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| **Acronyms** | APSA – Aboveground Petroleum Storage Act  AST – aboveground storage tank  ATG – automatic tank gauge  CCR – California Code of Regulations  CFC – California Fire Code  CFR – Code of Federal Regulations  CERS – California Environmental Reporting System  CUPA – Certified Unified Program Agency  HMBP – Hazardous Materials Business Plan  HSC – Health and Safety Code  NFPA – National Fire Protection Association  OES – Office of Emergency Services  OSFM – Office of the State Fire Marshal  PCB – polychlorinated biphenyl  psi – pounds per square inch  SPCC – Spill Prevention, Control, and Countermeasure  TFS – tank facility statement  TIUGA – tank in an underground area  UPA – Unified Program Agency  UST – underground storage tank  WAT – Water Code |  |
| **Section** | **Suggested Amendment** | **Why and Comments** |
| General | Consider adding “tank” before “facility” throughout as applicable.  Consider adding in “petroleum” to clarify storage.  For an example, see proposed changes for 25270.6(a)(1) | * Consistent use of definitions through HSC 6.67 * Andy Dye: 25270.2(a) defines ‘aboveground storage tank’ or ‘storage tank’. If we want to make a change, I think it would be better if we changed tank to **storage tank** or **aboveground storage tank** instead of adding petroleum to it, since the definition of the term includes the petroleum. |
| 25270.2(a) | “Aboveground storage tank” or “storage tank” means a tank, ~~or~~ container, or oil-filled equipment that has the capacity to store 55 gallons or more of petroleum that is substantially or totally above the surface of the ground, except that, for purposes of this chapter, “aboveground storage tank” or “storage tank” includes a tank in an underground area. “Aboveground storage tank” does not include any of the following:  or  “Aboveground storage tank” or “storage tank” means a tank, ~~or~~ container, or equipment that has the capacity to store 55 gallons or more of petroleum that is substantially or totally above the surface of the ground, except that, for purposes of this chapter, “aboveground storage tank” or “storage tank” includes a tank in an underground area. “Aboveground storage tank” does not include any of the following: | * Based on the current definition, we do not need to include 25270.2(a)(4) because oil filled equipment is not the definition. * A facility with only turbines, for example, would not be in APSA because they do not have an aboveground tank. * This will result in “Tank Facility” including oil-filled equipment * An alternative is to use a more general term ‘equipment’ rather than ‘oil-filled equipment’ since we are also suggesting excluding pesticide application equipment from the definition of AST. |
| 25270.2(a)(4) | Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the single piece of oil-filled electrical equipment meets either of the following conditions:  (A) The equipment contains less than 10,000 gallons of dielectric fluid.  (B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator. | Add clarifying language to equipment that it is per piece of equipment. |
| 25270.2(a)(8) | ~~A tank in an underground area that has the capacity to store less than 55 gallons of petroleum, has secondary containment, and is inspected monthly, if the owner or operator maintains a log of inspection records for review by the unified program agency upon request.~~ | * With 19 CCR 1602(a) stating to only count 55 gallons of capacity, can we delete this subsection? * 19 CCR 1602 also states in subdivision (b) to exclude ASTs excluded under 25270.2(a)(1)-(8). * Jennifer Lorenzo disagrees with removing tiny TIUGAs out of APSA. Perhaps move this out of the AST definition. Refer to proposed new section. * 25270.2(a)(8) is an exclusion from APSA definition of AST, but it’s still recognized under APSA (rather than UST). * If this subsection is removed, then tiny TIUGAs will be regulated as UST systems. This subdivision was agreed upon between OSFM and State Water Board, so tiny TIUGAs stay in APSA and do not become subject to UST requirements. |
| 25270.2(a)(9) | A storage tank that is “permanently closed” as defined in Section 112.2 of Part 112 of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. | Consistent with SPCC rule exclusion per 40 CFR 112.1.  Unknown: Is there any way to get this to line up better with HMBP requirements, or to further clarify when a tank is permanently closed? This has been an issue in the past for seasonal storage, when a tank is put into service and taken back out, and it has crossover with the HMBP program. There is some confusion on when it needs to be reported in CERS and when it doesn’t, and if this type of seasonal closure meets the definition of “permanently closed”. |
| 25270.2(a)(10) | A storage tank containing heating oil used solely at a single-family residence. | Consistent with SPCC rule exclusion per 40 CFR 112.1. |
| 25270.2(a)(11) | A motive power container as defined in Section 112.2 of Part 112 of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. | Consistent with SPCC rule exclusion per 40 CFR 112.1. |
| 25270.2(a)(12) | A pesticide application equipment or related mix containers as specified in Section 112.1 of Part 112 of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. | Consistent with SPCC rule exclusion per 40 CFR 112.1. |
| 25270.2(a)(13) | A tank facility or part thereof used exclusively for wastewater treatment or drinking water treatment and not used to satisfy any requirement of Part 112 of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. | Consistent with SPCC rule exclusion per 40 CFR 112.1.  Do we still want to exclude tanks containing petroleum (flocculent) used in water treatment for purposes of drinking water?  Andy Dye: I think we should exclude tanks containing petroleum flocculent used in drinking water treatment as well, since the process is similar to wastewater treatment. I think some of these flocculants are also used in industrial wastewater treatment, and we should be careful with the wording to ensure those industrial wastewater treatment processes do not get excluded. |
| 25270.2(o)(1)(B) | The structure in which the storage tank is located, at a minimum, provides for secondary containment of the contents of the tank, piping, and ancillary equipment, until cleanup occurs. A shop-fabricated double-walled storage tank with a mechanical or electronic device used to detect leaks in the interstitial space or if inspections of the interstitial space or containment structure are performed meets the requirement for secondary containment ~~of the contents of the tank~~.  Or  The structure in which the storage tank is located, at a minimum, provides for secondary containment of the contents of the tank, piping, and ancillary equipment, until cleanup occurs. ~~A shop-fabricated double-walled storage tank with a mechanical or electronic device used to detect leaks in the interstitial space meets the requirement for secondary containment of the contents of the tank.~~ | * For consistency with 25270.2(o)(2) * This subdivision is about secondary containment. * Jennifer Lorenzo disagrees with removing last 6 words of second sentence, since first sentence implies general containment for tank, piping and ancillary equipment. This subdivision should be relevant only to secondary containment. In favor of removing the second sentence since TIUGAs are required to meet the direct viewing provisions in 25270.2(o)(2) anyway; not explicitly mentioned for hazardous waste category TIUGAs since these are required to have secondary containment under hazardous waste requirements. * Andy Dye: The UST rewrite includes reference to 25270.2(o). We should keep that in mind with any changes to that section. We may want to involve the State Water Board staff in conversations about changes we intend to make. |
| 25270.2(o)(1)(C)(iii) | The storage tank contains petroleum and is used solely in connection with a fire pump, steam generation pressure tank, or an emergency system, legally required standby system, or optional standby system as defined in the most recent version of the California Electrical Code (Section 700.2 of Article 700, Section 701.2 of Article 701, and Section 702.2 of Article 702, of Chapter 7 of Part 3 of Title 24 of the California Code of Regulations), is situated on or above the surface of the floor, and the structure in which the tank is located provides enough space for direct viewing of the exterior of the tank except for the part of the tank in contact with the surface of the floor. | * Fire pump, emergency system, and standby system do not include the boiler. * Consistency with 25281.5(c)(3) * Is reference to NFPA 85 also necessary for definition of steam generation pressure tank since there is no definition in APSA? * Andy Dye: It has come up in discussion that at hospitals the boiler is usually integrally connected to other emergency systems, such as power generation. |
| 25270.2.1 | (a) An owner or operator of a stationary storage tank that has the capacity to store less than 55 gallons of petroleum and the storage tank is located in a structure at least 10 percent below the ground surface shall not be subject to Sections 25270.4.5 and 25270.6.  (b) An owner or operator of a storage tank specified in subdivision (a) shall take the following actions.  (1) At minimum, provide for secondary containment of the contents of the storage tank, piping, and ancillary equipment, until cleanup occurs.  (2) Conduct monthly inspections of the storage tank, piping, and ancillary equipment.  (3) Maintain a log of inspection records that shall be available for review by the unified program agency upon request. | * If keeping this proposal, need to remove 25270.2(a)(8). * AST definition has 55-gallon or larger threshold, but a tiny TIUGA is already less than 55 gallons. This is a conflict. * New section to clarify minimal requirements for tiny TIUGAs and clarify jurisdiction on piping between UST and tiny TIUGA. * Do we want to include how far back the records should be kept here or in regulations? Regulations preferred for now. Could be a minimum of 3 years for consistency with SPCC Plan requirements. |
| 25270.4.5(b) | Suggestion:  A tank facility located on and operated by a farm, nursery, logging site, or construction site is not subject to subdivision (a) if no petroleum storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons. Unless excluded from the definition of an “aboveground storage tank” in [Section 25270.2](https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000213&refType=LQ&originatingDoc=Iae32ede0728a11ed8774f7e0d8445198&cite=CAHSS25270.2), the owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions:  Current statute:  (b) A tank facility located on and operated by a farm, nursery, logging site, or construction site is not subject to subdivision (a) if no storage tank at the location exceeds 20,000 gallons ***of petroleum*** and the cumulative ***petroleum*** storage capacity of the tank facility does not exceed 100,000 gallons. Unless excluded from the definition of an “aboveground storage tank” in Section 25270.2, the owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions: | * Adding “petroleum” for clarity. * Jennifer Lorenzo: Unnecessary, current statute already has petroleum for 20,000-gallon single tank as well as the 100,000 gallons cumulative capacity per amendments from Assembly Bill 1716 (2023). |
| 25270.5(a) | Except as provided in subdivision (b), at least once every three years, the UPA shall inspect each storage tank or a representative sampling of the storage tanks at each tank facility that has a storage capacity ~~o~~f that exceeds 10,000 gallons ~~or more~~ of petroleum. The purpose of the inspection shall be to determine whether the owner or operator is in compliance with the spill prevention control and countermeasure plan requirements of this chapter. | * Unknown: For consistency with qualified facility capacity. Note: If this is updated, consider updating 19 CCR 1609. * Jennifer Lorenzo disagrees with this proposed amendment. This is not making it consistent with the qualified facility term. APSA regulates only petroleum while SPCC rule regulates all oils. Having 10,000 gallons of APSA petroleum doesn’t necessarily mean the facility meets the qualified facility threshold, especially if facility stores other SPCC regulated oils that are non-APSA regulated. |
| 25270.6(a)(1) | On or before January 1, annually, each owner or operator of a tank facility subject to this chapter shall file with the statewide information management system, a tank facility statement that shall identify the name and address of the tank facility, a contact person for the tank facility, the total ***petroleum*** storage capacity of the tank facility, and the location and contents of each ***petroleum*** storage tank that exceeds 10,000 gallons in storage capacity. A copy of a statement submitted previously pursuant to this section may be submitted in lieu of a new tank facility statement if no new or used storage tanks have been added to the tank facility or if no significant modifications have been made. For purposes of this section, a significant modification includes, but is not limited to, altering existing storage tanks or changing spill prevention or containment methods. | * Adding “petroleum” for clarity. * Jennifer Lorenzo: Unnecessary, already in current statute. * Adding “tank” for consistency with APSA term ‘tank facility’. * Andy Dye: Some CUPAs are still including petroleum stored in USTs on their APSA Facility Information submittal, even though it says, “Total **Aboveground** Storage Capacity of Petroleum” and has a tooltip with guidance. Would this language add clarification, or make things more confusing? "the total **APSA regulated** petroleum storage capacity of the tank facility. * Rob Ward: I think this is hard to fix because SPCC Plans still require USTs to be listed in some cases, and that could be part of the confusion. Saying “APSA-regulated” may not clear up the definition. Perhaps another statement after this sentence stating that “tanks or containers excluded under HSC 25270.2(a) shall not be included here” would drive home the message? |
| 25270.6(a)(3) | An owner or operator of a tank facility shall submit to the statewide information management system an updated tank facility statement within 30 days of a new or used storage tank(s) storing petroleum being added to the tank facility or there is a significant modification to an aboveground storage tank as provided in Section 25270.6(a)(1). | * CUPAs cannot require a permit for the installation or removal of an AST, so this will require the tank facility to notify the CUPA. * Unknown: Updating the HMBP is not required for modifications to ASTs. * This would only apply to tank facilities that are not subject to HMBP, such as federal or residential facilities. * The HMBP requirements under 25508.1 would cover any addition of a 55-gallon or larger storage tank/container, including changes in petroleum content. Tank facilities that submit HMBP in lieu of TFS are required to comply with 25508.1 requirements, per 25270.6(a)(2). * If still necessary to cover tank facilities that are not subject to HMBP requirements, then proposal needs additional edits, including adding owner or operator before tank facility. Excluding facility name, address and contact person, which are generally captured under HMBP changes under the Facility Information (business owner/operator identification), only other TFS components are total petroleum storage capacity of facility, and location and contents of each tank that is >10k gallons. The TFS does not require disclosing tanks equal to or less than 10,000 gallons. * Rob Ward: With the current [suggested proposed] language, it is unclear how they would notify of a significant modification. Unless we provide more clarification I think this is confusing as written. I think this language would be an improvement but still lacks clarity on expectations around “significant modification.” * Jennifer Lorenzo: The term ‘significant modification’ is already in APSA. 25270.6(a)(1) states, “For purposes of this section, a significant modification includes, but is not limited to, altering existing storage tanks or changing spill prevention or containment methods.” |
| 25270.7(a)? | Each owner or operator of a tank facility shall notify the UPA prior to aboveground storage tank installation of their application of a fire code permit, and also upon approval of the fire code permit. | What about requiring tank facility owner or operator to provide documentation of new AST installations, which includes a copy of the fire code permit?  Only applies to tank facilities subject to or will be subject to APSA. |
| 25270.7(b)-(c) | (a) No person shall abandon or permanently close an aboveground storage tank, connecting lines, or tank facility, except as provided in this section.  (b) No person shall permanently close an aboveground storage tank, connecting lines, or tank facility unless the person undertakes all of the following actions:  (1) Demonstrates to the UPA that all residual amounts of the petroleum which were stored in the aboveground storage tank or tank facility prior to its closure have been removed and properly disposed of.  (2) All connecting lines and piping have been disconnected from the aboveground storage tank and blanked off, all valves except for ventilation valves have been closed and locked, and conspicuous signs have been posted on each aboveground storage tank stating that it is a permanently closed with the date of closure.  (3) Demonstrates to the UPA that the tank facility has been investigated to determine if there are any present, or were past, releases, and if so, that appropriate corrective or remedial actions have been taken. | Consistent with UST requirements (HSC 25298). Did not include 25298(b) because temporary closure is not APSA/SPCC applicable. Did not include 25298(c)(3) because once permanently closed, it is no longer applicable to APSA to be able to require maintenance. We’ll need to add details for this in the APSA regulations (UST regulations 2670 and 2672).   * Review fire code requirements (CFC 5704.2.13.2 and 5704.2.14), so there is no conflict. There is no ‘abandonment’ of an aboveground storage tank per fire code (only applicable to piping associated with ASTs if fire code official determines removal is not practical). ASTs can be temporarily out of service, out of service for 90 days, or removed and disposed. * A facility closure plan is also required per fire code (CFC 407.7 and 5001.6). Read fire code requirements so there is no conflict. (5001.6 has reference to 5001.5 as well). * Better to add as proposed regulation instead, so there’s more time to iron out details with committee and research fire code conflicts, if any? * Is the “demonstrates” intended to be a notification requirement prior to commencement, similar to waste tanks? Need some more clarity here otherwise we’re introducing a gray area. * Unknown: I think “demonstrates” would require some form of notification. This is clearcut when the CUPA is a fire CUPA, but for UPAs that don’t have authority over closure, we should clarify that some form of notification would be required before final closure. Without that information, ‘demonstrates’ would just imply that the facility could close without UPA oversight, but could receive a violation if they didn’t maintain adequate documentation after the fact. |
| 25270.8 | Except as provided in subdivision (b) of Section 13272 of the Water Code, each ~~Each~~ owner or operator of a tank facility shall immediately, upon discovery, notify the Office of Emergency Services and the UPA using the appropriate 24-hour emergency number or the 911 number, as established by the UPA, or by the governing body of the UPA, of the occurrence of a spill or other release of one barrel (42 gallons) or more of petroleum that is required to be reported pursuant to subdivision (a) of Section 13272 of the Water Code.  For reference, Water Code 13272(a) and (f) are below:  *(a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits* ***any oil or petroleum product to be discharged in or on any waters of the state****, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the California oil spill contingency plan adopted pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code.*    *(f) The reportable quantity for oil or petroleum products shall be* ***one barrel (42 gallons) or more****, by direct discharge to the receiving waters,* ***unless a more restrictive reporting standard for a particular body of water is adopted****.* | * HSC 6.67 defines “release”, not “spill.” This proposed change will keep the information consistent to APSA definitions. * WAT 13272(a) specifies that ‘ANY oil or petroleum products...discharged in or on ANY waters of the state’ require immediate notification to OES. On the other hand, WAT 13272(f) specifies 42 gallons or more to be reportable quantity for oil or petroleum products discharged into water. This needs to be reconciled. * It is confusing about the 42-gallon reportable quantity specified in WAT 13272(f), since it conflicts with WAT 13272(a). * Release reporting or spill notification in APSA and the WAT 13272(a) and (f) all reference a release to any waters of the state. Do we need to add the release to ‘any waters of the state’ for clarification? |
| 25270.12.2? |  | Do we want to add something similar to UST red tag authority, particularly at motor fuel dispensing facility/operation? Imagine two facilities located near each other; one has USTs and another has ASTs. UPAs have authority to affix a red tag a UST system that poses ‘an imminent threat to human health or safety or the environment’ but there is no such authority in APSA.  An example is when UST is repurposed as AST. There is no cease and desist or stop work order in APSA.  If we consider adding something like this, we’ll need to be specific and careful about what the authority is for.  See UST statute (HSC 25292.3) for reference.  Going to require statute and regulation updates if we want to split the authority from the “how”. |
|  | Monitoring and/ or periodic leak testing for buried piping or piping that cannot be directly viewed.  Types of pipeline monitoring borrowed from the UST world:   1. Pressure decay testing (CCR Title 23, Chapter 16, Article 4, Section 2643(e)) – 0.1 gallons per hour at 40 psi (gravity fed) 2. Line leak detection between the pump and dispenser for a leak of 3 gallons per hour (pressurized) 3. Mechanical 4. Electronic 5. Automatic tank gauge (ATG), where installed, to perform precision leak testing and/or monitoring 6. Single wall precision monitoring 7. Inventory reconciliation   For reference, below excerpts are from CCR Title 23, Chapter 16, Article 4 – Existing Underground Storage Tank Monitoring Requirements (USTs installed before 1984 and could have single walled tanks), Section 2643(c)(2) and Section 2643(c)(3):  (2) Monitoring shall be conducted at least once every 30 days at any pressure. The monitoring method shall be capable of detecting a minimum release equivalent to 0.2 gallons per hour defined at normal operating pressure; or  (3) Monitoring shall be conducted at least once every 12 months at a pressure designated by the equipment manufacturer. The monitoring method shall be capable of detecting a minimum release equivalent to 0.1 gallons per hour defined at 150 percent (one and one half times) the normal operating pressure. | Aside from category IV TIUGAs, a number of high volume / high-capacity tank facilities have buried piping and there currently is no requirement for leak detection or monitoring in APSA statute or regulation.  There is fire code requirement to test piping for leaks at the time of installation. The compliance rate with the requirement is unknown. Research the specifics of this requirement, including permitting and record keeping.  Leak detection is required in fire code for remote pump systems for motor fuel dispensing facilities/operations.  Would need a proposal in statute for authority first and include specifics in regulations later. Refer to UST requirements in HSC 25292(a). Approach this similarly with TIUGA categories, based on high risk. |

References:

Health and Safety Code, Chapter 6.67 (APSA): <https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.67.&article>

Health and Safety Code, Chapter 6.7 (UST):

<https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=20.&title=&part=&chapter=6.7.&article=>

Water Code, Section 13272:

<https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=13272.&lawCode=WAT>

CCR, Title 19, Division 1, Chapter 11 (APSA regulations): <https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I09015640C1A211EFB34ED852991BCC29&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)>

CCR, Title 23, Division 3, Chapter 16 (UST regulations):

<https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=ICAC98F605B6E11EC9451000D3A7C4BC3&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)>

CFR, Title 40, Part 112 (SPCC rule):

<https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-112?toc=1>