|  |  |  |
| --- | --- | --- |
| Federal and State Citations | Initial Statement of Reasons Justifications | Advisory Committee Comments |
| **112.6 Qualified Facilities Plan Requirements.**  **112.6 (a)(1) Preparation and Self-certification of the Plan**  **112.6 (a)(2) Technical Amendments**  **112.6(3) Plan Template and Applicability Requirements** | **Introduction**  These regulations use 40 CFR 112.6 as a model for state specific regulations for TIUGA tank facilities with less than 1,320 gallons oil storage capacity.  TIUGA Tank Facilities are not regulated by the federal government, however, California state law does require regulations for these tank facilities.  The spill prevention, control, and countermeasure plan standards in the federal regulations are a model for these regulations. All modifications to the federal regulations adapt the safety standards with state law and technical elements that are specific to for a Tank Facility with Tank(s) in an Underground Area and Less Than 1,320 Gallon Oil Storage Capacity. |  |
| Acronyms | Aboveground Petroleum Storage Act (APSA)  Code of Federal Regulations (CFR)  Professional Engineer Certified Plan (PE Certified Plan)  Spill Prevention, Control, and Countermeasure Plan (SPCC Plan)  Tank in an Underground Area (TIUGA) |  |
| Nonsubstantive changes:  **Federal Regulations**  Plan  §  40 CFR 112.X  **State Regulations**  SPCC Plan  Symbol  Section 112.X | **Modifications**  Plan changed to SPCC Plan.  This is a nonsubstantive change. However, the OSFM anticipates that specifying that the Plan is a Spill Prevention Control and Countermeasure (SPCC) Plan will improve readability and clarity stakeholders.  **Federal**  Federal regulations use the term Plan.  Federal regulations use the symbol “§.”  Federal regulations 40 CFR Part 112.X.  **State**  These regulations will use SPCC Plan.  The symbol “§” spelled out as Section for consistency with the other APSA program regulations.  Referenced as Section 112.X. |  |
| In these regulations, each citation of Section 112.XX means Sections of 40 CFR Part 112. These regulations generally cite specific Sections instead of the entire Part. | Spill Prevention, Control, and Countermeasure Plan (SPCC) Plan Requirements for a Tank Facility with 55 gallon or larger Tank(s) in an Underground Area (TIUGA) and Less Than 1,320 Gallon Oil Storage Capacity.  The citation for 40 CFR 112 is changed to Section 112 to differentiate these regulations from the original federal regulations and for general readability. |  |
| **Federal**  Section 112.2, Definition of Oil  **State**  Health and Safety Code 25270.2, Definition of Petroleum | **Modifications**  Oil is generally replaced with petroleum, because the APSA program is limited to petroleum as defined in Health and Safety Code Section 25270.2.  The term oil is used when determining what type of SPCC Plan. A facility has to calculate their total aboveground storage capacity using all oils, not just petroleum, as defined. Facilities with a total storage capacity greater than 1,320 of all oils including petroleum are required to prepare an SPCC Plan using the self-certified plan (Tier 1 or Tier 2 qualified facility), or Professional Engineer (PE) certified plan. Those facilities may not use this TIUGA Template.  However, TIUGA tank facility criteria is calculated using the state’s definition of petroleum.  **Federal**  Section 112 includes an expansive definition of oil. This includes additional products such as animal oil and vegetable oils, in addition to petroleum products. Federal regulations also apply to these products at a variety of states in pressure and temperature.  **State**  The APSA program regulates petroleum that meets specific criteria at a certain temperature and pressure. The federal safety regulations are applicable to this product, in addition to a variety of other types of products. |  |
| **Federal:**  Section 112.2, Definition of Bulk Storage Container  Section 112.3 (g), Tier 1 qualified facility and Tier 2 qualified facility  **State:**  Health and Safety Code Section 25270.2(a)  Storage tank, Aboveground Storage Tank  Health and Safety Code Section 25270.2(o)  TIUGA | **Changes:**  Tier 1 Qualified Facilities, Tier 2 Qualified Facilities are all changed to Tank Facilities as defined in Health and Safety Code Section 25270.2 because this TIUGA template is specific to TIUGA Tank Facilities.  Bulk Storage Container is changed to tank or TIUGA.  This TIUGA template uses the federal template as a model. All facilities discussed in these regulations are tank facilities with stationary TIUGAs. The TIUGA tank facilities that would use this TIUGA template do not meet the qualified facility criteria because they are less than 1,320 gallons of oil.  **Federal**  Section 112.3 (g) defines qualified facility and includes Tier 1 qualified facilities and Tier 2 qualified facilities.  Section 112.2 defines Bulk Storage Container.  **State**  Defines Tank in an Underground Area. |  |
| **Federal**  Section 112.3(g) and 112.6 (a)  **State**  Health and Safety Code Sections 25270.4.5(a) and 25270.4.5(c) | **Federal**  Section 112.3 (g) and Section 112.6 (a) describe the options for owners or operators to prepare and implement an SPPC Plan based on requirements of the template in Section 112.6 or an alternative plan that meets these requirements.  **State**  Requires owners or operators of a TIUGA tank facility to prepare an SPCC Plan using good engineering practices. Health and Safety Code Section 25270.4.5 (a) and 25270.4.5(c) allow owners or operators of a TIUGA tank facility to use the template provided in Section 112 or the format adopted by the OSFM. |  |
|  |  |  |

**Regulations**

|  |  |  |  |
| --- | --- | --- | --- |
| **Heading** | Comments for Federal Changes | Edits for TIUGA Regulations | Advisory Committee Notes |
|  | Health and Safety Code Section 25270.2 (o)  Health and Safety Code Section 25270.3(c)(1) and (c)(2)  Health and Safety Code Section 25270.4.5(a) |  |  |
| **Introduction and Title**  **§ 112.6 Qualified Facilities Plan Requirements.** | **Introduction and Title**  The federal regulations apply to facilities that qualify as Tier 1 and Tier 2 based on criteria in 40 CFR 112. The spill prevention, control, and countermeasure regulations for Tier 1 and Tier 2 qualified facilities are generally applicable to TIUGA tank facilities. All modifications to the federal regulations are to accommodate state law or technical requirements specific to TIUGA Tank Facilities with less than 1,320 gallon oil storage capacity.  The title is edited to reflect TIUGA as described in Health and Safety Code 25270.3 (c)(1) and (c)(2). These facilities are smaller in size and have a tank in an underground area, as defined.  State law is more stringent than federal law because state law requires comparable safety measures for tank facilities that have a smaller storage capacity than Tier 1 and Tier 2 qualified facilities. Tank facilities that are of larger capacity and also a TIUGA are required to be compliant with APSA regulations generally.  Additional title is added to identify the acronyms SPCC and TIUGA in this document.  **Modifications:**  The term qualified does not apply because the facilities that will use this TIUGA template are differentiated using criteria in the California Health and Safety Code and not the federal regulations. These regulations are specific to Spill Prevention, Control, and Countermeasure Plan (SPCC) Plan Requirements for a Tank Facility with Tank(s) in an Underground Area (TIUGA) and Less Than 1,320 Gallon Oil Storage Capacity.  Federal regulations do not require facilities of less than 1,320 Gallon Oil Storage Capacity to meet safety standards. However, the California Health and Safety Code is more stringent than federal regulations and do require facilities of less than 1,320 Gallons of Oil Storage Capacity to meet safety standards.  References to Sections 112.9-112.12 are removed because these technical elements are not applicable to APSA.  The symbol “§” is spelled out as Section for consistency with the other APSA program regulations.  Most references to “oil” as defined in Section 112.2 are modified to read “petroleum” as defined in Health and Safety Code Section 25270.2(h).  Health and Safety Code Section 25270.2 (o) defines TIUGA tank facility and 25270.2(h) defines petroleum.  Health and Safety Code Section 25270.3(c)(1) and (c)(2) are the applicability for TIUGA tank facilities.  Health and Safety Code Section 25270.4.5(a) requires APSA tank facilities, except for conditionally exempt tank facilities, to prepare an SPCC Plan using the same format as the federal SPCC Rule.  Health and Safety Code Section 25270.4.5(c) allows TIUGA Tank facilities to use the alternative format (TIUGA template) adopted by the OSFM. | Section XXXSpill Prevention, Control, and Countermeasure Plan Requirements for a Tank Facility with Tank(s) in an Underground Area and Less Than 1,320 Gallon Oil Storage Capacity. |  |
| **Section 112.6(a)(1) Preparation and Self-Certification of the Plan.** | **Modifications:**  Consistent with the federal template, TIUGA tank facility owners or operators have the option to use the adopted TIUGA template or prepare an equivalent SPCC Plan. An equivalent plan must meet applicable requirements, be certified by a Professional Engineer, and include a supplement that cross references the equivalent requirements. In addition, owners and operators must certify that they have met certain conditions.  This section is modified to replace the Tier 1 and Tier 2 qualified facilities with TIUGA tank facilities.  These statements are modified to include Health and Safety Code requirements. The Health and Safety Code is more stringent than Section 112, however, the foundational safety regulations in Section 112 are still applicable. Therefore stakeholders must be familiar with both Health and Safety Code Chapter 6.67 and 40 CFR Part 112.  Applicability criteria is modified from federal criteria to TIUGA tank facility requirements in the Health and Safety Code that describes TIUGA tank facilities.  “Produce Water” is naturally occurring water that comes out of the ground or rocks during oil and gas extraction. TIUGA Tank facilities are not extraction facilities and do not have “produced water”. Therefore produced water containers are not needed.  \_\_\_\_\_\_\_\_\_associated piping. | (a) TIUGA Tank Facilities  (1) **Preparation and Self-Certification of the SPCC Plan.** If you are an owner or operator of a tank facility that meets the criteria in Health and Safety Code Section 25270.3(c )(1) and (c )(2), you must either: comply with the requirements of \_\_\_\_\_\_\_ (a)(3) of this section; or prepare and implement an SPCC Plan meeting requirements of \_\_\_\_\_\_(ii) of this section; or prepare and implement an SPCC Plan meeting the general SPCC Plan requirements in Section 112.7 and applicable requirements in Section 112.8, including having the SPCC Plan certified by a Professional Engineer as required under Section 112.3(d).  If you do not follow the template in XX section of these regulations, you must prepare an equivalent SPCC Plan that meets all of the applicable requirements listed in this section, and you must supplement it with a section cross-referencing the location of requirements listed in this Section and the equivalent requirements in the other prevention plan.  To complete the template XX section of these regulations, you must certify that:  (i) You are familiar with the applicable requirements of Health and Safety Code, Chapter 6.67 and 40 CFR Part 112;  (ii) You have visited and examined the tank facility;  (iii) You prepared the SPCC Plan in accordance with accepted and sound industry practices and standards;  (iv) You have established procedures for required inspections and testing in accordance with industry inspection and testing standards or recommended practices;  (v) You will fully implement the SPCC Plan;  (vi) The tank facility meets the criteria in Health and Safety Code Section 25270.3(c)(1) and (c)(2);  (vii) The SPCC Plan does not deviate from any requirement of this Section as allowed by Section 112.7(a)(2) and 112.7(d) ; and  (viii) The SPCC Plan and individual(s) responsible for implementing this SPCC Plan have the approval of management, and the tank facility owner or operator has committed the necessary resources to fully implement this SPCC Plan. | Ask Advisory Committee:  or prepare and implement an SPCC Plan meeting the general SPCC Plan requirements in Section 112.7 and applicable requirements in Section 112.8, including having the SPCC Plan certified by a Professional Engineer as required under Section 112.3(d).  Ask Committee:  Include “associated piping”?  (vii) Advisory Committee:  Direct Viewing of the exterior of the tank is not required under APSA if inspections of the interstitial space/containment are performed or if the tank has leak detection device, weather in the interstitial space or containment. |
| **Section 112(a)(2) Technical Amendments** | Applicability criteria is modified from federal criteria to TIUGA tank facility requirements in the Health and Safety Code that describes TIUGA tank facilities.  When facilities make operational changes such as storage capacity, it is necessary to reevaluate their applicability criteria.  Nonsubstantive additions made for emphasis: six months following preparation of the amendment, you must prepare and implement an SPCC plan as follows | (2) **Technical Amendments.** You must certify any technical amendments to your SPCC Plan in accordance with \_\_\_\_\_\_ XX of this section when there is a change in the tank facility design, construction, operation, or maintenance that affects its potential for a discharge as described in Section 112.1(b). If the change results in the tank facility no longer meeting the criteria in Health and Safety Code Section 25270.3(c)(1) and (c )(2) because the tank facility meets the criteria in Health and Safety Code Section 25270.3 (a) or (b), within six months following preparation of the amendment, you must prepare and implement an SPCC plan as follows: | Advisory committee  **as described in Section 112.1(b)**  112.1(b) is navigable waters, should this be edited to include other environments such as soil, not limited to navigable waters. |
| **Section 112(a)(1) non substantive modification**  **Technical Amendments** | This is a nonsubstantive formatting modification to the federal regulations. This option is provided in the federal regulations, but only appears in Section 112.6 (a)(1) and is not listed under technical amendments. These regulations are condensed and each option is presented as it relates to TIUGA tank facilities.  Background:  This option is for Tier 1 qualified facilities with up to 10,000 gallons of oil, no single tank greater than 5,000 gallons and no reportable discharge history. Tier 1 qualified facilities are also allowed to use Tier 2 qualified facility SPCC Plan or a PE Certified Plan. | (i) Prepare and implement a SPCC Plan in accordance with Section 112.6(a) if you meet the Tier I qualified facility criteria in Section 112.3(g)(1); or |  |
| **Section 112(a)(2)(i)**  **Technical Amendments** | No changes are made from federal regulations.  Background:  This option is for Tier 2 qualified facilities with up to 10,000 gallons of storage capacity, has a single tank greater than 5,000, and no reportable discharge history. Tier 2 qualified facilities are also allowed to use a PE Certified Plan. | (ii) Prepare and implement a SPCC Plan in accordance with Section 112.6(b) if you meet the Tier II qualified facility criteria in Section 112.3(g)(2); or |  |
| **Section 112(a)(2)(ii)**  **Technical Amendments** | No changes are made from federal regulations.  Background:  If a TIUGA tank facility does not meet the qualified facility criteria then the owner or operator is not allowed to self certify their SPCC Plan. Instead, they are required to prepare a professional engineer certified SPCC Plan.  TIUGA tank facilities would be required to prepare a professional engineer certified plan. This would include a facility that has up to than 10,000 gallons of oil but also has a reportable discharge history. This would also include a facility with greater than 10,000 gallons of oil. Regardless of reportable discharge history. | (iii) Prepare and implement a SPCC Plan in accordance with the general SPCC Plan requirements in Section 112.7, and applicable requirements in 40 CFR 112.8, including having the Plan certified by a Professional Engineer as required under Section 112.3(d). |  |
| **Section 112(a)(3)**  **Plan Template and Applicability Requirements** | References to Sections 112.9-112.12 are removed because they are not applicable to APSA. Health and Safety Code Chapter 6.67 requirements are added because some APSA requirements are more stringent than federal requirements. | (3) SPCC **Plan Template and Applicable Requirements.** Prepare and implement an SPCC Plan that meets the following requirements under Sections 112.7 and 112.8: introductory paragraph of Section 112.7, 112.7(a)(3)(i), 112.7(a)(3)(iv), 112.7(a)(3)(vi), 112.7(a)(4), 112.7(a)(5), 112.7(c), 112.7(e), 112.7(f), 112.7(g), 112.7(k), 112.8(b)(1), 112.8(b)(2), 112.8(c)(1), 112.8(c)(3), 112.8(c)(4), 112.8(c)(5), 112.8(c)(6), 112.8(c)(10), 112.8(d)(4). This TIUGA template has been developed to meet the requirements of Health and Safety Code Chapter 6.67 and 40 CFR Part 112. When completed and signed by the owner or operator, this template may be used as the SPCC Plan. Additionally, you must meet the following requirements: |  |
| **Section 112(a)(3)(i)**  **Plan Template and Applicability Requirements**  -**Failure Analysis in lieu of the requirements** | Modified to change oil to petroleum and specify a TIUGA instead of general equipment. | (i) **Failure analysis, in lieu of the requirements in** Section 112.7(b)**.** Where experience indicates a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to be a source of discharge), include in your SPCC Plan a prediction of the direction and total quantity of petroleum which could be discharged from the tank facility as a result of each type of major equipment failure associated with a TIUGA. |  |
| **Section 112(a)(3)(ii)**  **Plan Template and Applicability Requirements**  **Secondary Containment, in lieu of the requirements** | Modified to change mobile or portable oil storage containers to tank, because TIUGAs are all stationary storage tanks. | (ii) **TIUGA secondary containment, in lieu of the requirements in** Section**s** 112.8(c)(2) **and** (c)(11) **and** 112.12(c)(2) **and** (c)(11)**.** Construct all TIUGAs, so that you provide a secondary means of containment for the entire capacity of the largest single storage tank plus additional capacity to contain precipitation. ~~Dikes, containment curbs, and pits are commonly employed for this purpose~~. ~~You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a catchment basin or holding pond.~~ | Ask Advisory Committee:  Confirm that this aligns with the 25270.2 (o) statutory requirements.  Feedback on these two struck out sentences.  Would this apply to TIUGAs? Since they are already in an underground structure that could serve as a containment.  What about the piping requirement for category 4 TIUGAs? |
| **Section 112(a)(3)(iii)**  **Plan Template and Applicability Requirements**  **Overfill prevention, in lieu of the requirements** | Modified to change container to TIUGA. | (iii) **Overfill prevention, in lieu of the requirements in** Section 112.8(c)(8) **and** 112.12(c)(8)**.** Ensure that each TIUGA is provided with a system or documented procedure to prevent overfills of the TIUGA, describe the system or procedure in the SPCC Plan and regularly test to ensure proper operation or efficacy. |  |

**Copy of Code of Federal Regulations 112.6(a) for reference.**

## § 112.6 Qualified Facilities Plan Requirements.

Qualified facilities meeting the Tier I applicability criteria in § 112.3(g)(1) are subject to the requirements in paragraph (a) of this section. Qualified facilities meeting the Tier II applicability criteria in § 112.3(g)(2) are subject to the requirements in paragraph (b) of this section.

(a) **Tier I Qualified Facilities** —

(1) **Preparation and Self-Certification of the Plan.** If you are an owner or operator of a facility that meets the Tier I qualified facility criteria in § 112.3(g)(1), you must either: comply with the requirements of paragraph (a)(3) of this section; or prepare and implement a Plan meeting requirements of paragraph (b) of this section; or prepare and implement a Plan meeting the general Plan requirements in § 112.7 and applicable requirements in subparts B and C, including having the Plan certified by a Professional Engineer as required under § 112.3(d). If you do not follow the appendix G template, you must prepare an equivalent Plan that meets all of the applicable requirements listed in this part, and you must supplement it with a section cross-referencing the location of requirements listed in this part and the equivalent requirements in the other prevention plan. To complete the template in appendix G, you must certify that:

(i) You are familiar with the applicable requirements of 40 CFR part 112;

(ii) You have visited and examined the facility;

(iii) You prepared the Plan in accordance with accepted and sound industry practices and standards;

(iv) You have established procedures for required inspections and testing in accordance with industry inspection and testing standards or recommended practices;

(v) You will fully implement the Plan;

(vi) The facility meets the qualification criteria in § 112.3(g)(1);

(vii) The Plan does not deviate from any requirement of this part as allowed by § 112.7(a)(2) and 112.7(d) or include measures pursuant to § 112.9(c)(6) for produced water containers and any associated piping; and

(viii) The Plan and individual(s) responsible for implementing this Plan have the approval of management, and the facility owner or operator has committed the necessary resources to fully implement this Plan.

(2) **Technical Amendments.** You must certify any technical amendments to your Plan in accordance with paragraph (a)(1) of this section when there is a change in the facility design, construction, operation, or maintenance that affects its potential for a discharge as described in § 112.1(b). If the facility change results in the facility no longer meeting the Tier I qualifying criteria in § 112.3(g)(1) because an individual oil storage container capacity exceeds 5,000 U.S. gallons or the facility capacity exceeds 10,000 U.S. gallons in aggregate aboveground storage capacity, within six months following preparation of the amendment, you must either:

(i) Prepare and implement a Plan in accordance with § 112.6(b) if you meet the Tier II qualified facility criteria in § 112.3(g)(2); or

(ii) Prepare and implement a Plan in accordance with the general Plan requirements in § 112.7, and applicable requirements in subparts B and C, including having the Plan certified by a Professional Engineer as required under § 112.3(d).

(3) **Plan Template and Applicable Requirements.** Prepare and implement an SPCC Plan that meets the following requirements under § 112.7 and in subparts B and C of this part: introductory paragraph of §§ 112.7, 112.7(a)(3)(i), 112.7(a)(3)(iv), 112.7(a)(3)(vi), 112.7(a)(4), 112.7(a)(5), 112.7(c), 112.7(e), 112.7(f), 112.7(g), 112.7(k), 112.8(b)(1), 112.8(b)(2), 112.8(c)(1), 112.8(c)(3), 112.8(c)(4), 112.8(c)(5), 112.8(c)(6), 112.8(c)(10), 112.8(d)(4), 112.9(b), 112.9(c)(1), 112.9(c)(2), 112.9(c)(3), 112.9(c)(4), 112.9(c)(5), 112.9(d)(1), 112.9(d)(3), 112.9(d)(4), 112.10(b), 112.10(c), 112.10(d), 112.12(b)(1), 112.12(b)(2), 112.12(c)(1), 112.12(c)(3), 112.12(c)(4), 112.12(c)(5), 112.12(c)(6), 112.12(c)(10), and 112.12(d)(4). The template in appendix G to this part has been developed to meet the requirements of 40 CFR part 112 and, when completed and signed by the owner or operator, may be used as the SPCC Plan. Additionally, you must meet the following requirements:

(i) **Failure analysis, in lieu of the requirements in § 112.7(b).** Where experience indicates a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to be a source of discharge), include in your Plan a prediction of the direction and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure.

(ii) **Bulk storage container secondary containment, in lieu of the requirements in §§ 112.8(c)(2) and (c)(11) and 112.12(c)(2) and (c)(11).** Construct all bulk storage container installations (except mobile refuelers and other non-transportation-related tank trucks), including mobile or portable oil storage containers, so that you provide a secondary means of containment for the entire capacity of the largest single container plus additional capacity to contain precipitation. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a catchment basin or holding pond. Position or locate mobile or portable oil storage containers to prevent a discharge as described in § 112.1(b).

(iii) **Overfill prevention, in lieu of the requirements in §§ 112.8(c)(8) and 112.12(c)(8).** Ensure that each container is provided with a system or documented procedure to prevent overfills of the container, describe the system or procedure in the SPCC Plan and regularly test to ensure proper operation or efficacy.