section 25299.51.

§ 25296. Unauthorized Release; Underground Storage Tank Containing Motor Vehicle Fuel Not Under Pressure; Repair Requirements

(a) If there has been any unauthorized release, as defined in Section 25294 or subdivision (a) of Section 25295, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may repair the tank once by an interior-coating process if the tank meets all of the following requirements:

(1) One of the following tests has been conducted to determine the thickness of the storage tank:

(A) An ultrasonic test.

(B) Certification by a special inspector that the shell will provide structural support for the interior lining. The special inspector shall make this certification by entering and inspecting the entire interior surface of the tank and shall base this certification upon the following procedures and criteria:

(i) If the tank is made of fiberglass, the tank is cleaned so that no residue remains on the tank wall surface. The special inspector shall take interior diameter measurements and, if the cross-section has compressed more than 1 percent of the original diameter, the tank shall not be certified and shall also not be returned to service. The special inspector shall also conduct an interior inspection to identify any area where compression or tension cracking is occurring and shall

determine whether additional glass fiber reinforcing is required for certification before the tank may be lined.

(ii) If the tank is made of steel, the tank interior surface shall be abrasive blasted completely free of scale, rust, and foreign matter, as specified in the American Petroleum Institute's recommended practice 16-31, relating to white metal blasting. The special inspection shall sound any perforations or areas showing corrosion pitting with a brass ballpeen hammer to enlarge the perforation or break through a potentially thin steel area. Tanks that have any of the following defects shall not be certified or returned to service:

(I) A tank which has an open seam or a split longer than three inches.

(II) A tank which has a perforation larger than one and one-half inches in diameter, or a gauging opening larger than two and one-half inches in diameter.

(III) A tank with five or more perforations.

(IV) A tank with 20 or more perforations in a 500 square foot area.

(V) A tank with a perforation larger than one-half inch.

(C) A test approved by the board as comparable to the tests specified in subparagraph (A) or (B). If the person conducting the test determines that the test results indicate that the tank has a serious corrosion problem, the local agency may require additional corrosion protection for the tank or may prohibit the permitholder from making the repair.

(2) The material used to repair the tank by an interior-coating process is compatible with the motor vehicle fuel that is stored, as approved by the board by regulation.

(3) The material used to repair the tank by an interior-coating process is applied in accordance with nationally recognized engineering practices such as the American Petroleum Institute's recommended practice No. 1631 for the interior lining of existing underground storage tanks.

(4) Before the tank is placed back into service following the repair, the tank is tested in the operating condition using the tank integrity test.

(b) The board may adopt regulations, in consultation with the State Fire Marshal, for the repair of underground storage tanks, which may include, but are not limited to, a requirement that a test be conducted to determine whether the interior-coating process has bonded to the wall of the tank. The standards specified in subdivision (a) shall remain in effect until the adoption of these regulations.

(c) The board shall, by regulation, require that monitoring systems be installed when a repair is made pursuant to this section. For purposes of this subdivision, "monitoring system" means a continuous leak detection and alarm system which is located in monitoring wells adjacent to an underground storage tank and which is approved by the board.

(d) If there has not been an unauthorized release, as defined in subdivision (a) of Section 25295, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may line the interior of the tank as a preventative measure. If an unauthorized release occurs from a tank which was lined as a preventative measure, the permitholder shall not reline the tank again.

§ 25296.09. Santa Clara County Valley Water District

(a) (1) If the board enters into an agreement with a local agency and the Santa Clara Valley Water District pursuant to subdivision (j) of Section 25297.1, the Santa Clara Valley Water District shall have the same authority and responsibility as a local agency for purposes of Sections 25296.10 to 25297.2, inclusive, and for purposes of Sections 25299.36, 25299.38, 25299.39.2, 25299.39.3, 25299.51, 25299.53, and 25299.57.

(2) Paragraph (1) shall remain operative only until June 30, 2005.

(3) The in-operation of paragraph (1) does not affect the validity of any action taken by the Santa Clara Valley Water District before June 30, 2005, and does not provide a defense for an owner, operator, or other responsible party who fails to comply with that action.

(4) Nothing in this section implies that the Santa Clara Valley Water District has CUPA authority other than authority for the local oversight program in accordance with paragraph (1).

(b) (1) The Legislature hereby finds and declares that, beginning in 1988, and continuing each year since that date, the Santa Clara Valley Water District has had a role in implementing the requirements of the provisions listed in subdivision (a).

(2) The Legislature hereby finds and declares that the funding provided by the state to the Santa Clara Valley Water District for the work described in paragraph (1) is hereby ratified.

(c) (1) Any action taken by the Santa Clara Valley Water District that a local agency is otherwise authorized to take pursuant to Sections 25296.10 to 25297.2, inclusive, and Sections 25299.36, 25299.38, 25299.39.2, 25299.39.3, 25299.51, 25299.53, and 25299.57, and that was taken by the Santa Clara Valley Water District on and after January 1, 1988, and continuing on and before January 1, 2005, or until the effective date of an agreement entered into pursuant to subdivision (j) of Section 25297.1, whichever date occurs first, is hereby ratified as having been taken pursuant to this chapter and Chapter 6.75 (commencing with Section 25299.10). However, this ratification applies only to an action that would be valid only if an agreement pursuant to subdivision (j) of Section 25297.1 had been in effect at the time of the action and that otherwise complies with applicable law.

(2) This subdivision does not apply to any action taken by the Santa Clara Valley Water District that is the subject of a civil action pending on June 12, 2003.

§ 25296.10. Corrective Action Requirements in Response to Unauthorized Releases

(a) Each owner, operator, or other responsible party shall take corrective action in response to an unauthorized release in compliance with this chapter and the regulations adopted pursuant to Section 25299.3. In adopting corrective action regulations, the board shall develop corrective action requirements for health hazards and protection of the environment, based on the severity of the health hazards and the other factors listed in subdivision (b). The corrective action regulations adopted by the board pursuant to Section 25299.77 to implement Section 25299.37, as that section read on January 1, 2002, that were in effect before January 1, 2003, shall continue in effect on and after January 1, 2003, until revised by the board to implement this section and shall be deemed to have been adopted pursuant to Section 25299.3.

(b) Any corrective action conducted pursuant to this chapter shall ensure protection of human health, safety, and the environment. The corrective action shall be consistent with any applicable waste discharge requirements or other order issued pursuant to Division 7 (commencing with Section 13000) of the Water Code, all applicable state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, and all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code.

(c) (1) When a local agency, the board, or a regional board requires an owner, operator, or other responsible party to undertake corrective action, including preliminary site assessment and investigation, pursuant to an oral or written order, directive, notification, or approval issued pursuant to this section, or pursuant to a cleanup and abatement order or other oral or written directive issued pursuant to Division 7 (commencing with Section 13000) of the Water Code, the owner, operator, or other

responsible party shall prepare a work plan that details the corrective action the owner, operator, or other responsible party shall take to comply with the requirements of subdivisions (a) and (b) and the corrective action regulations adopted pursuant to Section 25299.3.

(2) The work plan required by paragraph (1) shall be prepared in accordance with the regulations adopted pursuant to Section 25299.3. The work plan shall include a schedule and timeline for corrective action.

(3) At the request of the owner, operator, or other responsible party, the local agency, the board, or the regional board shall review a work plan prepared pursuant to paragraph (1) and either accept the work plan, if it meets the requirements of the section, or disapprove the work plan if it does not meet those requirements. If the local agency, board, or the regional board accepts the work plan, it shall indicate to the owner, operator, or other responsible party, the actions or other elements of the work plan that are, in all likelihood, adequate and necessary to meet the requirements of this section, and the actions and elements that may be unnecessary. If the local agency, board, or regional board disapproves the work plan, it shall state the reasons for the disapproval.

(4) In the interests of minimizing environmental contamination and promoting prompt cleanup, the responsible party may begin implementation of the proposed action after the work plan has been submitted but before the work plan has received regulatory agency acceptance, except that implementation of the work plan may not begin until 60 calendar days from the date of submittal, unless the responsible party is otherwise directed in writing by the regulatory agency. However, before beginning implementation pursuant to this paragraph, the responsible party shall notify the regulatory agency of the intent to initiate proposed actions set forth in the submitted work plan.

(5) The owner, operator, or other responsible party shall conduct corrective actions in accordance with the work plan approved pursuant to this section.

(6) When the local agency, the board, or the regional board requires a responsible party to conduct corrective action pursuant to this section, it shall inform the responsible party of its right to request the designation of an administering agency to oversee the site investigation and remedial action at its site pursuant to Section 25262 and, if requested to do so by the responsible party, the local agency shall provide assistance to the responsible party in preparing and processing a request for that designation.

(d) (1) This subdivision applies only to an unauthorized release from a petroleum underground storage tank that is subject to Chapter 6.75 (commencing with Section 25299.10).

(2) Notwithstanding Section 25297.1, the board shall implement a procedure that does not assess an owner, operator, or responsible party taking corrective action pursuant to this chapter for the costs of a local oversight program pursuant to paragraph (4) of subdivision (d) of Section 25297.1. The board shall institute an internal procedure for assessing, reviewing, and paying those costs directly between the board and the local agency.

(e) A person to whom an order is issued pursuant to subdivision (c), shall have the same rights of administrative and judicial appeal and review as are provided by law for cleanup and abatement orders issued pursuant to Section 13304 of the Water Code.

(f) (1) If a person to whom an order is issued pursuant to subdivision (c) does not comply with the order, the board, a regional board, or the local agency may undertake or contract for corrective action.

(2) The board, a regional board, or local agency shall be permitted reasonable access to property owned or possessed by an owner, operator, or responsible party as necessary to perform corrective action pursuant to this subdivision. The access shall be obtained with the consent of the owner or possessor of the property or, if the consent is withheld, with a warrant duly issued pursuant to the procedure described in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, if there is an emergency affecting public health or safety, or the environment, the board, a regional board, or local agency may enter the property without consent or the issuance of a warrant.

(3) The board, a regional board, or local agency may recover its costs incurred under this subdivision pursuant to Section 13304 of the Water Code. If the unauthorized release is from an underground storage tank that is subject to Chapter 6.75 (commencing with Section 25299.10), the board, a regional board, or local agency may also recover its costs pursuant to Section 25299.70.

(g) The following uniform closure letter shall be issued to the owner, operator, or other responsible party taking corrective action at an underground storage tank site by the local agency or the regional board with jurisdiction over the site, or the board, upon a finding that the underground storage tank site is in compliance with the requirements of subdivisions (a) and (b) and with any corrective action regulations adopted pursuant to Section 25299.3 and that no further corrective action is required at the site:

"[Case File Number]
Dear [Responsible Party]
This letter confirms the completion of a site investigation and corrective action for the underground storage tank(s) formerly located at the above-described location. Thank you for your cooperation throughout this investigation. Your

willingness and promptness in responding to our inquiries concerning the former underground storage tank(s) are greatly appreciated.
Based on information in the above-referenced file and with the provision that the information provided to this agency was accurate and representative of site conditions, this agency finds that the site investigation and corrective action carried out at your underground storage tank(s) site is in compliance with the requirements of subdivisions (a) and (b) of Section 25296.10 of the Health and Safety Code and with corrective action regulations adopted pursuant to Section 25299.3 of the Health and Safety Code and that no further action related to the petroleum release(s) at the site is required.
This notice is issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code.
Please contact our office if you have any questions regarding this matter.
Sincerely,
[Name of Board Executive Director, Regional Board Executive Officer, or Local Agency Director]"

(h) Any order, directive, notification, or approval issued under Section 25299.37 as that section read on January 1, 2002, that was issued on or before January 1, 2003, shall be deemed to have been issued pursuant to this section.

(i) On or after January 1, 2012, uniform closure letters issued pursuant to subdivision (g) shall include language notifying the owner, operator, or other responsible party of the 365-day claim filing deadline specified in paragraph (1) of subdivision (l) of Section 25299.57.

§ 25296.15. Soil and Groundwater Testing for MTBE; Prerequisite to Closure Letters

(a) No closure letter shall be issued pursuant to this chapter unless all of the following conditions are met:

(1) The soil or groundwater, or both, where applicable, at the site have been tested for MTBE.

(2) The results of that testing are known to the regional board.

(3) The board, the regional board, or the local agency makes the finding specified in subdivision (g) of Section 25296.10.

(b) Paragraphs (1) and (2) of subdivision (a) do not apply to a closure letter for a tank case for which the board, a regional board, or local agency determines that the tank has only contained diesel or jet fuel.

§ 25296.20. Corrective Actions or Site Closure Proposals; Notification to All Current Record Owners of Fee Title

(a) The local agency, the board, or a regional board shall not consider corrective action or site closure proposals from the primary or active responsible party, issue a closure letter, or make a determination that no further corrective action is required with respect to a site upon which there was an unauthorized release from an underground storage tank unless all current record owners of fee title to the site of the proposed action have been notified of the proposed action by the local agency, board, or regional board.

(b) The local agency, board, or regional board shall take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup or site closure process and shall consider all input and recommendations from any responsible landowner wishing to participate.

§ 25296.25. Suspension of Corrective Actions or Investigation Work

(a) (1) Unless the board, in consultation with local agencies and the regional board, determines that a site is an emergency site, the board, at the request of a responsible party who is eligible for reimbursement of corrective action costs under Chapter 6.75 (commencing with Section 25299.10), may suspend additional corrective action or investigation work at a site, based on a preliminary site assessment conducted in accordance with the corrective action regulations adopted by the board, but the board shall not suspend any of the following activities pursuant to this section:

(A) Removal of, or approved modifications of, existing tanks.

(B) Excavation of petroleum saturated soil or removal of excess petroleum from saturated soil.

(C) Removal of free product from the saturated and unsaturated zones.

(D) Periodic monitoring to ensure that released petroleum is not migrating in an uncontrolled manner that will cause the site to become an emergency site.

(2) For purposes of this subdivision, “emergency site” means a site that, because of an unauthorized release of petroleum, meets one of the following conditions:

(A) The site presents an imminent threat to public health or safety or the environment.

(B) The site poses a substantial probability of causing a condition of contamination or nuisance, as defined in Section 13050 of the Water Code,

or of causing pollution of a source of drinking water at a level that is a violation of a primary or secondary drinking water standard adopted by the State Department of Health Services pursuant to Chapter 4 (commencing with Section 116270) of Part 12 of Division 104.

(b) The suspension shall continue until one of the following occurs:

(1) The board provides the eligible responsible party with a letter of commitment pursuant to Chapter 6.75 (commencing with Section 25299.10) that the party will receive reimbursement for the corrective action.

(2) The responsible party requests in writing that the suspension be terminated and that the work continue.

(3) The fund established pursuant to Article 6 (commencing with Section 25299.50) of Chapter 6.75 is no longer in existence.

(c) The board shall adopt regulations pursuant to Section 25299.3 that specify the conditions under which a site is an imminent threat to public health or safety or to the environment or poses a substantial probability of causing a condition of contamination, nuisance, or pollution as specified in paragraph (2) of subdivision (a). The board shall not suspend corrective action or investigation work at any site pursuant to this section until the effective date of the regulations adopted by the board pursuant to this subdivision.

§ 25296.30. Methyl Tertiary-Butyl Ether (MTBE) and Other Ether-Based Oxygenates in Groundwater; Development of Guidelines for Investigation and Cleanup

(a) The board, in consultation with the State Department of Health Services, shall develop guidelines for the investigation and cleanup of methyl tertiary-butyl ether (MTBE) and other ether-based oxygenates in groundwater. The guidelines shall include procedures for determining, to the extent practicable, whether the contamination associated with an unauthorized release of MTBE is from the tank system prior to the system's most recent upgrade or replacement or if the contamination is from an unauthorized release from the current tank system.

(b) The board, in consultation with the State Department of Health Services, shall develop appropriate cleanup standards for contamination associated with a release of methyl tertiary-butyl ether.

§ 25296.35. Discharges; Data Storage and Retrieval; Access

(a) The board shall develop, implement, and maintain a system for storing and retrieving data from cases involving discharges of petroleum from underground storage tanks to allow

regulatory agencies and the general public to use historic data in making decisions regarding permitting, land use, and other matters. The system shall be accessible to government agencies and the general public and shall include the reports submitted to the board by regional boards or local agencies pursuant to Section 25295. A site included in the data system shall be clearly designated as having no residual contamination if, at the time a closure letter is issued for the site pursuant to Section 25296.10 or at any time after that closure letter is issued, the board determines that no residual contamination remains on the site.

(b) For purposes of this section, "residual contamination" means the petroleum that remains on a site after a corrective action has been carried out and the cleanup levels established by the corrective action plan for the site, pursuant to subdivision (g) of Section 2725 of Title 23 of the California Code of Regulations, have been achieved.

§ 25296.40. Closure of Tank Case Not Granted; Petition for Review

(a) (1) Any owner or operator, or other responsible party who has an underground storage tank case and who believes that the corrective action plan for the site has been satisfactorily implemented, but where closure has not been granted, may petition the board for a review of the case.

(2) Upon receipt of a petition pursuant to paragraph (1), the board may close any underground storage tank case or require closure of any underground storage tank case where an unauthorized release has occurred, if the board determines that corrective action at the site is in compliance with all of the requirements of subdivisions (a) and (b) of Section 25296.10 and the corrective action regulations adopted pursuant to Section 25299.3. Before closing or requiring closure of an underground storage tank case, the board shall provide an opportunity for reviewing and providing responses to the petition to the applicable regional board and local agency, and to the water replenishment district, municipal water district, county water district, or special act district with groundwater management authority if the underground storage tank case is located in the jurisdiction of that district.

(b) An aggrieved person may, not later than 30 days from the date of final action by the board, pursuant to subdivision (a), file with the superior court a petition for writ of mandate for review of the decision. If the aggrieved person does not file a petition for writ of mandate within the time provided by this subdivision, a board decision shall not be subject to review by any court. Section 1094.5 of the Code of Civil Procedure shall govern proceedings for which petitions are filed pursuant to this subdivision. For purposes of subdivision (c) of Section 1094.5 of the Code of Civil Procedure, the court shall uphold the decision if the decision is based upon substantial evidence in light of the whole record.

(c) The authority provided under this section does not limit a person's ability to petition the board for review under any other state law.

§ 25297. Authority to Remedy Effects and Remove Hazardous Substance Release

The local agency may request the following agencies to utilize that agency's authority to remedy the effects of, and remove, any hazardous substance which has been released from an underground storage tank:

(a) The department which may take action pursuant to Chapter 6.8 (commencing with Section 25300) and, for this purpose, any unauthorized release shall be deemed a release as defined in Section 25320.

(b) A regional water quality control board may take action pursuant to Division 7 (commencing with Section 13000) of the Water Code and, for this purpose, the discharged hazardous substance shall be deemed a waste as defined in subdivision (d) of Section 13050.

§ 25297.01. Local Oversight Program; Certification; Procedures; Review

(a) In addition to the authority granted to the board pursuant to Division 7 (commencing with Section 13000) of the Water Code and to the department pursuant to Part 2 (commencing with Section 78000) of Division 45, the board, in cooperation with the department, shall develop and implement a local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by a local agency certified pursuant to this section.

(b) On and after July 1, 2013, only a city or county certified pursuant to subdivision (c) may implement a local oversight program. The board may enter into an agreement pursuant to Section 25297.1 with a certified city or county to implement the oversight program.

(c) The board may certify a city or county if the board determines that the city or county is qualified to oversee or perform the abatement of unauthorized releases of hazardous substances from underground storage tanks. The board shall consider, as criteria for determining whether a city or county is qualified, at a minimum, all of the following factors:

(1) Adequacy of the technical expertise possessed by the city or county.

(2) Adequacy of staff resources.

(3) Adequacy of budget resources and funding mechanisms.

(4) Training requirements.

(5) Past performance in implementing and enforcing corrective action requirements.

(6) Recordkeeping and accounting systems.

(d) The board shall adopt procedures and criteria for certifying and withdrawing certification from cities and counties pursuant to this section. The adoption of these procedures and criteria shall not be considered as regulations subject to, and shall be exempt from, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) If the board does not, by July 1, 2013, certify a city or county that has been implementing a local oversight program pursuant to an agreement entered into with the board on or before January 1, 2013, the board shall assign the cases from that city or county to the appropriate regional board or to a city or county that is certified by the board. An order or directive issued by that uncertified city or county on or before July 1, 2013, shall remain in effect and may be enforced by the regional board or certified city or county that receives the case.

(f) The board shall review, at least once every three years, the ability of the certified city or county to carry out the local oversight program. When conducting this review, the board shall consider the certification criteria contained in paragraphs (1) to (6), inclusive, of subdivision (c) and the criteria adopted pursuant to subdivision (d). The board may, after conducting the review, withdraw the certification of the city or county. Upon making this withdrawal, the cases of the former certified city or county shall be transferred from the city or county and the orders and directives issued by the former certified city or county shall remain effective and enforceable in accordance with subdivision (e). The board shall not make the effective date for the withdrawal of a certification before the expiration date of the local oversight program agreement entered into between the board and the certified city or county pursuant to Section 25297.1, unless the certified city or county fails to comply with the agreement.

§ 25297.1. Local Oversight Program for the Abatement of Unauthorized Releases of Hazardous Substances from Underground Storage Tanks; Participation by Local Agencies; Funding; Administrative and Technical Procedures; Expenditures; Costs

(a) (1) For purposes of implementing, pursuant to Section 25297.01, the local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks, the board may enter into in an agreement specified in subdivision (b) with the local agency.

(2) A city or county that the board selected pursuant to this section, as it read on January 1, 2012, which entered into an agreement with the board before July 1, 2013, may apply to the board for certification pursuant to Section 25297.01. The city or county

may continue to implement the oversight program until July 1, 2013, and after that date the city or county shall either be certified or be subject to subdivision (e) of Section 25297.01.

(3) On and after June 30, 2013, the board may enter into an agreement pursuant to this section only with a city or county certified pursuant to Section 25297.01.

(b) In implementing the local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks, the board may select a local agency to enter into an agreement with the board. When selecting a local agency, the board shall, from among those local agencies that apply to the board, give first priority to those local agencies that have demonstrated prior experience in cleanup, abatement, or other actions necessary to remedy the effects of unauthorized releases of hazardous substances from underground storage tanks. The board shall enter into an agreement with only those local agencies that have implemented this chapter and that, except as provided in Section 25404.5, have begun to collect and transmit to the board the surcharge or fees pursuant to subdivision (b) of Section 25287. The agreement shall provide for the local agency to perform, or cause to be performed, any cleanup, abatement, or other action necessary to remedy the effects of a release of hazardous substances from an underground storage tank with respect to which the local agency has enforcement authority pursuant to this section. The board may not enter into an agreement with a local agency for soil contamination cleanup or for groundwater contamination cleanup unless the board determines that the local agency has a demonstrated capability to oversee or perform the cleanup. The implementation of the cleanup, abatement, or other action shall be consistent with procedures adopted by the board pursuant to subdivision (d) and shall be based upon cleanup standards specified by the board or regional board.

(c) The board shall provide funding to a local agency that enters into an agreement pursuant to subdivision (b) for the reasonable costs incurred by the local agency in overseeing any cleanup, abatement, or other action taken by a responsible party to remedy the effects of unauthorized releases from underground storage tanks.

(d) The board shall adopt administrative and technical procedures, as part of the state policy for water quality control adopted pursuant to Section 13140 of the Water Code, for cleanup and abatement actions taken by a local agency with which the board has entered into an agreement pursuant to this section. The procedures shall include, but not be limited to, all of the following:

(1) Guidelines as to which sites may be assigned to the local agency.

(2) The content of the agreements.

(3) Procedures by which a responsible party may petition the board or a regional board for review, pursuant to Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 of the Water Code, or pursuant to Chapter 9.2 (commencing with Section 2250) of Division 3 of Title 23 of the California Code of Regulations, or any successor regulation, as applicable, of actions or decisions of the local agency in implementing the cleanup, abatement, or other action.

(4) Protocols for assessing and recovering money from responsible parties for any reasonable and necessary costs incurred by the local agency in implementing this section, as specified in subdivision (i), unless the cleanup or abatement action is subject to subdivision (d) of Section 25296.10.

(5) Quantifiable measures to evaluate the outcome of a pilot program established pursuant to this section.

(e) Any agreement between the regional board and a local agency to carry out a local oversight program pursuant to this section shall require both of the following:

(1) The local agency shall establish and maintain accurate accounting records of all costs it incurs pursuant to this section and shall periodically make these records available to the board. The Controller may annually audit these records to verify the hourly oversight costs charged by a local agency. The board shall reimburse the Controller for the cost of the audits of a local agency's records conducted pursuant to this section.

(2) The board and the department shall make reasonable efforts to recover costs incurred pursuant to this section from responsible parties, and may pursue any available legal remedy for this purpose.

(f) The board shall develop a system for maintaining a database for tracking expenditures of funds pursuant to this section, and shall make this data available to the Legislature upon request.

(g) (1) Sections 78780 and 79055 do not apply to expenditures from the Toxic Substances Control Account for oversight of abatement of releases from underground storage tanks as part of the local oversight program conducted pursuant to an agreement entered into pursuant to this section.

(2) A local agency that enters into an agreement pursuant to subdivision (b) shall notify the responsible party, for any site subject to a cleanup, abatement, or other action taken pursuant to the local oversight program established pursuant to this section, that the responsible party is liable for not more than 150 percent of the total amount of site-specific oversight costs actually incurred by the local agency.

(h) Any aggrieved person may petition the board or regional board for review of the action or failure to act of a local agency that enters into an agreement pursuant to subdivision (b), at a site subject to cleanup, abatement, or other action conducted as part of the local oversight program established pursuant to this section, in accordance with the procedures adopted by the board or regional board pursuant to subdivision (d).

(i) (1) For purposes of this section, site-specific oversight costs include only the costs of the following activities, when carried out by the staff of a local agency or the local agency's authorized representative, that are either technical program staff or their immediate supervisors:

(A) Responsible party identification and notification.

(B) Site visits.

(C) Sampling activities.

(D) Meetings with responsible parties or responsible party consultants.

(E) Meetings with the regional board or with other affected agencies regarding a specific site.

(F) Review of reports, workplans, preliminary assessments, remedial action plans, or post remedial monitoring.

(G) Development of enforcement actions against a responsible party.

(H) Issuance of a closure document.

(2) The responsible party is liable for the site-specific oversight costs, calculated pursuant to paragraphs (3) and (4), incurred by a local agency, in overseeing any cleanup, abatement, or other action taken pursuant to an agreement entered into pursuant to this section to remedy an unauthorized release from an underground storage tank.

(3) Notwithstanding the requirements of any other law, the amount of liability of a responsible party for the oversight costs incurred by the local agency and by the board and regional boards in overseeing any action pursuant to an agreement entered into pursuant to this section shall be calculated as an amount not more than 150 percent of the total amount of the site-specific oversight costs actually incurred by the local agency and shall not include the direct or indirect costs incurred by the board or regional boards.

(4) (A) The total amount of oversight costs for which a local agency may be reimbursed shall not exceed one hundred fifteen dollars ($115) per hour, multiplied by the total number of site-specific hours performed by the local agency.

(B) The total amount of the costs per site for administration and technical assistance to local agencies by the board and the regional board entering into agreements pursuant to subdivision (b) shall not exceed a combined total of thirty-five dollars ($35) for each hour of site-specific oversight. The board shall base its costs on the total hours of site-specific oversight work performed by all participating local agencies. The regional board shall base its costs on the total number of hours of site-specific oversight costs attributable to the local agency that received regional board assistance.

(C) The amounts specified in subparagraphs (A) and (B) are base rates for the 1990–91 fiscal year. Commencing July 1, 1991, and for each fiscal year thereafter, the board shall adjust the base rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the implicit price deflator for state and local government purchases of goods and services, as published by the United States Department of Commerce or by a successor agency of the federal government.

(5) In recovering costs from responsible parties for costs incurred under this section, the local agency shall prorate any costs identifiable as startup costs over the expected number of cases that the local agency will oversee during a 10-year period. A responsible party who has been assessed startup costs for the cleanup of any unauthorized release that, as of January 1, 1991, is the subject of oversight by a local agency, shall receive an adjustment by the local agency in the form of a credit, for the purposes of cost recovery. Startup costs include all of the following expenses:

(A) Small tools, safety clothing, cameras, sampling equipment, and other similar articles necessary to investigate or document pollution.

(B) Office furniture.

(C) Staff assistance needed to develop computer tracking of financial and site-specific records.

(D) Training and setup costs for the first six months of the local agency program.

(6) This subdivision does not apply to costs that are required to be recovered pursuant to Article 5 (commencing with 78280) of Chapter 2 of Part 2 of Division 45.

(j) The in-operation of former paragraph (1) of this subdivision does not affect the validity of any action taken by the Santa Clara Valley Water District before June 30, 2005, and does not provide a defense for an owner, operator, or other responsible party who fails to comply with that action.

(k) Notwithstanding subdivisions (a) and (b), any agreement entered into before January 1, 2013, between a regional board and a water district to oversee, coordinate, or implement a cooperative oversight program will remain in effect in accordance with the terms of that agreement or the terms of that agreement as may be amended from time to time.

§ 25297.15. Cleanup or Site Closure Proposals; Notification to Current Records Owners of Fee Title

(a) (1) The local agency shall not consider cleanup or site closure proposals from the primary or active responsible party, issue a closure letter, or make a determination that no further action is required with respect to a site upon which there was an unauthorized release of hazardous substances from an underground storage tank subject to this chapter unless all current record owners of fee title to the site of the proposed action have been notified of the proposed action by the primary or active responsible party.

(2) Notwithstanding subdivision (g) of Section 25297.1, the local agency shall also notify the primary or active responsible party of their responsibility under this subdivision.

(3) The primary or active responsible party shall certify to the local agency in writing that the notification requirement in this subdivision has been met and provide a complete mailing list of all record fee title owners to the local agency.

(b) The local agency shall take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup or site closure process and shall consider all input and recommendations from any responsible landowner wishing to participate.

§ 25297.2. Immunity from Liability; Local Agencies

Any local agency which performs, or causes to be performed, any cleanup, abatement, or other action necessary to remedy the effects of a release of hazardous substances from an underground storage tank is immune from liability for this action to the same extent as the board or regional board is immune if the board or regional board had performed the cleanup, abatement, or other action.

§ 25297.3. Leaking Underground Storage Tank Cost Recovery Fund

(a) The Leaking Underground Storage Tank Cost Recovery Fund is hereby created in the General Fund and the money in the fund may be expended, upon appropriation by the Legislature, for the purposes specified in subdivisions (c), (d), and (e).

(b) All of the following amounts shall be deposited in the Leaking Underground Storage Tank Cost Recovery Fund:

(1) All money recovered pursuant to the federal act for purposes of this chapter.

(2) Notwithstanding Section 16475 of the Government Code, all interest earned upon any money deposited in the Leaking Underground Storage Tank Cost Recovery Fund.

(3) Upon receipt of a written request from the board, the Controller shall transfer to the Leaking Underground Storage Tank Cost Recovery Fund the cash balance of the account in the Special Deposit Fund, as specified in Section 16370 of the Government Code, in which is deposited all money recovered pursuant to the federal act.

(c) The board may expend the money in the Leaking Underground Storage Tank Cost Recovery Fund for the purpose of taking any of the following actions with respect to underground storage tanks containing petroleum, as defined in the federal act:

(1) Enforcement activities.

(2) Corrective action and oversight.

(3) Cost recovery.

(4) Relocation of residents and provision of water supplies.

(5) Exposure assessments.

(d) The board may expend the money in the Leaking Underground Storage Tank Cost Recovery Fund for administrative expenses related to carrying out the activities specified in subdivision (c).

(e) The Controller may expend money in the Leaking Underground Storage Tank Cost Recovery Fund, upon appropriation by the Legislature, for the costs that are incurred on behalf of the Controller for corrective action, as defined in Section 25299.14, at the site located at 622 East Lindsay in the City of Stockton.

(f) After the corrective action at the site specified in subdivision (e) is complete, in accordance with a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10, all unencumbered funds in the Leaking Underground Storage Tank Fund, and all net proceeds from the sale or other disposition of the site made on behalf of the Controller, shall be transferred to the Underground Storage Tank Cleanup Fund.

§ 25298. Abandonment, Closing, or Temporary Ceasing of Operation of Underground Storage Tank

(a) No person shall abandon an underground tank system or close or temporarily cease operating an underground tank system, except as provided in this section.

(b) An underground tank system that is temporarily taken out of service, but which the owner or operator intends to return to use, shall continue to be subject to all the permit, inspection, and monitoring requirements of this chapter and all applicable regulations adopted by the board pursuant to Section 25299.3, unless the owner or operator complies with subdivision (c) for the period of time the underground tank system is not in use.

(c) No person shall close an underground tank system unless the person undertakes all of the following actions:

(1) Demonstrates to the local agency that all residual amounts of the hazardous substance or hazardous substances which were stored in the tank system prior to its closure have been removed, properly disposed of, and neutralized.

(2) Adequately seals the tank system to minimize any threat to the public safety and the possibility of water intrusion into, or runoff from, the tank system.

(3) Provides for, and carries out, the maintenance of the tank system as the local agency determines is necessary for the period of time the local agency requires.

(4) Demonstrates to the appropriate agency, which has jurisdiction over the site, that the site has been investigated to determine if there are any present, or were past, releases, and if so, that appropriate corrective or remedial actions have been taken.

§ 25298.5. Analysis Required to be Performed by Accredited Laboratories

The analysis of any material that is required to demonstrate compliance with this chapter or Chapter 6.75 (commencing with Section 25299.10) shall be performed by a laboratory accredited by the department pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101.

§ 25299. Violations, Civil and Criminal Penalties

(a) An operator of an underground tank system is liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) for each underground storage tank, for each day of violation, for any of the following violations:

(1) Operating an underground tank system that has not been issued a permit, in violation of this chapter.

(2) Violation of an applicable requirement of the permit issued for the operation of the underground tank system.

(3) Failure to maintain records, as required by this chapter.

(4) Failure to report an unauthorized release, as required by Sections 25294 and 25295.

(5) Failure to properly close an underground tank system, as required by Section 25298.

(6) Violation of an applicable requirement of this chapter or a regulation adopted by the board pursuant to Section 25299.3.

(7) Failure to permit inspection or to perform a monitoring, testing, or reporting required pursuant to Section 25288 or 25289.

(8) Making a false statement, representation, or certification in an application, record, report, or other document submitted or required to be maintained pursuant to this chapter.

(9) Tampering with or otherwise disabling automatic leak detection devices or alarms.

(b) An owner of an underground tank system is liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for each underground storage tank, for each day of violation, for any of the following violations:

(1) Failure to obtain a permit as specified by this chapter.

(2) Failure to repair or upgrade an underground tank system in accordance with this chapter.

(3) Abandonment or improper closure of an underground tank system subject to this chapter.

(4) Violation of an applicable requirement of the permit issued for operation of the underground tank system.

(5) Violation of an applicable requirement of this chapter or a regulation adopted by the board pursuant to Section 25299.3.

(6) Failure to permit inspection or to perform a monitoring, testing, or reporting required pursuant to Section 25288 or 25289.

(7) Making a false statement, representation, or certification in an application, record, report, or other document submitted or required to be maintained pursuant to this chapter.

(c) A person who intentionally fails to notify the board, the regional board, or the local agency when required to do so by this chapter or who submits false information in a permit application, amendment, or renewal, pursuant to Section 25286, is liable for a civil penalty of not more than five thousand dollars ($5,000) for each underground storage tank for which notification is not given or false information is submitted.

(d) (1) A person who violates a corrective action requirement established by, or issued pursuant to, Section 25296.10 is liable for a civil penalty of not more than ten thousand dollars ($10,000) for each underground storage tank for each day of violation.

(2) A civil penalty under this subdivision may be imposed in a civil action under this chapter, or may be administratively imposed by the board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 of Division 7 of the Water Code.

(e) A person who violates Section 25292.3 is liable for a civil penalty of not more than five thousand dollars ($5,000) for each underground storage tank for each day of violation.

(f) (1) A person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

(2) A person who intentionally disables or tampers with an automatic leak detection system in a manner that would prevent the automatic leak detection system from detecting a leak or alerting the owner or operator of the leak, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(g) In determining both the civil and criminal penalties imposed pursuant to this section, the board, a regional board, or the court, as the case may be, shall consider all relevant

circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

(h) (1) A civil penalty or criminal fine imposed pursuant to this section for a separate violation shall be separate from, and in addition to, any other civil penalty or criminal fine imposed pursuant to this section or any other provision of law, except that no civil penalty shall be recovered under subdivision (d) for violations for which a civil penalty is recovered pursuant to Section 13268 or 13350 of the Water Code. The penalty or fine shall be paid to the unified program agency, the participating agency, or the state, whichever is represented by the office of the city attorney, county counsel, district attorney, or the Attorney General bringing the action.

(2) Any penalties or fines paid to a unified program agency or a participating agency pursuant to paragraph (1) shall be deposited into a special account and shall be expended only to fund the activities of the unified program agency or participating agency in enforcing the unified program, as specified in subdivision (c) of Section 25404, within the jurisdiction of that agency pursuant to the unified program specified in Chapter 6.11 (commencing with Section 25404).

(3) All penalties or fines collected by the board or a regional board pursuant to this section or Section 25299.05 or collected on behalf of the board or a regional board by the Attorney General for these purposes shall be deposited in the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund, and are available for expenditure by the board, upon appropriation, pursuant to Section 13441 of the Water Code.

(i) Paragraph (9) of subdivision (a) does not prohibit the owner or operator of an underground storage tank, or the owner's or operator's designee, from maintaining, repairing, or replacing automatic leak detection devices or alarms associated with that tank.

§ 25299.01. Injunctions; Restraining Orders or Other Orders

(a) If a person has engaged in, is engaged in, or is about to engage in any acts or practices that violate this chapter, or Chapter 6.75 (commencing with Section 25299.10) or any rule, regulation, permit, standard, requirement, or order issued, adopted, or executed pursuant to this chapter or Chapter 6.75 (commencing with Section 25299.10), the city attorney of the city in which the acts or practices occur, occurred, or will occur, the county counsel or the district attorney of the county in which the acts or practices occur, occurred, or will occur, or the Attorney General may apply to the superior court for any order enjoining these acts or practices, or for an order directing compliance. The court may grant a permanent or temporary injunction, restraining order, or other order.

(b) If a county counsel or the district attorney brings an action pursuant to subdivision (a), the county counsel or the district attorney shall, within seven days of the filing of the action, notify the district attorney or county counsel, as applicable, of the county in which the acts or practices occur, occurred, or will occur.

§ 25299.02. Civil Actions; Joinder or Consolidation

Every civil action brought under this chapter shall be brought by the city attorney, the county counsel, the district attorney, or the Attorney General in the name of the people of the State of California, and any actions relating to the same violations may be joined or consolidated.

§ 25299.03. County in which Civil Action is Brought

Any civil action brought pursuant to this chapter shall be brought in the county in which the violation occurred, the county in which the principal office of the defendant is located, or the county in which the Attorney General has an office nearest to the county in which the principal office of the defendants, or any of them, in this state is located.

§ 25299.04. Temporary Restraining Order, Preliminary or Permanent Injunction; Proofs

In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any state of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued or that the remedy at law is inadequate. The temporary restraining order, preliminary injunction, or permanent injunction shall be issued without these allegations and without this proof.

§ 25299.05. Civil Liability

Notwithstanding Sections 25299.02 and 25299.03, the board may impose civil liability administratively for a violation described in subdivision (a), (b), (c), (e), or (f) of Section 25299 pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 of Division 7 of the Water Code. The executive director of the board shall consult with the appropriate local agency or agencies before issuing a complaint pursuant to Section 13323.

§ 25299.1. City or County Exempt from Provisions of this Chapter

(a) Any city or county which prior to January 1, 1984, adopted an ordinance which, at a minimum, met the requirements set forth in Sections 25284 and 25284.1, as they read on January 1, 1984, prior to being amended and renumbered, providing for double containment, and monitoring of underground storage tanks which was exempt from this chapter as of December 31, 1989, is not exempt from implementing this chapter and shall implement this chapter on or before January 1, 1991.

(b) Until a city or county specified in subdivision (a) implements this chapter, the city or the county shall, at a minimum, do all of the following:

(1) Submit to the board the application form and annual information specified by Section 25286 and submit a written report of any unauthorized release from an underground storage tank to the Office of Emergency Services within 10 working days from the time the local agency is notified of the unauthorized release.

(2) Collect and transmit to the board the surcharge specified in subdivision (b) of Section 25287.

(3) Issue permits for the operation of an underground storage tank, which, at a minimum, ensure compliance with any applicable requirement of the federal act and any applicable regulation adopted by the board pursuant to Section 25299.3 which the board determines is necessary to ensure consistency with the federal act.

(c) A permit issued on or after January 1, 1991, by a city or county specified in subdivision (a) shall require compliance with all applicable requirements of this chapter and with the regulations adopted by the board pursuant to Section 25299.3.

(d) This chapter does not limit or abridge the authority of any city or county to adopt an ordinance requiring information, conducting investigations, inspections, or implementing and enforcing this chapter.

§ 25299.2. Local Regulations, Requirements, or Standards of Performance

(a) Except as provided in subdivision (a) of Section 25299.4, this chapter does not preclude or deny the right of a local agency to adopt and enforce any regulation, requirement, or standard of performance that is more stringent than a regulation, requirement, or standard of performance in effect under this chapter with respect to underground storage tanks, if the regulation, requirement, or standard of performance, as provided in this subdivision, is consistent with this chapter.

(b) This chapter shall not be construed to preclude or deny the right of a local agency to regulate tanks which are not subject to regulation under this chapter or the federal act.

§ 25299.3. Regulations

(a) The board shall adopt regulations implementing this chapter.

(b) Every city and county shall undertake its regulatory responsibilities under this chapter. Except as provided in Section 25299.1, every city and county shall implement this chapter not later than July 1, 1985.

(c) Any regulation adopted by the board pursuant to this section shall assure consistency with the requirements for state programs implementing the federal act, and shall include any more stringent requirements necessary to implement this chapter.

§ 25299.4. Additional Standards; Site-Specific Variance; Fee

(a) (1) Any local agency may apply to the board for authority to implement design and construction standards for the containment of a hazardous substance in underground storage tanks which are in addition to those set forth in this chapter. The application shall include a description of the additional standards and a discussion of the need to implement them. The board shall approve the application if it finds, after an investigation and public hearing, that the local agency has demonstrated by clear and convincing evidence that the additional standards are necessary to adequately protect the soil and the beneficial uses of the waters of the state from unauthorized releases.

(2) The board shall make its determination within six months of the date of application for authority to implement additional standards. If the board's determination upholds the application for authority to implement additional standards, the standards shall be effective as of the date of the determination. If the board's determination does not uphold the application, the additional standards shall not go into effect.

(b) (1) Any permitholder or permit applicant may apply to the regional board having jurisdiction over the location of the permitholder's or applicant's facility for a site-specific variance from Section 25290.1, 25290.2, 25291, or 25292. A site-specific variance is an alternative procedure which is applicable in one local agency jurisdiction. Prior to applying to the regional board, the permitholder shall first contact the local agency pursuant to paragraph (5).

(2) The regional board shall hold a public hearing 60 days after the completion of any documents required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(3) The regional board shall consider the local agency's and the city's, county's, or city and county's recommendations in rendering its decision. Failure of the local agency or city, county, or city and county to join in the variance application pursuant to paragraph (5) shall not affect the request of the applicant to proceed with the variance application.

(4) The regional board shall approve the variance if it finds, after investigation and public hearing, that the applicant has demonstrated by clear and convincing evidence either of the following:

(A) Because of the facility's special circumstances, not generally applicable to other facilities' property, including size, shape, design, topography, location,

or surroundings, the strict application of Sections 25290.1, 25290.2, 25291, and 25292 is unnecessary to adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(B) Strict application of the standards of Sections 25290.1, 25290.2, 25291, and 25292 would create practical difficulties not generally applicable to other facilities or property and that the proposed alternative will adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(5) Before applying for a variance, the applicant shall contact the local agency to determine if a site-specific variance is required. If the local agency determines that a site-specific variance is required or does not act within 60 days, the applicant may proceed with the variance procedure in subdivision (a).

(6) At least 30 days before applying to the appropriate regional board, the applicant shall notify and request the city, county, or city and county to join the applicant in the variance application before the regional board.

(A) The city, county, or city and county shall provide notice of the receipt of that request to any person who has requested the notice.

(B) The local agency within the city, county, or city and county which has the jurisdiction for land use decisions shall have 30 days from completion of any documents required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to act on the applicant's request to join the applicant.

(c) Applicants requesting a variance pursuant to subdivision (b) shall pay a fee determined by the board to be necessary to recover the reasonable cost of administering subdivision (b).

(d) The permit issued for any underground storage tank issued a variance pursuant to subdivision (b) shall require compliance with any conditions prescribed by the board or a regional board in issuing the variance. The conditions prescribed by the board or regional board in the permit shall include any conditions necessary to assure compliance with any applicable requirements of the federal act.

(e) This section does not apply to or within any city or county that was exempt from implementing this chapter as of December 31, 1984.

§ 25299.5. Construction of Chapter

(a) This chapter shall be construed to assure consistency with the requirements for state programs implementing the federal act.

(b) This chapter shall not be construed to limit or abridge the powers and duties granted to the department by Chapter 6.5 (commencing with Section 25100) and Part 2 (commencing with Section 78000) of Division 45 or to the board and each regional board by Division 7 (commencing with Section 13000) of the Water Code.

§ 25299.6. Accident or Spill Prevention Plan or Responsible Plan; Format

An owner or operator who is required to prepare an accident or spill prevention plan or response plan pursuant to this chapter or pursuant to an underground storage tank ordinance adopted by a city or county may, if the owner or operator elects to do so, use the format adopted pursuant to Section 25503.4.

§ 25299.7. Board as Lead Agency for Purposes of Federal Act; Procedures and Implementation Plans; Regulations

(a) The board is designated as the lead agency in the state for all purposes stated in the federal act and may exercise any powers which a state may exercise pursuant to the federal act.

(b) The board may prepare, as part of any program application submitted to the Environmental Protection Agency for state program approval pursuant to Section 6991c of Title 42 of the United States Code, any procedures and implementation plans necessary to assure compliance with the requirements for a state program implementing the federal act. These procedures and implementation plans may include, but are not limited to, procedures or implementation plans with respect to investigation, compliance monitoring, enforcement, public participation, and sharing of information among local agencies, the board, and the Environmental Protection Agency. If the Environmental Protection Agency approves of the state program, the board, the regional boards, and each local agency shall administer this chapter in accordance with these procedures and implementation plans where required by the memorandum of agreement executed by the board and the Environmental Protection Agency. These procedures and implementation plans shall also apply to any public agency or official who brings a civil enforcement action pursuant to this chapter, and to any city or county specified in Section 25299.1, to the extent required by the memorandum of agreement. The board's approval of the program application and memorandum of agreement is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The board shall adopt, pursuant to Section 25299.3, any regulations necessary to obtain state program approval pursuant to Section 6991c of Title 42 of the United States Code. The

board shall adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the board in furtherance of this section shall be filed with, but may not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the board.

§ 25299.8. Upgrade Compliance Certificate Requirements; Pending Legislation; Application of 2002 Legislation

The repeal and addition of Section 25292.3 and the amendment of Section 25284 by the act adding this section during the 2002 portion of the 2001–02 Regular Session, to eliminate the requirement to acquire and display an upgrade compliance certificate, do not constitute a bar to any action, whether administrative, civil, or criminal, brought for a violation of the law that occurred prior to January 1, 2003.