

**State of California
Office of Administrative Law**

In re:
Office of the State Fire Marshal

Regulatory Action:

Title 19, California Code of Regulations

Adopt sections: 1600, 1601, 1602, 1603,
1604, 1605, 1606,
1607, 1608, 1609, 1610, 1611,
1612, 1613, 1614, 1615, 1616

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2024-1031-04

OAL Matter Type: Regular Resubmittal (SR)

This rulemaking action by the Office of the State Fire Marshal adopts regulations to implement the Aboveground Petroleum Storage Act element of the Unified Program as required by Health and Safety Code, section 25270.4.1.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 12/17/2024.

Date: December 17, 2024



Kevin D. Hull
Senior Attorney

For: **Kenneth J. Pogue**
Director

Original: Daniel Berlant, Acting State Fire
Marshal

Copy: Jennifer Lorenzo

REGULAR

For use by Secretary of State only

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2023-1016-02	REGULATORY ACTION NUMBER 2024-1031-02	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

DEC 17 2024

OFFICE OF ADMIN. LAW
2024 OCT 31 PM 4:55

AGENCY WITH RULEMAKING AUTHORITY
Office of the State Fire Marshal

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2023, 44-2	PUBLICATION DATE 11/3/23

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Aboveground Petroleum Storage Act (APSA)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2024-0715-02S
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 1600,1601,1602,1603,1604,1605,1606,1607,1608,1609,1610,1611,1612,1613,1614,1615,1616
TITLE(S) 19	AMEND
	REPEAL

3. TYPE OF FILING	<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) 12/17/24 <input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	
	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	
	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify)	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF ADOPTED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
9/25/2024 - 10/13/2024

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.3, 11345.1(d); Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) Upon filing

6. CHECK IF THESE REGULATIONS ARE FOR NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify)

7. CONTACT PERSON Jennifer Lorenzo	TELEPHONE NUMBER (916) 247-0159	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) jennifer.lorenzo@fire.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE DocuSigned by: 	DATE 10/30/2024
TYPED NAME AND TITLE OF SIGNATORY Daniel Berlant, State Fire Marshal	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 17 2024

Office of Administrative Law

Text of Proposed Regulations (Final)

**California Code of Regulations
Title 19. Public Safety
Division 1. Office of the State Fire Marshal
Chapter 11. ~~Transportation of Flammable Liquids in Cargo Tanks on
Highways~~ Aboveground Petroleum Storage Act (APSA) Program
Article 1. APSA Program Regulations**

1600. Title: Aboveground Petroleum Storage Act (APSA) Program Regulations:
This chapter shall be known and referred to as the Aboveground Petroleum
Storage Act Regulations, APSA regulations, or these regulations.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section
25270.4.1, Health and Safety Code.

1601. Scope: Legislative References for Inclusions, and Exclusions

(a) A tank facility is subject to these regulations if it meets any of the applicability
criteria referenced in Health and Safety Code (HSC) Section 25270.3.

(b) A tank facility is subject to these regulations if it has one or more storage tanks that
meet the definition of an "aboveground storage tank" referenced in HSC Section
25270.2(a).

(c) A storage tank or tank facility is not subject to these regulations if it meets any of
the criteria referenced in the HSC Section 25270.2 (a)(1)-(8).

(d) If a tank facility has a petroleum storage capacity of less than 1,320 gallons,
these regulations do not apply to a tank in an underground area that meets the
conditions referenced in HSC Section 25270.3(c)(3).

(e) Terms that are not defined in these regulations shall have the same meaning as
found in HSC Section 25270.2.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.2,
25270.3, Health and Safety Code.

1602. Definition of Aggregate Petroleum Storage Capacity

(a) For purposes of these regulations, the aggregate petroleum storage capacity of
a tank facility shall include the total shell capacity of all aboveground storage tanks
and containers with a shell capacity of 55 U.S. gallons or greater including, but not
limited to, tanks in an underground area, mobile refuelers, oil-filled operational
equipment, oil-filled manufacturing equipment, and bulk storage containers such
as drums, intermediate bulk containers, and totes.

(b) The aggregate petroleum storage capacity shall not include capacities of aboveground storage tanks, containers, or equipment that are exempt or excluded as identified in HSC Section 25270.2.

(c) If the tank facility has less than 1,320 gallons of petroleum storage capacity and a tank in an underground area, the tank facility's total aggregate petroleum storage capacity shall include only the shell capacity of tanks in an underground area that meet the provisions described in HSC Section 25270.2(o), unless excluded under HSC Section 25270.3(c).

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.2, 25270.3, and 25270.4.1, Health and Safety Code.

1603. Definition of Waters of the State

The term "waters of the state" shall have the same meaning as defined in the Water Code Section 13050(e).

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.4.5 Health and Safety Code; and Section 13050, Water Code.

1604. Definition of Minor Violation

The term "minor violation" shall have the same meaning as defined in the HSC Section 25404(a)(3).

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25404 Health and Safety Code.

1605. Definitions of Formal Enforcement and Routine Inspection

(a) The term "formal enforcement" shall have the same meaning as defined in the California Code of Regulations (CCR) Title 27, Section 15110(e)(1).

(b) The term "routine inspection" shall have the same meaning as defined in the CCR Title 27, Section 15110(g)(1).

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.4, 25404.2, Health and Safety Code.

1606. Corrosion Protection Detail

All piping and supporting components that are susceptible to corrosion and associated with an aboveground storage tank shall be provided with protection from external corrosion and designed to prevent galvanic corrosion.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.4.1, Health and Safety Code.

1607. Designed and Intended Use Violation Detail

(a) Violations of Section 1607 shall not be classified as a minor violation.

(b) A tank designed and intended for underground use, or any tank used for that purpose, shall not be used as an aboveground storage tank as defined in HSC Section 25270.2(a). For purpose of this regulation, underground use means placement in an excavation surrounded by backfill material and buried.

(c) A rail car, tank car, or tank vehicle shall not be used as a storage tank in a permanent or fixed installation at a tank facility.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.12 and 25404, Health and Safety Code.

1608. Federal Regulatory Reference and Exceptions to Federal Definitions
Terms in these regulations and the preparation and implementation of a Spill, Prevention, Control, and Countermeasure Plan (SPCC Plan) have the same meaning as defined in the Code of Federal Regulations Title 40, Part 112, with exceptions to the following terms, which are defined in HSC Section 25270.2.: tank facility, owner or operator, and petroleum.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.2, Health and Safety Code.

1609. Inspection Determination for Tank Facilities with Less than 10,000 Gallons of Petroleum Storage Capacity that are Required to Prepare an SPCC Plan

(a) The Unified Program Agency may inspect tank facilities with a petroleum storage capacity of less than 10,000 gallons at least once every three years, to ensure compliance with these regulations.

Tank facilities shall be prioritized for inspections based on one or more of the following conditions:

1. A facility that has not had a routine inspection under APSA by the Unified Program Agency (UPA).
2. Facilities with the most time elapsed between APSA routine inspections.
3. Threat to waters of the state.

(b) For tank facilities that are not inspected per subsection (a), the UPA shall develop an alternative inspection and compliance plan.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.5, Health and Safety Code.

1610. Inspection Determination for Tank Facilities that are Conditionally Exempt from Preparing an SPCC Plan

(a) The Unified Program Agency may inspect tank facilities that meet the conditions as described in HSC Section 25270.4.5(b) at least once every three

years.

Tank facilities shall be prioritized for inspections based on one or more of the following conditions:

1. A facility that has not had a routine inspection under APSA by the UPA.
2. Facilities with the most time elapsed between APSA routine inspections.
3. Threat to waters of the state.

(b) For tank facilities that are not inspected per subsection (a), the UPA shall develop an alternative inspection and compliance plan.

(c) The primary purpose of the inspection is to determine whether the owner or operator continues to meet the conditions as described in HSC Section 25270.4.5(b).

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.4.1, 25270.4.5, 25270.5, Health and Safety Code.

1611. Overview of SPCC Plan Compliance Requirements.

(a) In order to determine if the owner or operator of a tank facility is following the SPCC Plan, a routine inspection shall include verification of the following measures:

- (1) The SPCC Plan elements are consistent with HSC Section 25270.4.5.
- (2) The SPCC Plan, including any amendments, is complete and appropriate for the tank facility.
- (3) The SPCC Plan has been certified by the owner or operator, or a professional engineer if required by the Code of Federal Regulations, Title 40, Part 112.
- (4) The SPCC Plan has been reviewed by the owner or operator at least once every five years, and the review is documented.
- (5) The appropriate containment and/or diversionary structures or equipment are provided.
- (6) The owner or operator has completed and documented the periodic inspections and applicable tests in accordance with the frequency specified in their SPCC Plan.
- (7) The training and discharge prevention briefings are conducted. Records of the training and discharge prevention briefings are documented for a minimum of 3 years. Records of training and discharge prevention briefing kept under usual and customary business practices will suffice for purposes of this subsection.
- (8) The visible discharges from aboveground storage tanks have been promptly corrected and accumulations of petroleum in diked areas are promptly removed.

(b) Section 1611 shall not apply to an inspection of a tank facility that meets the requirements of HSC Section 25270.4.5(b).

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.4.5.

Health and Safety Code.

1612. Overview of Enforcement

(a) These regulations shall be applied by the UPA in a manner that is consistent with the HSC Chapter 6.67 and the Code of Federal Regulations, Title 40, Part 112.

(b) The UPA is authorized to review the SPCC Plan and ensure plan implementation for compliance with the Code of Federal Regulations, Title 40, Part 112, HSC Chapter 6.67, and these regulations.

(c) The UPA is not authorized to evaluate the provisions and recommendations contained in an SPCC Plan independent from the provisions of the Code of Federal Regulations, Title 40, Part 112, HSC Chapter 6.67, and these regulations.

(d) The failure of any owner or operator of a tank facility to prepare an SPCC Plan shall not be classified as a minor violation.

(e) The UPA may pursue formal enforcement for any owner or operator of a tank facility who receives a non-minor violation or who fails to correct minor violations within 30 days.

(f) The UPA shall pursue formal enforcement, as defined in CCR Title 27, Section 15110(e), to obtain compliance from any owner or operator of a tank facility with a violation that remains open or uncorrected for more than six years or after two APSA routine inspection cycles, whichever is less.

(g) An inspection report shall be provided to the tank facility owner or operator or authorized representative not more than 30-calendar days after the conclusion of the inspection. This 30-calendar day timeline may be extended in the case of a state of emergency as declared by a local government body or the Governor, for any jurisdictions directly impacted and jurisdictions providing mutual aid, the report may be delayed until the incident has stabilized and the UPA has returned to regular service.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.2, 25270.4, Health and Safety Code.

1613. Owner or Operator Instructions During Inspections

(a) The owner or operator of a tank facility shall have the SPCC Plan and all applicable required records and documentation available for review upon request by the UPA during normal working hours.

(b) Provided the tank facility owner or operator agrees to provide copies of SPCC Plan implementation records and documentation, or provide remote access to the records and documentation, the UPA may inspect or review tank facility documentation and records remotely or offsite.

(c) Sections 1613(a) and 1613(b) shall not apply to a tank facility that meets the requirements of HSC Section 25270.4.5(b).

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.4.5, Health and Safety Code.

1614. Owner or Operator Electronic Reporting Requirements

(a) The owner or operator of a tank facility shall submit the following information electronically to the statewide information management system, called the California Environmental Reporting System (CERS), within 12 months following December 17, 2024, and annually thereafter.

(1) Conditionally exempt from SPCC Plan status;

(2) Date of SPCC Plan certification or last 5-year review, whichever is more recent;

(3) Total aggregate petroleum storage capacity of a tank facility in gallons; and

(4) Number of tanks in an underground area.

(b) For purposes of subsection (a)(4), if the tank facility has a petroleum storage capacity of less than 1,320 gallons and has one or more tanks in an underground area, the number of tanks in an underground area shall not include those excluded under HSC Section 25270.3(c).

(c) The annual submittal of information required in subsection (a) shall be in conjunction with the submittal of the tank facility statement or hazardous materials business plan as required under HSC Section 25270.6(a).

(d) Sections 1614(a)(2), 1614(a)(3), and 1614(a)(4) shall not apply to any owner or operator of a tank facility that meets the requirements of HSC Section 25270.4.5 (b).

(e) Each UPA shall review the information submitted by each tank facility as required under subsection (a) and HSC Section 25270.6(a) and ensure the information is complete.

(f) If, after review, the UPA determines that the owner or operator of the tank facility is deficient in satisfying the requirements of Section 1614, the UPA shall notify the owner or operator of those deficiencies. The owner or operator of the tank facility shall electronically submit corrected information within 30 days from the date of the notice.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.6, Health and Safety Code.

1615. UPA Staff Training Minimum Requirements

(a) UPA staff who inspect tank facilities for SPCC Plan compliance must obtain at least 6 hours of refresher training every 3 years. The 3 -year cycle begins from the date of the completion of the training required by HSC Section 25270.5.(c) or from

December 17, 2024, whichever is more recent.

(1) The training must include SPCC Plan provisions, safety requirements for aboveground storage tank inspections, or generally accepted industry practice related to aboveground storage tanks.

(2) Training may be in the form of a seminar, lecture, conference, workshop, online training, or other similar method.

(b) Training shall be documented, and the training records maintained by the UPA. Training records shall be made available to the OSFM, upon request. Training documentation shall include:

(1) Name of the trainee;

(2) Title or brief description or synopsis of the training;

(3) Name of the instructor or organization that provided the training;

(4) Date(s) of the training; and

(5) Total number of hours earned for the training.

(c) UPA staff who only inspect tank facilities that meet the requirements of HSC Section 25270.4.5 (b) are not subject to the training requirements in Section 1615.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.5, Health and Safety Code.

1616. UPA Notifications to the Regional Water Quality Control Board

The UPA shall notify the Regional Water Quality Control Board if the UPA has determined that cleanup or abatement of a release from an aboveground storage tank at a tank facility is required, or additional investigation is necessary to determine if cleanup is required, the UPA shall coordinate with the Regional Water Quality Control Board regarding the investigation, cleanup, and abatement activities.

Authority: Section 25270.4.1, Health and Safety Code. Reference: Section 25270.9, Health and Safety Code.