**CALIFORNIA CODE OF REGULATIONS, TITLE 19, DIVISION 1**

**CHAPTER 15**

**INITIAL STATEMENT OF REASONS**

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| **Authority**  Health and Safety Code Section 25270.4.1  **Reference**  Aboveground Petroleum Storage Act, Health and Safety Code Sections 25270.2, 25270.3, 25270.4, 25270.4.1, 25270.4.5, 25270.5, 25270.6, 25270.9, 25270.12  Unified Hazardous Waste and Hazardous Materials Management Regulatory Program, Health and Safety Code Section 25404  **Introduction**  There are approximately 17,000 aboveground storage tank facilities in the State that store a variety of petroleum oils and/or petroleum products. Aboveground petroleum storage tanks may leak and spill into the environment, causing contamination problems. Preventive steps taken by the industry and regulatory agencies can reduce the risk of leaks and spills.  CAL FIRE-Office of the State Fire Marshal (OSFM) is responsible for ensuring the implementation of the Aboveground Petroleum Storage Act (APSA) program element of the Unified Program. The APSA provides technical and enforcement guidance for aboveground petroleum storage to reduce the risk of leaks and spills.  Each proposed regulation supports the implementation of one or more of the OSFM’s statutory responsibilities, as related to APSA. The full text of these responsibilities is found in Health and Safety Code Section 25270.4.1 and summarized below.  1. Adopt regulations implementing APSA  2. Provide interpretation of the APSA statutes to local Unified Program Agency enforcement entities.  3. Oversee the implementation of the APSA requirements by local Unified Program Agency enforcement entities.  4. Provide training for local Unified Program Agency enforcement entities.  5. To the maximum extent feasible, ensure consistency with state law and federal enforcement guidance.  6. Support the local Unified Program Agency enforcement entities in providing outreach to regulated persons in relation to regulations relevant to OSFM’s responsibilities under the APSA program.  7. Develop more stringent requirements, as needed to implement the safety requirements of the APSA.  Examples of preventative measures include: local Unified Program Agency (UPA) review of annual tank facility statements, review of Spill Prevention Control and Countermeasure (SPCC) plans prepared by the tank owner/operator, and inspections of aboveground storage tanks at tank facilities covered by the Act to determine whether the SPCC plan was prepared and is being implemented.  The Aboveground Petroleum Storage Act is one program within the Unified Program, a multi agency state program which is overseen by the Secretary of Environmental Protection. The Unified Program protects Californians from hazardous waste and hazardous materials by ensuring local regulatory agencies consistently apply statewide standards when they issue permits, conduct inspections and engage in enforcement activities. |
| **Problem**  The OSFM is charged with providing statewide oversight and support for the Aboveground Petroleum Storage Act. There is substantial evidence that statewide guidance is required to fully implement the APSA program and effectuate APSA’s public safety purpose.  In alignment with the OSFM’s specific responsibilities as detailed in Health and Safety Code Section 25270.4.1, the purpose of these regulations is to provide a clear source of technical guidance and distinguish each stakeholder’s responsibilities under APSA. Local Unified Program Agencies (UPA) are responsible for enforcement activities, there is no state or federal approval of SPCC plans.  Because petroleum is a complex policy issue, the law is also very complex and detailed. These regulations coordinate and highlight the state and federal laws for the regulated community, industry stakeholders, and local UPA enforcement entities. This is to provide an efficient enforcement and compliance tool for the directly affected public of the APSA program. Federal regulations also include explicit authority for state enforcement to include more stringent requirements in order to meet the public safety purpose. More stringent technical requirements, as needed for public safety and in alignment with State law, are also included and justified. |
| **Problem, Purpose, Rationale**  While preventive steps taken by the directly affected public can reduce the risk of leaks and spills, these efforts also require state support and jurisdictional authorities. These regulations are aligned with legal requirements including jurisdictional authorities.  Each proposed regulation supports the implementation of one or more of the OSFM’s statutory responsibilities, as related to APSA.  1. Adopt regulations implementing the Aboveground Petroleum Storage Act (Sections 25270 through 25270.13) (APSA)  2. Provide interpretation of the APSA statutes to local Unified Program Agency enforcement entities.  3. Oversee the implementation of the APSA requirements by local Unified Program Agency enforcement entities.  4. Provide training for local Unified Program Agency enforcement entities.  5. To the maximum extent feasible, ensure consistency with state law and federal enforcement guidance.  6. Support the local Unified Program Agency enforcement entities in providing outreach to regulated persons in relation to regulations relevant to OSFM’s responsibilities under the APSA program.  7. Develop more stringent requirements, as needed to implement the safety requirements of the APSA |
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| **Economic Impact Analysis, including all of the required elements pursuant to 11346.3(b)(1)(A) through (D)?**  **[Placeholder- see Remaining Questions]** |
| **Documents Incorporated by Reference.**  There are no documents incorporated by reference as part of this rulemaking. |
| **Technical, Theoretical, and/or Empirical Study or Reports**  **Documents Relied Upon:**  In addition to the sources noted above, the OSFM relied on the following technical, theoretical, and/or empirical studies, reports, and laws in developing the proposed regulations.  In developing these proposed regulations, the OSFM consulted with and received input from the Aboveground Petroleum Storage Act (APSA) Advisory Committee. These were conversations only, and there were no documents relied upon in connection with these consultations.  The OSFM APSA Advisory Committee consists of local UPAs, Federal and State agencies, fire service, various industry representatives, industry standards organization, tank manufacturer/distributor, and private consulting, to provide recommendations and review the proposed regulations. Many committee members would be legally required to comply with the new regulations and are therefore directly impacted by amendments. Committee members are appointed by the State Fire Marshal.  These regulations were originally developed by the committee as a subgroup and then group consensus process between 2013 and 2018. An updated draft of the regulations was discussed and analyzed by the committee during the April 11, 2023, advisory committee meeting, as noticed on the meeting agenda.  A revised draft of the Express Terms Text and a draft of this ISOR document was placed on the agenda for the June 20, 2023, Advisory Committee meeting for further revisions and analysis by the committee. The results of the Advisory Committee activity is memorialized in the meeting minutes and in the content of the ISOR document.  **Documents Relied Upon**  OSFM Informational Bulletins, IB 14-005 and IB 14005-A: Under the 2014 tab <https://osfm.fire.ca.gov/divisions/code-development-and-analysis/information-bulletins/>  1. IB: 14-005 7/25/14  Underground Fuel Storage Tanks Prohibited for Use as Aboveground Fuel Storage Tanks (PDF)  2. IB: 14-005-A 1/29/15  Addendum - Underground Fuel Storage Tanks Prohibited for Use as Aboveground Fuel Storage Tanks (PDF)  OSFM Advisory Committee Meeting Agendas: 2023 Meeting Information tab  <https://osfm.fire.ca.gov/boards-committees/aboveground-petroleum-storage-act-apsa-advisory-committee/#APSA2023>  3. Meeting: April 11, 2023  4. Meeting: June 20, 2023  5. Laird, John. "Legislative Intent - Assembly Bill No. 1130." Letter to Dotson Wilson. 11 Sept. 2007. Journal of the Assembly, Legislature of the State of California, 2007-2008 Regular Session. Vol. 3. Sacramento: Chief Clerk of the California State Assembly, 2007-2008. 3427-3428. (ADA Compliant PDF)  https://osfm.fire.ca.gov/media/qc2jrfwx/laird-letter-ab1130-2007-ada.pdf  6. United States Environmental Protection Agency, Office of Emergency Management. SPCC Guidance for Regional Inspectors. 2013. https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-guidance-regional-inspectors  7. Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act (CWA), August 1998 | US EPA. United States Environmental Protection Agency, Office of Enforcement and Compliance Assurance.  <https://www.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998> |
| **Anticipated benefits from this regulatory action:**  This regulatory proposal supports compliance with State law and Federal regulations, enhances public safety, and protects California’s environment, by reducing the risk of future petroleum releases from aboveground storage tanks (AST).  This regulatory proposal benefits the approximately 81 local UPAs by clarifying their roles in implementing the APSA. This proposed regulation will assist in consistent implementation and enforcement of the APSA by the UPAs throughout the State of California  These minimum regulations provide resources and tools to enhance enforcement of the and public participation in APSA implementation, supporting the goal that each regulated tank facility is compliant with APSA.  This proposal will benefit the public safety of the people of California, as well as the natural resources of the State of California, by clear and straightforward guidance for ensuring that regulated facilities have an SPCC plan or other applicable measures in place, and, thereby, preventing or reducing incidence and damage from the inherent hazards and dangers that may potentially occur from such facilities, such as petroleum discharges or releases. |
| **Small Business Determination**  Businesses may self-identify as part of their public participation in the regulatory process. However, the public safety requirements of this program do not require disclosure of business details which would identify a “small business,” as it is defined by Government Code 11342.610.  Due to the lack of information for analysis purposes, the OSFM has determined that the proposed regulations have no “substantial” effect to small business and therefore the OSFM has not identified any alternatives that would lessen any adverse impact on small business and still fulfill the public safety purpose of the program. |
| Alternatives that are less burdensome and equally effective in achieving the purposes of the statute.  The OSFM staff and the Advisory Committee has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts it will place upon the local government and industry.  No alternatives considered by the State Fire Marshal OSFM would be more effective in carrying out the purpose of the proposed regulations or be less burdensome to the affected parties than this proposed regulation.  The OSFM has determined that no reasonable alternative it considered to the regulations or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed nor would they be as effective.  They also would not be less burdensome to the affected private persons or businesses than the proposed action, nor would they be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. |
| Determination of No Significant Economic Impact on Business  The OSFM has determined that the proposed regulations will not have a significant adverse economic impact on business. The OSFM’s Advisory Committee discussed and considered these changes. The Committee members indicated these changes would not have a significant adverse economic impact on business enterprise or individuals.  The proposed regulation will incur some effect on the regulated community, but those impacts will be absorbed by industry and businesses engaged with industry.  Based on those facts and evidence, the OSFM has determined these changes would not have a significant adverse economic impact. |
| Federal regulations provide the technical basis and framework for enforcement and prevention measures related to petroleum storage. These federal regulations are found in the Code of Federal Regulations Title 40 Part 112. These regulations include the spill prevention, control, and countermeasure plans (SPCC plan).  State law utilizes SPCC plan requirements and imposes more stringent requirements for petroleum storage tank facilities. These requirements are found in the Aboveground Petroleum Storage Act. |
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**Benefits**

These regulations are necessary to protect public safety and the environment. There are approximately 17,000 aboveground storage tank facilities in the State that store a variety of petroleum oils and/or petroleum products. Aboveground petroleum storage tanks may leak and spill into the environment, causing contamination problems. Contamination poses a range of risks, which result in minor to very serious threats to the environment and public safety. Among other causes, leaks and spills may be due to advanced age, defects in design or installation, human error, and/or equipment failure.

Preventive steps taken by the industry and regulatory agencies can reduce the risk of leaks and spills, therefore providing a direct public safety and environmental benefit. In order to support these prevention measures, this proposed regulation will assist in the consistent implementation of the APSA program.

**Directly Affected Benefit**

A central goal of these regulations is to provide an efficient enforcement and compliance tool for the directly affected public of the APSA program. Because petroleum is a complex policy issue, the law is also very complex and detailed. These regulations coordinate and highlight the state and federal laws for the regulated community, industry stakeholders, and local UPA enforcement entities.

**Purpose, Problem, Rationale for each adoption, amendment, or repeal**

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| Reference Statute |  |
| [**25270.2.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.2.) | **Scope- Health and Safety Section Numbers**  **Problem-** definitions are not in a clear and straightforward format. This legislation is very complex and challenging to read, even for individuals with a significant amount of experience with the law. A clear understanding of the definitions, scope, exemptions, and exclusions is a key part of compliance for the directly affected public.  This adoption will reduce the burden of compliance for the directly affected public. This section includes applicable definitions from statutes and regulations. In addition, other definitions that are important for the program are added.  **Scope- Legislation**  This action will improve the experience for directly affected by providing the majority of program definitions in a single source. In addition, this regulation will support consistency enforcement practices based on clear scope and terminology.  The statutes and regulations which have been duplicated are as follows:  Health and Safety Code APSA 25270.2, 25270.3, 25404  Water Code 13050  California Code of Regulations Title 27 Section Number 15110  Code of Federal Regulations Title 40 Part 112  This section allows for identification of the regulations, so they may be more easily found and referred to by facilities subject to these regulations. This proposed section specifically identifies the scope for the APSA program regulations.  (b)(1) clarifies the first type of tank facility that must abide by this proposed regulation, consistent with Health and Safety Code Section 25270.3(a). This proposed regulation is applicable to a tank facility that is required to meet the Federal spill prevention, control, and countermeasure rule of the Code of Federal Regulations, Title 40, Part 112 . In this regard, the tank facility stores a certain amount of oil that is regulated by the Federal spill prevention, control, and countermeasure rule and the tank facility’s location is such that it has a potential threat of discharging or releasing oil into or upon navigable waters of the U.S. or adjoining shoreline. |
| [**25270.2.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.2.) | **Definition of Aggregate Petroleum Storage Capacity**  This regulation provide interpretation of the APSA statutes to local Unified Program Agency enforcement entities by providing a detailed definition of aggregate petroleum storage. This definition is consistent with state and federal law. |
| [**25270.2.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.2.) | **Corrosion (OSFM Definition)**  Corrosion creates vulnerabilities in aboveground petroleum storage tanks, appurtenances, and piping. Corrosion, if not addressed, presents a significant risk of causing leak and spill into the environment, causing contamination problems. This regulation is to provide consistency in implementation authority for all UPAs.  Preventive steps taken by the industry and regulatory agencies can reduce the risk of leaks and spills. This requirement is consistent with federal standards.  Corrosion impacts many types of piping, and associated support structures. Corrosion is a leading cause of structural material failures and releases, therefore it is necessary to include this requirement in regulations in addition to other materials or training that may include or explain corrosion. |
| [**25270.2.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.2.) | **Waters of the State**  This regulation would provide interpretation of the APSA statutes to local Unified Program Agency enforcement entities by providing the applicable definition for a term that is used in the APSA statute but is not defined in the APSA statute. The definition of “waters of the state” from the Water Code is applicable because it is used for a comparable purpose and jurisdiction. |
| [**25270.2.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.2.) | **Minor Violation**  This regulation would provide interpretation of the APSA statutes to local Unified Program Agency enforcement entities by including the applicable definition for a term that is used in the APSA statute but is not defined in the APSA statute.  The definition of “minor violation” from Health and Safety Code Section 25404 is used for this purposed because it is within the scope of the Unified Program Agency framework. Use of this definition maintains the consistency of state enforcement guidance. |
| [**25270.2.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.2.) | **Formal Enforcement and Routine Inspection**  This regulation would provide interpretation of the APSA statutes to local Unified Program Agency enforcement entities by including the applicable definition for a term that is used in the APSA statute but is not defined in the APSA statute.  The definition of “formal enforcement” and “routine inspection,” from the California Code of Regulations Title 27, Sections 15110(e)(1) and 15110(f)(1) are used for this purposed because they are within the scope of the Unified Program Agency framework. Use of this definition maintains the consistency of state enforcement guidance. |
| [**25270.2.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.2.) | **Federal Regulations**  Federal regulations provide the technical basis and framework for enforcement and prevention measures related to petroleum storage. These federal regulations are found in the Code of Federal Regulations Title 40 Part 112. These regulations include the spill prevention, control, and countermeasure plans (SPCC plan). Aboveground Petroleum Storage is one small slice of the petroleum/oil regulatory sphere, therefore some terms used in the federal legislation to describe the entire policy issue not have the same applicability for APSA. |
| [**25270.4.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.4.)and 25404.2 | **UPA Enforcement (a)-(c)**  These subsections make explicit the jurisdictional responsibilities of CUPAs. APSA specifies that the purpose of an aboveground storage tank inspection is to determine whether the owner or operator is in compliance with the SPCC plan requirements in Chapter 6.67. Per AB 1130, they do not specifically provide authority for independent evaluation of the recommendations or provisions in SPCC plans, but require review to ensure that an SPCC plan complies with federal regulations and is implemented in compliance with federal regulations.  This proposed regulation will assist in consistent implementation and enforcement of the APSA by the UPAs throughout the State of California and, in implementing this proposed regulation, the UPAs will ensure that minimum requirements are being met by each regulated tank facility for compliance with the APSA.  UPAs have other Unified Program jurisdictional responsibilities outside of the APSA, they also may be implementing local ordinances. These additional authorities may provide the UPAs with the ability to make independent judgments on facilities or operations under other the legal or regulatory authorities.  **(d)**  Federal enforcement guidance specifies that the failure to prepare an SPCC Plan is not a minor violation. This regulation is consistent with federal enforcement regarding failure to prepare an SPCC Plan. This requirement is specifically highlighted in these regulations because UPAs have challenged the OSFM’s interpretation of state and federal law regarding failure to prepare an SPCC Plan.  **(e)**  This subsection clarifies specific enforcement responsibilities. This requirement is clarified in these regulations because the OSFM has observed through enforcement efforts that the requirement has not been consistently implemented by UPAs. This regulation clarifies that the UPAs do have enforcement authority for non minor violations.  **(f)**  This regulation is necessary due to an existing set of violations that has remained uncorrected for several years. The documentation for these violations is found in the California Environmental Reporting System (CERS) database. This is required for consistent implementation throughout the State.  The 6-year timeframe is consistent with 2triennial inspection cycles. This provides sufficient time to maintain public safety while not imposing an overly burdensome timeframe on either UPAs or owner-operators.  This is not a new cost, it is aligned with the other elements of the CUPA program. This regulation is required in order to ensure that reports are delivered to the correct individual within the specified timeframe. It is necessary because there have been instances of reports provided to other individuals which may cause delays.  Title 27, §15200(a)(1) Currently, the regulation requires provisions to administer all program elements. The new language identifies what provisions must be identified for a complete inspection process, including pre-inspection, on and off-site inspections, post inspections, and re-inspections.  Title 27, §15200(a)(3) Added the requirement to consolidate Unified Program inspections when appropriate. For example, a regulated business that is subject to Hazardous Material Business Plan and Hazardous Waste Generator requirements would not receive two inspections over two days but would have all inspections conducted on the same day.  (**g)**  This 30 day timeframe is the statutory timeline to correct minor violations.  UPA staff also respond to many types of emergencies. If UPA staff is diverted to an emergency, this process can be delayed. In emergencies such as a flood, earthquake, or wildland fire, UPA staff may be diverted to assist with the emergency. If UPA staff are directed to an emergency as declared by a local government body or the Governor, the report may be delayed until the incident has stabilized and the UPA has returned to regular service. |
| [**25270.4.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.4.5.) | **Compliance with SPCC Plan requirements.**  (a)(1)-(8)  These regulations are necessary for consistent implementation of APSA across the state. These subsections also make explicit the jurisdictional responsibilities of CUPAs and clarify specific enforcement responsibilities. This proposed regulation will assist in consistent implementation and enforcement of the APSA by the UPAs throughout the State of California and, in implementing this proposed regulation, the UPAs will ensure that minimum requirements are being met by each regulated tank facility for compliance with the APSA.  (a)(3), Additional detail. Code of Federal Regulations, Title 40, Part 112 includes detailed requirements as to what types of SPCC Plan is required to be certified by a professional engineer. There are no state amendments to these criteria.  (a)(4) and (a)(7) Additional detail. These requirements and timeline is established by the federal SPCC rule. The 3 and 5 year timelines are consistent with timelines established in the federal SPCC rule.  (b)Tank facilities that meet the exemption conditions 25270.4.5 are not required to prepare and implement an SPCC plan under APSA. Therefore, while these facilities maintain the requirements for conditional status, the requirements for compliance with SPCC Plan requirements do not apply.  **Not new.**  **(b)Providing records is also not new, EPA already requires this.**  **(c ) not new. Part of regular cost of doing business.** |
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| [**25270.4.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.4.5.) | **Instructions During Inspections**  (a) This regulation is consistent with federal regulations. It is included here for clarity. |
| [**25270.4.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.4.5.) | **Instructions During Inspections**  (b) Remote record review commonly occurred during stay at home conditions. The review of records and interviews with staff can be performed remotely while maintaining safety standards. |
| [**25270.4.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.4.5.) | **Instructions During Inspections**  (c ) While record review and interviews can be performed offsite, the physical conditions of a facility can only be effectively evaluated in person. Conditions such as housekeeping, releases, spills, the condition of the tanks, piping, and appurtenances, should only be assessed in person. The OSFM has determined that video or other types of virtual inspections do not provide sufficient detail to ensure public safety. The Advisory Committee and other stakeholders concur with this conclusion.  (g) not new, putting a timeline. Timeline is reasonable for public safety purpose. 30 day timeline is in alignment with requirements to correct minor violations. |
| [**25270.4.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.4.5.) | **Instructions During Inspections**  (d) Tank facilities that meet the exemption conditions in HSC Section 25270.4.5 are not required to prepare and implement an SPCC plan under APSA. Therefore, while these facilities maintain the requirements for conditional status, the requirements for compliance with SPCC Plan requirements do not apply. |
| [**25270.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.5.) | **UPA Inspections – Facilities with less than 10,000 gallons that are required to prepare an SPCC Plan**  These facilities are included in the program, however, State law does not address inspection requirements.  While this requirement is more stringent than is specified in the Health and Safety Code Section 25270.5.  It is necessary to impose a more stringent requirement in order to meet the public safety purpose of the APSA.  These regulations provide guidance for UPAs to prioritize inspections. The option of an alternative inspection and compliance plan is consistent with the options provide to other types of facilities in statute.  CUPAs are already going to these facilities due to other Unified Programs.  99% are already subject to HMBP, that program requires once every three year inspection frequency.    Facilities that meet the base requirements for HMBP, found in Health and Safety Code Section 25507. These are already inspected under other unified programs. Therefore, inspection of these facilities is not added by these regulations, but just clarified.  These facilities are subject to the HMBP requirements. The law does not explicitly state that they must be inspected, as it states that larger facilities must be inspected. However, effective enforcement requires inspections, therefore this requirement is directly required by statute.  Subject to multiple programs.  What are they there for?  For example- underground tanks- annual inspection.  The inspections are supposed to be consolidated.  So, each year they inspect for underground tanks. But every third year they would also inspect for APSA. |
| [**25270.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.5.) | **UPA Inspections of facilities that are conditionally exempt from preparing an SPCC Plan**  Tank facilities that meet the exemption conditions HSC 25270.4.5 (b) are not required to prepare and implement an SPCC plan under APSA. An inspection for compliance with the SPCC plan requirements of APSA is, therefore, not required at such tank facilities. An inspection is used to verify compliance with the conditional exemptions described in order for a facility to maintain its status. The option of an alternative inspection and compliance plan is consistent with the options provide to other types of facilities in statute. |
| [**25270.5.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.5.) | **UPA Staff Training**  (a)(b)This section establishes requirements for UPA staff training, including ongoing or refresher training.  Training classes on APSA, the Code of Federal Regulations, Title 40, Part 112, SPCC plan requirements, and other related topics are provided to UPAs annually at the California Unified Program Training conference. Classes at the training conference are generally provided in two-hour increments over a span of several days. An UPA staff may complete six hours of APSA training in less than one day at the California Unified Program Training conference, or two hours of APSA training over a span of three training conferences. The three-year frequency is consistent with the frequency that UPAs are evaluated in their implementation of the Unified Program, including the APSA program, and it is also consistent with the mandated inspection frequency for certain facilities regulated under APSA.  Training, including refresher training, is necessary to ensure that the UPA staff conducting tank facility inspections are current in their knowledge of the requirements in APSA and the Federal SPCC rule requirements. UPA staff must be regularly trained to effectively and consistently inspect APSA facilities and identify violations.  Documentation is required to ensure that UPA inspector initial and refresher trainings are being completed. Documentation of the training serves as a record and verification of the training.  (c) Tank facilities that meet the exemption conditions described in proposed Section 2171(b) are not required to prepare and implement an SPCC plan under APSA. An inspection for compliance with the SPCC plan requirements of APSA is, therefore, not required at such tank facilities. The initial training as described in Health and Safety Code Section 25270.5(c) focuses on the SPCC plan provisions and safety requirements for AST inspections by UPAs. Hence, UPA staff that only verify compliance with the conditional exemptions not required to complete the initial training or refresher training. |
| [**25270.6.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.6.) | **Tank Facility Electronic Reporting**  These data fields are currently included in the California Environmental Reporting System (CERS) and the Unified Program regulations in CCR Title 27; however, Unified Program regulations do not require that the fields are completed and many tank facilities do not consistently complete these data fields.  The answers required in these data fields are information that can be readily extracted from a tank facility’s current/existing SPCC plan and are essential for UPAs to track and prioritize inspections. This information will also be essential for the OSFM oversight of the APSA program, particularly when evaluating UPAs in their implementation of the APSA program.  The 30 day timeframe for corrections is consistent with the timeframe for minor violations.  (d) Tank facilities that meet the exemption conditions 25270.4.5 are not required to prepare and implement an SPCC plan under APSA. Therefore, while these facilities maintain the requirements for conditional status, the requirements for compliance with SPCC Plan requirements do not apply. |
| [**25270.9.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.9.) | **Notify the Regional Water Quality Control Board**  Health and Safety Code 25270.9 details the responsibility for cleanup efforts, but does not specify that UPAs notify the Regional Water Quality Control Board to initiate this process. This regulation is required to provide UPAs clear guidance in the case of a spill or leak, or suspected spill or leak. |
| [**25270.12.**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=25270.12.) | **Non-Compliant Tanks**  Increased use and availability of storage tanks that are unsafe.  These tanks are highly technical. Provide education for stakeholders to easily recognize most common problem tanks without needing additional technical education.  a) It is the intent of this section to clearly outline the types and characteristics of storage tanks which are non-compliant and therefore prohibited for use as Aboveground Storage Tanks, and the penalties for use of non-compliant storage tanks.  (1) A key concern is storage tanks which are repurposed or utilized for the standards that they are not designed or fabricated for.  (2) Information reported to the Office of the State Fire Marshal indicates that a variety of storage tanks are marketed or available for sale as Aboveground Storage Tanks; however, these tanks do not meet minimum standards for Aboveground Storage Tanks.  (3) Health and Safety Code Section Number 25292.05, SB 445 (Hill, Chapter 547, Statutes of 2014), requires that some types of Underground Storage Tanks are retired from use by December 31, 2025. It is anticipated that upon removal, many of these Underground Storage Tanks will be offered for sale as Aboveground Storage Tanks.  Rationale-  Plain language explanation for use by directly affected. Consistent with industry best practices.  Purpose- include plain language descriptions and common types of easily recognizable non-compliant tanks to support stakeholders having the tool to easily recognize |