

CALIFORNIA CODES  
HEALTH AND **SAFETY CODE**  
SECTION **25270-25270.13**

**25270.** This chapter shall be known and may be cited as the Aboveground Petroleum Storage Act.

**25270.2.** For purposes of this chapter, the following definitions apply:

(a) "Aboveground storage tank" or "storage tank" means a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground.

"Aboveground storage tank" does not include any of the following:

(1) A pressure vessel or boiler that is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor **Code**.

(2) A tank containing hazardous waste, as defined in subdivision (g) of Section 25316, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank.

(3) An aboveground oil production tank that is subject to Section 3106 of the Public Resources **Code**.

(4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:

(A) The equipment contains less than 10,000 gallons of dielectric fluid.

(B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

(5) A tank regulated as an underground storage tank under Chapter 6.7 (commencing with Section 25280) and Chapter 16 (commencing with Section 2610) of Division 3 of Title 23 of the California **Code** of Regulations.

(6) Any transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, dated November 24, 1971, set forth in Appendix A to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the **Code** of Federal Regulations.

(b) "Board" means the State Water Resources Control Board.

(c) (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 and enforce the unified program element specified in paragraph (2) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.

(3) (A) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent that each PA has been designated by the CUPA, pursuant to a written agreement, to implement and enforce the unified program element specified in paragraph (2) of subdivision (c) of Section 25404. The UPAs have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce the requirements of this chapter.

(B) After a CUPA has been certified by the secretary, the unified program agency shall be the only agency authorized to enforce the requirements of this chapter..

(C) This paragraph shall not be construed to limit the authority or responsibility granted to the board and the regional boards by this chapter.

(d) "Operator" means the person responsible for the overall operation of a tank facility.

(e) "Owner" means the person who owns the tank facility or part of the tank facility.

(f) "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 University of California, the California State University, the state, any department or agency thereof, and the United States, to the extent authorized by federal law.

(g) "Petroleum" means crude oil, or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure.

(h) "Regional board" means a California regional water quality control board.

(i) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, or disposing into the environment.

(j) "Secretary" means the Secretary for Environmental Protection.

(k) "Storage" or "store" means the containment, handling, or treatment of petroleum, for any period of time, including on a temporary basis.

(l) "Storage capacity" means the aggregate capacity of all aboveground tanks at a tank facility.

(m) "Tank facility" means any one, or combination of, aboveground storage tanks, including any piping that is integral to the tank, that contains petroleum and that is used by a single business entity at a single location or site. For purposes of this chapter, a pipe is integrally related to an aboveground storage tank if the pipe is connected to the tank and meets any of the following:

(1) The pipe is within the dike or containment area.

(2) The pipe is between the containment area and the first flange or valve outside the containment area.

(3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

**25270.3.** A tank facility is subject to this chapter if the tank facility is subject to the oil pollution prevention regulations specified in Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the **Code** of Federal Regulations or the tank facility has a storage capacity of 1,320 gallons or more of petroleum.

**25270.4.** This chapter shall be implemented by the Unified Program Agency. If there is no UPA, the agency authorized pursuant to subdivision (f) of Section 25404.3 shall be deemed to be the UPA for purposes of this chapter and shall implement this chapter.

**25270.4.5.** (a) Except as provided in subdivision (b), each owner or operator of a storage tank at a tank facility subject to this chapter shall prepare a spill prevention control and countermeasure plan prepared in accordance with Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the **Code** of Federal Regulations. Each owner or operator specified in this subdivision shall conduct periodic inspections of the storage tank to assure compliance with Section 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the **Code** of Federal Regulations. In implementing the spill prevention control and countermeasure plan, each owner or operator specified in this subdivision shall fully comply with the latest version of the regulations contained in Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the **Code** of Federal Regulations.

(b) A tank facility located on a farm, nursery, logging site, or construction site is not subject to subdivision (a) if no storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons. The owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions:

(1) Conduct a daily visual inspection of any storage tank storing petroleum.

(2) Allow the UPA to conduct a periodic inspection of the tank facility.

(3) If the UPA determines installation of secondary containment is necessary for the protection of the waters of the state, install a secondary means of containment for each tank or group of tanks where the secondary containment will, at a minimum, contain the entire contents of the largest tank protected by the secondary containment plus precipitation.

**25270.5.** (a) Except as provided in subdivision (b), at least once every three years, the UPA shall inspect each storage tank or a representative sampling of the storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum. The purpose of the inspection shall be to determine whether the owner or operator is in compliance with the spill prevention control and countermeasure plan requirements of this chapter.

(b) The UPA may develop an alternative inspection and compliance plan, subject to approval by the secretary.

(c) An inspection conducted pursuant to this section does not require the oversight of a professional engineer. The person conducting the inspection shall meet both of the following requirements:

(1) Complete an aboveground storage tank training program, which shall be established by the secretary.

(2) Satisfactorily pass an examination developed by the secretary

on the spill prevention control and countermeasure plan provisions and **safety** requirements for aboveground storage tank inspections.

**25270.6.** (a) (1) On or before January 1, 2009, and on or before January 1 annually thereafter, each owner or operator of a tank facility subject to this chapter shall file with the UPA a tank facility statement that shall identify the name and address of the tank facility, a contact person for the tank facility, the total storage capacity of the tank facility, and the location, size, age, and contents of each storage tank that exceeds 10,000 gallons in capacity and that holds a substance containing at least 5 percent of petroleum. A copy of a statement submitted previously pursuant to this section may be submitted in lieu of a new tank facility statement if no new or used storage tanks have been added to the facility or if no significant modifications have been made. For purposes of this section, a significant modification includes, but is not limited to, altering existing storage tanks or changing spill prevention or containment methods.

(2) Notwithstanding paragraph (1), an owner or operator of a tank facility that submits a business plan, as defined in subdivision (e) of Section 25501, to the UPA, and that complies with Sections 25503.5, 25505, and 25510, satisfies the requirement in paragraph (1) to file a tank facility statement.

(b) Each year, commencing in calendar year 2010, each owner or operator of a tank facility who is subject to the requirements of subdivision (a) shall pay a fee to the UPA, on or before a date specified by the UPA. The governing body of the UPA shall establish a fee, as part of the single fee system implemented pursuant to Section 25404.5, at a level sufficient to pay the necessary and reasonable costs incurred by the UPA in administering this chapter, including, but not limited to, inspections, enforcement, and administrative costs. The UPA shall also implement the fee accountability program established pursuant to subdivision (c) of Section 25404.5 and the regulations adopted to implement that program. The UPA may provide for a waiver of these fees when a state or local government agency submits a tank facility statement.

**25270.8.** Each owner or operator of a tank facility shall immediately, upon discovery, notify the Office of Emergency Services and the UPA using the appropriate 24-hour emergency number or the 911 number, as established by the UPA, or by the governing body of the UPA, of the occurrence of a spill or other release of one barrel (42 gallons) or more of petroleum that is required to be reported pursuant to subdivision (a) of Section 13272 of the Water **Code**.

**25270.9.** (a) The board and the regional board may oversee cleanup or abatement efforts, or cause cleanup or abatement efforts, of a release from a storage tank at a tank facility.

(b) The reasonable expenses of the board and the regional board incurred in overseeing, or contracting for, cleanup or abatement efforts that result from a release at a tank facility is a charge against the owner or operator of the tank facility. Expenses reimbursable to a public agency under this section are a debt of the

tank facility owner or operator, and shall be collected in the same manner as in the case of an obligation under a contract, express or implied.

(c) Expenses recovered by the board or a regional board pursuant to this section shall be deposited into the Waste Discharge Permit Fund. These moneys shall be separately accounted for, and shall be expended by the board, upon appropriation by the Legislature, to assist regional boards and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state, or for the purposes authorized in Section 13443.

**25270.11.** (a) All moneys in the Environmental Protection Trust Fund may be expended, upon appropriation by the Legislature, in the following manner:

(1) A portion of the funds, in an amount determined by the secretary in consultation with the UPAs, to a training account established and maintained by the secretary, to be used for purposes of training UPA personnel in the requirements of this chapter.

(2) All remaining funds in the Environmental Protection Trust Fund, shall be allocated to the UPAs, in accordance with a formula and process determined by the secretary in consultation with the UPAs. The UPAs shall expend those funds for the purpose of implementing this chapter. Eighty percent or less of each UPA's allocation may be distributed to the UPA in advance of actual expenditure by the UPA.

(b) All moneys remaining in the training account established pursuant to paragraph (1) of subdivision (a), as of June 1, 2011, may be expended pursuant to paragraph (2) of subdivision (a), upon appropriation by the Legislature.

(c) All moneys remaining in the Environmental Protection Trust Fund that have not been expended, as of June 1, 2011, shall be expended pursuant to paragraph (2) of subdivision (a), upon appropriation by the Legislature.

(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

**25270.12.** (a) Any owner or operator of a tank facility who fails to prepare a spill prevention control and countermeasure plan in compliance with subdivision (a) of Section **25270.4.5**, to file a tank facility statement pursuant to subdivision (a) of Section **25270.6**, to submit the fee required by subdivision (b) of Section **25270.6**, to report spills as required by Section **25270.8**, or otherwise to comply with the requirements of this chapter, is subject to a civil penalty of not more than five thousand dollars (\$5,000) for each day on which the violation continues. If the owner or operator commits a second or subsequent violation, a civil penalty of not more than ten thousand dollars (\$10,000) for each day on which the violation continues may be imposed.

(b) (1) The civil penalties provided by this section may be assessed and recovered in a civil action brought by the city attorney or district attorney on behalf of the UPA.

(2) Fifty percent of all penalties assessed and recovered in a civil action brought on behalf of a UPA pursuant to this subdivision

shall be deposited into a unified program account established by the UPA for the purpose of carrying out the functions of the unified program and 50 percent shall be paid to the office of the city attorney or district attorney, whoever brought that action.

(c) (1) The civil penalties provided in this section may be assessed and recovered in a civil action brought by the Attorney General on behalf of the board or a regional board, or on behalf of the people of the State of California.

(2) All penalties assessed and recovered in a civil action brought pursuant to this subdivision shall be deposited in the Waste Discharge Permit Fund. These moneys shall be separately accounted for, and shall be expended by the board, upon appropriation by the Legislature, to assist regional boards and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state, or for the purposes authorized in Section 13443.

(d) The city attorney, district attorney, or the Attorney General may seek to enjoin, in any court of competent jurisdiction, any person believed to be in violation of this chapter.

(e) The penalties specified in this section are in addition to any other penalties provided by law.

**25270.13.** (a) This chapter does not preempt local storage tank ordinances, in effect as of August 16, 1989, that meet or exceed the standards prescribed by this chapter.

(b) This chapter does not preempt the authority granted to the board and the regional boards under the Porter Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).