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HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.)*

CHAPTER 6.5. Hazardous Waste Control [25100 - 25259] (*Chapter 6.5 added by Stats. 1972, Ch. 1236.)*

ARTICLE 9.6. Land Treatment Units [25209 - 25209.7] (*Article 9.6 added by Stats. 1987, Ch. 1374, Sec. 1.)*

25209. The Legislature finds and declares as follows:

- (a) Hazardous waste discharged into land treatment units may migrate beyond the treatment zone of the land treatment unit and thereby threaten the public health and the environment and pose a serious threat to the quality of the waters of this state.
- (b) With the exception of land treatment units, all major forms of land disposal units are required by law to be equipped with liner and leachate collection and removal systems to ensure sufficient protection of the public health and safety and the environment and to protect the quality of the waters of this state. It is in the public interest to extend these requirements to include land treatment units.
- (c) It is the intent of the Legislature to establish a uniform and workable procedure for implementing requirements for liner and leachate collection and removal systems in all existing land treatment units, and replacements and lateral expansions of existing and new land treatment units, and to ensure that the vadose zone and groundwater beneath all land treatment units is adequately monitored to detect the presence of any contamination. Land treatment units in operation in this state must be made safe, or closed if necessary, to protect public health and safety and the environment, including the waters of the state.

(*Added by Stats. 1987, Ch. 1374, Sec. 1.*)

25209.1. For purposes of this article, the following definitions apply:

- (a) "Discharge" means to place or dispose hazardous wastes in a land treatment unit.
- (b) "Facility" has the meaning specified in Section 25117.1.
- (c) "Hazardous constituent" has the meaning specified in regulations adopted by the department.
- (d) "Hazardous waste" means a hazardous waste, as defined in Section 25117 and "non-RCRA hazardous waste" has the same meaning as defined in Section 25117. 9.
- (e) "Land treatment unit" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface so that hazardous constituents are degraded, transformed, or immobilized within the treatment zone. A land treatment unit is a disposal unit if the waste will remain after closure.
- (f) "Potential source of drinking water" has the meaning specified in subdivision (s) of Section 25208.2.
- (g) "Treatment zone" means the portion of a land treatment unit including the soil surface, within which hazardous constituents are degraded, transformed, or immobilized. A treatment zone may not extend more than five feet from the initial soil surface and the base of the treatment zone shall be a minimum of five feet above the highest anticipated elevation of the water table.
- (h) "Vadose zone" means the unsaturated zone outside the treatment zone and between the land surface and the water table.
- (i) "Waste management unit" has the meaning specified in the regulations adopted by the department.

(*Amended by Stats. 1990, Ch. 1686, Sec. 10.*)

25209.2. (a) Except as provided in Section 25209.5, unless granted a variance pursuant to subdivision (b), or exempted pursuant to Section 25209.6, no person shall discharge hazardous waste into a new land treatment unit at a new or existing facility, any land treatment unit which replaces an existing land treatment unit, or any laterally expanded portion of an existing land treatment unit that has not been equipped with liners, a leachate collection and removal system, a groundwater monitoring system, and a vadose zone monitoring system which satisfy the requirements of Section 25209.5.

(b) The department may grant a variance from the requirements of subdivision (a) and Section 25209.3, concerning equipping the land treatment unit with liners and a leachate collection and removal system, if the owner or operator demonstrates to the department and the department finds all of the following:

(1) If the land treatment unit is an existing land treatment unit, no hazardous constituents have migrated from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state. In making this demonstration the owner or operator shall take a sufficient number of core samples in, beneath, and surrounding the treatment zone of the land treatment unit to characterize the chemical constituents in the treatment zone, in the immediate area of the vadose zone surrounding the treatment zone, and in the area of the vadose zone beneath the treatment zone and shall submit groundwater monitoring data sufficient in scope to demonstrate that there has been no migration of hazardous constituents into the vadose zone or into the waters of the state. The owner or operator, as an alternative to taking these core samples, may use the data obtained from any land treatment demonstration required by the department before issuing a hazardous waste facilities permit pursuant to Section 25200, if the data were obtained not more than two years prior to the application for the variance and is sufficient in scope to demonstrate that there has been no migration of hazardous constituents into the vadose zone or into the waters of the state.

(2) Notwithstanding the date that the land treatment unit commences operations, the design and operating practices will prevent the migration of hazardous constituents from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state.

(3) Notwithstanding the date that the land treatment unit commences operations, the design and operating practices provide for rapid detection and removal or remediation of any hazardous constituents that migrate from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state.

(c) (1) The department may renew a variance only in those cases where an owner or operator can demonstrate, and the department finds, both of the following:

(A) No hazardous constituents have migrated from the treatment zone of the land treatment unit into the vadose zone or into the waters of the state.

(B) Continuing the operation of the land treatment unit does not pose a significant potential of hazardous constituents migrating from the land treatment unit into the vadose zone or into the waters of the state.

(2) In making the demonstration for the renewal of a variance pursuant to this subdivision, the owner or operator may use field tests, laboratory analyses, or, operating data.

(d) A variance, or a renewal of a variance, may be issued for a period not to exceed three years.

(e) Except for the exemption from vadose zone monitoring requirements specified in Section 25209.5, neither the requirements of this article nor the variance provisions of subdivision (b) shall relieve the owner or operator from responsibility to comply with all other existing laws and regulations pertinent to land treatment units.

(Amended by Stats. 1990, Ch. 1686, Sec. 11.)

25209.3. Except as provided in Section 25209.5, after January 1, 1990, unless granted a variance pursuant to subdivision (b) of Section 25209.2, or exempted pursuant to Section 25209.6, no person shall discharge hazardous waste into a land treatment unit which has not been equipped with liners, a leachate collection and removal system, a groundwater monitoring system, and a vadose zone monitoring system which satisfy the requirements of Section 25209.5.

(Amended by Stats. 1988, Ch. 1632, Sec. 23.)

25209.4. (a) Except as provided in Section 25209.6, no person shall place or dispose of hazardous waste in a land treatment unit if any of the following conditions exist:

(1) Hazardous constituents have migrated from the land treatment unit into the vadose zone beneath or surrounding the treatment zone or into the waters beneath or surrounding the treatment zone.

(2) There is evidence that a hazardous constituent in the waste discharged to the land treatment unit has not been or will not be completely degraded, transformed, or immobilized in the treatment zone.

(3) There is a significant potential for hazardous constituents to migrate from the land treatment unit into a potential source of drinking water.

(b) The owner or operator of a land treatment unit shall do all of the following:

(1) Periodically, at the request of the department, and at least annually, submit information the department may require in order to evaluate whether the conditions set forth in paragraph (1) or (2) of subdivision (a) are not present. The information to be submitted

to the department shall include, but is not limited to, a sufficient number of soil core samples in, beneath, and surrounding the treatment zone of the land treatment unit to detect any hazardous constituents which may have migrated from the treatment zone. The department may adopt regulations requiring additional or more frequent testing.

(2) Within 72 hours of detecting and confirming the existence of either of the conditions identified in paragraph (1) or (2) of subdivision (a), or the presence of factors that render the owner or operator unable to continue satisfying the variance requirements of subdivision (b) of Section 25209.2, report to the department describing the full extent of the owner's or operator's findings.

(c) Upon receiving notice pursuant to paragraph (2) of subdivision (b), or upon the independent confirmation by the department, the department shall order the owner or operator to cease operating the land treatment unit. The owner or operator shall not resume operating the land treatment unit and shall close the land treatment unit unless one of the following actions is taken:

(1) The owner or operator completes appropriate removal or remedial actions to the satisfaction of the department and the owner or operator submits to the department, and the department approves, an application for a permit or variance modification to modify the operating practices at the facility to maximize the success of degradation, immobilization, or transformation processes in the treatment zone, if the owner or operator has not previously submitted an application for a permit or variance modification pursuant to this paragraph.

(2) The owner or operator completes appropriate removal or remedial actions and equips the land treatment unit with liners, leachate collection and removal systems, a groundwater monitoring system, and a vadose zone monitoring system that satisfy the requirements of Section 25209.5, if the land treatment unit has not already been equipped with these systems.

(d) All actions taken by an owner or operator pursuant to paragraph (1) or (2) of subdivision (c) shall be completed within a time period specified by the department, which shall not exceed 18 months after the department receives notice pursuant to subdivision (c). If the actions are not completed within this time period, the land treatment unit shall be closed, unless granted an extension by the department due to exceptional circumstances beyond the control of the owner and operator.

(Amended by Stats. 1989, Ch. 1436, Sec. 31. Effective October 2, 1989.)

25209.5. The liner, leachate collection and removal, groundwater monitoring, and vadose zone monitoring systems required by Sections 25209.2, 25209.3, and 25209.4 shall be designed, constructed, and operated according to regulations adopted by the department and State Water Resources Control Board regulations and standards for liner, leachate collection and removal, groundwater monitoring, and vadose zone monitoring systems for class I hazardous waste landfills, to the extent those regulations and standards are not less stringent than the regulations and standards of the department. Owners or operators of land treatment units which have treated and will treat solely non-RCRA hazardous waste and which are equipped with liners, leachate collection and removal systems, and a groundwater monitoring system that satisfy the requirements of this section shall not be required to perform vadose zone monitoring.

(Amended by Stats. 1988, Ch. 1632, Sec. 25.)

25209.6. Land treatment of soil contaminated only with non-RCRA hazardous waste which has been excavated as part of a removal or remedial action at any hazardous substance release site is exempt from the requirements of Sections 25209.2, 25209.3, and 25209.4, if all of the following apply:

(a) The department determines that the land treatment does not pose a threat to public health or safety or the environment.

(b) The land treatment is conducted pursuant to a plan approved by the department or a cleanup and abatement order issued by a regional water quality control board.

(c) The land treatment is not conducted at an offsite commercial hazardous waste facility.

(d) The land treatment is used only for purposes of removal or remedial action and, upon completion of the land treatment portion of the removal or remedial action, the land treatment unit is closed.

(Amended by Stats. 1988, Ch. 1632, Sec. 26.)

25209.7. (a) Every owner or operator of a land treatment unit subject to this article shall pay an annual fee to the department which shall be equivalent to 2 percent of the land disposal fee due under Section 25205.4. This fee shall be in addition to the annual hazardous waste facility fee and shall be due at the same time as the facility fee.

(b) The department may, by regulation, increase or decrease the amount of the fees specified in subdivision (a) if the department finds that the amounts charged do not reflect the cost of providing services under this article.

(Amended by Stats. 1997, Ch. 870, Sec. 33. Effective January 1, 1998. Operative July 1, 1998, by Sec. 54 of Ch. 870.)