

AMENDED IN ASSEMBLY MAY 25, 2012
AMENDED IN ASSEMBLY MARCH 27, 2012
AMENDED IN ASSEMBLY MARCH 15, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1566

Introduced by Assembly Member Wieckowski

January 30, 2012

An act to amend Sections 25270.2, 25270.4, 25270.12, ~~and~~ 25281, *and* 25281.6 of, and to add Sections 25270.4.1, 25270.12.1, and 25270.12.5 to, the Health and Safety Code, relating to aboveground storage tanks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1566, as amended, Wieckowski. Aboveground storage tanks: enforcement.

(1) The Aboveground Petroleum Storage Act (act) defines, for purposes of the act, an “aboveground storage tank” as 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, except as specified. Existing law requires every county to apply to the Secretary for Environmental Protection to be certified to implement the unified hazardous waste and hazardous materials management regulatory program (unified program) and allows a city or local agency to implement the unified program. Existing law requires the unified program agencies (UPAs) to implement that act.

This bill would revise the definition of “aboveground storage tank” ~~to delete the requirement that the tank be substantially or totally above the ground and~~ to include tanks in an underground area, as defined. The

bill would also make conforming changes to the definition of the term “tank facility.” The bill would require the UPAs to implement the act in accordance with the regulations adopted by the Office of the State Fire Marshal and would authorize the Office of the State Fire Marshal to adopt these regulations, thereby imposing a state-mandated local program by imposing new requirements upon local agencies with regard to the act. The bill would require the office to establish an advisory committee and take other actions with regard to ensuring compliance with local, state, and federal requirements. The bill would also require the office to interpret the act and oversee the implementation of the act by the UPAs and would make conforming changes in that regard.

The bill would impose criminal penalties for a violation of the act, thereby imposing a state-mandated local program by creating new crimes, and would impose administrative penalties for a violation of the act.

(2) Existing law defines the term “underground storage tank” for purposes of the provisions regulating the storage of hazardous substances in underground storage tanks, and excludes certain tanks from that definition. *Existing law exempts from the requirements imposed upon underground storage tanks, a tank located in a below-grade structure that is connected to an emergency generator tank system and meets specified conditions, including that the tank has a cumulative capacity of 1,100 gallons or less.*

This bill would revise the definition of the term “underground storage tank” to additionally exclude a tank in an underground area, and associated piping, that is subject to the act.

The bill would increase the capacity for an exempted tank in a below-grade structure to less than 1,320 gallons.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25270.2 of the Health and Safety Code
 2 is amended to read:

1 25270.2. For purposes of this chapter, the following definitions
2 apply:

3 (a) “Aboveground storage tank” or “storage tank” means a tank
4 that has the capacity to store 55 gallons or more of petroleum:
5 ~~“Aboveground~~ *and that is substantially or totally above the surface*
6 *of the ground, except that, for purposes of this chapter,*
7 *“aboveground storage tank” or “storage tank” includes a tank in*
8 *an underground area. “Aboveground storage tank” does not include*
9 *any of the following:*

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

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

16 (3) An aboveground oil production tank that is subject to Section
17 3106 of the Public Resources Code.

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

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

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

30 (5) A tank regulated as an underground storage tank under
31 Chapter 6.7 (commencing with Section 25280) of this division and
32 Chapter 16 (commencing with Section 2610) of Division 3 of Title
33 23 of the California Code of Regulations *and that does not meet*
34 *the definition of a tank in an underground area.*

35 (6) A transportation-related tank facility, subject to the authority
36 and control of the United States Department of Transportation, as
37 defined in the Memorandum of Understanding between the
38 Secretary of Transportation and the Administrator of the United
39 States Environmental Protection Agency, dated November 24,
40 1971, set forth in Appendix A to Part 112 (commencing with

1 Section 112.1) of Subchapter D of Chapter I of Title 40 of the
2 Code of Federal Regulations.

3 (b) “Board” means the State Water Resources Control Board.

4 (c) (1) “Certified Unified Program Agency” or “CUPA” means
5 the agency certified by the Secretary for Environmental Protection
6 to implement the unified program specified in Chapter 6.11
7 (commencing with Section 25404) within a jurisdiction.

8 (2) “Participating Agency” or “PA” means an agency that has
9 a written agreement with the CUPA pursuant to subdivision (d)
10 of Section 25404.3, and is approved by the secretary, to implement
11 and enforce the unified program element specified in paragraph
12 (2) of subdivision (c) of Section 25404, in accordance with Sections
13 25404.1 and 25404.2.

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

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

25 (C) This paragraph does not limit the authority or responsibility
26 granted to the office, the board, and the regional boards by this
27 chapter.

28 (d) “Office” means the Office of the State Fire Marshal.

29 (e) “Operator” means the person responsible for the overall
30 operation of a tank facility.

31 (f) “Owner” means the person who owns the tank facility or
32 part of the tank facility.

33 (g) “Person” means an individual, trust, firm, joint stock
34 company, corporation, including a government corporation,
35 partnership, limited liability company, or association. “Person”
36 also includes any city, county, district, the University of California,
37 the California State University, the state, any department or agency
38 thereof, and the United States, to the extent authorized by federal
39 law.

1 (h) "Petroleum" means crude oil, or a fraction thereof, that is
2 liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per
3 square inch absolute pressure.

4 (i) "Regional board" means a California regional water quality
5 control board.

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

9 (k) "Secretary" means the Secretary for Environmental
10 Protection.

11 (l) "Storage" or "store" means the containment, handling, or
12 treatment of petroleum, for a period of time, including on a
13 temporary basis.

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

16 (n) "Tank facility" means one or more aboveground storage
17 tanks, including any piping that is integral to the tanks, that contain
18 petroleum and that are used by an owner or operator at a single
19 location or site. For purposes of this chapter, a pipe is integrally
20 related to an aboveground storage tank if the pipe is connected to
21 the tank and meets any of the following:

- 22 (1) The pipe is within the dike or containment area.
- 23 (2) The pipe is between the containment area and the first flange
24 or valve outside the containment area.
- 25 (3) The pipe is connected to the first flange or valve on the
26 exterior of the tank, if state or federal law does not require a
27 containment area.
- 28 (4) The pipe is connected to a tank in an underground area.

29 (o) ~~"Tank in an underground area" means a tank located in a
30 structure that is at least 10 percent below the ground surface,
31 including, but not limited to, a basement, cellar, shaft, pit, or vault,
32 providing enough space for physical inspection of the exterior of
33 the tank situated on or above the surface of the floor. The
34 underground area shall be capable of containing any discharge
35 from the primary containment, including piping and ancillary
36 equipment, until the occurrence of the cleanup of the discharge.
37 to which all of the following apply:~~

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

1 (2) *The structure in which the tank is located, at a minimum,*
2 *provides for secondary containment of the contents of the tank,*
3 *pipng, and ancillary equipment, until cleanup occurs.*

4 (3) *The tank meets one of the following conditions:*

5 (A) *The tank contains oil or coolant to be used as a lubricant*
6 *in a motor engine or transmission or used oil or coolant, the tank*
7 *is situated on or above the surface of the floor, and the structure*
8 *in which the tank is located provides enough space for a physical*
9 *inspection of the exterior of the tank except for the part of the tank*
10 *in contact with the surface of the floor.*

11 (B) *The tank contains motor fuel, as defined in Section 280.12*
12 *of Title 40 of the Code of Federal Regulations, the tank is situated*
13 *above the surface of the floor, and the structure in which the tank*
14 *is located provides enough space for a physical inspection of the*
15 *exterior of the tank, all piping connected to the tank including any*
16 *portion of a vent line, vapor recovery line, or fill pipe that is*
17 *beneath the surface of the ground, and all ancillary equipment.*

18 SEC. 2. Section 25270.4 of the Health and Safety Code is
19 amended to read:

20 25270.4. This chapter shall be implemented by the Unified
21 Program Agency, in accordance with the regulations adopted by
22 the office pursuant to Section 25270.4.1. If there is no UPA, the
23 agency authorized pursuant to subdivision (f) of Section 25404.3
24 shall be deemed to be the UPA for purposes of this chapter and
25 shall implement this chapter.

26 SEC. 3. Section 25270.4.1 is added to the Health and Safety
27 Code, to read:

28 25270.4.1. (a) The office may adopt regulations implementing
29 this chapter. The office shall also provide interpretation of this
30 chapter to the UPAs, and oversee the implementation of this
31 chapter by the UPAs.

32 (b) The office shall establish an advisory committee that includes
33 representatives from regulated entities, appropriate trade
34 associations, fire service organizations, federal, state, and local
35 organizations, including UPAs, and other interested parties. The
36 advisory committee shall act in an advisory capacity to the office
37 in conducting its responsibilities.

38 (c) The office shall, in addition to any other requirements
39 imposed pursuant to this chapter, train UPAs, ensure consistency
40 with state law—and, to the maximum extent feasible, ensure

1 *consistency with* federal enforcement guidance issued by federal
2 agencies pursuant to subdivision (d), and ~~provide support the UPAs~~
3 *in providing* outreach to regulated persons, ~~as necessary~~, regarding
4 compliance with current local, state, and federal regulations
5 relevant to the office’s obligations under this chapter.

6 (d) Any regulation adopted by the office pursuant to this section
7 shall ensure consistency with the requirements for spill prevention,
8 control, and countermeasure plans under Part 112 (commencing
9 with Section 112.1) of Subchapter D of Chapter I of Title 40 of
10 the Code of Federal Regulations, and shall include any more
11 stringent requirements necessary to implement this chapter.

12 SEC. 4. Section 25270.12 of the Health and Safety Code is
13 amended to read:

14 25270.12. (a) Any owner or operator of a tank facility who
15 fails to prepare a spill prevention control and countermeasure plan
16 in compliance with subdivision (a) of Section 25270.4.5, to file a
17 tank facility statement pursuant to subdivision (a) of Section
18 25270.6, to submit the fee required by subdivision (b) of Section
19 25270.6, or to report spills as required by Section 25270.8, or who
20 otherwise fails to comply with the requirements of this chapter, is
21 subject to a civil penalty of not more than five thousand dollars
22 (\$5,000) for each day on which the violation continues. If the
23 owner or operator commits a second or subsequent violation, a
24 civil penalty of not more than ten thousand dollars (\$10,000) for
25 each day on which the violation continues may be imposed.

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

29 (2) Fifty percent of all penalties assessed and recovered in a
30 civil action brought on behalf of a UPA pursuant to this subdivision
31 shall be deposited into a unified program account established by
32 the UPA for the purpose of carrying out the functions of the unified
33 program and 50 percent shall be paid to the office of the city
34 attorney or district attorney, whoever brought that action.

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

39 (2) All penalties assessed and recovered in a civil action brought
40 pursuant to this subdivision shall be deposited in the Waste

1 Discharge Permit Fund created pursuant to Section 13260 of the
 2 Water Code. These moneys shall be separately accounted for, and
 3 shall be expended by the board, upon appropriation by the
 4 Legislature, to assist regional boards and other public agencies
 5 with authority to clean up waste or abate the effects of the waste,
 6 in cleaning up or abating the effects of the waste on waters of the
 7 state, or for the same purposes for which the State Water Pollution
 8 Cleanup and Abatement Account may be expended pursuant to
 9 Section 13443 of the Water Code.

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

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

15 SEC. 5. Section 25270.12.1 is added to the Health and Safety
 16 Code, to read:

17 25270.12.1. (a) An owner or operator of a tank facility who
 18 fails to prepare a spill prevention control and countermeasure plan
 19 in compliance with subdivision (a) of Section 25270.4.5, to file a
 20 tank facility statement pursuant to subdivision (a) of Section
 21 25270.6, to submit the fee required by subdivision (b) of Section
 22 25270.6, or to report spills as required by Section 25270.8, or who
 23 otherwise fails to comply with the requirements of this chapter is
 24 liable to the UPA for an administrative penalty of not more than
 25 five thousand dollars (\$5,000) for each day on which the violation
 26 continues. If the owner or operator commits a second or subsequent
 27 violation, an administrative penalty of not more than ten thousand
 28 dollars (\$10,000) for each day on which the violation continues
 29 may be imposed.

30 (b) The administrative penalties assessed by a UPA shall be
 31 deposited into a unified program account established by the UPA
 32 for the purpose of carrying out the functions of the unified program.

33 (c) When a UPA issues an enforcement order or assesses an
 34 administrative penalty, or both, for a violation of this chapter, the
 35 administering agency shall utilize the administrative enforcement
 36 procedures specified in Sections 25404.1.1 and 25404.1.2.

37 (d) The administrative penalties specified in this section are in
 38 addition to any other penalties provided by law, except for a
 39 violation for which a civil penalty under Section 25270.12 has
 40 already been imposed for the same violation.

1 SEC. 6. Section 25270.12.5 is added to the Health and Safety
2 Code, to read:

3 25270.12.5. (a) A person who knowingly violates Section
4 25270.4.5, 25270.6, or 25270.8 after reasonable notice of the
5 violation is, upon conviction, guilty of a misdemeanor.

6 (b) This section does not preempt any other applicable criminal
7 or civil penalties.

8 SEC. 7. Section 25281 of the Health and Safety Code is
9 amended to read:

10 25281. For purposes of this chapter, the following definitions
11 apply:

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

22 (b) “Board” means the State Water Resources Control Board.
23 “Regional board” means a California regional water quality control
24 board.

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

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

33 (2) “Participating Agency” or “PA” means an agency that has
34 a written agreement with the CUPA pursuant to subdivision (d)
35 of Section 25404.3, and is approved by the secretary to implement
36 or enforce the unified program element specified in paragraph (3)
37 of subdivision (c) of Section 25404, in accordance with Sections
38 25404.1 and 25404.2.

39 (3) “Unified Program Agency” or “UPA” means the CUPA, or
40 its participating agencies to the extent each PA has been designated

1 by the CUPA, pursuant to a written agreement, to implement or
2 enforce the unified program element specified in paragraph (3) of
3 subdivision (c) of Section 25404. For purposes of this chapter, a
4 UPA has the responsibility and authority, to the extent provided
5 by this chapter and Sections 25404.1 and 25404.2, to implement
6 and enforce only those requirements of this chapter listed in
7 paragraph (3) of subdivision (c) of Section 25404 and the
8 regulations adopted to implement those requirements. Except as
9 provided in Section 25296.09, after a CUPA has been certified by
10 the secretary, the UPA shall be the only local agency authorized
11 to enforce the requirements of this chapter listed in paragraph (3)
12 of subdivision (c) of Section 25404 within the jurisdiction of the
13 CUPA. This paragraph shall not be construed to limit the authority
14 or responsibility granted to the board and the regional boards by
15 this chapter to implement and enforce this chapter and the
16 regulations adopted pursuant to this chapter.

17 (e) “Department” means the Department of Toxic Substances
18 Control.

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

22 (g) “Federal act” means Subchapter IX (commencing with
23 Section 6991) of Chapter 82 of Title 42 of the United States Code,
24 as added by the Hazardous and Solid Waste Amendments of 1984
25 (P.L. 98-616), or as it may subsequently be amended or
26 supplemented.

27 (h) “Hazardous substance” means either of the following:

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

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

34 (B) Hazardous substances, as defined in Section 25316.

35 (C) Any substance or material that is classified by the National
36 Fire Protection Association (NFPA) as a flammable liquid, a class
37 II combustible liquid, or a class III-A combustible liquid.

38 (2) Any regulated substance, as defined in subsection (7) of
39 Section 6991 of Title 42 of the United States Code, as that section

1 reads on January 1, 2012, or as it may subsequently be amended
2 or supplemented.

3 (i) “Local agency” means the local agency authorized, pursuant
4 to Section 25283, to implement this chapter.

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

8 (k) “Owner” means the owner of an underground storage tank.

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

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

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

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

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

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

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

34 (s) “Special inspector” means a professional engineer, registered
35 pursuant to Chapter 7 (commencing with Section 6700) of Division
36 3 of the Business and Professions Code, who is qualified to attest,
37 at a minimum, to structural soundness, seismic safety, the
38 compatibility of construction materials with contents, cathodic
39 protection, and the mechanical compatibility of the structural
40 elements of underground storage tanks.

1 (t) “Storage” or “store” means the containment, handling, or
2 treatment of hazardous substances, either on a temporary basis or
3 for a period of years. “Storage” or “store” does not include the
4 storage of hazardous wastes in an underground storage tank if the
5 person operating the tank has been issued a hazardous waste
6 facilities permit by the department pursuant to Section 25200 or
7 granted interim status under Section 25200.5.

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

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

15 (w) “Tank tester” means an individual who performs tank
16 integrity tests on underground storage tanks.

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

20 ~~(y) “Underground area” means an underground room or space,
21 including, but not limited to, a basement, cellar, shaft, pit, or vault,
22 providing enough space for physical inspection of the exterior of
23 the tank situated on or above the surface of the floor.~~

24 ~~(z)~~

25 (y) (1) “Underground storage tank” means any one or
26 combination of tanks, including pipes connected thereto, that is
27 used for the storage of hazardous substances and that is
28 substantially or totally beneath the surface of the ground.
29 “Underground storage tank” does not include any of the following:

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

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

36 (C) Structures, such as sumps, separators, storm drains, catch
37 basins, oil field gathering lines, refinery pipelines, lagoons,
38 evaporation ponds, well cellars, separation sumps, *and* lined and
39 unlined pits, sumps, and lagoons. A sump that is a part of a
40 monitoring system required under Section 25290.1, 25290.2,

1 25291, or 25292 and sumps or other structures defined as
2 underground storage tanks under the federal act are not exempted
3 by this subparagraph.

4 (D) A tank holding hydraulic fluid for a closed loop mechanical
5 system that uses compressed air or hydraulic fluid to operate lifts,
6 elevators, and other similar devices.

7 (E) A tank in an underground area, *as defined in Section*
8 *25270.2*, and associated piping, that is subject to Chapter 6.67
9 (commencing with Section 25270).

10 (2) Structures identified in subparagraphs (C) and (D) of
11 paragraph (1) may be regulated by the board and any regional
12 board pursuant to the Porter-Cologne Water Quality Control Act
13 (Division 7 (commencing with Section 13000) of the Water Code)
14 to ensure that they do not pose a threat to water quality.

15 ~~(aa)~~

16 (z) “Underground tank system” or “tank system” means an
17 underground storage tank, connected piping, ancillary equipment,
18 and containment system, if any.

19 ~~(bb)~~

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

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

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

29 *SEC. 8. Section 25281.6 of the Health and Safety Code is*
30 *amended to read:*

31 25281.6. (a) A tank located in a below-grade structure and
32 connected to an emergency generator tank system, as defined in
33 subdivision (c) of Section 25281.5, is exempt from the
34 requirements of this chapter if all of the following conditions are
35 met:

36 (1) The tank is situated above the surface of the floor in such a
37 way that all of the surfaces of the tank can be visually inspected
38 by either direct viewing, through the use of visual aids, including,
39 but not limited to, mirrors, cameras, or video equipment, or
40 monitored through the use of a continuous leak detection and alarm

1 system capable of detecting unauthorized releases of hazardous
2 substances.

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

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

12 (4) The tank or combination of tanks in the below-grade
13 structure has a cumulative capacity of ~~1,100~~ *less than 1,320* gallons
14 ~~or less~~ of diesel fuel.

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

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

22 ~~SEC. 8.~~

23 *SEC. 9.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act or because costs that may be
28 incurred by a local agency or school district will be incurred
29 because this act creates a new crime or infraction, eliminates a
30 crime or infraction, or changes the penalty for a crime or infraction,
31 within the meaning of Section 17556 of the Government Code, or
32 changes the definition of a crime within the meaning of Section 6
33 of Article XIII B of the California Constitution.