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**LOS ANGELES COUNTY CODE TITLE 11**

**Division 4 UNDERGROUND STORAGE OF HAZARDOUS  
MATERIALS SUBSTANCES**

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11.70.010 Definitions applicable to Division 4.

The definitions in ~~California Health and Safety Code~~, Division 20, Chapter 6.7 of the California Health and Safety Code and Title 23, Division 3, Chapter 16, of the California Code of Regulations shall govern the construction of this division and any permits issued thereunder unless otherwise defined in this chapter or apparent from the context.

11.70.020 Abandoned.

“Abandoned,” when referring to a facility, means out of service and not safeguarded in compliance with this division.

11.70.030 Appeals board.

“Appeals board” means the ~~CUPA~~ appeals board as established by the CUPA or PA pursuant to Section 11.72.070 of this division.

11.70.040 Board.

“Board” means the board of supervisors of the county of Los Angeles.

11.70.043 Certified Unified Program Agency or CUPA.

“CUPA” means the "Certified Unified Program Agency" or "CUPA" means the agency certified by the Secretary for Environmental Protection for the state of California to implement the unified program pursuant to Division 20, Chapter 6.11 of the California Health and Safety Code, commencing with section 25404. For purposes of this division, the CUPA is the Los Angeles County Fire Department.

11.70.050 County.

“County” means the county of Los Angeles.

11.70.060 Director.

“Director” means the director of public works of the county of Los Angeles, or his/her ~~authorized deputy, agent, representative or inspector~~ acting as the PA or the unified program agency for the implementation of the underground storage tank element of the unified program.

11.70.070 Facility.

“Facility” means any one, or combination of, underground storage tank systems used by a person at a single location, which are subject to the requirements of this division.

11.70.090 Forester and fire warden.

“Forester and fire warden” means the forester and fire warden of the consolidated fire protection district of Los Angeles County and the chief of the fire department of the county ~~of Los Angeles~~, or his/her authorized deputy, agent, representative or inspector.

11.70.100 Hazardous ~~material~~ substance.

“Hazardous ~~material~~ substance” means any material, substance, or waste which is subject to regulation pursuant to section 11.74.010 of this division. ~~Division 20, Chapter 6.7 of the California Health and Safety Code, Section 25281(gh).~~

11.70.105 Minor repair.

“Minor repair” means maintenance, ordinary upkeep and other work necessary to operate or maintain an underground storage tank without altering its at approved operating capacity or functionality and which does not require a license, manufacturer training, or certification, or any further testing to complete or implement.

11.70.110 Ordinance.

“Ordinance” means an ordinance of the county ~~of Los Angeles~~.

11.70.115 Participating Agency or PA

“Participating Agency” or “PA” has the meaning set forth in Division 20, Chapter 6.11 of the California Health and Safety Code, subsection 25404.(1)(B). For purposes of this division, the PA is the Los Angeles County Department of Public Works.

11.70.120 ~~Permit~~.

~~“Permit” means any hazardous materials underground storage permit or unified program permit incorporating underground storage tanks issued pursuant to this division, as well as any additional approvals thereto.~~

## 11.70.130 Permit quantity limit.

~~“Permit quantity limit” means the maximum amount of hazardous material substance that can be stored in a facility. Separate permit quantity limits will be set for each underground storage tank for which a permit is obtained listed on a uniform program facilities permit in accordance with the requirements of this division.~~

## 11.70.140 Permittee.

~~“Permittee” means any person, firm, corporation or partnership to whom a permit is issued pursuant to this division and any authorized representative, agent or designee of such person, firm, corporation or partnership. Permittee may also refer to an applicant for a permit.~~

## 11.70.145 Person.

“Person” shall have the same meaning as in Division 20, Chapter 6.5, of the California Health and Safety Code, section 25118, and includes any individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, district, commission, state, or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

## 11.70.150 Red Tag.

“Red Tag” means a red tag affixed to a non-compliant underground storage tank system in accordance with Division 20, Chapter 6.7 of the California Health and Safety Code, section 25292.3 and Title 23, Division 3, Chapter 16, Article 10.5 of the California Code of Regulations, commencing with section 2717.

## 11.70.160 Significant Violation.

(a) “Significant Violation” means the failure of a person to comply with any requirement of Division 20, Chapter 6.7 of the California Health and Safety Code, any regulation adopted thereunder, or any requirement of this division, but not including the corrective action requirements of Division 20, Chapter 6.7 of the California Health and Safety Code, Section 25296.10, and Title 23, Chapter 16, Article 11 of the California Code of Regulations, that is any of the following:

(1) A violation that is causing, or threatens to cause a liquid release of hazardous substances from an underground storage tank system, including, but not limited to: the failure of any required overfill prevention system, where the failure is causing or

threatens to cause a release; or the failure of a required spill containment structure, where the failure is causing or threatens to cause a release to the environment due to a spill or an overflow.

(2) A violation that impairs the ability of an underground storage tank system to detect a liquid leak or contain a liquid release of hazardous substances in the manner required by law, including, but not limited to: tampering with leak detection equipment so that the equipment is no longer capable of detecting a leak at the earliest possible opportunity.

(3) A chronic violation or a violation that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the director shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to any requirement of Division 20, Chapter 6.7 of the California Health and Safety Code or of any regulation adopted thereunder, not including the corrective action requirements in Division 20, Chapter 6.7 of the California Health and Safety Code, Section 25296.10 and Article 11, Chapter 16 of Title 23 of the California Code of Regulations.

(b) "Imminent threat to human health or safety or the environment" means a condition that, as determined by the director, creates a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate the actual or potential damages to human health or safety or the environment.

#### 11.70.170 Substantial modification.

"Substantial modification" means an action which, in the determination of the director, modifies the approved operating capacity or functionality of any portion of the underground storage tank system, rectifies an issue that would otherwise prevent the monitoring system from properly functioning, or corrects an issue that would otherwise prevent the underground storage tank system from safely storing hazardous substances and preventing water intrusion, in accordance with approved plans and applicable laws, regulations, and codes, or any action that requires testing/certification, or retesting/recertification, of the affected parts for the proper operation of an underground storage tank; as well as any State mandated modifications or upgrades.

#### 11.70.200 Tank.

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

#### 11.70.210 Trade secret.

"Trade secret" may include, 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.

11.70.220 Unauthorized discharge-release.

“Unauthorized discharge-release” means any release or emission of any hazardous ~~material-substance~~ which does not conform to the provisions of this division, unless such release is in accordance with the release regulations of an the South Coast Air Quality Management District and the California Air Resources Board, a national pollutant discharge elimination system permit, or waste discharge requirements established by a Regional Water Quality Control Board pursuant to the Porter Cologne Water Quality Act or Title 20, Division 2 of this code.

11.70.230 Underground storage tank.

“Underground storage tank” means any tank, including pipes connected thereto, which is used for the storage of hazardous ~~materials or substances~~ and which is substantially or totally beneath the surface of the ground. For purposes of this division, the term “underground storage tank” includes the following:

A. A farm tank;

B. A heating oil tank;

C. An industrial waste pretreatment or process tank containing hazardous substances while in a static flow condition and providing unit operations other than gravity separation.

11.70.235 Underground storage tank system.

“Underground storage tank system” means an underground storage tank and associated monitoring systems.

11.70.240 Unified program facility permit.

“Unified program facility permit” means a permit issued by the CUPA pursuant to Chapter 6.11, Division 20 of the California Health and Safety Code incorporating one or more underground storage tanks, including any addenda thereto.

Chapter 11.72 GENERAL PROVISIONS

11.72.010 Title for citation.

11.72.020 Purpose.

11.72.030 General obligation--Safety and care.

11.72.040 Specific obligation.

11.72.045 Conformance with state law.

11.72.050 Enforcement--Director powers.

11.72.060 Professional assistance for director determinations.

11.72.065 Facilities not exempt from the regulations [Repealed].

11.72.070 Appeals board.

11.72.010 Title for citation.

The ordinance codified in Division 4 of Title 11 of this code shall be known as the "Underground Storage of Hazardous ~~Materials~~ Substances Ordinance," and may be referred to as such.

11.72.020 Purpose.

The purpose of this division is the protection of health, life, resources and property and the prevention of short and long term health hazards or environmental degradation through prevention and control of unauthorized ~~discharges~~ releases of hazardous ~~materials~~ substances from underground storage tanks.

11.72.030 General obligation--Safety and care.

A. No person, ~~firm or corporation~~ shall cause, suffer, or permit the storage of hazardous ~~materials~~ substances in underground storage tanks:

1. In a manner which violates a provision of this division or any other local, federal, or state statute, code, rule or regulation relating to hazardous ~~materials~~ substances; or
2. In a manner which causes an unauthorized ~~discharge~~ release of hazardous ~~materials~~ substances or poses a significant risk of such unauthorized ~~discharge~~ release.

~~B. The director may request State Water Resources Control Board authorization for additional design and construction standards other than those set by this division. An applicant may apply to the director for a site-specific variance allowing an alternative method of construction or monitoring.~~

11.72.040 Specific obligation.

A. Any person, ~~firm, or corporation~~ which owns or operates an underground storage tank in which is stored any hazardous material regulated by this division shall obtain and keep current a hazardous ~~materials~~ substances ~~underground storage permit~~ or unified program facility permit listing the underground storage tanks operated.

B. All Any such hazardous ~~materials~~ substances shall be contained in conformity with Chapter 11.74 of this division.

C. The storage of such hazardous ~~materials~~ substances shall be in conformance with the conditions and limitations of a ~~hazardous materials underground storage permit~~ or unified program facility permit.

11.72.045 Conformance with state law.

The provisions of Division 20, Chapter 6.7 of the California Health and Safety Code, and regulations promulgated thereunder are hereby adopted by reference except as may be modified and extended by this division.

11.72.050 Enforcement--Director powers.

The director shall enforce all the provisions of this Division 4, and for such purpose shall have the powers of a peace officer. The director shall implement ~~California Health and Safety Code, Division 20, Chapter 6.7 of the California Health and Safety Code, as the local agency pursuant to Section 25283 or as a PA to a the CUPA pursuant to Division 20, Chapter 6.11 of the California Health and Safety Code, Section 25404.1(b)(3).~~ In accordance with Division 20, Chapter 6.7 of the California Health and Safety Code, section 25299.4, the director may request State Water Resources Control Board authorization for additional design and construction standards other than those set by the California Health and Safety Code and regulations promulgated thereunder. In accordance with Division 20, Chapter 6.7 of the California Health and Safety Code, section 25299.2, the director is further authorized to adopt and enforce a standard of performance that is more stringent than that provided in Division 20, Chapter 6.7 of the California Health and Safety Code and regulations promulgated thereunder consistent with the purposes of this division. ~~Such powers~~ The powers enumerated herein shall not limit or otherwise affect the powers and duties of the county health officer or the forester and fire warden.

11.72.060 Professional assistance for director determinations.

Whenever the approval or satisfaction of the director may be required in this division for a design, monitoring, testing or other technical submittal by an applicant or permittee, the director may, in his/her discretion, require such applicant or permittee, at the applicant's or permittee's sole cost and expense, to retain a suitable qualified independent engineer, or chemist, or other appropriate professional consultant, acceptable to the director, for the purpose of evaluating and rendering a professional opinion respecting the adequacy of such submittal to achieve the purposes of this division. The director shall be entitled to rely on such evaluation and/or opinion of such engineer, chemist or professional consultant in making the relevant determinations provided for in this division.

~~11.72.065 Facilities not exempt from the regulations.~~

The term "underground storage tank" does not exclude the following:  
A. A farm tank;

- ~~B. A heating oil tank;~~
- ~~C. An industrial waste pretreatment or process tank containing hazardous materials while in a static flow condition and providing unit operations other than gravity separation.~~

11.72.070 Appeals board.

~~In order to hear appeals~~ Appeals provided for in this division, ~~there shall be~~ shall be heard by an appeals board established by the CUPA or, if the CUPA declines to establish such appeals board, the PA. The composition of the appeals board will depend on the nature of the appeal, as determined by the PA or the CUPA, as applicable. The appeals board shall consist of at least three members designated by the forester and fire warden or the director, as applicable, who are qualified to pass on matters pertaining to underground storage of hazardous ~~materials~~ substances agreed to by the appeals board chair. The ~~appeals board~~ CUPA or the PA, as applicable, shall adopt reasonable rules and ~~regulations~~ regulations for conducting its hearings before the appeals board investigations. The ~~CUPA or the PA,~~ CUPA or the PA, as applicable, shall keep a record of all proceedings and notify all parties concerned of the findings and decisions of the appeals board.

Chapter 11.74 STANDARDS

11.74.010 Materials regulated.

11.74.020 Containment of hazardous ~~materials~~ substances.

11.74.030 ~~New facilities~~ Facilities installed after January 1, 1984.

11.74.040 ~~Existing facilities~~ Facilities in existence before January 1, 1984.

11.74.050 Out of service facilities.

11.74.060 Monitoring, testing and inspection.

11.74.070 Maintenance, repair or replacement.

11.74.080 Emergency equipment.

11.74.090 Labeling and posting of facilities.

11.74.010 Materials regulated.

The materials regulated by this division shall consist of the following:

A. Any material defined as a hazardous ~~material substance~~ by ~~Section 11.70.100 of this division~~ Division 20, Chapter 6.11 of the California Health and Safety Code, section 25281(h);

B. Any material which has been determined by the party storing it, through testing or other objective means, to be likely to create a significant potential or actual hazard to public safety or welfare. This subsection shall not establish a requirement to test for the purposes of this division.

11.74.020 Containment of hazardous ~~materials~~ substances.

A. No person, ~~firm or corporation~~ shall store any hazardous ~~materials~~ substance regulated by this division in ~~an~~ underground storage tanks until a unified program facility permit listing such underground storage tank has been issued ~~pursuant to in~~ accordance with section 11.80 of this division. No such permit shall be ~~granted~~ approved pursuant to this division unless the applicant demonstrates to the satisfaction of the director, by the submission of appropriate plans and other information, that the design and construction of the facility will result in a suitable manner of underground storage for the hazardous ~~material substance~~ or materials to be contained therein.

B. All installation, construction, repair or modification, closure, and removal shall be to the satisfaction of the director. The owner shall furnish the director with certification that all underground storage tanks, ~~associated piping and monitoring systems~~ were properly installed. ~~The director shall have the discretion to request authorization as provided in Section 11.72.030 to impose reasonable additional or different requirements in order to better secure the purpose and general obligation of this division for protection of public health, safety and welfare and prevention of short or long term health hazards or environmental degradation.~~

11.74.030 ~~New facilities~~ Facilities installed after January 1, 1984.

A. ~~No person, firm or corporation shall construct or install any new underground storage tank or facility until a permit has been issued pursuant to this division.~~ Minimum Standards. All new underground storage tanks installed after January 1, 1984 must, at minimum, meet the design, construction and monitoring standards of Article 3 of Chapter 16 of Division 3 of Title 23 of the California Code of Regulations and ~~California Health and Safety Code~~ Division 20, Chapter 6.7 of the California Health and Safety Code.

B. Monitoring Capability. All new ~~facilities intended for the~~ underground storage tanks of hazardous materials shall be designed and constructed with a monitoring system capable of detecting that the hazardous ~~material substance~~ stored in the primary containment has entered the secondary containment. Visual inspection of the primary containment is the preferred method; however, other means of continuous monitoring may be required by the director. Where secondary containment may be subject to the intrusion of water, a means of monitoring for such water shall be provided. Whenever monitoring devices are provided, they shall, where applicable, be connected to attention-getting visual and/or audible alarms.

C. Containment Requirements. Primary and secondary levels of containment shall be required for all new ~~facilities intended for the~~ underground storage ~~tanks of hazardous materials~~, unless exempted by Division 20, Chapter 6.7 of the California Health and Safety Code.

1. All primary containment shall be product-tight within the meaning of Division 20, Chapter 6.7 of the California Health and Safety Code, section 25290.1(a), and compatible with the stored product.

2. Secondary Containment.

a. All secondary containment shall be constructed of materials of sufficient thickness, density, and composition so as not to be structurally weakened as a result of contact with the ~~discharged-released~~ hazardous ~~materials-substances~~ and so as to be capable of containing hazardous ~~materials-substances discharged-released~~ from a primary containment for a period of time equal to or longer than the maximum anticipated time sufficient to allow recovery of the ~~discharged-released~~ hazardous ~~material-substance~~.

b. In the case of installation with one primary containment, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary containment.

c. In the case of a facility with multiple primary containments, the secondary containment shall be large enough to contain 150 percent of the volume of the largest primary containment placed in it, or 10 percent of the aggregate internal volume of all primary containments in the facility, whichever is greater.

d. If the facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a 24-hour rainfall as determined by a 100-year storm history.

3. Laminated, coated, or clad materials shall be considered single-walled and shall not be construed to fulfill the requirements of both primary and secondary containment.

4. The design and construction of underground storage tanks for motor vehicle fuels ~~storage installed before January 1, 1997,~~ need not meet the requirements of Section 11.74.030 ~~(C)(1)–(C)(3)~~ of this division if all of the conditions of paragraph (7) of subdivision 25291(a) of Division 20, Chapter 6.7 of the California Health and Safety Code are met.

D. Spill and Overfill Protection. Means of spill and overfill protection shall be required for any primary containment. This may be an overfill prevention device and/or an attention-getting high level alarm.

E. Separation of Materials. Materials that in combination may cause fire or explosion, or the production of a flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary containment shall be separated in both the primary and secondary containment so as to avoid intermixing.

F. Drainage System. Drainage of precipitation from within a storage facility containing hazardous ~~materials-substances~~ shall be controlled in a manner approved by the director so as to prevent hazardous ~~materials-substances~~ from being ~~discharged released~~. No drainage system will be approved unless the flow of the drain can be controlled. Disposal of drainage shall comply with the requirements of Title 20, Division 2 of this code.

G. All underground storage tanks installed on or after July 1, 2004 shall comply with the design, construction, monitoring and maintenance requirements of Division 20, Chapter 6.7 of California Health and Safety Code, Section 25290.1.

~~11.74.040 Existing facilities~~ Facilities in existence before January 1, 1984.

Any facility in existence as of January 1, 1984, which does not meet the standards of Section 11.74.030, may be issued a ~~provisional~~ unified program facility permit pursuant to chapter 11.80 of this division as long as it is providing suitable underground storage for hazardous ~~materials~~ substances. In addition, such facility must be monitored in accordance with a plan approved by the director as set forth in this section. ~~Such facility shall have 30 days from the date of notification by the director or by the date established by Division 20, Chapter 6.7, whichever occurs first, to file a complete application for a permit including a monitoring plan.~~

A. A monitoring plan for each such facility shall be submitted to the director as part of the permit application.

B. Monitoring under such plan shall include visual inspection of the primary containment wherever practical; however, if the visual inspection is not practical, an alternative method of monitoring each facility on a semiannual or more frequent basis may be approved by the director.

C. Alternative method(s) of monitoring may include but are not limited to: pressure testing of piping systems, groundwater monitoring well(s) where appropriate; and analysis of the soil boring(s) at the time of initial installation of the well(s). The number of well(s), depth of well(s), and sampling frequency shall be approved by the director. All monitoring methods must meet the design standards of Article 4 of Chapter 16 of Division 3 of Title 23 of the California Code of Regulations.

~~D. Such monitoring devices and methods, as approved by the director, shall be installed and operating within six months of the issuance of a provisional permit in accordance with Section 11.80.050. The director may grant an extension of this compliance date; however, such extension shall not exceed one additional six month period, or December 22, 1998, whichever occurs first. The full term permit may be issued when compliance with this subsection has been achieved.~~

~~ED.~~ The continued use of, and permit approval for, existing facilities in existence as of January 1, 1984 is subject to review and modification or termination by the director whenever there has been any unauthorized discharge-release. In determining whether continued underground storage in such facility is suitable, the director shall consider the age of the facility, the methods of containment, the methods of monitoring, the feasibility of the required retrofit, the concentration of the hazardous ~~materials~~ substances contained, the severity of potential unauthorized discharge-release, and the suitability of other long-term preventive measures which meet the intent of this division.

~~FE.~~ Existing facilities Facilities in existence as of January 1, 1984 which are not approved in accordance with this section must be upgraded to comply with this division or be closed in accordance with Section 11.80.070 ~~within one year of a decision not to issue a full term permit. An extension of time for compliance with this subsection not to exceed one additional six month period, or December 22, 1998, whichever occurs first, may be granted by the director.~~

11.74.050 Out of service facilities.

- A. No facility shall be abandoned.
- B. Facilities which are temporarily out of service, and are intended to be returned to use, must continue to be monitored and inspected.
- C. Any facility which is not being monitored and inspected in accordance with this division must be closed or removed in a manner approved by the director in accordance with Section 11.80.070.
- D. Any person, ~~firm or corporation~~ having an interest, including a leasehold interest, in real property and having reason to believe that an abandoned facility is located upon such property shall make a reasonable effort to locate such facility ~~within six months of the effective date of the ordinance codified in this division~~ and make a report to the director.
- E. Whenever an abandoned facility is located, a plan for the closing or removing or the upgrading and permitting of such facility shall be filed within 90 days of its discovery. A closure plan shall conform to the standards specified in Section 11.80.070.

11.74.060 Monitoring, testing and inspection.

Every permittee under this division shall provide testing, monitoring ~~(if applicable),~~ employee training, reporting and inspections in compliance with the unified program facility permit and shall maintain records adequate to demonstrate compliance therewith to the director.

11.74.070 Maintenance, repair or replacement.

- A. Every permittee under this division shall ~~Permittee will~~ carry out ordinary maintenance, ordinary-upkeep and minor repairs in a careful and safe manner. No permit addenda will be required for such maintenance, ~~and-upkeep or minor repairs.~~
- B. Any substantial modification or repair of a facility other than minor repairs or emergency repairs shall be in accordance with plans to be submitted to the director and approved in accordance with Section 11.80.010 as part of a permit addendum ~~11.80.070-A~~ prior to the initiation of such work.
- C. Permittee may make emergency repairs to a facility in advance of seeking ~~an additional permit approval~~ a permit addendum whenever an immediate repair is required to prevent or contain an unauthorized ~~discharge-release~~ or to protect the integrity of the containment. However, within five working days after such emergency repairs have been started, permittee shall ~~seek approval~~ apply for a permit addendum pursuant to Section ~~11.80.070-A-11.80.010~~ by submitting drawings and/or other information adequate to describe the repairs to the director.
- D. Replacement of any facility must be in accordance with the new installation standards ~~of set forth in~~ Section 11.74.030.
- E. Any work performed on the underground storage tank system, including testing and certification, must be performed by licensed persons that are trained and certified in accordance with Title 23, Division 3, Chapter 16, Article 10 of the California Code of Regulations, Section 2715..

11.74.080 Emergency equipment.

Emergency equipment as may be required by the forester and fire warden or other fire agency with jurisdiction over the facility shall be provided at the facility. Such equipment shall be regularly tested and adequately maintained.

11.74.090 Labeling and posting of facilities.

All underground storage tanks within a facility shall be labeled in accordance with local, state and federal requirements ~~California Code of Regulations Title 8, Article 112.~~

Chapter 11.76 UNAUTHORIZED ~~DISCHARGE~~RELEASE OF HAZARDOUS MATERIALSSUBSTANCES

11.76.010 Responsibility for unauthorized ~~discharge~~-release.

11.76.020 Cleanup responsibility.

11.76.030 Indemnification.

11.76.040 Financial responsibility.

11.76.010 Responsibility for unauthorized ~~discharge~~-release.

As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed unauthorized ~~discharge~~release of a hazardous ~~material~~substance, such person shall take all necessary steps to ensure the discovery and containment and cleanup of such ~~discharge~~-release and shall notify the director of the occurrence as required by this section.

A. Confirmed Unauthorized ~~Discharge~~Release.

1. Recordable Unauthorized ~~Discharge~~Release. Any recordable unauthorized ~~discharge~~-release shall be contained and safely disposed of in an appropriate manner by permittee and such occurrence and the response thereto shall be recorded in the permittee's monitoring records. A "recordable unauthorized ~~discharge~~-release" is any unauthorized ~~discharge~~-release of a hazardous ~~material~~substance which meets all of the following criteria:

- a. The ~~discharge~~-release is from a primary containment to a secondary containment or to a rigid aboveground surface covering capable of containing the ~~discharge~~-release until cleanup of the hazardous ~~material~~substance is completed; and
- b. The permittee is able to adequately clean up the ~~discharge~~-release before it escapes from such secondary containment or such aboveground surface, except that if the cleanup requires more than eight hours, it becomes a reportable ~~discharge~~-release in accordance with subdivision 2 of this subsection; and
- c. There is no increase in the hazard of fire or explosion, nor is there any production of a

flammable or poisonous gas, nor is there any deterioration of such secondary containment or such rigid aboveground surface covering.

2. Reportable Unauthorized ~~Discharge-Release~~. Any unauthorized ~~discharge-release~~ which escapes from the secondary containment, or from the primary containment, if there is no secondary containment, increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground storage tank must be reported to the director immediately. The reporting party shall provide information to the director relating to the ability of the permittee to contain and dispose of the hazardous ~~material-substance~~, the estimated time it will take to complete containment and disposal, and the degree of hazard created. The director may verify that the hazardous ~~material-substance~~ is being contained and appropriately disposed of. The director, at any time upon a determination that the permittee is not adequately containing and disposing of such hazardous ~~material-substance~~, shall have the power and authority to undertake and direct an emergency response in order to protect the public health and/or safety.

B. Unconfirmed Unauthorized ~~Discharge-Release~~.

1. Indication of Loss in Inventory Records. Whenever a material balance or other inventory record, employed as a monitoring technique under the unified program facility permit, indicates a loss of hazardous ~~material-substance~~, and no unauthorized ~~discharge-release~~ has been confirmed by other means, permittee shall have five working days to determine whether or not there has been an unauthorized ~~discharge-release~~. If before the end of such period, it is determined that there has been no unauthorized ~~discharge-release~~, an entry explaining the occurrence shall be made in permittee's monitoring records. Where permittee has not been able, within such period, to determine that there is ~~deemed~~ no unauthorized ~~discharge-release~~, an unauthorized ~~discharge-release~~ is deemed confirmed and permittee shall proceed in accordance with Section 11.76.010 (A)(2) above.

2. Test Results. Whenever any test results suggest a possible unauthorized ~~discharge-release~~, and no unauthorized ~~discharge-release~~ has been confirmed by other means, the permittee shall have five working days to retest. If second test results obtained within that period establish that there has been no unauthorized ~~discharge-release~~, the results of both tests shall be recorded in permittee's monitoring records. If it has not been established within such period that there has been no unauthorized ~~discharge-release~~, an unauthorized ~~discharge-release~~ is deemed confirmed and permittee shall proceed in accordance with Section 11.76.010 (A)(2) above.

11.76.020 Cleanup responsibility.

Any person, ~~firm or corporation~~ responsible for storing ~~the a~~ hazardous ~~material substance~~ in an underground storage tank shall institute and complete all actions necessary to remedy the effects of any unauthorized ~~discharge-release~~, whether sudden or gradual, in accordance with the requirements of Article 5, Chapter 16, Division 3, Title 23 of the California Code of Regulations, and Chapter 6.7, and Article 4, Chapter 6.75, Division 20 of the California Health and Safety Code.

The county ~~shall~~ may undertake actions to ~~remedy the effects of~~ contain, remediate and/or address such unauthorized ~~discharge-release~~ ~~itself only~~ if it determines that it is

reasonably necessary under the circumstances for the county to do so. The responsible party shall be liable to reimburse the county for all costs incurred by the county in containing, remediating and/or addressing ~~remediating the effects of~~ such unauthorized ~~discharge-release~~, including the costs of fighting fires, to the extent allowed by law. This responsibility is not conditioned upon evidence of ~~wilfulness~~ willfulness or negligence of the party storing the hazardous ~~material-substances~~(s) in causing or allowing such ~~discharge-release~~.

#### 11.76.030 Indemnification.

~~The A~~ permittee shall indemnify, hold harmless and defend the PA, the CUPA and the county against any claim, cause of action, disability, loss, liability, damage, cost or expense, howsoever arising, which occurs by reason of an unauthorized ~~discharge release~~ or containment and cleanup of an unauthorized ~~discharge-release~~ in connection with permittee's operations under this any unified program facility permit issued pursuant to in accordance with this division, except as arises from the PA's, the CUPA's or the county's sole ~~wilful~~ willful act or sole active negligence.

#### 11.76.040 Financial responsibility.

Every owner and operator of an underground storage tank shall establish and maintain evidence of financial responsibility as provided by Division 20, Chapter 6.75 of the California Health and Safety Code, sections 25299.30 and 25299.31 and Division 20, Chapter 6.7 of the California Health and Safety Code, section 25292.2. Unless otherwise exempt by law, the owner or operator shall furnish evidence of such financial responsibility to the director.

### Chapter 11.78 INSPECTIONS AND RECORDS

#### 11.78.010 Inspections by the director.

#### 11.78.020 Right of entry.

#### 11.78.030 Inspections and training by permittee.

#### 11.78.040 Special inspections.

#### 11.78.045 Demonstration to director.

#### 11.78.050 Maintenance of records.

#### 11.78.010 Inspections by the director.

The director may conduct inspections, at his/her discretion, for the purpose of ascertaining compliance with this division and causing to be corrected any conditions which would constitute any violation of this division or of any other statute, code, rule or

regulation affecting the underground storage of hazardous ~~materials-substances~~. Such inspections may be in conjunction with or in addition to inspections conducted by the CUPA as required by the unified program.

#### 11.78.020 Right of entry.

Whenever necessary for the purpose of investigating or enforcing the provisions of this division, or whenever the director or authorized deputy, agent, representative or inspector of the CUPA has reasonable cause to believe that there exists in any structure or upon any premises any condition which constitutes a violation of this division, said officer may enter such structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon the PA ~~him~~ by law; provided, that if such structure or premises be occupied, the officer shall first present proper credentials and request entry; and further provided, that if such structure or premises is unoccupied, the officer shall first make a reasonable attempt to contact a responsible person-an authorized representative of the owner or operator of the property or facility ~~from such a firm or corporation~~ and request entry, except in emergency circumstances. If such entry is refused, the officer seeking entry shall have recourse to every remedy provided by law to secure entry.

#### 11.78.030 Inspections and training by permittee.

The permittee shall conduct regular inspections of its own facilities as specified in its unified program facility permit to assure compliance with this division and shall maintain logs or file reports in accordance with its permit. In no event shall the permittee inspect its facility less than monthly ~~once every three years~~. The person conducting such inspections shall be qualified to conduct such inspections pursuant to Title 23, Division 3, Chapter 16, Article 10, of the California Code of Regulations, Section 2715. Persons with responsibility for the facility systems operation and maintenance shall be trained within 30 days of hire and at least annually thereafter, in accordance with Title 23, Division 3, Chapter 16, Article 10 of the California Code of Regulations, Section 2715.

#### 11.78.040 Special inspections.

In addition to or in lieu of the inspections specified in sections 11.78.010 and 11.78.030, the director may require the permittee to periodically employ ~~periodic employment of~~ special inspectors to conduct an audit or assessment of permittee's facility to make a hazardous material-substance safety evaluation and to determine compliance with the provisions of this division.

A. The special inspector shall be a qualified person who shall demonstrate expertise to the satisfaction of the director.

B. The special inspection report shall include an evaluation of the facilities and recommendations consistent with the provisions of this division where appropriate. A copy of the report shall be filed with the director at the same time that it is submitted to the permittee.

C. Permittee shall, within thirty days of said report, file with the director a plan to

implement all recommendations, or shall demonstrate to the satisfaction of the director why such recommendations should not be implemented.

## 11.78.045 ~~Demonstration to~~ Inspections in presence of the director.

The director may require that any regular or special inspection by the permittee pursuant to this chapter be made in the presence of ~~a representative~~ of the director. The director may further require advance notice of not less than 72 hours as to the availability of equipment, material and personnel required to conduct such inspection.

## 11.78.050 Maintenance of records.

All records required by this division shall be maintained by the permittee as provided by state regulations but in no case for less than 6 1/2 years for cathodic protection maintenance records, 5 years for written performance claims pertaining to release detection systems and calibration and maintenance records for such systems, and three years for all other records. Said records shall be made available to the director or CUPA during normal working hours and at any time upon reasonable notice.

## Chapter 11.80 PERMITS

### 11.80.010 Permit.

### 11.80.020 Application for permit.

### 11.80.030 Investigation.

### 11.80.040 Conditions for approval.

### 11.80.050 Provisional permit.

### 11.80.060 Issuance of permits.

### 11.80.070 ~~Additional approvals~~ Closure of a Facility.

### 11.80.080 Term of permit.

### 11.80.090 Permit renewal or extension.

### 11.80.100 Decision by director.

### 11.80.110 Grounds for denial.

### 11.80.120 Appeal to appeals board.

11.80.130 Notice of hearing.

11.80.140 Hearing by appeals board.

11.80.150 Hearing notices.

11.80.160 Disposition of appeal.

11.80.170 Transfer of permit.

11.80.180 Authority after suspension, revocation or expiration.

11.80.190 Return of permit.

11.80.010 Permit.

~~Any person, firm, or corporation which owns or operates an underground storage tank which stores a hazardous material shall obtain and keep current a unified program facility permit issued by the CUPA in accordance with pursuant to this division that lists such underground storage tank. For the purpose of this division, after certification of the unified program agency for a jurisdiction, the permit to operate an underground storage tank in that jurisdiction shall be a unified program permit issued by the CUPA. One such permit shall be issued for a single facility. A permittee shall obtain a permit addendum at a facility approvals for any underground storage tank thereafter connected, installed, constructed, repaired as required by Section 11.74.070, substantially modified, replaced, closed, or removed, or for any change or addition in hazardous materials substances stored, not in accordance with the prior permit. A person shall obtain a closure addendum for any underground storage tank that is to be closed or removed as required by Section 11.74.070.~~

11.80.020 Application for permit.

A. Application for a new ~~or amended~~ unified program facility permit or an ~~additional approval addendum~~ shall be made to the director on the form provided by the director or CUPA. The application shall include, but not be limited to, all information required by Division 20, Chapter 6.7 of the California Health and Safety Code, Section 25286.

B. In addition to the above information provided by such form, applicant shall submit such additional information as may be required by the director or the CUPA and construction plans, if any, in conformity with Section 11.74.020. Applicant shall specify the permit quantity limit to be permitted for each facility where the proposed monitoring, spill prevention or overfill protection system does not allow use of the full tank capacity.

11.80.030 Investigation.

Upon receipt of an application for a unified program facility permit the director may make such investigation of the applicant and the proposed facility or activity as he or she deems necessary to carry out the purposes of this division.

11.80.040 Conditions for approval.

No unified program facility permit or ~~approval~~ addendum shall be ~~issued~~ approved for the operation, alteration, transfer or closure of an underground storage tank until the director has determined that all requirements of this division for said tank have been met.

11.80.050 ~~Provisional permit~~ [Repealed].

~~If the director finds that the proposal for an existing facility does not completely conform to the provisions of this division, the director may approve a provisional permit for a period of up to six months, subject to conditions to be imposed by the director, when such a provisional permit is feasible and does not appear to be detrimental to the public interest. The applicant shall be informed in writing of the reasons why a full-term permit was not issued. (Ord. 97-0016 § 46, 1997; Ord. 83-0208 § 1 (part), 1983; Ord. 83-0206U § 1 (part), 1983.)~~

11.80.060 Issuance of permits.

A. Upon the approval of ~~a provisional or full-term~~ an application for a unified program facility permit or addendum by the director and upon the payment of any applicable ~~fees~~ fees, the CUPA shall issue and deliver to the applicant a unified program facility permit or addendum ~~those conditions necessary to amend an existing unified program permit to reflect the additional underground storage tanks~~. Such unified program facility permit shall contain, but is not limited, to the information required by Division 20, Chapter 6.7 of the California Health and Safety Code, and regulations promulgated thereunder.

B. The director shall keep a record of all permits issued and all conditions attached thereto.

11.80.070 Closure of a Facility.

A. ~~If additional approval request is submitted in accordance with section 11.80.040 for closure of a facility, the~~ A permittee person shall apply for ~~approval~~ an addendum to close ~~such a~~ facility not less than 30 days prior to the termination of the underground storage of hazardous ~~materials~~ substances at the facility. Such closure shall be in accordance with a closure plan which describes procedures for terminating the storage of hazardous ~~materials~~ substances in each underground storage tank in a manner that:

1. Minimizes the need for further maintenance; and
2. ~~Controls to the extent that a~~ Minimizes or eliminates any threat to public health or safety or to the environment from residual hazardous ~~materials~~ substances in the facility ~~is minimized or eliminated; and~~

3. Demonstrates that hazardous ~~materials-substances~~ that were stored in the facility and/or contaminated soils or groundwater caused by any unauthorized ~~discharge release~~, will be removed, disposed of, neutralized, or reused in an appropriate manner. The demonstration shall be in the form of reports by a state certified laboratory, professional civil engineer, registered geologist, engineering geologist, or as required by the director. ~~The 30-day period may be waived by the director if there are special circumstances requiring such waiver. The director, in his or her discretion, may extend the time for a permittee to apply for a closure addendum upon a showing of special circumstances.~~

#### 11.80.080 Term of permit.

~~A- The term of a unified program facility permit may be issued for a term not to exceed one year, except that a provisional permit may be issued for any period of time up to six months.~~

#### 11.80.090 Permit renewal or extension.

~~A valid unified program facility permit applicable to any facility regulated under this division shall may be renewed each year upon payment of the annual fee, state service charge and any penalties due, provided the underground storage tanks or facilities listed on the permit permitted are operated in compliance with all conditions and limitations of such permit. A provisional permit may be extended for one additional six-month term, or until December 22, 1998, whichever occurs first, provided timely application was made as provided by this section, the director determines that progress has been made toward obtaining full compliance with this division and the facility continues to provide safe storage of hazardous materials. Every application for the extension of a provisional permit shall be made at least 30 days prior to the expiration date of such permit. If a timely application for extension has been submitted, the permit shall remain in effect until the director has made his or her decision pursuant to Section 11.80.100 and any administrative appeal pursuant to this chapter has been exhausted.~~

#### 11.80.100 Decision by director.

~~The director shall ~~grant~~ approve or deny a permit application or application for a permit addendum ~~additional approval~~ within 90 days after the application has been completed, all required fees have been paid and all applicable provisions of the California Environmental Quality Act (CEQA) have been complied with. This time limit may be further extended by mutual agreement between the director and the applicant. The director shall give the applicant written notice of his or her decision.~~

~~If an applicant submits a permit application that is incorrect or incomplete, the director may return the application with a notice of correction which provides the applicant with instructions on how to correct or complete the application. The applicant may resubmit the application with the requested corrections or additional information requested by the director. If the applicant twice re-submits an incomplete or incorrect application, then~~

such applicant will be charged a resubmittal fee in accordance with section 11.82.016 of this division the third time such applicant re-submits its application.

## 11.80.110 Grounds for denial.

A permit shall be denied if the applicant fails to demonstrate adequate conformity to the provisions of this division. In addition, a permit can be denied for any of the grounds upon which the permit would be subject to revocation pursuant to Chapter 11.84.

## 11.80.120 Appeal to appeals board.

Any person dissatisfied with ~~the~~ a decision of the director to deny a permit or addendum pursuant to section 11.80.100 may appeal the decision, in writing, to the appeals board, setting forth with particularity the ground or grounds for the appeal. Such appeal shall be submitted within 10 days after notice of the decision has been given pursuant to Section 11.80.150.

## 11.80.130 Notice of hearing.

The appeals board shall set a time and place for the hearing on the appeal and shall notify the ~~appellant,~~ applicant or permittee, and any other interested persons who have requested such notice, in writing, of such date and time not less than 10 days prior to the hearing.

## 11.80.140 Hearing by appeals board.

At the hearing, the appeals board shall consider all competent evidence offered by any person pertaining to the decision being appealed. At the hearing, the appeals board may also continue the ~~The hearing may be continued by the appeals board for a reasonable time for the convenience of a party, or a witness or the appeals board and no further notice shall be required.~~

## 11.80.150 Hearing notices.

All notices required by this chapter shall be sent by first class mail to the applicant or permittee at the address given on the application or permit or delivered to the applicant or permittee personally. Notices to other interested persons who have requested notice shall be sent by first class mail to the address provided by such persons or delivered to such persons personally.

## 11.80.160 Disposition of appeal.

After the hearing on the appeal, the appeals board may refer the matter back to the director for a new investigation and decision, may affirm the decision of the director, ~~may approve a provisional permit as provided in Section 11.80.050 or may approve the application with or without conditions.~~ The decision of the appeals board shall be final.

## 11.80.170 Transfer of permit.

The unified program facility permit may be transferred to new owners of the same business only if the new owners accept responsibility for all obligations under this division at the time of the transfer of the business, document such transfer on a form provided by the director or CUPA within 30 days of transfer of ownership of the business and pay all fees as required by Chapter 11.82. Such transfer shall be subject to the approval of the director.

## 11.80.180 Authority after suspension, revocation or expiration.

The suspension, revocation or expiration of ~~a~~any unified program facility permit ~~issued under the division~~ shall not prevent any proceedings to investigate such permit, any administrative action against such permittee or any other proceeding against such permittee.

## 11.80.190 Return of permit.

In the event that a unified program facility permit issued under the provisions of this division is suspended or revoked, the permittee shall forward it to the CUPA not later than the end of the third business day after notification of such suspension or revocation.

## Chapter 11.82 ~~FEES AND DEPOSITS~~

### 11.82.010 Operating permit application fee.

### 11.82.012 Annual permit maintenance fee.

### 11.82.013 Operating permit transfer fee.

### 11.82.014 Permit noncompliance fee.

### 11.82.015 New construction plan clearance fee.

### 11.82.016 Resubmittal of plan clearance fee.

### 11.82.020 Closure fee.

### 11.82.021 Reinspection fee.

### 11.82.025 Permit addendum fee.

### 11.82.030 Permit fees--Payment time--Penalties for delinquency.

11.82.035 Cleanup oversight fees.

11.82.040 Schedule of fees.

11.82.045 Annual review of fees.

11.82.050 Fees separate from other fees.

11.82.010 Operating permit application fee.

The director shall collect an operating permit application fee, as set forth in Section 11.82.040, for each new application for unified program facility permit listing one or more underground storage tanks ~~application received~~. At the time of a new operating permit application submittal, the director shall collect, in addition to the operating permit application fee, a ~~pro-rated~~ an annual permit maintenance fee, pro-rated as set forth below, for the remainder of the annual permit period:

<b>Days Remaining in the Annual Permit Period</b>	<b>Percentage of Annual Fee</b>
1 to 30	0
31 to 121	25
122 to 211	50
212 to 302	75
303 to 365	100

Upon payment, no operating permit application fee or permit maintenance fee shall be refunded even though the application is denied or the permit is issued for a term of less than one year or the permittee discontinues the activity or use of a facility prior to the expiration of the term.

11.82.012 Annual permit maintenance fee.

~~Upon certification of the unified program, the~~ The CUPA shall collect an annual permit maintenance fee, as set forth in Section 11.82.040, for each ~~operating permit-facility~~ listed on the unified program facility permit as a part of the unified program single fee system. The annual permit maintenance fee shall be payable annually 30 days prior to the yearly anniversary date of the operating permit or on a date established by the CUPA. Such fee shall include a state imposed service charge, payable to the CUPA, as required by Division 20, Chapter 6.11 of the California Health and Safety Code, Section 25404.5(b). Applicants for new operating permits shall pay a prorated annual permit maintenance fee for the remainder of the current annual permit period as set forth in Section 11.82.010. If a permittee with an existing unified program facility permit listing one or more underground storage tank applies for an addendum to add additional

underground storage tank(s), such permittee shall pay the prorated amount of any additional maintenance fee applicable to such additional underground storage tank(s). Upon payment, no annual maintenance fee shall be refunded unless the request for refund is made prior to commencement of the annual period for which the fee is paid. No prorated annual maintenance fee submitted as part of an application for a new unified program facility permit or addendum shall be refunded.

11.82.013 Operating permit transfer fee.

The director shall collect an operating permit transfer fee, as set forth in Section 11.82.040, upon submittal of each application to transfer an operating permit. No portion of the operating permit transfer fee shall be refunded if the director has commenced any portion of the review of the transfer application.

11.82.014 Permit noncompliance fee.

If the director determines that a significant violation exists for any underground storage tank and affixes a red tag, he or she shall collect from the permittee a permit non-compliance fee as set forth in Section 11.82.040. The permit non-compliance fee is separate from, and in addition to, any civil or criminal fines or penalties that may also be imposed for a violation.

11.82.015 New construction plan clearance fee.

A. The director shall collect a fee as set forth in Section 11.82.040 for each application for an operating permit or addendum requiring new construction plan clearance. Such fee shall be applied to all submittals for new construction where no underground storage tank previously existed, for replacement of existing underground storage tanks with new underground storage tanks, or other submittal requiring review of engineered plans for construction permits.

B. No portion of the new construction plan clearance fee shall be refundable if the director has commenced any portion of the review of the plan. The director may further impose a reinstatement fee equal to one-half of the new construction plan clearance fee if the applicant fails to comply with all conditions and limitations made a part of plan approval by the director or if the applicant has not commenced work within 180 days from the date of issuance of plan approval. If construction work has not commenced within 360 days from the date of plan approval issuance, such plan approval shall be null and void and the applicant shall reapply for a new construction plan clearance and pay all required fees.

11.82.016 Resubmittal of plan clearance fee.

If a person submits an application for new construction plan clearance that is returned by the director twice with a notice of correction, then the third time that the applicant submits the application, the applicant will be charged a resubmittal of plan clearance fee as set forth in Section 11.82.040. If the applicant fails to respond to a notice of

correction for more than 180 days, the application will be deemed canceled and the applicant would be required to submit a new application.

11.82.020 Closure fee.

A. The director shall collect a fee as set forth in Section 11.82.040 for each application for closure, ~~as required by subsection B of~~ pursuant to Section 11.80.070. Such fee shall provide for the initial review of closure activities that may include: issuance of a closure authorization, inspections, review of preliminary closure reports as may be required by the closure authorization and issuance of closure certification where no unauthorized release of hazardous ~~materials~~ substances has occurred requiring further cleanup of said contaminates at this site as provided by ~~Chapter~~ Chapter 11.76 of this division.

B. No portion of the closure fee shall be refundable if the director has commenced any portion of the review of the closure proposal. The director may further impose a reinstatement fee equal to one-half of the closure fee if the applicant fails to notify the director to allow inspections as may be required by the closure authorization or has not commenced work on such a closure within 180 days from the date of issuance of a closure authorization. If work on closure has not commenced within 360 days from the date of issuance of a closure authorization, the closure authorization shall be null and void and the applicant shall reapply for a closure authorization and pay all required fees.

11.82.021 Reinspection Fee.

The director shall collect a fee as set forth in Section 11.82.040 for the reinspection of any facility.

11.82.025 Permit addendum fee.

The director shall collect a fee as set forth in Section 11.82.040 for any permit addendum required ~~to a permit as may be necessitated by an additional approval as set forth in~~ pursuant to Section 11.80.010 with the exception of an addendum required because of the closure of a facility that is subject to a closure fee pursuant to section 11.82.020 ~~or a determination of compliance as may be required by Section 15399.15 of the Government Code, except this section shall not apply where such an additional approval involves new construction plan clearance, closure, or transfer of a permit.~~ No portion of the permit addendum fee shall be refundable if the director has commenced any portion of the review of the permit addendum application.

11.82.030 Permit fees--Payment time--Penalties for delinquency.

All fees required by Section 11.82.012 of this code shall be due and payable on the billing date established by the CUPA. Fees not paid within 30 calendar days from the billing date shall be considered delinquent. Delinquent fees shall be subject to a late payment penalty set forth in Section 12.50.060. Permits for which the annual permit maintenance fee is delinquent for 90 days or more are subject to suspension as

provided in Section 11.84.010 and a lien against the permittee in accordance with Section 12.50.065.

11.82.035 Cleanup oversight fees.

A. ~~The director shall collect fees as set forth in Section 11.82.040, for oversight review of the cleanup of any unauthorized discharge of hazardous materials as may be required by Chapter 11.76 of this division. Prior to the commencement of any review of the cleanup by the director, an initial deposit equivalent to three times the maximum hourly fee rate shall be collected. The fee rate charged beyond the initial deposit shall be the actual cost of services up to, but not in excess of, the maximum hourly rate. The maximum hourly rate shall be set equivalent to the local agency oversight cost as established by California Health and Safety Code Section 25297.1(i)(4)(A). Such fee shall not be imposed where the director is reimbursed for oversight services by any other grant, contract, or agreement.~~

B. ~~No portion of the initial deposit for a cleanup oversight fee shall be refundable if the director has commenced any portion of the review of any cleanup submittal or performed any service related to the fee collected. For the purpose of this chapter, "oversight" shall mean any and all actions deemed necessary by the director to monitor the cleanup of an unauthorized release of hazardous materials including but not limited to: identifying and notifying responsible party; conducting site visits; sampling activities; meeting with other affected agencies regarding a specific site; reviewing reports, workplans, preliminary assessments, remedial action plans, postremedial monitoring, developing enforcement action against a responsible party; and, issuing of a closure document. (Ord. 97-0016 § 64, 1997; Ord. 91-0072 § 7, 1991.)~~

11.82.040 Schedule of fees.

Fees for services provided by the director under this division are established as follows:

**Schedule of Fees**

<b>Fee</b>	<b>Amount (Effective July 1, 2015)</b>
Operating permit application fee	<del>\$254.00</del> <u>\$352.00</u> , plus <del>\$54.00</del> <u>\$74.00</u> for each underground storage tank
Annual permit maintenance fee	<del>\$633.00</del> <u>\$1,252.00</u> , plus <del>\$131.00</del> <u>\$240.00</u> for each underground storage tank
Operating permit transfer fee	<del>\$289.00</del> <u>\$412.00</u>
<u>Permit noncompliance fee</u>	<u>\$743.00</u>

New construction plan clearance	<del>\$420.00</del> <u>\$655.00</u> , plus <del>\$127.00</del> <u>\$196.00</u> for each underground storage tank
<u>Resubmittal of new plan clearance</u>	<u>\$337.00</u>
Closure application fee	<del>\$366.00</del> <u>\$495.00</u> , plus <del>\$110.00</del> <u>\$148.00</u> for each underground storage tank
<u>Reinspection fee</u>	<u>\$395.00</u>
Permit addendum fee	<del>\$463.00</del> <u>\$600.00</u>
<u>Cleanup oversight fee, maximum rate per hour</u>	* -

<u>Fee</u>	<u>Amount (Effective July 1, 2016)</u>
<u>Operating permit application fee</u>	<u>\$450.00, plus \$93.00 for each underground storage tank</u>
<u>Operating permit transfer fee</u>	<u>\$535.00</u>
<u>Permit noncompliance fee</u>	<u>\$1,486.00</u>
<u>New construction plan clearance</u>	<u>\$890.00, plus \$265.00 for each underground storage tank</u>
<u>Resubmittal of new plan clearance</u>	<u>\$674.00</u>
<u>Closure application fee</u>	<u>\$624.00, plus \$186.00 for each underground storage tank</u>
<u>Reinspection fee</u>	<u>\$790.00</u>
<u>Permit addendum fee</u>	<u>\$736.00</u>

<u>Fee</u>	<u>Amount (Effective July 1, 2017)</u>
<u>Operating permit transfer fee</u>	<u>\$658.00</u>

<u>Permit noncompliance fee</u>	<u>\$2,230.00</u>
<u>New construction plan clearance</u>	<u>\$1,125.00, plus \$334.00 for each underground storage tank</u>
<u>Closure application fee</u>	<u>\$752.00, plus \$223.00 for each underground storage tank</u>

<b><u>Fee</u></b>	<b><u>Amount (Effective July 1, 2018)</u></b>
<u>Operating permit transfer fee</u>	<u>\$781.00</u>
<u>Permit noncompliance fee</u>	<u>\$2,973.00</u>
<u>New construction plan clearance</u>	<u>\$1,360.00, plus \$403.00 for each underground storage tank</u>
<u>Closure application fee</u>	<u>\$881.00, plus \$262.00 for each underground storage tank</u>

<b><u>Fee</u></b>	<b><u>Amount (Effective July 1, 2019)</u></b>
<u>Permit noncompliance fee</u>	<u>\$3,716.00</u>
<u>New construction plan clearance</u>	<u>\$1,596, plus \$470.00 for each underground storage tank</u>
<u>Closure application fee</u>	<u>\$1,009.00, plus \$298.00 for each underground storage tank</u>

11.82.045 Annual review of fees.

The fees in this division shall be reviewed annually by the director. ~~Except as provided in Section 11.82.035, With the exception of fees which adjust automatically pursuant to the fee schedule set forth in Section 11.82.040, beginning on July 1, 1992~~2016, and thereafter on each succeeding July 1<sup>st</sup>, the amount of each fee in this division shall be adjusted as follows: ~~Calculate the percentage movement for twelve months between April~~ January of the previous year and ~~March~~ January of the current year in the

Consumer Price Index (CPI) for all urban consumers in the Los Angeles, ~~Anaheim,~~ Riverside-Orange County, CA area, as published by the United States Government Bureau of Labor Statistics, adjust each fee by said percentage amount and round up to the nearest \$1.00. Notwithstanding the foregoing, no such adjustment shall decrease any fee ~~and further, except that~~ no fee shall exceed the reasonable cost of providing the services for which the fee is collected.

11.82.050 Fees separate from other fees.

All fees required by this chapter shall be separate and in addition to any fee or deposit collected or imposed under provisions of the County Code, federal or state law, or by reason of any license, agreement or contract between the permittee applicant or and any other public agency.

11.82.055 Disputes and appeals of fees.

Should an owner or operator of a facility dispute the amount or applicability of any fee charged under this division, such owner or operator may contest the fee in accordance with section 12.50.140.

#### Chapter 11.84 ADMINISTRATIVE ACTION

11.84.010 Grounds for administrative action.

11.84.020 Notice of noncompliance.

11.84.030 ~~Rights of permittee following notice of noncompliance~~ Issuance of administrative action.

11.84.040 ~~Notice of hearing~~ Hearings Following Administrative Action.

11.84.050 Suspension prior to hearing.

11.84.060 ~~Administrative action.~~

11.84.070 Decision of appeals board.

11.84.010 Grounds for administrative action.

A ~~permit~~ permittee or the owner or operator of a facility operating without a valid unified program facilities permit may be subjected to administrative action for any of the following causes, ~~arising from the acts or omissions of the permittee, either before or~~

after a permit is issued:

- A. Fraud, ~~wilful~~willful misrepresentation, or any ~~wilful~~willful inaccurate or false statement in applying for a new or renewed permit;
- B. Fraud, ~~wilful~~willful misrepresentation, or any ~~wilful~~willful inaccurate or false statement in any report required by this division;
- C. Failure to abate, correct or rectify any noncompliance within the time specified in ~~the~~a notice of noncompliance;
- D. Failure to correct conditions constituting an unreasonable risk of an unauthorized ~~discharge-release~~ of hazardous ~~materials-substances~~ within a reasonable time after notice from a governmental entity other than the county;
- E. Engaging in conduct that constitutes a significant violation;
- ~~E~~F. Failure to abide by any administrative action imposed by the director;
- ~~F~~G. Failure to pay fees as established by Chapter 11.82;
- ~~G~~H. Failure to abide by any compliance dates established by this division or state or federal law.

11.84.020 Notice of noncompliance.

Unless the director finds that an immediate suspension under Section 11.84.050 or a red tag is necessary to protect the public health or safety from imminent danger, the director shall issue a notice of noncompliance to an owner or operator of a facility.

- A. For failure to comply with the provisions of this division or any conditions or limitations of the permit; or
  - B. Before instituting administrative action pursuant to Section 11.84.010.
- Such notice shall specify the ground or grounds upon which the notice is based, the pertinent code section or sections with which the facility is not in compliance, and the correction period by which time the violation must be remedied. The correction period shall be thirty (30) days unless the director determines that the a shorter correction period is necessary to protect the public health or safety. Such notice shall be sent by first class mail to the permittee, or if no permit has been issued or applied for, to the owner or operator of the facility. If the violation is not remedied to the satisfaction of the director prior to the expiration of the correction period, the director may institute administrative action.

~~11.84.030 Rights of permittee following notice of noncompliance.~~

~~Within the time specified in the notice of noncompliance, the permittee shall:~~

- ~~A. Correct and remedy the conditions so specified, to the satisfaction of the director; or~~
- ~~B. File with the appeals board a denial that all of the conditions so specified exist, request a public hearing, and correct the conditions which the permittee admits do exist;~~  
or
- ~~C. File with the appeals board a denial that any of the conditions so specified exist and request a public hearing.~~

11.84.030 Issuance of administrative action.

A. If an owner or operator of a facility fails to correct a violation within the time period specified in a notice of correction issued pursuant to section 11.84.020, or if the director determines that an immediate suspension under Section 11.84.050 or a Red Tag is warranted, the director may institute administrative action.

B. Administrative action may include:

1. An order to correct the particular noncompliance specified in the notice issued pursuant to Section 11.84.020;
2. Affixing a Red Tag or immediate suspension under section 11.84.050;
3. A revocation of the unified program facility permit and approval of a provisional permit specifying corrective actions required and a timetable to accomplish compliance;
4. Suspension of the permit for the facility for a specified period not to exceed six months;
5. Modification or addition of conditions of the permit;
6. Revocation of the unified program facility permit. If the grounds for administrative action are based on Section 11.84.010 (C), (D) or (E) and if such grounds are limited to one or more underground storage tanks, the remedial action taken shall be limited to those underground storage tanks;
7. An administrative enforcement order pursuant to Division 20, Chapter 6.11 of the California Health and Safety Code, section 25404.1.1.

C. Notice of administrative action shall be served by personal service or certified mail on the permittee, or if no permit has been issued or applied for, on the owner or operator of the facility.

#### 11.84.040 Notice of hearing.

~~Upon receipt of a request for hearing, a notice of hearing shall be given to the permittee by the director, in writing, setting forth the time and place of the hearing, the ground or grounds upon which the administrative action is based, the pertinent code section or sections with which the permittee is not in compliance, and a brief statement of the factual matters in support thereof. The notice shall be given at least 10 days prior to the hearing date.~~

#### 11.84.040 Hearings Following Administrative Action.

Any person who is aggrieved by an administrative action other than administrative enforcement order pursuant to Division 20, Chapter 6.11 of the California Health and Safety Code, section 25404.1.1, may make a written request for a hearing before the appeals board to review the decision. The request shall be made within fifteen (15) calendar days of the issuance of the notice of the administrative action being disputed, shall include the address of the person making the request for the purpose of correspondence by the director, and shall also include all the information and evidence that the requestor wants the director to consider. The failure to submit a written request for a hearing within the fifteen (15) calendar day period shall constitute a waiver of the right to a hearing, and upon such failure the administrative action shall become final.

Upon receipt of a request for hearing, the director shall issue a written notice of hearing to the person making the request setting forth the time and place of the hearing. The notice shall be given at least 10 days prior to the hearing date.

Hearings to review administrative enforcement orders issued pursuant to Division 20, Chapter 6.11 of the California Health and Safety Code, section 25404.1.1 shall be conducted in accordance with the requirements of that statute.

11.84.050 Suspension prior to hearing.

Whenever the director finds that suspension of a permit prior to a hearing for administrative action is necessary to protect the public health or safety from imminent danger, the director may immediately suspend any permit pending the hearing for administrative action. The director shall immediately notify the permittee of such suspension by having a written notice of the suspension personally served on the permittee and/or by posting such notice at the facility in noncompliance or by other appropriate means.

~~11.84.060 Administrative action.~~

~~If the appeals board, after the hearing, finds that cause exists for administrative action, the appeals board shall impose one or more of the following:~~

~~A. A warning;~~

~~B. An order to correct the particular noncompliance specified in the notice issued pursuant to Section 11.84.020~~

~~C. A revocation of the permit for the facility and approval of a provisional permit specifying corrective actions required and a timetable to accomplish compliance;~~

~~D. Suspension of the permit for the facility for a specified period not to exceed six months;~~

~~E. Modification or addition of conditions of the permit;~~

~~F. Revocation of the permit. If the grounds for administrative action are based on Section 11.84.010 C, D or E and if such grounds are limited to one or more underground storage tanks, the remedial action taken shall be limited to those underground storage tanks.~~

11.84.070 Decision of appeals board.

The appeals board shall conduct hearings in conformance with the rules adopted pursuant to section 11.72.070. After the hearing, the appeals board may affirm, reverse

or modify the administrative action taken by the director. The appeals board shall render a written decision, stating the findings upon which the decision is based and the action taken, if any. The decision of the appeals board shall be final.

## Chapter 11.86 ENFORCEMENT

### 11.86.010 Civil penalties.

### 11.86.020 Violation a misdemeanor.

### 11.86.030 Penalties not exclusive.

### 11.86.010 Civil penalties.

A. In addition to any other remedies provided in this division or provided by other law, Any operator of an underground storage tank shall be liable for a civil penalty of not less than \$500.00 or more than \$5,000.00 for each underground storage tank for each day of violation for any of the following violations:

1. Operating an underground storage tank which has not been issued a unified program facility permit, in violation of this division;
2. Violation of any of the applicable requirements of the unified program facility permit issued for the operation of the underground storage tank(s);
3. Failing to maintain records, as required by this division;
4. Failing to report an unauthorized release, as required by Section 11.76.010;
5. Failing to properly close an underground storage tank in accordance with the provisions of this division;
6. Violation of any applicable requirement of this division or any requirements of Division 20, Chapter 6.7 of the California Health and Safety Code or any regulations promulgated thereunder;
7. Failure to permit inspection or to perform any monitoring, testing, or reporting required pursuant to this division;
8. Making any false statement, representation, or certification in any application, record, report, or other document submitted or required to be maintained pursuant to this division.

B. Any owner of an underground storage tank(s) shall be liable for a civil penalty of not less than \$500.00 or more than \$5,000.00 per day for each underground storage tank, for each day of violation, for any of the following violations:

1. Failure to obtain a unified program facility permit as specified by this division;
2. Failure to repair or upgrade an underground tank in accordance with the provisions of this division;
3. Abandonment or improper closure of any underground tank subject to the provisions of this division;
4. Knowing failure to take reasonable and necessary steps to assure compliance with this division by the operator of an underground tank(s);

5. Violation of any applicable requirement of the unified program facility permit issued for the operation of the underground tank(s);
6. Violation of any applicable requirement of Division 20, Chapter 6.7, of the California Health and Safety Code or any regulations promulgated thereunder;
7. Failure to permit inspections or to perform any monitoring, testing, or reporting required pursuant to this division;
8. Making any false statement, representation, or certification in any application, record, or other document submitted or required to be maintained pursuant to this division.
- C. Any person who intentionally fails to notify the CUPA or the director when required to do so by this division or who submits false information in ~~a permit application~~ an application for a unified program facility permit, addenda, amendment, or renewal, pursuant to Chapter 11.80, is liable for a civil penalty of not more than \$5,000.00 for each underground storage tank for each day for which notification is not given or false information is submitted.
- D. Any person who violates Division 20, Chapter 6.7 of the California Health and Safety Code, Section 25292.3 by depositing or allowing the deposition of petroleum into an underground storage tank system that has a red tag affixed to the fill pipe or by removing, defacing, altering or otherwise tampering with a red tag 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.
- E. Any person who violates any corrective action requirement established by, or issued pursuant to, Section 25296.10 of Division 20, Chapter 6.7 of the California Health and Safety Code 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.
- F. When any person has engaged in, is engaged in, or is about to engage in any acts or practices which violate this division, the district attorney of Los Angeles County may apply to the superior court for any order enjoining such acts or practices, or for an order directing compliance. The court may grant a permanent or temporary injunction, restraining order, or other order.
- G. Every civil action brought under this division shall be brought by 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.

#### 11.86.020 Violation a misdemeanor.

- A. Any person, ~~firm, or corporation~~ who violates any provision of this division, or who fails to take corrective action upon becoming aware of an unauthorized discharge release, or who fails to comply with a notice of noncompliance within the time specified or who continues to operate a facility upon suspension or revocation of a permit shall be guilty of a misdemeanor, and the director may refer such violation to the Los Angeles County District Attorney or other appropriate prosecuting authority for prosecution ~~cause such person, firm or corporation to be prosecuted as a violator of this code~~. Each day that the conditions in this section continue to exist shall be a separate violation.
- B. Any person, ~~firm, or corporation~~ who falsifies any monitoring records required by this division, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than \$5,000.00 or more than \$10,000.00, or by

imprisonment in the County Jail for a period not to exceed one year, or by both that fine and imprisonment.

C. Any 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 both.

11.86.030 Penalties not exclusive.

Each civil penalty or civil fine imposed pursuant to this chapter for any violation shall be separate, and in addition to, and ~~do~~ does not supersede or limit, any and all other administrative actions or remedies, civil penalties or criminal fines imposed pursuant to this chapter or any other provisions of law.

Chapter 11.88 MISCELLANEOUS

11.88.010 Disclaimer of liability.

11.88.020 Guidelines and standards.

11.88.030 Trade secrets.

11.88.040 Reporting requirements.

11.88.050 Conflict with other laws.

11.88.010 Disclaimer of liability.

The degree of protection required by this division is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards and this division does not imply that compliance will ensure that there will be no unauthorized ~~discharge~~-release of hazardous ~~material~~-substances. This division shall not create liability on the part of the county, any officer or employee thereof for any damages that result from reliance on this division or any administrative decision lawfully made thereunder. All persons handling, storing, using, processing, and disposing of hazardous ~~materials~~-substances within the county should be and are advised to determine to their own satisfaction the level of protection in addition to that required by this division necessary or desirable to ensure that there is no unauthorized ~~discharge~~ release of hazardous ~~materials~~-substances.

11.88.020 Guidelines and standards.

Guidelines and standards may be established by the director and shall be maintained in the office of the director and shall be available to the public. Such guidelines and standards, in the areas addressed therein, shall serve as an interpretation of this division

11.88.030 Trade secrets.

A. If an applicant or permittee believes that a request for information made by either the application form or otherwise pursuant to this division involves the release of a trade secret, the applicant or permittee shall so notify the director in writing. ~~As used herein, "trade secret" shall have the meaning given to it by Section 6254(K) of the Government Code.~~

B. Subject to the provisions of this section, the director shall protect from disclosure any trade secret coming into his or her possession when requested to do so in writing by the applicant or permittee. ~~Any such~~ No such trade secret shall ~~not~~ be disclosed to anyone without the consent of the applicant or permittee except:

1. To an officer or employee of the county, the CUPA, the state of California, or the United States of America, in connection with the official duties of such officer or employee under any law for the protection of health, or to contractors with the county and their employees, if in the opinion of the director such disclosure is necessary and required for the satisfactory performance of a contract for performance of work or for protection of health; ~~or~~

2. To any physician where the physician determines that such information is necessary to the medical treatment of his or her patient.

3. To the extent that the director reasonably determines that disclosure is required by the California Public Records Act, sections 6250 et seq. of the California Government Code; or

4. Upon a valid court order.

C. Information certified by appropriate officials of the United States, as necessarily kept secret for national defense purposes, shall be accorded the full protection against disclosure as specified by such official or in accordance with the laws of the United States.

D. The provisions of this section shall not permit ~~an applicant or a~~ a permittee to refuse to disclose information required pursuant to this division to the director.

E. The confidential treatment of ~~the identity of such~~ trade secret disclosed to the county does not apply where there has been any unauthorized ~~discharge~~ release related to such trade secret material which is reportable in compliance with Chapter 11.76 or where such disclosure arises out of any official emergency response relating to the facility involving such trade secret information by public safety personnel of the county.

11.88.040 Reporting requirements.

Every permittee shall comply with the reporting requirements of the director, including the electronic submission requirements set forth in Chapter 6.7 and Chapter 6.11, Division 20 of the California Health and Safety Code and related regulations.

11.88.050 Conflict with other laws.

Notwithstanding any other provision of this division:

A. If the facility is required to have an industrial waste disposal permit pursuant to Title 20, Division 2 of this code, an industrial wastewater discharge permit pursuant to the wastewater ordinance of the sanitation districts of Los Angeles County, or an industrial waste disposal permit from any other sewerage agency within the county of Los Angeles, it shall be exempted from the provisions of this division provided the conditions and limitations of such permit satisfy the requirements of this division and the director finds that the facility does not pose a threat to water quality.

B. No provision of this division shall be construed to supersede any other provisions of this county code.