

Is My Facility Regulated Under APSA?

How do I know if my tank facility is regulated under the Aboveground Petroleum Storage Act (APSA) and what types of aboveground storage tanks, containers and equipment are regulated under APSA? Revised 3/29/2019

Answer: A tank facility is regulated under the Aboveground Petroleum Storage Act (APSA)¹ if the facility stores petroleum² in aboveground storage tanks (AST), containers or equipment of 55 gallons or more in shell capacity **AND**:

- The tank facility is subject to the oil pollution prevention regulations specified under the Code of Federal Regulations (CFR), Title 40, Part 112;³
OR
- The tank facility's total aboveground petroleum storage capacity is 1,320 gallons or more;
OR
- The tank facility has one or more petroleum tanks in an underground area (TIUGA).⁴ [The term "tank in an underground area" includes stationary aboveground tanks or equipment located in below-grade structures or areas, such as a basement, cellar, shaft, pit or vault. Refer to footnote below for additional information on TIUGA.]

If your facility meets any of the above applicability criteria, then you are considered a tank facility under APSA and the tank facility owner or operator must comply with **ALL** of the following APSA requirements:

1. Prepare and implement a Spill Prevention, Control, and Countermeasure (SPCC) Plan⁵ using the same format required by 40 CFR 112. A tank facility that meets the conditions of exemption as specified in the California Health and Safety Code (HSC) §25270.4.5(b) is not required to prepare an SPCC Plan but is required to meet the conditions of exemptions in accordance with HSC §25270.4.5(b).
2. The tank facility owner or operator must check "Yes" on the Aboveground Petroleum Storage question under the Business Activities of the Hazardous Materials Business

¹ APSA may be found in the California Health and Safety Code, Division 20, Chapter 6.67 at

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=25270.4.5.

² Petroleum means crude oil or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure (HSC §25270.2(h)).

³ The Federal SPCC Rule may be found in 40 CFR 112 at https://www.ecfr.gov/cgi-bin/text-idx?SID=a58b97a37f158ba833d5f3b152cbc811&mc=true&tpl=/ecfrbrowse/Title40/40cfr112_main_02.tpl

⁴ For more information on TIUGAs, visit the CAL FIRE–Office of the State Fire Marshal APSA Program website at <http://osfm.fire.ca.gov/cupa/apsa>.

⁵ SPCC Plans are not required to be submitted into CERS. For more information, visit the CERS Help Materials website at <https://cers.calepa.ca.gov/about-cers/help-materials/> and review the APSA Program guide called, 'Should I file an SPCC Plan in CERS?'

Plan in CERS.⁶ Also, annually complete and submit the APSA Program Submittal Element in CERS, which includes the APSA Facility Information, APSA Documentation, and the optional Miscellaneous State-Required Documents.

3. Pay the applicable Unified Program Agency (UPA) single fee and state surcharge for the APSA Program.
4. Your local UPA may have additional requirements. Please contact your local UPA (<http://cersapps.calepa.ca.gov/Public/Directory/>) for information.

To determine your tank facility's total aboveground petroleum storage capacity, add together the aggregate shell capacities of all ASTs, containers, and equipment, including each tank in an underground area, at the tank facility with a shell capacity equal to or greater than 55 gallons of petroleum. To calculate the capacity of 55-gallon drums on your tank facility, use the **maximum** number of drums that would typically be stored at your tank facility.

DO NOT include the actual volume stored in the AST, container or equipment when calculating your tank facility's total aboveground petroleum storage capacity; use the shell capacity of the AST, container or equipment. In addition, when determining the total aboveground petroleum storage capacity for your tank facility, **DO NOT** include the following tanks, containers or equipment that are excluded under APSA (HSC §25270.2(a)(1)-(8))

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=25270.2):

1. A pressure vessel or boiler subject to Part 6 of Division 5 of the California Labor Code;
2. A tank containing hazardous waste or extremely hazardous waste, as respectively defined in HSC §Sections 25117 and 25115, if the California Department of Toxic Substances Control (DTSC) has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank;
3. An aboveground oil production tank subject to Section 3106 of the California Public Resources Code;
4. Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the 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.
5. A tank regulated as an underground storage tank (UST) under Chapter 6.7 of the HSC and Chapter 16 of Division 3 of Title 23 of the California Code of Regulations (CCR) and that does not meet the definition of a tank in an underground area.
6. A transportation-related tank facility, subject to the authority and control of the U.S. Department of Transportation (DOT) as defined in the 1971 Memorandum of Understanding

⁶ For more information on the APSA Tank Facility Statement reporting requirement, visit the CERS Help Materials website at <https://cers.calepa.ca.gov/about-cers/help-materials/> and review the APSA Program guide called, 'Aboveground Petroleum Storage Tank Facility Statement Reporting.'

in Appendix A to Part 112 of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. [Note: A “complex” facility⁷ that is subject to both U.S. Environmental Protection Agency’s (EPA) SPCC rule and US DOT requirements may be subject to APSA if it meets any of the APSA applicability criteria previously mentioned.]

7. A tank or tank facility located on and operated by a farm that is exempt from the federal SPCC rule requirements pursuant to 40 CFR 112.⁸
8. A TIUGA 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 UPA.

Please refer to the following examples.

If filing the Hazardous Materials Business Plan in CERS in lieu of the APSA Tank Facility Statement, the answer to the question (‘Is the facility regulated under APSA?’) in the following examples should be the same as the facility’s answer to the Aboveground Petroleum Storage question under the Business Activities.

Facility 1

Petroleum Storage Inventory			
Tank or Container	Shell Capacity (Total)	Contents	APSA regulated?
Transformer (Oil-filled electrical equipment)	4,000 gallons	Insulating Oil (Petroleum based)	No ⁹
Circuit Breakers (Oil-filled electrical equipment)	100 gallons	Insulating Oil (Petroleum based)	No ⁹
Capacitors (Oil-filled electrical equipment)	55 gallons	Insulating Oil (Petroleum based)	No ⁹
55-gallon Drum	55 gallons	Used Oil (Petroleum based)	Yes
Hydraulic System (aboveground)	60 gallons	Hydraulic Oil (Petroleum based)	Yes
Total APSA Storage Capacity:			115 gallons
Is the facility regulated under APSA?			No

⁷ “Complex” means a facility possessing a combination of transportation-related and non-transportation-related components that is subject to the jurisdiction of more than one federal agency under §311(j) of the Clean Water Act (40CFR §112.2). A complex facility that is subject to both the US EPA’s SPCC rule and US DOT requirements may be subject to APSA requirements.

⁸ For more information on farms, visit the CAL FIRE-Office of the State Fire Marshal (OSFM) APSA website at <http://osfm.fire.ca.gov/cupa/apsa> and review the fact sheet called “APSA and SB612 for Farms.”

⁹ Oil-filled electrical equipment is not regulated under APSA if it meets certain conditions per HSC §25270.2(a)(4).

Facility 2

Petroleum Storage Inventory			
Tank or Container	Shell Capacity (Total)	Contents	APSA regulated?
Tank A (AST)	10,000 gallons	Liquefied Petroleum Gas	No ¹⁰
Tank B (AST)	10,000 gallons	Hot Mix Asphalt	No ¹¹
Tank C (Hazardous waste AST)*	1,000 gallons	Used Oil (Petroleum based)	No ¹²
Tank D (Hazardous waste AST)*	500 gallons	Waste Solvent (Petroleum based)	No ¹²
Tank E (AST)	500 gallons	Motor Oil (Petroleum based)	Yes
Tank F (AST)	500 gallons	Renewable Diesel (100%) (Non-crude oil based)	No ¹³
Tank G (AST)	500 gallons	Unleaded Gasoline	Yes
Tank H (AST)	100 gallons	Hydraulic Oil (Petroleum based)	Yes
Four 55-gallon Drums	220 gallons	Used Oil (Petroleum based)	Yes
Two 30-gallon Drums	60 gallons	Lubricating Oil (Petroleum based)	No ¹⁴
Total APSA Storage Capacity:			1,320 gallons
Is the facility regulated under APSA?			Yes

* Tank facility is issued a hazardous waste facilities permit by DTSC. Tanks C and D are included and identified on the tank facility's hazardous waste facilities permit.

¹⁰ LPG is not regulated under APSA. It does not meet the definition of petroleum under APSA per HSC §25270.2(h).

¹¹ Hot mix asphalt is not regulated under APSA. It does not meet the definition of petroleum under APSA per HSC §25270.2(h).

¹² APSA does not regulate a hazardous waste tank at a facility that is permitted by DTSC and the tank is identified on the facility's hazardous waste facilities permit (HSC §25270.2(a)(2)).

¹³ A 100 percent non-crude oil based renewal diesel is not regulated under APSA. It does not meet the definition of petroleum under APSA per HSC §25270.2(h).

¹⁴ A 30-gallon drum is not regulated under APSA. It does not meet the definition of an AST or storage tank under APSA per HSC §25270.2(a).

Facility 3

Petroleum Storage Inventory			
Tank or Container	Shell Capacity (Total)	Contents	APSA regulated?
Tank A (UST)	10,000 gallons	Unleaded Gasoline	No ¹⁵
Tank B (UST)	5,000 gallons	Diesel	No ¹⁵
Tank C (AST)	1,000 gallons	Motor Oil (Petroleum based)	Yes
Tank D (Tank in an underground area)	500 gallons	Used Oil (Petroleum based)	Yes
Ten 55-gallon Drums	550 gallons	Used Oil (Petroleum based)	Yes
Total APSA Storage Capacity:			2,050 Gallons
Is the facility regulated under APSA?			Yes

Facility 4

Petroleum Storage Inventory			
Tank or Container	Shell Capacity (Total)	Contents	APSA regulated?
Tank A (Oil-production AST)	10,000,000 gallons	Crude Oil	No ¹⁶
Tank B (Oil-production AST)	1,000,000 gallons	Crude Oil	No ¹⁶
Tank C (Breakout tank [transportation-related AST] and bulk storage AST) [†]	2,000,000 gallons	Petroleum Oil	No ¹⁷
Total APSA Storage Capacity:			0 Gallons
Is the facility regulated under APSA?			No

[†] Facility is not located near any navigable water or adjoining shoreline and, therefore, not subject to the federal SPCC rule.

¹⁵ USTs are not regulated under APSA per HSC §25270.2(a)(5).

¹⁶ An oil-production tank is not regulated under APSA per HSC §25270.2(a)(3).

¹⁷ This facility is not a complex facility. The breakout tank is regulated under US DOT and not regulated under APSA per HSC §25270.2(a)(6).

Facility 5

Petroleum Storage Inventory			
Tank or Container	Shell Capacity (Total)	Contents	APSA regulated?
Tank A (AST) [emergency generator] in a basement**	150 gallons	Diesel	Yes
Tank B (AST) [connected to a fire pump] in a basement**	250 gallons	Diesel	No ¹⁸
Tank C (AST)	500 gallons	Diesel	See note below
Tank D (UST)	500 gallons	Diesel	No ¹⁹
Total APSA Storage Capacity:			150 Gallons
Is the facility regulated under APSA?			Yes

** Tank A is fed by a 500-gallon AST (Tank C).

** Tank B is fed by a 500-gallon UST (Tank D).

Facility 5 is subject to APSA, because it has a TIUGA (Tank A). Although Tank C meets the definition of an AST under APSA per HSC §25270.2(a), the facility's total storage capacity is less than 1,320 gallons. Therefore, only Tank A, which is a TIUGA, is subject to the requirements of APSA per HSC §25270.3(c).

¹⁸ Tank B is connected to Tank D, which is a UST. Tank B and Tank D are considered one UST system regulated under UST requirements and not under APSA per HSC §25270.2(a)(5) and (o).

¹⁹ USTs are not regulated under APSA per HSC §25270.2(a)(5).