

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA AMENDING AND ADOPTING CHAPTER 25 OF THE COUNTY CODE AS THE PETROLEUM CODE OF THE COUNTY OF SANTA BARBARA**

The Board of Supervisors of the County of Santa Barbara adopts and ordains the following changes to the Code of the County of Santa Barbara under authority of Section 7 of Article XI of the Constitution of the State of California.

The Board of Supervisors of Santa Barbara County amends and adopts Chapter 25 of the County Code of Santa Barbara County and ordains as follows:

**SECTION ONE**

**CHAPTER 25**

**PETROLEUM CODE**

**Sec. 25-1. Position of Petroleum Administrator Established.**

- (a) The Petroleum Administrator is hereby authorized and directed to enforce the provisions of this Ordinance and the codes adopted by reference herein. For such purpose, the Petroleum Administrator shall have the powers of a law enforcement officer. The Petroleum Administrator shall be appointed by the Director of Planning and Development. The Petroleum Administrator is hereby authorized to consult experts qualified in fields related to the subject matter of this Ordinance and codes adopted by reference herein as necessary to assist him/her in carrying out his/her duties. The decisions of the Petroleum Administrator in enforcing, interpreting, or in exercising the authority delegated by the provisions of this

Ordinance and of the codes adopted hereby shall be deemed final, subject to appeal as provided in Section 25-16 of this Ordinance.

- (b) The Petroleum Administrator shall be authorized to appoint such number of officers, inspectors, assistants and other employees for the Petroleum Unit as shall be authorized by the Board of Supervisors from time to time. The Petroleum Administrator may deputize such employees as may be necessary to carry out the functions of the Petroleum Unit.

**Sec. 25-2. Purpose of Chapter.**

- (a) It is the purpose of this chapter, among other things, to protect the health, safety, public welfare, physical environment and natural resources of the county by the reasonable regulation of onshore petroleum facilities and operations, including but not limited to: exploration; production; storage; processing; transportation; disposal; plugging and abandonment of wells; and of operations and equipment accessory and incidental thereto.
- (b) It is further the intent of the County Board of Supervisors that petroleum operations shall be permitted within this county (except where expressly prohibited herein), subject to the application of Chapter 25, Chapter 35 (Zoning) and all other applicable laws, regulations and requirements.
- (c) It is not the intent of Chapter 25 to regulate public utility operations for the storage or distribution of natural gas. Any drilling, therein, however, shall be subject to this chapter.

(d) All amendments to this Code shall be applied in a prospective manner only, not retrospectively to situations, conditions or facts existing at the time of or prior to the amendment.

**Sec 25-3. Adopted Codes, Regulations and Standards.**

- (a) This Chapter, insofar as it regulates petroleum operations also regulated by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR), is intended to supplement such state regulations and to be in furtherance and support thereof.

Additionally, the following codes currently adopted by the Board of Supervisors and standards are intended to supplement the regulation of this Chapter:

- (1) California Building Code (CBC)
- (2) California Electric Code, NEC 70
- (3) California Fire Code (CFC), ~~Article 79, as amended~~
- (4) ASME Pressure Boiler & Pressure Vessel Code
- (5) National Board Inspection Code: NB-23
- (6) Pertinent and applicable California codes, statutes and regulations.
- (7) Applicable American Petroleum Institute (API) Standards, such as, but not limited to:
  - a) API RP 500: Recommended Practice for Classification of Locations for Electrical Installation at Facilities Classified as Class I, Division 1 and Division 2.
  - b) API 510: Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration.
  - c) API 570: Piping Inspection Code Inspection, Repair, Alteration and Rating of In-service Piping Systems.
  - d) API Standard 650: Welded Steel Tanks for Oil Storage
  - e) API Standard 653: Tank Inspection, Repair, Alteration and Reconstruction.
  - f) API Standard 12B – Bolted Tanks
  - g) API RP 12R1: Recommended Practice for Setting, Maintenance, Inspection, Operation, and Repair of Tanks in Production Service.
  - h) API 1104: Welding of Pipelines and Related Facilities
  - i) API Standard 2000: Venting Atmospheric and Low-Pressure Storage Tanks Non-refrigerated and Refrigerated.

(b)

- (1) The provisions of this code are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this code,

provided any alternate has been approved and its use authorized by the Petroleum Administrator.

- (2) Such alternate material, design or method of construction may be approved, provided the Petroleum Administrator finds that the proposed alternate is satisfactory and complies with the provisions of this code and that the material, design, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.
- (3) The Petroleum Administrator shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered into the files of the Petroleum Unit.

#### **Sec. 25-4. Definitions.**

The following terms as used in this Chapter 25 shall, unless the context clearly indicates otherwise, have the respective meanings set forth herein:

**A-87 Cost Plan Charges** are those charges and costs attributable to government operations under standard accounting practices pursuant to US Office of Management and Budget Circular A-87, as amended

**ANSI** is the American National Standards Institute.

**A.P.I.** is the American Petroleum Institute.

**Approved** means approved by the Petroleum Administrator or approved pursuant to the regulations and standards adopted in Section 25-3.

**Attended** is the presence of a person who is close enough to petroleum operating facilities so that activities in or near such facilities may be reasonably observed.

**Blow-out** is the uncontrolled discharge of gas, liquids, or solids (or a mixture thereof) from a well.

**Blow-out preventer** is a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which is designed and capable of preventing a blow-out.

**Building** is a structure subject to provisions of the California Building Code and Chapter 10 of the Santa Barbara County Code.

**Cellar** is an excavation of sufficient size, generally lined with concrete or steel, to enclose the surface control valves and fittings of a well.

**Class II Commercial Wastewater Disposal Well** is a well that is used to dispose of oilfield wastewater for a fee and that is regulated by the DOGGR.

**Completion of drilling** occurs for the purpose of this Chapter 25, thirty days after the drilling crew has been released, unless drilling, testing or remedial operations are resumed before the end of such thirty day period.

**Completion of a well** occurs for the purpose of this Chapter 25, thirty days after either fluid production or fluid injection is established, excluding any test periods which will not exceed a cumulative duration of twenty-four hours.

**Containment** – The first level of containment such as the inside portion of storage tanks, vessels, pipes and/or devices fitted to them that normally hold petroleum production fluids and/or gases during normal operations.

**The County** is the County of Santa Barbara.

**Deepening** means the downward or lateral extension of any existing well bore, wherein all of the existing well will remain in use.

**Deleterious substances** shall mean produced water, or any other injurious chemical, waste oil, waste emulsified oil, basic sediment, mud with any injurious substances produced or used in the drilling, development, production, transportation, refining and processing of petroleum.

**Derrick** encompasses any framework, tower, or mast, together with all parts of and appurtenances to such structure, including any foundations, pump house, pipe racks and each and every part thereof, which is (are) required or used (useful) for the drilling for and the production of petroleum from the earth, except tanks used for storage purposes.

**Desertion** is the cessation of petroleum operations at a drill site without compliance with the provisions of this Chapter 25, relating to suspended operations or abandonment.

**DOGGR** is that particular division in the Department of Conservation, Division of Oil, Gas and Geothermal Resources, of the State of California.

**Drilling** is any boring into the earth for petroleum operations; but excluding any well drilled solely for the production of fresh water.

**Drill site** means the premises used during the drilling, maintaining, operating and producing of a well or wells located thereon.

**Dwelling** means any building or structure which has, for its primary purpose, human residence.

**Enforcement Action** is any administrative, injunctive, or legal action (either civil or criminal), to enforce, cite or prosecute a violation or efforts to abate or correct a violation (or dangerous or hazardous situation caused by a violation), including investigation, research, legal action, physical abatement, law enforcement and other necessary acts.

**Facilities** include tanks, compressors, pumps, vessels, and other large equipment or structures pertinent to oil field operations sited at a single location.

**Fresh water pollution** is the contamination of fresh water, either surface or subsurface, by salt water, mineral brines, waste oil, oil, gas or other deleterious substances, associated with, produced from, obtained or used in connection with the drilling, development, producing, refining, transporting or processing of oil or gas within the County.

**GPS** is a Global Positioning System

**Hazardous Materials** –Materials that, because of its quantity, concentration, or physical or chemical characteristics, pose a significant present or potential hazard to human health and safety

or to the environment if released in to the workplace or the environment, or as otherwise defined by the California Health and Safety Code.

**High Risk Operation** – An oil or gas production, processing or storage facility which:

- (a) Has been in violation of Section(s) 25-22, 25-23, 25-25, 25-26, 25-27, 25-28, 25-29, 25-30, 25-32, 25-35, 25-36, 25-37, 25-38, 25-39, ~~and-or~~ 25-40 of this Chapter for more than 30 consecutive days and resulted in the issuance of a Notice of Determination of Fines pursuant to Chapter 24A of the Santa Barbara County Code, or 45 days during the preceding 12 months; or
- (b) Notwithstanding section (a) above, has ~~had three~~ two separate unauthorized releases of oil, produced water and/or other hazardous materials ~~or fluids~~ of a quantity not less than ~~25~~ 15 barrels (~~1050~~ 630 gallons) other than within secondary containment for each incident during the preceding ~~within a~~ 12 months ~~period.~~

**High Risk Operator** – The owner or operator of two or more petroleum production, processing or storage facilities fitting the definition of High Risk Operation, as designated by Section 25-43 (e).

**Incidental equipment and appurtenances** are facilities for the collection and/or separation of petroleum from water or other materials; for storage of water, petroleum or unrefined petroleum byproducts for recycling, re-pressuring or injecting such material for underground disposal, use or storage; and for preparation of such products for shipping and storage. It shall include lease facilities, processing plants, lease tanks, pipelines, test equipment, etc., but not include refineries, gasoline plants or their associated tanks or onshore operations directly related to offshore petroleum operations.

**Injection well** is a well used for the purpose of injecting fluids or gas into the ground.

**Idle Well** means any well that has not produced oil or natural gas or has not been used for injection for six consecutive months of continuous operation during the last five or more years. An idle well does not include an active observation well.

**Lessee** is the possessor of the right to develop and produce petroleum resources.

**Lessor** is the owner of a petroleum right subject to a petroleum base.

**Long-term idle well** means any well that has not produced oil or natural gas or has not been used for injection for six consecutive months of continuous operation during the last 10 or more years. A long-term idle well does not include an active observation well.

**N.F.P.A.** is the National Fire Protection Association.

**Onshore** is landward from the mean high tide line.

**Operator** is the person, whether proprietor, lessee or individual contractor, actually in charge and in control of the drilling, maintenance, operation or producing of petroleum from a well or wells.

**Owner for purposes of this Chapter, shall refer to the person who owns or controls the mineral rights to exploit, mine and/or produce any or all of the minerals lying below the surface of the property.**

**Person** encompasses any individual, firm, association, corporation, joint venture or any other group or combination acting as an entity.

**Petroleum** is crude oil, natural gas and petroleum derivatives.

**Petroleum Administrator** is the administrative official, his/her assistants, inspectors and deputies having the responsibility for the enforcement of this Ordinance.

**Petroleum Operations** are all activities in connection with the exploration, drilling for and the production of petroleum, gas and other hydrocarbons, together with all incidental equipment and appurtenances thereto.

**Pipelines**, for the purposes of this Chapter 25, shall mean all flow lines for the transportation of hydrocarbons or their by-products or of materials used in the production of unrefined hydrocarbons.

**Plugged and abandoned well** is a well that has been rendered unusable through compliance with the procedures outlined in Section 25-31 of this Code, or a well that is considered “plugged and abandoned” by the DOGGR as evidence by the issuance of a Report of Well Abandonment.

**PPM** is parts per million.

**Produced water** is water produced with oil and gas.

**Re-drilling** is the deepening of an existing well or the creation of a partial new well bore some distance below the surface of the earth. Typically that portion of the well bore below the kickoff point for the re-drill has been plugged and abandoned to DOGGR standards.

**Re-entry** is the process of cleaning a plugged and abandoned well by drilling, jetting, or other method.

**Secondary and enhanced recovery operations** include any such operation where the flow of hydrocarbons into a well are aided or induced with the use of injected substances including but are not limited to the introduction of or subsurface injection of water and natural gas, steam, air, CO<sub>2</sub>, nitrogen, chemical substances and any other substance or combination thereof.

**Secondary Containment** – Containment which is external to and separate from the primary containment, typically constructed of concrete, brick or earth walls.

**Shut Down Order** is an order by the Petroleum Administrator to restrict or prohibit certain (or all) functions or operations at a facility or by an Owner or Operator pursuant to authority of this Chapter.

**Structure** is that which is built or constructed; a tank, edifice or building of any kind or any piece of work artificially built up or composed of parts jointed together in some definite manner.

**Suspended operations** encompass the suspension of drilling or re-drilling operations for more than thirty days.

**Tank setting** shall mean the area on a lease where tanks are located for collecting, testing, treating and/or shipping crude oil or other fluids incidental to petroleum operations.

**USEPA** is the United States Environmental Protection Agency.

**Water Board** shall mean the Central Coast Regional Water Quality Control Board.

**Well** is a hole, including a core hole, drilled or being drilled into the earth for the purpose of obtaining and removing or reintroducing into the ground, any substance for petroleum operations or which is to be used as an accessory to the production of petroleum, including the production, injection or disposal of USEPA designated Class II materials; but excluding any well drilled solely for the production of fresh water.

**Well servicing** including remedial or maintenance work performed within an existing well which does not involve drilling or re-drilling.

**Well site** means the premises used during the maintaining, operating and producing of a well or wells located thereon.

**Sec. 25-5. Permits.**

- (a) A permit from the Petroleum Administrator must be obtained for drilling a new well or re-entering a well previously abandoned, prior to commencing said operation. A copy of the well permit must be conspicuously posted at the well site throughout the operation for which the permit was issued.
- (b) Expiration. Any permit issued under Chapter 25 will expire:
  - (1) One year from the date of issuance, if the well is not drilled, or drilling operations have not commenced in earnest;
  - (2) When the well is officially plugged, abandoned and the drill site is restored; or
  - (3) Upon action by the Board of Supervisors.
- (c) Extension. Every permit issued by the Petroleum Administrator under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one year from the date of issuance of such permit. If the work authorized by such permit is started and then the work is suspended or abandoned for a period of one hundred eighty days or longer, the work shall not be recommenced until a new

permit is obtained by paying all applicable fees currently in effect, provided that no revisions have been made to the original plans and specifications for such work, and provided that the suspension or abandonment of the work has not exceeded one year.

#### **Sec. 25-6. Permit Procedures.**

- (a) The applicant for a permit shall file the application in writing on a form furnished for that purpose by the Petroleum Administrator. The Petroleum Administrator is hereby authorized to impose any reasonable conditions, which in his/her judgment are necessary to eliminate or substantially mitigate any significant adverse impact on the environment as related to the permit application.
- (b) The application shall include all of the following:
  - (1) Plot plan showing the well location, including GPS coordinates, nearest adjacent well, and any buildings, structures, and/or natural or artificial features within two hundred feet.
  - (2) Fees are payable to the County of Santa Barbara, Petroleum Unit, according to the latest fee resolution adopted by the Board of Supervisors.
  - (3) A permit from the county in compliance with Chapter 35, Zoning, and as amended from time to time.
  - (4) Such other pertinent and reasonable information as may be required by the Petroleum Administrator, including but not limited to environmental data.
  - (5) One copy of each of the DOGGR Notice(s) in section 25-8 (C) (D) (E) of new well operations.

#### **Sec. 25-7. Fees.**

- (a) **Drilling Permit Fees.** An amount, established by a resolution of the Board of Supervisors of this County, shall be charged for each permit issued-application submitted for drilling or reentry of a previously abandoned well, and shall be paid to the Petroleum Administrator, ~~no part of which shall be refunded unless the permit is denied or rescinded by the County.~~ Whenever drilling or reentry of a previously abandoned well has been commenced prior to obtaining said permit, the fee herein specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this

Chapter 25, or from any other penalties prescribed herein. Deepening or re-drilling of an existing well, where there is no disruption of the fresh water seal, will not require a permit hereunder. However, verification of the integrity of the fresh water seal, as determined by the Petroleum Administrator will be required.

- (b) **Annual Inspection Fees.** The Petroleum Administrator shall inspect annually and at such other times as necessary each lease site, each tank site, producing well site, idle well site and lease tank site, (including headers and associated pipelines), for the purpose of ascertaining conformity with the minimum standards as set forth in this chapter. To meet the expense of such inspection, the operator shall pay to the Petroleum Administrator an annual inspection fee to be established by a resolution of the Board of Supervisors of this county, per well for each active and each idle well. An annual inspection fee, to be established by a resolution of the Board of Supervisors of this county, for each tank setting shall be paid by each operator to the Petroleum Administrator.

The year for which each fee is applicable runs from January 1 to December 31. The fee shall be based upon the total number of wells and tank settings in existence (whether being used or not) on January 1. The fees shall be due no later than January 31, in advance for the ensuing calendar year. The Petroleum Administrator shall keep a permanent, accurate account of all annual inspection fees collected and received under this Chapter 25, the name of the operator for whose account the same were paid, the date and number thereof, together with the well names and description and the general location of the wells and tank settings. The Petroleum Administrator's annual inspection statement shall be available to the operator.

- (c) **Research and Inquiry Fee.** An hourly fee to be set by a resolution of the Board of Supervisors for reimbursement of costs associated with research and inquiry projects.
- (d) **Abandonment Fee.** A fee to be set by a resolution of the Board of Supervisors for reimbursement of costs associated with the abandonment of a well or tank.

- (e) **Soil Remediation Fee.** An hourly fee to be set by a resolution of the Board of Supervisors for reimbursement of costs associated with soil remediation projects.
- (f) **Inspection Fee.** An hourly fee as set by the Board of Supervisors for reimbursement of reasonable costs associated with enforcement actions due violations of this codes.
- (g) **Enforcement Fee.** Any person or entity, whether as principal, agent, employee, or otherwise, who acts or fails to act in violation of any provision of this Chapter 25, Chapters 10 or 14 of the Santa Barbara County Code, any of the adopted Uniform Codes, or State or federal regulation and statutory law shall be liable for and obligated to pay to the county all reasonable costs incurred by the county in obtaining abatement or compliance which is attributable to or associated with the enforcement or abatement action, whether such action is administrative, injunctive, or legal, and for all damages suffered by the county, its agents, officers, and employees as a result of such violation or efforts to abate the violation. The owner of the mineral estate or the owner of the fee estate if the mineral and surface estates are not separate shall be jointly liable for payment of any enforcement fee brought about by actions of the well or oilfield operator or its employees or agents. The owners of all mineral estate parcels eligible for or entitled to participation in revenues from a well shall be jointly and severally liable for any enforcement fee generated by operation of a well servicing their mineral estate.
- (h) **Collection and Liens.** (1) If the owner of the mineral estate of the property fails to pay for the costs of an abatement or compliance action or any other above described fees upon demand by the county, the Board of Supervisors by resolution may order the cost of the abatement or unpaid fees to be specially assessed against the mineral estate parcel. Such assessment shall be collected at the same time and in the same manner as ordinary county taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of the delinquency as are provided for ordinary county taxes. (2) To the extent that the ownership of the surface estate is the same as or similar to (that is, any common owner) the ownership of the mineral estate of the property involved in such abatement or compliance action, or if the mineral and surface estates are not separate the enforcement fee or other

unpaid fees may be assessed, collected and attached to the surface estate in the same manner as the mineral estate. Such assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of the delinquency as are provided for ordinary property taxes. (3) The assessment of and tax lien upon an owner for the enforcement fee or other unpaid fees shall not absolve an operator, other owners or other responsible parties of joint liability to pay any assessed enforcement fee.

#### **Sec. 25-8. Notices.**

Each operator must submit the following notices, in writing, to the Petroleum Administrator, prior to commencement of said operation:

- (a) Change of idle well status to producing or injection status.
- (b) Intention to engage in secondary recovery operations.
- (c) DOGGR Notice of Intent to Drill New Well
- (d) DOGGR Permit To Conduct New Well Drilling Operations
- (e) DOGGR Final Summary of Operations and History Report on New Well Completion
- (f) Intention to install, remove, re-start or replace permanent production facilities (piping, vessels, tanks and equipment) that have been idle for more than five years.
- (g) DOGGR Notice of Intent to Plug and Abandon Well
- (h) DOGGR Permit to Conduct Plugging and Abandonment Operations
- (i) DOGGR Report of Well Abandonment and History Report on Abandonment Operations.
- (j) Transfer of Operator. The operator of (or any person who acquires) any well, property, or equipment appurtenant thereto, whether by purchase, transfer, assignment, conveyance, exchange or otherwise, shall each notify the petroleum administrator within ten days of the transaction closing date. The notice shall contain the following:
  - (1) The names and addresses of the person from whom and to whom the well(s) and property changed.
  - (2) The name and location of the well(s) and property.
  - (3) The date of acquisition.
  - (4) The date possession changed.

- (5) A description of the properties and equipment transferred.
- (6) The new operator's agent or person designated for service of notice and his address.
- (k) Suspension of Drilling Operations. The operator of any well shall notify the Petroleum Administrator in writing, of the suspension of any drilling operations, greater than five days. The Operator shall notify the Petroleum Administrator in writing upon the resumption of operations giving the date thereof.
- (l) Notification of reportable oil and/or gas releases must be given to the Petroleum Administrator immediately upon release. Additionally, the operator must submit a copy of the Community Awareness & Emergency Response (CAER) form within twenty- four hours.
- (m) Notification of the following operations must be given to the Petroleum Administrator in advance, but need not be in writing, when:
  - (1) Drilling operations start.
  - (2) Plugging at base of fresh water and at the surface.

**Sec. 25-9. Pollution Control Plan.**

Each operator shall have on file with the Petroleum Administrator a copy of their Spill Prevention, Control and Countermeasure Plan(s) (SPCC Plan) required by the United States Environmental Protection Agency (USEPA). In the event that an operation is exempt from the requirement to develop an SPCC Plan or the Plan does not cover all the operator's leases in Santa Barbara County a Pollution Control Plan (PCP) shall be developed. Said SPCC/PCP shall meet the requirements of county, state, and federal authorities. The SPCC Plan will be subject to review by the Petroleum Administrator. PCP Plans will be subject to review and approval by the Petroleum Administrator. The PCP will describe how the operator will control spillage from the operator's facilities in the County.

**Sec. 25-10. State and Federal Laws.**

It shall be the duty of the Petroleum Administrator to promptly report to the appropriate local, state or federal enforcement agency any violations of local, state or federal laws, rules and/or regulations which may be observed and to cooperate fully with such local, state and federal enforcement agency to terminate such violations.

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**Sec. 25-11. Public Records.**

Information and records obtained are public records and available to public inspection as provided in Government Code Section 6253; provided, however, that all records covering subsurface operations (except as to protective measures for subsurface fresh water aquifers) shall be strictly confidential, and shall be a misdemeanor, punishable as provided in this chapter 25, to reveal any such information to any person other than the Petroleum Administrator or his assistants, deputies and employees without prior express written consent of the operator. The Petroleum Administrator shall provide the public with available data concerning oilfield operations. The Petroleum Administrator shall charge the public for those services at rates as specified in Section 25-7.

**Sec. 25-12. Service of Notice.**

Every operator of any well shall designate an agent who is a resident of the state upon whom all orders and notices provided in this chapter 25 may be served in person, or by registered or certified mail. Every operator so designating such agent shall, within ten days, notify the petroleum administrator, in writing, of any change in such agent or such mailing address, unless operations within the county are discontinued. Service by registered or certified mail, or in person, to the agent so designated, shall constitute service for all purposes of this chapter 25.

**Sec. 25-13. Extensions or Waivers.**

Whenever, in this chapter 25, time limits are specified for the commencement or completion of any acts or for ceasing to perform any acts, such time limits may be extended in writing by the Petroleum Administrator for good cause shown. The Petroleum Administrator may also modify or waive compliance with any of the terms or provisions of this chapter when the modification or waiver is deemed to be reasonable and in accordance with good oil field practice. In connection with such modification or waiver, the Petroleum Administrator may require equivalent measures when they are needed.

**Sec. 25-14. Enforcement.**

The Petroleum Administrator shall have the primary responsibility for enforcing the provisions of this chapter. In the event the Petroleum Administrator is unable to obtain compliance with any of the terms and provisions of this chapter, or of any resolution of the Board of Supervisors adopted pursuant thereto, he/she may order immediate cessation of operations. If such operations are not stopped or if resumed prior to written approval of the Petroleum Administrator, the petroleum administrator may, request civil action by the office of county counsel or criminal prosecution by the office of the district attorney or both such remedies.

**Sec. 25-15. Penalties.**

Penalties for any noncompliance with the terms of this chapter shall be as provided in, but not limited to, Chapters 1 (General Provisions) and 24A (Administrative Fines) of the Code of Santa Barbara County, i.e., up to five hundred dollars fine or up to six months imprisonment in the county jail, or both such fine and imprisonment for each offense. Each day of noncompliance constitutes a separate offense. The remedies or penalties provided by this Code are cumulative to each other and to other remedies or penalties available under all other laws of this state and shall not be construed to restrict any remedy provided by law.

**Sec. 25-16. Appeals.**

Appeals from decisions, interpretations, or acts of the Petroleum Administrator, shall be filed in writing with the Board of Appeals or in the case of decision under Section 25-43(c), (e), (g) or (h) to the Director of Planning and Development. Appeals from decisions or interpretations of the Director of Planning and Development shall be filed in writing with the Board of Appeals. Appeals shall be filed within fifteen days of the act by the Petroleum Administrator or Planning and Development Director. Such Board of Appeals is hereby expressly declared to be the local appeals board referred to in Sections 17920.5 and 17925 of the Health and Safety Code. Such Board of Appeals is hereby authorized to hear appeals regarding the petroleum requirements of the county and shall have all of the power and authority conferred on a local appeals board under the said sections of the Health and Safety Code.

Any appeal to the Director of Planning and Development or the Board of Appeals hereunder shall be posted for Notice as to the time and place of a hearing in the same manner as an agenda notice of the County Planning Commission.

In cases where the Petroleum Administrator deems compliance with his decision to be necessary to prevent an imminent threat to public health or safety or to prevent immediate environmental damage, the Petroleum Administrator shall require compliance with his/her decision pending outcome of an appeal to the Director of Planning and Development or the Board of Appeals.

**Sec. 25-17. Appeals Board.**

The Board of Appeals shall consist of three members appointed by the Petroleum Administrator in conjunction with the Planning and Development Director to such terms of office as determined by the appointing officers. At least 2 of the members shall possess such experience and training as the Petroleum Administrator shall deem appropriate to qualify such members to pass upon matters pertaining to the subject of the appeal. The Petroleum Administrator or his/her representative shall be an ex-officio member without voting rights. The Board of Appeals shall deliver written findings and decisions on all appeals considered by it to the applicant and the Petroleum Administrator within ten days from the date a decision was reached. The Board of Appeals shall be deemed a Brown Act body and all activities shall be carried out in conformity with the Brown Act open meetings law. In certain cases where the Board of Appeals cannot be assembled quickly or when requested by the appellant, the Petroleum Administrator in conjunction with the Planning and Development Director may, in their sole discretion, appoint a Hearing Officer to hear the case. All decisions of the Board of Appeals and/or the Hearing Officer shall be deemed final; subject only to judicial review.

**Sec. 25-18. Appeals Hearing Fee.**

A fee, as adopted by the Board of Supervisors, shall be paid to the Petroleum Administrator at the time of application for a hearing before Planning and Development Director or the Board of Appeals. The hearing fee shall be refunded in cases where the applicant has substantially prevailed.

**Sec. 25-19. Conflicts with State Law.**

The Board of Supervisors of the County recognizes that the state has adopted provisions of law in the California Public Resources Code and other codes, the basic purposes of which are to conserve and protect natural petroleum and other hydrocarbon resources and fresh water sources and to protect the environment. Accordingly, where there is conflict with state regulations or laws, such state regulations or laws shall prevail over any conflicting provisions of this chapter 25 or contradictory prohibitions or requirements made pursuant thereto.

**Sec. 25-20. Copies of Adopted Codes and Referenced Publications.**

The Petroleum Administrator shall keep on file in his office, a copy of the codes and publications adopted by reference by this chapter 25 which shall be made available for public inspection in that office while this chapter 25 is in force.

**Sec. 25-21. Spacing and Location.**

No new wells or lease tanks shall be located within two hundred feet of the nearest edge of the normally traveled portion of any major street, highway, railroad track, or building (except as may be incidental to the operation thereof). No building shall be erected within two hundred feet of any well or tanks. Spacing requirements for seldom used roadways or un-maintained rights-of-way shall be set by the Petroleum Administrator based on the particular circumstances associated with each such situation.

In any area adjacent to an existing or proposed well, or tank setting, the Petroleum Administrator shall suspend provisions of this section in whole or in part, or impose less restrictive requirements if such provisions are rendered unnecessary or unreasonable by the then existing special features (such as topography, nature of the use, proximity to buildings on adjoining property, height, type of buildings, proposed mitigation features and the nature of the oil field development) or may impose additional safety requirements rendered necessary because of the special features.

**Sec. 25-22. Grading.**

Roads and other excavations and the well site shall be planned, constructed and maintained to control dust, mud, erosion, noise, and debris, so as to result in the least possible disfigurement of the environment and to keep soil erosion and aesthetic disfigurement to a minimum. The location and construction of all roads, culverts, excavations and drainage structures shall be subject to the approval of the administrator and such special drainage, planting, spraying or control measures shall be installed as may be necessary to prevent excessive soil erosion or other damage. Any grading associated with petroleum operations may require a grading permit as specified in Chapter 14 of the Santa Barbara County Code. Soil compaction tests showing at least ninety percent of the original compaction shall be submitted to the Petroleum Administrator prior to drilling or construction of any petroleum facilities or incidental equipment on fill locations. All fill placed within the County of Santa Barbara shall be compacted to ninety percent as specified in Chapter 14 of the Santa Barbara County Code.

Soil erosion control plans, including provisions for stabilizing filled and excavated areas by planting and other means, installation of drainage ditches and culverts, and construction of dikes, levees and debris dams, will be consistent with methods and techniques recognized by county, state and federal authorities. Each operator will notify the Petroleum Administrator as to the responsible individual appointed to represent the operator concerning these problems.

**Sec. 25-23. Blowout Equipment.**

All drilling wells and wells being worked over will be equipped with adequate blowout equipment. The controls of which must be located outside of the sub-base of the drilling rig, or such greater distance as may be specified by the administrator for special circumstances, and must be capable of closing off the well with pipe in or out of the hole. DOGGR Publication MO7 or as amended specifications will be a minimum guideline.

**Sec. 25-24. Cementing Operations.**

Cementing operations shall be in accordance with current DOGGR requirements.

**Sec. 25-25. Emission Control.**

- (a) All petroleum facilities shall be operated and maintained so as to prevent excessive or unusual noise, the escape of hazardous or noxious vapors and any other hazardous emissions.
- (b) Petroleum operations associated with hydrogen sulfide, organic sulfides, any combination thereof, or any other hazardous gas, conducted in the vicinity of any residence or place of public gathering, which could affect the safety or well being of others, shall be declared by the petroleum administrator, for good cause shown, to be within a potentially hazardous emission area. Potentially hazardous emission areas shall be defined as, but not limited to, areas containing oil and gas facilities handling produced gases containing more than 825 ppm of hydrogen sulfide, organic sulfides, or a combination thereof where, in the judgment of the Petroleum Administrator, there is a reasonable potential of risk or odor nuisance to residents or persons at public gatherings from releases of hydrogen sulfide, organic sulfides or other hazardous gases. Any oil and gas facility within a potentially hazardous emission area, but producing gas containing less than 825 ppm of hydrogen sulfide, organic sulfides or a combination thereof, and not constituting a potential risk or odor nuisance to the public, may be exempted from the provisions of section 25-25(b), in writing, by the Petroleum Administrator.

Petroleum operations in designated potentially hazardous emission areas shall be subject to the following regulations:

- (1) Within sixty days of notification by the Petroleum Administrator, operators of petroleum facilities within potentially hazardous emission areas shall submit to the Petroleum Administrator a plan for detecting and monitoring emissions of hydrogen sulfide, organic sulfides or a combination thereof.
- (2) Said detection and monitoring plan shall include:
  - a) An appropriate number of sensing points;
  - b) Recording tape instrumentation with a demonstrated capability to detect and record in the range 5-500 ppm hydrogen sulfide, and to activate visible and audible alarms;

- c) Provisions for registering an alert at 10 ppm and an emergency at 30 ppm, with appropriate health and safety response steps for each stage as approved by the Petroleum Administrator;
- d) An implementation schedule for said plan. Approval of the plan shall not be unreasonably withheld by the Petroleum Administrator.

(3) Operations shall be conducted so that ambient gas concentrations shall not exceed any of the following hydrogen sulfide concentrations for the corresponding time intervals:

10 ppm for more than eight hours.

30 ppm for more than one hour.

100 ppm for more than ten minutes.

200 ppm for more than five minutes.

300 ppm for more than one minute.

500 ppm for instantaneous.

Operations of petroleum facilities where ambient concentrations exceed 10 ppm at any sensing point designated in the approved monitoring plan shall immediately take steps to reduce such ambient concentrations to below 10 ppm for the above specified time period, with facility shutdown required if necessary. Facilities at which concentrations exceed the above specified limits more than twice in one month or four times in one year, except for acts of God, riots and vandalism, shall require shutdown until the facility can be operated within the required regulations.

- (c) Personnel safety and protection shall comply with the requirements of the state division of industrial safety and/or the regulations of the state occupational safety and health act, whichever is the more restrictive. Any violation coming to the attention of the Petroleum Administrator shall be referred to the appropriate agency.
- (d) Odor nuisances may be referred by the Petroleum Administrator to the APCD for enforcement.

**Sec. 25-26. Drilling and Well Servicing Structures.**

All drilling and well servicing structures shall be portable, be of proper design, and be maintained to sufficiently perform the intended job. The Petroleum Administrator may require proof as to the capacity of any equipment.

**Sec. 25-27. Storage**

Containment facilities including walls and berms shall be designed and constructed so as to prevent the escape of fluids from the immediate storage area and be of sufficient size to contain one and one half times the capacity of the largest tank.

- (a) Petroleum storage tanks shall be designed, constructed, installed, and maintained in accordance with all applicable laws and regulations.
- (b) New storage facility tank locations shall install an impervious, not less than 40 ml liner, or equivalent, to prevent seepage. This requirement may be modified at the discretion of the Petroleum Administrator.

**Sec. 25-28. Piping.**

All piping systems shall be designed, constructed, operated and maintained in accordance with all applicable laws and regulations.

If the pipeline systems are found to be unreliable or deficient, the Petroleum Administrator may order the repair or replacement of the pipeline section or system, as necessary to remedy the situation. The Petroleum Administrator may require tests and inspections to establish the reliability of pipeline systems including those not specifically regulated by state or federal authority (including testing, treating, and storage facilities).

**Sec. 25-29. Fire Prevention and Control Equipment.**

A minimum of two fire extinguishers shall be maintained at each tank battery and at all well locations where drilling, servicing or repair work is being conducted. Each such extinguisher

shall have a minimum classification of 10 ABC as set forth in N.F.P.A. No. 10, "Standard for the Installation for Portable Fire Extinguishers," and any amendments or successors thereto.

The California Fire Code, ~~Article 79~~, is applicable hereto. Specifically, no smoking will be permitted within fifty feet of any well, tank or area where hydrocarbons are present and no waste gas venting will be permitted. The Petroleum Administrator shall inform the County Fire Department when an oil well drilling permit has been filed.

**Sec. 25-30. Secondary and Enhanced Operations.**

Primary recovery projects include any such operation where naturally occurring hydrocarbons are produced by natural flow. Secondary and enhanced recovery projects (collectively known as secondary operations) include any such operation where the flow of hydrocarbons into a well is aided or induced with the use of injected substances including but not limited to the injection of water, natural gas, steam, air, CO<sub>2</sub>, nitrogen, chemical substances and any other approved substance or combination thereof.

- (a) Surface equipment associated with all secondary and enhanced recovery operations that occur within 200 feet of a school, residence, public building or facility, public thoroughfare, highway, navigable waterway, or park shall be subject to periodic inspections by the Petroleum Administrator as appropriately specified by applicable regulations and standards.
- (b) The Petroleum Administrator may impose reasonable conditions upon review of the notification of intent to engage in secondary and enhanced operations (Section 25-~~8~~7(B)), when operations involve the use and handling of hazardous materials that could endanger surface waterways or subsurface fresh water strata.
- (c) Surface equipment used in secondary recovery projects shall be adequately posted with appropriate warning signs.

- (d) With the notice of intention to engage in secondary recovery, the operator, shall also submit to the Petroleum Administrator, such information as may be required to reasonably satisfy the Petroleum Administrator that the necessary safety requirements of this chapter have been met. The operator shall not commence such secondary recovery operations until forgoing requirements have been met.
- (e) The Petroleum Administrator may require proof that the secondary recovery operations will not constitute a nuisance or damage the surface or subsurface fresh water strata.

**Sec. 25-31. Well Abandonment and Lease Restoration Procedure.**

- (a) Well Abandonment:

Prior to starting the plugging and abandonment of any well, the operator shall furnish the Petroleum Administrator with copies of the DOGGR notices required in Section 25-8, a copy of the DOGGR Permit to Conduct Abandonment Operations and the anticipated date the plugging and abandonment operations are to commence. Any substantial changes in procedure or schedule shall likewise be furnished to the Petroleum Administrator by the operator.

- (1) The subsurface plugging and abandonment of the well shall be done in accordance with current DOGGR regulations. The operator shall furnish the Petroleum Administrator with the DOGGR notice required in section 25-8(G) to verify compliance with all DOGGR requirements.
- (2) All drilling, production and appurtenant equipment, including pipelines, designated for the exclusive use of the subject well shall be removed. Existing pipelines and equipment designated for current operations may be left in place. The operator may petition the Petroleum Administrator to leave equipment and pipelines, designated for future use, in place.

- (3) The well casing shall be cut off at least five feet below the ground level. Nothing shall be placed in the excavation above the point of cutoff until the cutoff has been inspected by the Petroleum Administrator.
- (4) The surface cement plug depth shall conform to the requirements of the DOGGR.
- (5) A steel cap of not less than the same thickness as the well casing shall be welded to the casing. The steel cap shall be located via GPS and the well number and API number shall be welded on the top of the casing.
- (6) An investigation shall be conducted to determine if a sump or pit is present. If a sump or pit is found to be present it will be remediated per an approved plan.
- (7) All cellars and surface concrete structures shall be removed. Tie downs shall be removed to a minimum of 6' below ground surface. Soil below the cellars shall be tested for hydrocarbon contamination. If contamination is found to be present the area shall be remediated. All excavations and depressions shall be filled with clean soil. All oil, waste oil, refuse and waste material shall be removed from the drill site pursuant to all applicable laws and regulations.

(b) Lease Restoration:

- (1) The Petroleum Unit will be the coordinating agency. The Petroleum Unit will coordinate with Grading, Planning & Development, the Fire Department and other agencies, as required, to ensure all lease restoration requirements have been addressed.
- (2) Schedule. Prior to the abandonment of the last well on a lease, the operator shall file with the Petroleum Administrator a plan, for approval, to restore the lease to a condition in conformance with State, County, and local ordinances.

- a) Partial lease restoration/remediation activities may be conducted at any time as detailed in this Chapter. The record of any partial lease restoration shall be kept on file by the Petroleum Administrator as part of the final restoration package.
- b) Facilities idle for over fifteen years that have no reasonable potential of future use and:
  - i) Are a potential threat to public health or
  - ii) Are a potential threat to the environment or
  - iii) At the request of the surface owner shall be removed in a timely manner. For the purposes of this paragraph, a lack of reasonable potential of future use may be indicated by the cancellation of APCD permits, a continuous lack of maintenance around the facility, or similar indications as determined by the Petroleum Administrator of *de facto* abandonment. Upon request, the operator shall submit to the petroleum administrator a list of all facilities that have been idle for over ten years. To retain such facilities after the fifteen year limitation, the operator shall submit to the Petroleum Administrator for approval a letter justifying why said facility is of value and should not be removed.
- c) Equipment Removal:
  - i) Tank batteries, production islands, gas treating/compression areas, all appurtenant equipment areas, pipelines and foundations shall be removed. An investigation shall be conducted to determine if soil contamination is present. If soil contamination is found, the area will be remediated per the approved plan.
  - ii) Flow lines and utilities. All flow lines, gathering lines and other lease pipelines shall be flushed with water and removed, unless due to location the removal will cause more environmental damage than the potential benefit by its removal. The soil shall be sampled along the lines at a rate specified in the approved plan. Power and telephone

lines shall be removed. Transformer locations that existed prior to 1970 shall be tested for PCBs.

- iii) All buildings shall be removed from the lease. Buildings and areas used for storage and /or testing shall have an investigation to determine if soil contamination exists. If soil contamination is found the impacted area shall be remediated per an approved plan.
- iv) Sumps, pits and areas of soil contamination. An investigation shall be conducted in locations of historic sumps, pits and known soil contamination. If soil impacts are identified, the areas shall be remediated per the approved plan. The original soil contamination locations shall be determined by GPS coordinates and shall be permanently kept on file by the Petroleum Administrator.
- v) Roads and well site: Roads and well sites shall be removed and the areas re-contoured to as close to natural slope as reasonable.
- vi) Completion: Upon completion of full site restoration the Petroleum Administrator will furnish a closure letter to the operator.
- vii) Modification of Conditions of lease restoration: Any of the above conditions may be waived by the Petroleum Administrator for appropriate purposes such as, but not limited to, requests to leave in place:
  - [a] Roads and well site pads
  - [b] Power and telephone lines
  - [c] Pipelines
  - [d] Concrete pads
  - [e] Buildings

- (c) The operator shall furnish the Petroleum Administrator with sufficient evidence to verify compliance with all state requirements.

(d) Exception: The Petroleum Administrator may modify any of the above conditions upon demonstration of good cause by the applicant that the intent of the above conditions has been met.

**Sec. 25-32. Removal of Drilling and Service Equipment.**

Drilling operations in any well shall be diligently prosecuted until the well is completed or abandoned. All drilling equipment and the derrick shall be removed from the drill site and leased premises within sixty days following the completion or abandonment of any well, unless permitted to be temporarily stored on the drill site by written authority of the Petroleum Administrator after the derrick has been lowered. Service equipment for existing wells will likewise be removed within sixty days of completion of the rework, unless otherwise permitted by the Petroleum Administrator.

Idle equipment shall be stored and maintained in an orderly fashion on well sites or moved to a designated storage area on the lease.

**Sec. 25-33. Right of Entry.**

The Petroleum Administrator, or his assistants and deputies, in the performance of the duties herein prescribed, has authority to enter upon and into any and all premises under his jurisdiction at all reasonable hours for the purpose of inspecting the same to determine whether or not the provisions of this code and of all other applicable laws or ordinances are observed therein; provided that a reasonable effort to locate the operator or other person having charge or control of the property will be made to request entry and explain the reason for entering.

Notwithstanding the foregoing, if the Petroleum Administrator has reasonable cause to believe that there exists any condition on the property unsafe or dangerous which may require immediate inspection to safeguard the public safety, the Petroleum Administrator shall have the right to immediately enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection. The operator shall permit such entry and hold

harmless and indemnify the Petroleum Administrator and the county from any liability in connection with lawful entry hereunder.

There shall be at least one gate that is of sufficient width to give access. The gate shall be locked at all times when the property is unattended and a key or combination shall be made available to the Petroleum Administrator for emergency purposes. Such key or combination is for this specific purpose only, and to give either to anyone other than members of his staff shall be a misdemeanor.

**Sec. 25-34. Surface Inspections.**

Inspections will be performed as discussed by other sections of this ordinance. Any noncompliance items noted during an inspection will be brought to the attention of the operator, agent, or their representative for corrective action. Failure to correct noncompliance items is a violation of the provisions of this code, and thereby constitutes grounds for an order to cease noncompliant operations and/or other penalties as specified in sections 25-7 and 25-15.

**Section 25-35. Hazardous Conditions or Nuisances.**

- (a) In the event that the Petroleum Administrator determines at any time that any operations covered under this chapter constitute an imminent threat to public health, safety or the environment, he/she shall have the right to compel the operator to take appropriate action, within a time frame identified by the Petroleum Administrator, to mitigate the situation. In the event that the operator cannot be located, the Petroleum Administrator may take the necessary steps to mitigate the immediate threat and stabilize the situation, until such time as the operator can respond. The operator shall be responsible for reimbursement of all reasonable costs to the County associated with the mitigation activities.
  
- (b) In the event that substantial damage to the environment and/or public health results from the activity listed above, the operator shall be responsible for remediation of such damage within a reasonable period of time. If, in the judgment of the Petroleum Administrator, such remediation activities are not initiated within a reasonable period of time, the Petroleum Administrator may issue a notice of intent to initiate remediation and that the operator shall

be responsible for funding the remediation. The County shall issue said notice at least 30 days prior to commencement of remedial activities. The operator may respond by 1) initiating remedial activities within the 30-day period or 2) filing an appeal. In the absence of one of these actions the County may order the remediation at the cost of the operator.

**Sec. 25-36. Hazardous equipment.**

Equipment and appurtenances hazardous to life or limb shall be attended twenty-four hours a day, or enclosed, in all inhabited, urban or common places or public use areas where there is reasonable likelihood of potential danger to life and limb. Such enclosure, where such danger to humans exists, shall provide adequate fencing protection.

**Sec. 25-37. Pollution.**

Any discharge of oil or wastes to surface or subsurface waters or land, by oil field operations, shall not be allowed except when authorized by permit, ordinance or law. Oil spills or wastes shall be kept to a minimum and shall be prevented from entering stream courses or adjacent property by the construction of dams, levees, ditches or other structures consistent with requirements of county, state and federal authorities.

**Sec. 25-38. Sumps.**

Rotary mud, drill cuttings, petroleum and all oil field wastes derived or resulting from, or connected with, the drilling or producing of any well, shall be discharged into a sump impervious to fluids. Such discharges shall be removed from the drill site within a reasonable period of time to authorized locations upon completion of drilling, testing or work over operations. Tanks used as sumps shall be removed and sumps shall be pumped out, their fluids disposed in a properly designated area and properly backfilled within a reasonable period of time. No unlined or unscreened skimming ponds, separation basins or storage reservoir for salt water, oil field wastes or oil field products will be permitted.

**Sec. 25-39. Oilfield Waste Transporters.**

(a) Oil field wastes determined to be hazardous materials as defined by the State of California and that are to be transported offsite shall be handled and disposed of by the operator at an

approved hazardous materials disposal location or remediated to a non-hazardous level with the appropriate approvals. Such hazardous waste materials transported offsite shall have manifests documenting the disposition of the material. The transporter of the hazardous waste material shall have all state, county, and local licenses and approvals to haul the material and shall be responsible for delivery of the wastes to the disposal location.

- (b) Non-hazardous oilfield wastes at the time of their disposal shall be disposed of in an appropriate method for the material as determined by the operator with the appropriate approvals for the safe handling and the transportation.
- (c) Materials transported between locations on the same lease shall be transported in a manner that minimizes spills of oil, produced water and hazardous materials.

**Sec. 25-40. Cellars.**

Each cellar shall be constructed in accordance with generally accepted safe oil field practice. Except as may be occasionally necessary, during drilling and servicing operations, such cellars shall not exceed a liquid depth of 50 percent of the depth of the cellar. The oil/petroleum depth may not exceed 2 inches and be kept free from water, petroleum, drilling fluids or other substances which might constitute a hazard. Cellars will be covered any time they are unattended, sufficiently to prevent people, animals or items from falling inside.

**Sec.25-41. Signs.**

Each formal point of public entry shall have signage indicating operator name, contact information and site address or lease name. Each well and each tank setting will have a sign or other designation, clearly legible from a distance of twenty-five feet, which contains the current operator's name, the lease name and well number. In the event there are more than two wells on one drill site, it shall be sufficient if the entrance to said drill site is posted with a sign bearing the name of the operator and the name of the lease, together with a plainly visible sign on each producing well designating the particular number thereof, all clearly legible from a distance of twenty-five feet.

**Sec. 25-42. Severability.**

If any section, subsection, sentence, clause, or phrase of this Code or the application thereof to any person or circumstance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Code or the application of such provisions to other persons or circumstances. The Board of Supervisors hereby declares that it would have approved this Code or any section, subsection, sentence, clause, or phrase hereto, irrespective of the fact that any ~~on one~~ or more sections, subsection, sentences, clauses or phrases should be declared to be unconstitutional.

**Section 25-43. Remediation of High Risk Operations.**

(a) Upon determination that any petroleum production, processing or storage operation meets the definition of High Risk Operation from Section 25-4, the Petroleum Administrator shall give the owner and operator written notice of his or her intent to declare the operation a High Risk Operation under this Code Section. The goal of this section shall be to remediate the high risk operation and bring the facility and the operator within normal, safe operating standards and protect the public safety, health and environment. The written notice of the intent to declare the operation a High Risk Operation shall include:

- 1.) Facts substantiating the declaration; and
- 2.) An advisory regarding the right to appeal the declaration pursuant to Section 25-43(c).

~~(a)~~(b) Along with the determination of the facility being a High Risk Operation, the Petroleum Administrator:

- ~~1.) m~~1.) ~~May undertake an investigation of the causes leading up to the high risk designation and/or, and;~~
- ~~2.) shall make findings as to cause; and~~
- ~~2.) s~~2.) ~~shall approve a mandatory remediation plan prepared by the Operator plan for remediating the causative problems, including a mandatory schedule for~~

accomplishment of the remediation plan. Such plan shall include, but is not limited to:

- a) A mandatory remediation schedule for bringing the facility and operator within normal, safe operating standards. Such schedule does not supersede any timeline for abatement otherwise established for individual outstanding violations.
- b) An audit of overall facility operation(s).
  - i. The audit shall be conducted by an independent third party approved by the Petroleum Administrator. Costs associated with the audit shall be borne by the Operator;
  - ii. The audit shall identify and analyze the root causes leading to the high risk designation;
  - iii. The audit shall further identify and analyze other potential areas in overall facility operation that could impact the facility's ability to operate within safe and normal standards (e.g. personnel training, operational policies, internal procedures, etc);
  - iv. Provide a plan for remediating all issues identified in the audit, including a mandatory schedule for remediating those issues. Such schedule shall be approved by the Petroleum Administrator.
  - v. The audit may be ordered in lieu of, or in addition to the investigation undertaken by the Petroleum Administrator.
- c) Any other requirements the Petroleum Administrator deems necessary to bring the facility and operation within normal, safe operating standards for the purposes of protecting the public safety, health and environment.

(c) The Owner or Operator of any such facility may appeal the applicability of the definition of "High Risk Operation" to the facility, the factual determination regarding the cause of the problems causing the high risk, or the efficacy and reasonableness of the proposed remediation to the Petroleum Administrator and shall have the opportunity to present

evidence to the Petroleum Administrator at a noticed hearing. The appeal must be submitted in writing within fifteen days of receipt of the notice of intent to declare the facility a high risk operation issued pursuant to Section 25-43(a) above. The Owner or Operator of any such facility may appeal any decision of the Petroleum Administrator to the Director of Planning and Development, and the appeal shall be solely on the issue of facts and existing administrative record previously before the Petroleum Administrator as to the applicability of the definition to the operation, the factual determination regarding the cause of the problems causing the high risk and the efficacy and reasonableness of the proposed remediation. Any decision of the Director of Planning and Development after appeal may be further appealed to the Board of Appeals pursuant to Sections 25-16, 25-17 and 25-18 and that appeal shall be solely on the facts and existing administrative record previously before the Petroleum Administrator as to the applicability of the definition to the operation, the factual determination regarding the cause of the problems causing the high risk and the efficacy and reasonableness of the proposed remediation.

(b)(d) The Owner or Operator of the High Risk Operation shall carry out the approved remediation plan and shall be responsible for paying all reasonable costs associated with the implementation of the plan, including:

1. County staff time in enforcing these provisions at an hourly rate that provides for full cost recovery of the direct and indirect costs including A-87 Cost Plan charges. Staff time shall include, but is not limited to, the ongoing monitoring and verification of compliance with the approved remediation plan;
2. Investigative, research and consulting costs associated with preparation of the remediation plan;
3. Third party costs for investigation, consultation, engineering, clean-up, operator staff training, operations and all other related costs necessary to carry out the remediation plan;
4. Any other costs necessary to remediate the high risk operation as ordered by the Petroleum Administrator.

~~(e)~~(e) Should any additional facility owned or operated by the Owner or Operator of the High Risk Operation facility meet the definition of a High Risk Operation within the period in which one facility is so declared or if more than one facility initially meets the definition thereof, the Petroleum Administrator shall have authority to declare the Owner or Operator to be a High Risk Operator and order a remediation plan which may include other petroleum facilities located in the County and under the control of the High Risk Operator. Any petroleum facilities included in such multi-facility remediation plan shall be designated High Risk Operations. An order requiring a remediation plan for any other petroleum facilities located in the County and under the control of the High Risk Operator shall be ordered only in cases where it is determined that the Operator is operating more than one facility in such a manner that indicates common risk factors, management practices or failures, safety procedures, operational or logistical errors, training deficiencies or other Operator caused problems are likely to exist at multiple facilities and such multi-facility remediation plan shall be ordered to include any facilities which the Petroleum Administrator determines may be impacted by such common problems. Any High Risk Operator, so designated, or the Owner of any facility designated for such County-wide remediation plan may appeal this order in the same manner as outlined in paragraph (c). Any facility in such multi-facility remediation plan shall be removed from the remediation plan when the goals and guidelines of the remediation plan are achieved for that facility.

~~(d)~~(f) At the sole discretion of the Petroleum Administrator, at any time during which a facility or Operator is subject to this Section, the Petroleum Administrator may require a bond be posted to cover the cost of remediating the causative problems of the High Risk Operation.

~~(e)~~(g) The designation of High Risk Operations or High Risk Operator shall continue to apply until the goals and guidelines of the remediation plan established hereunder is achieved. The High Risk Operator shall notify the Petroleum Administrator when a milestone in the remediation plan pursuant to Section 25-43(b)(2) has been satisfied. The Petroleum Administrator may conduct independent verification of the compliance upon such notification. The remediation plan may be amended from time to time as necessary to

achieve the purposes of this section. Any change to the remediation plan shall be subject to appeal in the same manner as the original remediation plan pursuant to paragraph (c) above.

~~(f)~~(h) Failure of the Owner or operator of a High Risk Operation to post a bond required under this section, prepare the remediation plan within a reasonable timeframe as ordered by the Petroleum Administrator, or to reasonably achieve the goals and guidelines of an approved remediation plan under this section may be cause for a shutdown of the High Risk Operation[s] or any other petroleum operations located in the County that are co-owned or co-operated by the High Risk Operator, at the discretion of the Petroleum Administrator. A shut down order under this subsection may be appealed by the High Risk Operator or any Owner affected, to the Director of Planning and Development. Any decision of the Planning and Development Director after appeal may be appealed to the Board of Appeals pursuant to Sections 25-16, 25-17 and 25-18. Any shut-down order issued under this section shall be cancelled when the cause of the shut down order has been remediated. ~~goals and guidelines of the remediation plan are achieved for that facility.~~

~~(g)~~(i) Any County costs associated with enforcement of this section which are not promptly paid by the Owner or Operator shall be subject to enforcement by tax bill lien, or other civil collection methods.

~~(h)~~(j) The County may seek judicial order to enforce provisions of this Section and Code to protect the public health, safety and environment, including injunctive relief, abatement of nuisance and receivership.

~~(k)~~ Nothing in this Section shall be deemed to prevent any other enforcement or applicability of any other relevant laws.

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**SECTION TWO**

This ordinance shall take effect and be in force thirty days from the date of its passage, and before the expiration of fifteen days after its passage it shall be published, with the names of the members of the Board of Supervisors voting for and against the same, in the Santa Barbara NewsPress, a newspaper of general circulation published in the County of Santa Barbara.

**PASSED, APPROVED AND ADOPTED** by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_th day of \_\_\_\_\_, 2011 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

\_\_\_\_\_  
JONI GRAY  
Chairperson, Board of Supervisors  
County of Santa Barbara  
State of California

ATTEST:  
CHANDRA WALLAR  
Clerk of the Board

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
DENNIS A. MARSHALL  
County Counsel

By: \_\_\_\_\_  
Kevin E. Ready, Sr.  
Senior Deputy County Counsel