

ORDINANCE NO. 9293 (NEW SERIES)

AN ORDINANCE AMENDING AND REPEALING PORTIONS OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES, AND ADDING SECTIONS TO THE COUNTY CODE, RELATING TO THE CERTIFIED UNIFIED PROGRAM AGENCY, REGULATION OF UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES, REGULATION OF HAZARDOUS MATERIALS AND REGULATION OF MEDICAL WASTES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the sections of the County Code of Regulatory Ordinances assigned to the Hazardous Materials Division of the Department of Environmental Health were established during the 1980s and early 1990s and have not been updated since then. The Board further finds and determines that since that time, there have been many new State and Federal environmental laws and regulations passed regarding hazardous waste, underground storage tanks, hazardous materials and medical waste. The amendments made by this ordinance are intended to ensure that the applicable County Code sections reflect current State and Federal environmental laws and regulations, including the California Health and Safety Code and the Medical Waste Management Act. The provisions of this ordinance shall be operative as of January 13, 2001.

Section 2. The title of Chapter 9 of Division 8 of Title 6 of the San Diego County Code is hereby amended to read as follows:

CHAPTER 9. CERTIFIED UNIFIED PROGRAM AGENCY

Section 3. Section 68.901 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.901. PURPOSE.

It is the intent of the Board of Supervisors that the Department of Environmental Health is designated as the Certified Unified Program Agency. It is further the intent of the Board of Supervisors that the Director of the Department of Environmental Health provide health care information and other appropriate technical assistance on a 24-hour basis to emergency responders in the event of a hazardous waste incident involving community exposure.

Section 4. Section 68.902 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.902. DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL HEALTH TO IMPLEMENT AND ENFORCE THE UNIFIED PROGRAM.

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The Director of the Department of Environmental Health, in addition to his other duties, is hereby designated as the Officer to implement and enforce the Unified Program as certified by the California Secretary for Environmental Protection and specified in the California Health and Safety Code, Chapter 6.11 (commencing with Section 25404). Requirements of the Medical Waste Management Act as defined in the California Health and Safety Code are incorporated into the Unified Program.

Section 5. Section 68.903 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.903. INSPECTION OF UNIFIED PROGRAM FACILITIES.

It shall be the duty of the Director of the Department of Environmental Health to make periodic inspections of all unified program facilities as defined in Chapter 6.11 (commencing with Section 25404 of the California Health and Safety Code).

Section 6. Section 68.904 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.904. REPORTING.

The Director of the Department of Environmental Health is hereby empowered to request all persons believed by him to be owners or operators of a unified program facility to, within 30 days, complete the Unified Program Consolidated Form and, if necessary, additional information required for a permit application.

Section 7. Section 68.905 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.905. UNIFIED PROGRAM FACILITY PERMIT REQUIRED.

No person shall operate a unified program element or generate, store, transfer, or dispose of medical waste without first obtaining a unified program facility permit with the applicable permit elements from the Director of the Department of Environmental Health. Any person who operates a unified program element or generates, stores, transfers or disposes of medical waste without first obtaining a unified facility permit from the Director of the Department of Environmental Health shall cease operations and shall be guilty of a misdemeanor punishable by a \$1000 fine or 6 months in prison or both. The County may also impose civil penalties against the person in the amount of \$1000 per violation and may seek injunctive relief if the person refuses to cease operation.

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Section 8. Section 68.906 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.906. APPLICATION FOR PERMIT.

Every applicant for a unified program facility permit ~~or license~~ required by this division shall file with the Department of Environmental Health a written application on a form prescribed by said Department.

Section 9. Section 68.907 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.907. FEE.

Every person required to have a unified program facility permit required by this division shall, at the time of making application or renewal, pay the annual fee prescribed for such permit. Such annual permit fees shall be specified in Section 65.107 of the County Code of Regulatory Ordinances.

Section 10. Section 68.908 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.908. INVESTIGATION BY DEPARTMENT OF ENVIRONMENTAL HEALTH

Upon receipt of such application, and the required fee, it shall be the duty of the Director of the Department of Environmental Health to investigate the matters set forth in such application, and the unified program facility conditions in and about the place where it is proposed to conduct the activities subject to unified program requirements specified in the application. If the Director of the Department of Environmental Health determines that the statements contained in the application are true, and that the facility complies with unified program facility requirements as set forth in this Code and State laws, a unified program facility permit shall thereupon be granted. If the facility fails to pay appropriate fees associated with a unified program facility permit or upon inspection a facility fails to comply with requirements as set forth in this code or State law, such unified program facility permit shall be denied.

Section 11. Section 68.908.1 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.908.1. RE-INSPECTION WITH RE-INSPECTION FEE

If the unified program facility permit is denied for failure to pay appropriate fees associated with a unified program permit or failure to comply with requirements set forth in this code or State law, a re-inspection will be performed upon payment of the appropriate fees and a re-inspection fee. The permit application shall be processed in accordance with Section 68.908.

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Section 12. Section 68.908.2 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.908.2. ADDITION, DELETION, OR MODIFICATION OF A PERMIT ELEMENT

Any permittee who needs to add or delete a permit element or make any other modification to their unified program facility permit shall file an application for permit modification with the Director.

Upon receipt of such application, and the required fee, it shall be the duty of the Director of the Department of Environmental Health to investigate the matters set forth in Section 68.908.

Section 13. Section 68.909 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.909. REPORTING ON A UNIFIED PROGRAM FORM

Owners and operators of unified program facilities shall report in writing any change of business address or change of business name. The report shall be filed on the Unified Program Consolidated Form, with additional information required for a permit application, with the Director of the Department of Environmental Health within 30 days of any such change. For the purposes of this Chapter, a health permit may be considered a unified program facility permit.

Section 14. Section 68.910 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.910. RENEWAL DATE AND DELINQUENCY DEFINED.

A unified program facility permit issued pursuant to this division shall expire on the last day of the month of the one year anniversary month in which the unified program facility permit was issued and shall be renewed annually by paying to the Department of Environmental Health the required annual fee, which fee is due and payable each year. The annual fee, if unpaid, is thirty days delinquent on the first day of the second month after the month in which the permit expires.

The imposition of, or payment of the penalty imposed by this section, shall not prevent the imposition of any other penalty prescribed by this Code, or any ordinance, or prosecution for violation of this Code, or any ordinance.

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Section 15. Section 68.911 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.911. STATE SURCHARGE

As required by Section 25404.5 of the California Health and Safety Code, each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit shall pay a surcharge in addition to the local permit fee. The amount of the surcharge shall be determined by the State Legislature annually.

Section 16. Section 68.912 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.912. DENIAL, SUSPENSION OR REVOCATION OF PERMIT OR PERMIT ELEMENT.

The Director or a designee of the Director may order that the unified program facility permit or permit element of an establishment be denied, suspended or revoked whenever it appears to him, by reason of either complaint or Department of Environmental Health investigation, that the permit should not be granted pursuant to Section 68.908 or 68.908.1 or that permittee, their employee, servant or agent, or any person acting with their consent or under their authority, has or may have violated any provision of this division or any relevant requirement established or provided by law.

Section 17. Section 68.913 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.913. HEARINGS AND APPEALS.

Any hearings and appeals pursuant to Chapter 9 and Chapter 10 of this Division shall be conducted as set forth in Section 16.111 et. al. of the Uniform Licensing Act.

Section 18. Section 68.914 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.914. SUSPENSION, EXPIRATION, CANCELLATION OR FORFEITURE BY OPERATION OF LAW OF A UNIFIED PROGRAM FACILITY PERMIT.

The suspension, expiration or forfeiture by operation of law of a unified program facility permit, or its suspension, forfeiture or cancellation by the Department of Environmental Health or by order of a court, or its surrender or attempted or actual transfer without written consent of the Department of Environmental Health shall not affect the authority of the Department of Environmental Health to institute or continue a disciplinary proceeding against the holder of a

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unified program facility permit upon any ground, or otherwise taking an action against the holder of a unified program facility permit on these grounds.

Section 19. The title of Chapter 10 of Division 8 of Title 6 of the San Diego County Code is hereby amended to read as follows:

CHAPTER 10. CERTIFIED UNIFIED PROGRAM AGENCY, UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES

Section 20. Section 68.1001 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1001. PURPOSE.

It is the purpose of this Chapter to implement Chapters 6.7 and 6.75 of Division 20 of the California Health and Safety Code, which establish standards and procedures regarding underground storage tanks and a fund for underground storage tank cleanup, to establish a procedure for issuance of an underground storage tank operating element of a unified program facility permit for underground storage tanks, and to establish a procedure for enforcement of the requirements of this Chapter, in order to prevent and control unauthorized discharges of hazardous substances stored underground.

Section 21. Section 68.1001.1 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1001.1. OPERATING ELEMENT OF THE UNIFIED PROGRAM FACILITY PERMIT

For the purposes of this chapter, the operating permit as defined in Chapter 6.7 of Division 20 of the California Health and Safety Code and Title 23 of Division 3 of the California Code of Regulations shall be known as the operating element of the unified program facility permit.

Section 22. Section 68.1001.2 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1001.2 UNDERGROUND STORAGE TANK INSTALLATION, REPAIR, REPLACEMENT, MODIFICATION, UPGRADE OR CLOSURE ELEMENT OF THE UNIFIED PROGRAM FACILITY PERMIT.

For the purposes of this chapter, the underground storage tank installation, repair, replacement, modification, upgrade or closure permit shall be known as the underground storage tank

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installation, repair, replacement, modification, upgrade or closure element of the unified program facility permit.

Section 23. Section 68.1002 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1002. IMPLEMENTATION OF STATE LAWS AND REGULATIONS

The Department of Environmental Health is hereby designated pursuant to Section 25283 of the California Health and Safety Code as the agency responsible for implementation and enforcement of Chapters 6.7 and 6.75 of Division 20, California Health and Safety Code.

Section 24. Section 68.1003 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1003. OPERATIONS PERMIT ELEMENT REQUIRED

- (a) No person shall own or operate an underground storage tank within the County of San Diego unless by authority of a valid, unexpired, unsuspended and unrevoked unified program facility permit containing an underground storage tank operating element for the unified program facility on which the tank is located, issued to the owner or operator pursuant to the provisions of this Chapter.
- (b) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit element has been issued shall have 30 days after the date of assumption of ownership to apply for an operations permit or, if accepting a transferred operating permit element, shall submit to the Director the completed form accepting the obligations of the transferred operating permit element. During the period from the date of application until the operating permit element is issued or refused, the person shall not be held to be in violation of this section.
- (c) A person shall be deemed to operate an underground storage tank if the person in effect supervises, inspects, directs, organizes, manages or controls or is in any way responsible for or in charge of the facility for which a permit is required.

Section 25. Section 68.1004 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1004. INSTALLATION, REPAIR OR CLOSURE PERMIT/EXTENSION.

- (a) **Permit.** No person shall install, repair, replace, modify, upgrade, close or remove an

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Underground Storage Tank (U.S.T.) within the County of San Diego, unless by authority of a valid, unexpired, unsuspended and unrevoked unified program facility permit containing a U.S.T. Installation, Repair, Replacement, Modification, Upgrade or Closure Element, respectively for such installation, repair, replacement, modification, upgrade, closure or removal, issued to the owner or operator pursuant to the provisions of this Chapter.

- (b) **Timing of Closure.** An owner or operator of an underground storage tank must apply for a unified program facility permit containing a U.S.T. Closure Element, or, if the owner/operator has a unified program facility permit, the owner/operator must apply to modify the permit to include a U.S.T. Closure Element to the permit within 90 days of ceasing operation of the underground storage tank. Activities authorized under the U.S.T. Closure Element shall be completed within 180 days of permit approval or modification.
- (c) **Extension of Permit and Fee for Extension.** The Director may, in his/her discretion, extend the completion date one time, for 180 days.

Section 26. Section 68.1005 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1005. APPLICATION FILING

All applications for a new unified program facility permit shall be filed with the Director of the Department of Environmental Health pursuant to Section 68.906 et. seq. All applications to modify existing unified program facility permits shall be filed with the Director of Environmental Health pursuant to Section 68.910.4.

Section 27. Section 68.1006 of the San Diego County Code is hereby repealed.

Section 28. Section 68.1007 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1007. ISSUANCE OF PERMIT.

A unified program facility permit containing an underground storage tank installation, repair, replacement, modification, upgrade, or closure element will not be issued, renewed, or extended if the Director, upon inspection of the underground storage tank, determines that it does not comply with the requirements of State law or the requirements of this Chapter. An underground storage tank permit may not be issued, renewed, or extended if the applicant has not paid the local fees and state surcharges assessed pursuant to Division 5 of Title 6 of this Code.

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Section 29. Section 68.1008 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1008. OPERATING PERMIT ELEMENT CONDITIONS

Unified Program facility permits containing underground storage tank installation, repair, replacement, modification, upgrade or closure elements issued pursuant to this Chapter shall be subject to conditions imposed as the Director of Environmental Health determines are necessary to promote the purposes and objectives of Chapter 6.7 and 6.75 of Division 20, California Health and Safety Code and of this Chapter.

Section 30. Section 68.1008.5 of the San Diego County Code is hereby repealed.

Section 31. Section 68.1009 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1009. TERM OF THE OPERATING PERMIT ELEMENT.

Operating permit elements issued under Section 68.1003 of this Chapter shall be effective for three years from the date of issuance, except for unified program facility permits which shall be effective for one year from the date of issuance.

Section 32. Section 68.1011 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1011. VIOLATIONS

It shall be unlawful for any person to violate any provision of this Chapter and such violations shall include violations of Chapter 6.7 and 6.75 of Division 20 of the California Health and Safety Code. Such violation shall be a misdemeanor and shall be subject to any of the penalties set forth in Section 68.1012.

- (a) Each and every day a violation of this Chapter continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each violation and punished accordingly.

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Section 33. Sections 68.1012 through 68.1018 are hereby added to the San Diego County Code, to read as follows:

SEC. 68.1012. PENALTIES

In addition to penalties provided in State law, the following criminal, civil and administrative civil penalties apply to violations of this Chapter.

- (a) **Penalty for Misdemeanor.** Unless otherwise specified by this Chapter, a misdemeanor is punishable by a fine not exceeding one thousand dollars (\$1000), imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.
- (b) **Administrative Civil Penalties.** In addition to any other remedies provided by County Code or state law, any person who violates any provision of this Chapter, including the state laws and regulations incorporated in this Chapter, shall be liable for an administrative civil penalty to be imposed by the Director of the Department of Environmental Health. The amount of the penalty shall not be more than five thousand dollars (\$5000) for each day of violation. Any person who knowingly violates any provision of this Chapter, after reasonable notice of the violation, is liable for an administrative civil penalty of not more than ten thousand dollars (\$10,000) for each day of violation. Where the violation would otherwise be an infraction, the amount of the administrative civil penalty shall not exceed the maximum fine or penalty amounts of infractions set forth in subsection (b) above.
- (c) **Penalty Factors.** In determining the civil, criminal and administrative civil penalties imposed pursuant to this Chapter, all relevant circumstances shall be considered, including but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, if any, taken by the violator.
- (d) **Separate Remedies.** Each civil, criminal or administrative civil penalty imposed pursuant to this Chapter for any separate violation shall be separate, and in addition to, any other provision of law and does not supersede or limit any and all other legal remedies and penalties, civil, administrative or criminal which may be applicable under other laws.

SEC. 68.1013. ADMINISTRATIVE CIVIL PENALTY PROCEDURE

- (a) **Notice of Penalty and Opportunity for Hearing.** Notice of any administrative civil penalty shall set forth the alleged acts or failures to act that constitute a basis for liability and the amount of the proposed administrative civil penalty. The notice of administrative civil penalty shall be served by personal service or certified mail and shall inform the party so served that the administrative civil penalty imposed shall be administratively reviewed by the Hearing Authority before it is enforced if a request for hearing is timely filed. The notice shall also specify the procedure for requesting a hearing before the Hearing Authority.
- (b) **Administrative Review.** If a party desires administrative review of the administrative civil penalty imposed by the Director of the Department of Environmental Health, it shall request a hearing by timely filing a written request pursuant to the provisions of Section 68.1017 of

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this Chapter. A hearing shall be conducted by the Hearing Authority pursuant to Section 68.1017 of this Chapter unless the party has waived the right to a hearing or has entered into a settlement agreement with the Director of the Department of Environmental Health. A party waives the right to a hearing by so stating in writing or by failure to file with the Director a written request for hearing within fifteen (15) days after service of the notice of opportunity for hearing.

- (c) Effective Date. Where the party has waived the right to a hearing or where the party has entered into a settlement agreement, the administrative civil penalty shall not be subject to review by any court, the Hearing Authority or any other agency and shall be effective 15 days after notice of the penalty is served. Where a hearing has been held, the penalty shall be effective 20 days after the decision of the Hearing Authority becomes final.
- (d) Judicial Review. The manner of contesting the final order of the Hearing Authority concerning any administrative civil penalty is governed by Government Code Section 53069.4, or any successor provision thereto. Service of the notice of appeal authorized by Government Code Section 53069.4 upon the County of San Diego shall be by service upon the Clerk of the Board of Supervisors.
- (e) Collection. Payment of the penalty shall be made within 30 days from when the penalty became effective. In addition to all remedies herein contained, the County of San Diego may pursue all reasonable and legal means in collecting administrative civil penalties.

SEC. 68.1014. INJUNCTIONS AND OTHER ORDERS

When any person has engaged in, is engaged in or is about to engage in any acts or practices which violate this Chapter, or any resolution, rule or regulation adopted pursuant to this Chapter, the Office of the County Counsel or District Attorney for San Diego County may apply to any court of competent jurisdiction for an order enjoining those acts or practices, or for an order directing compliance.

SEC. 68.1015. SETTLEMENT PROCESS

The Director, pursuant to Section 68.1013 of this Chapter, may adopt a written settlement agreement process for the settlement of violations of this Chapter, which shall take into consideration the penalty factors set forth in Section 68.1012(c) of this Chapter.

SEC. 68.1016. GROUNDS FOR REVOCATION, MODIFICATION OR SUSPENSION OF OPERATIONS PERMIT

Any operating permit element issued pursuant to this Chapter may be revoked, modified or suspended during its term, upon one or more of the following grounds:

- (a) Violation of any of the terms or conditions of the operating permit element, including nonpayment of fees;

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- (b) Obtaining the operating permit element by misrepresentation or intentional failure to fully disclose all relevant facts;
 - (c) A change in any condition that requires modification or termination of the operation of the underground storage tank; or
 - (d) Violation of any provision of this Chapter, including the state laws and regulations incorporated by reference in this Chapter.

SEC. 68.1017. METHOD OF REVOCATION, MODIFICATION OR SUSPENSION

The Director of the Department of Environmental Health may revoke, modify or suspend an operating permit element pursuant to Section 68.912 and follow by issuing a written notice stating the reasons therefor, and serving same together with a copy of the provisions of this Chapter, upon the holder of the operating permit element. The revocation, modification or suspension shall become effective 15 days after service of the notice, unless the holder of the operating permit element enters into a settlement agreement with the Director of the Department of Environmental Health or appeals the notice in accordance with the provisions of Section 68.913. If such an appeal is filed, the revocation, modification or suspension shall not become effective until a final decision on the appeal is issued.

SEC. 68.1018. ADMINISTRATION

Except as otherwise provided, the Director of the Department of Environmental Health, or his/her designee, is charged with the responsibility of administering this Chapter, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent and express terms of this Chapter as he or she deems necessary to implement such purposes, intent and express terms. No rules or regulations promulgated by the Director or amendments thereof shall be enforced or become effective until thirty calendar days following the date on which the proposed rules or regulations are filed with the Clerk of the Board of Supervisors.

Section 34. The title of Chapter 11 of Division 8 of Title 6 of the San Diego County Code is hereby amended to read as follows:

CHAPTER 11. CERTIFIED UNIFIED PROGRAM AGENCY, HAZARDOUS MATERIALS INVENTORY AND RESPONSE PLANS

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Section 35. Section 68.1101 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1101. PURPOSE.

It is the intent of the Board of Supervisors that the Director of the Department of Environmental Health shall implement Division 20, Chapter 6.95 of the Health and Safety Code. It is further the intent of the Board of Supervisors that the Director of the Department of Environmental Health expand the application of the Business Plan, Area Plan, other reporting, disclosure and monitoring requirements of Division 20, Chapter 6.95 of the Health and Safety Code in a manner hereinafter prescribed.

Section 36. Sections 68.1102 through 68.1111 of the San Diego County Code are hereby repealed.

Section 37. Section 68.1112 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1112. ENFORCEMENT OF HAZARDOUS MATERIALS RESPONSE PLAN AND INVENTORY REQUIREMENTS AT AGRICULTURAL BUSINESSES.

Every business which is required, pursuant to California Health and Safety Code, to provide information regarding inventories or hazardous materials to the Agricultural Commissioner shall pay a maximum yearly fee in accordance with the Board of Supervisors resolution for such fee. Such fee shall pay the expenses of the Agricultural Commissioner in collecting annual inventories and conducting at least triennial storage inspections of agricultural businesses to ensure proper compliance with hazardous materials response plan and inventory requirements

Section 38. Section 68.1113 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1113. DISCLOSURE OF HAZARDOUS MATERIALS.

- (a) Any business which handles hazardous material subject to the requirements of Chapter 6.95 (commencing with section 25500) of Division 20 of the Health and Safety Code shall provide information in conformance with said Chapter to the Director of the Department of Environmental Health.
- (b) Any business which handles compressed gases with a Threshold Limit Value of 10 parts per million or less shall report these gases as part of their chemical inventory, in any quantity, and shall prepare a business plan in conformance with Chapter 6.95 (commencing with section 25500) of Division 20 of the Health and Safety Code, and shall submit said plan to the Director of the Department of Environmental Health.

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- (c) Any business which (i) submits a plan under paragraphs (a) or (b) and (ii) handles a material which is a carcinogen or reproductive toxin in quantities not subject to the requirements of Chapter 6.95 (commencing with section 25500) of Division 20 of the Health and Safety Code, shall provide a list of each such material handled during the previous year to the Director of the Department of Environmental Health.
- (1) The list as required in paragraph (c) for carcinogens or reproductive toxins is not subject to the chemical inventory reporting format requirements of the Health and Safety Code.
 - (2) The list shall identify each material handled and shall specify whether the quantity of each such material handled at any one time during a reporting year, based upon a good faith estimate is:
 - less than One (1) Gallon,
 - less than Ten (10) Gallons, or
 - less than Fifty-five (55) Gallons
 - if measured by volume; or
 - less than One (1) Pound,
 - less than One Hundred (100) Pounds, or
 - less than Five Hundred (500) Pounds
 - if measured by weight.
 - (3) The list of such materials handled shall be renewed each year by providing a supplemental listing sheet which:
 - (i) Deletes any such material which was not handled during the previous year;
 - (ii) Provides the information required in subsection (1) above, for any such material used during the previous year which was not included in the list or any previous supplemental listing sheets; and
 - (iii) Identifies any changes in the quantity handled of such material.
 - (4) The provisions of subsections (a) and (c) shall not apply to businesses using the following carcinogens and they shall be exempted from the requirements of Chapter 6.95 (commencing with section 25500) of Division 20 of the Health and Safety Code: aflatoxins, alcoholic beverages, betel quid with tobacco, bracken

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fern, diesel engine exhaust, gasoline engine exhausts, tobacco smoke, aspirin, cocaine, anabolic steroids, oral contraceptives, saccharin, and tobacco.

- (5) The provisions of subsection (c) shall not apply to the following carcinogens: gasoline, crystalline, silica, soot, tars and mineral oil, and residual (heavy) fuel oils. Any business which handles these carcinogens are subject to the requirements of Chapter 6.95 (commencing with section 25500) of Division 20 of the Health and Safety Code
- (6) The provisions of this subsection shall not apply to materials which are (i) used or intended for use for medical or therapeutic purposes, or (ii) contained solely in a consumer product for direct distribution to, and use by, the general public.
- (d) Unless otherwise defined herein, the definitions set forth in Health and Safety Code section 25501 through 25501.4, inclusive, govern the construction of this section.
- (e) For the purpose of this section, a carcinogen and reproductive toxin shall be those listed by the Governor pursuant to Health and Safety Code section 25249.8.

Section 39. Section 68.1114 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1114. PENALTIES.

In addition to penalties provided in State law, the following criminal, civil and administrative civil penalties apply to violations of this Chapter.

- (a) **Penalty for Misdemeanor.** Unless otherwise specified by this Chapter, a misdemeanor is punishable by a fine not exceeding one thousand dollars (\$1000), imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.
- (b) **Civil Penalty.** Any person who violates any provision of this Chapter is liable for a civil penalty of not more than two thousand dollars (\$2,000) for each day, or part thereof, such violation occurs. Any person who knowingly violates any provision of this Chapter, after reasonable notice of the violation is liable for a civil penalty of not more than five thousand dollars (\$5,000) for each day, or part thereof, that such violation occurs. The County Counsel or District Attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties for the County.
- (c) **Continuing Violation.** Each and every day a violation of this chapter continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each such violation and punished accordingly.

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Section 40. Section 68.1115 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1115. ADMINISTRATIVE ENFORCMENT POLICY.

By written policy the Department of Environmental Health shall adopt procedures for enforcing this Chapter and Section 25514.6 of the California Health and Safety Code. Such procedures shall contain those elements required by, and shall be consistent with the provisions stated in, Health and Safety Code section 25514.6, or any successor statute thereto. The administrative enforcement procedures adopted shall not be exclusive, but are cumulative with all other remedies available by law and under this Chapter.

Section 41. The title of Chapter 12 of Division 8 of Title 6 of the San Diego County Code is hereby amended to read as follows:

CHAPTER 12. CERTIFIED UNIFIED PROGRAM AGENCY, MEDICAL WASTES*

Section 42. Section 68.1201 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1201. PURPOSE

It is the intent of the Board of Supervisors that the Director of the Department of Environmental Health shall implement the Medical Waste Management Act, Division 104, Part 14 of the California Health and Safety Code.

Section 43. Section 68.1202 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1202. SMALL QUANTITY GENERATORS.

- (a) It shall be unlawful for any generator of medical waste, other than a trauma scene waste management practitioner, that generates less than 200 pounds per month of medical waste to store or dispose of such wastes without an annual permit therefore from the Director of the Department of Environmental Health.
- (b) Any person desiring a permit required by this chapter shall make application therefor as prescribed in Chapter 9, Section 68.906 of this division.

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Section 44. Section 68.1203 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1203. LARGE QUANTITY GENERATORS.

- (a) It shall be unlawful for any generator of medical waste, other than a trauma scene waste management practitioner, that generates more than 200 pounds per month of medical waste to store or dispose of such wastes without an annual permit therefor from the Director of the Department of Environmental Health.
- (b) Any person desiring a permit required by this chapter shall make application therefor as prescribed in Chapter 9, Section 68.906 of this division.

Section 45. Section 68.1204 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1204. FEE.

Every person required to have a permit or license required by this division shall, at the time of making application or renewal, pay the annual fee prescribed for such a permit or license. Such annual permit fees shall be specified in Section 65.107 of the County Code of Regulatory Ordinances.

Section 46. Section 68.1205 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1205. SHARPS CONTAINER LABELING

Sharps containers must be labeled with either "biohazard" or "infectious waste" on the outside of the container. Sharps containers must also be labeled so that the generator's name, address and phone number are legible and easily visible on the outside of the container.

Section 47. Section 68.1206 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1206. RED BAG LABELING.

Red Bags shall be red in color and conspicuously labeled with the international biohazard symbol and the word "Biohazard". The bag shall be labeled so that the generator's name, address, and phone number is legible and easily visible on the outside of the bag.

001575

Section 48. Section 68.1207 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.1207. MEDICAL SOLID WASTE.

Medical solid waste shall include, but not be limited to, waste such as empty specimen containers, bandages, dressings containing non-liquid blood, surgical gloves, decontaminated biohazardous waste, and other materials which are not biohazardous.

Section 49. Section 68.1208 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1208. CRIMINAL PENALTY.

Violation of any of the provisions of this chapter shall be a misdemeanor punishable by imprisonment in the County jail not exceeding one year, or a fine not exceeding ten thousand dollars (\$10,000), or both.

Section 50. Section 68.1209 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1209. CIVIL PENALTY.

Any person who violates any of the provisions of this chapter shall be liable for a civil penalty not to exceed fifteen thousand dollars (\$15,000) for each such violation.

Section 51. Section 68.1210 is hereby added to the San Diego County Code, to read as follows:

SEC. 68.1210. ADDITIONAL REMEDIES.

The civil and criminal provisions of this chapter are remedies in addition to any existing remedy authorized by law and are not to be construed as conflicting with or in dereliction of, any provisions of this chapter or of this code or of law. Said provisions are to be construed as independent and non-exclusive and in no way conditioned upon each other.

001576


Section 52. Section 68.1211 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 68.1211. MEDICAL SOLID WASTE SECURITY.

Any person who is a generator, or an employee of a generator of medical solid wastes, shall store such wastes prior to disposal in an area secured as to deny access to unauthorized persons, animals, wind, rain, insects and rodents. If such wastes are placed in a trash receptacle or compactor which is accessible at any time to unauthorized persons, such receptacle or compactor shall be locked to prevent access to the contents thereof to anyone other than authorized persons or refuse collection personnel.

Approved a + Jan
E. Lopez
[Signature]

001577
PASSED, APPROVED and ADOPTED this 13TH day of December, 2000, Minute Order No. 30.


DIANNE JACOB, CHAIRWOMAN

Board of Supervisors, County of San Diego, State of California

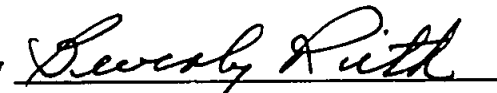
The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Slater, Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors
this 13th day of December, 2000.



THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By 
Beverly Ruth, Deputy

Ordinance Code No. 9293
12/13/00 (30)