

# APSA, SPCC & YOU

All you've ever wanted to  
know....

....and more!

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# Aboveground Petroleum Storage Act

Assembly Bill 1130  
(Laird)  
Chaptered October 13, 2007

# Welcome & Overview

45 min- APSA Overview

10 min- Break

10 min- APSA SPCC Requirements

50 min- SPCC Rule & Amendments

10 min- Break

20 min- Review FAQs/ Q & A Session

30 min- Tools to Prepare Basic SPCC

# *We are listening...*

- ◆ This is a new law, we realize there are grey areas.
- ◆ Our goal is to work with facilities to implement the requirements.
- ◆ Industry participation as this program develops is VERY important.
- ◆ Please send us your feedback, questions, suggestions, etc.
- ◆ We are very interested in hearing from you!

1,320 gallons of  
petroleum in  
containers/tanks 55  
gallons or larger



# THE LINGO

ACRONYMS  
and  
DEFINITIONS



# ACRONYMS

CalEPA - Calif Environmental Protection Agency

CUPA - Certified Unified Program Agency

EPA - Fed. Environmental Protection Agency

EPTF - Environmental Protection Trust Fund

OES - Gov.'s Office of Emergency Services

RWQCB - Reg. Water Quality Control Board

SWRCB - State Water Resources Control Board

# DEFINITIONS

*H&SC Chapter 6.67 Definitions*

**Aboveground storage tank** - A tank (or container) with a capacity to store 55 gallons or more of petroleum that is substantially or totally above the surface of the ground.  
*(Includes drums, totes, portable tanks)*

**Operator** - Person responsible for the overall operation of the tank facility

# DEFINITIONS

*H&SC Chapter 6.67 Definitions*

**Owner** - Person who owns the tank facility or part of the tank facility

**Person** - individual, trust, firm, company, corporation, gov't corp., city, county, district, Univ. of Calif., Cal State Univ., state, all state agencies & departments, and the U.S. to the extent authorized by federal law.

# DEFINITIONS

*H&SC Chapter 6.67 Definitions*

**Petroleum** - Crude oil, or any fraction thereof, which is liquid at 60 degrees Fahrenheit and 14.7 per square inch absolute pressure

Examples: Aviation fuels, automotive and other petroleum-based engine fuels, fuel oils, distillate fuel, heating oils, gasoline, petroleum based lubricating oils, petroleum distillates, solvents, spirits, naphthas, olefins, alkanes, aromatics, biodiesel mixed with any amount of petroleum, etc.

Excludes propane, liquid natural gas (LNG) and LPG



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# DEFINITIONS

*H&SC Chapter 6.67 Definitions*

**Release** - any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, or disposing into the environment

**Storage** - Containment, handling, or treatment of petroleum, for any period of time, including on a temporary basis

**Storage capacity** - the aggregate **capacity** of all aboveground tanks at a tank facility

# DEFINITIONS

*H&SC Chapter 6.67 Definitions*

**Tank facility** - Any one, or a combination of, above-ground storage tanks, including any piping that is integral to the tank, that **contains petroleum** and that is used by a single business entity at a single location or site.

# DEFINITIONS

## *H&SC Chapter 6.67 Definitions*

**Pipe** - for purposes of this chapter a pipe is integrally related to the AST if it is connected to the AST and meets any of the following:

- ◆ pipe is within the dike or containment area
- ◆ pipe is between the containment area & first flange or valve outside the containment area
- ◆ pipe is connected to the first flange or valve on the exterior of the tank, if state or fed law does not require a containment area

# DEFINITIONS

## *H&SC Chapter 6.67 Definitions*

**Tank facility statement** - A statement that includes the following information for the tank facility: the facility name and address, a contact person, total storage capacity, and the location, size, age, and contents for each storage tank that exceeds 10,000 gallons in capacity and **holds a substance containing any amount of petroleum.**

# AB 1130

## SUMMARY

This bill

- ◆ Authorizes the expenditure of a portion of the Environmental Protection Trust Fund (EPTF), in an amount determined by the Secretary for Environmental Protection in consultation with the CUPAs, to a training account established and maintained by the Secretary to be used for purposes of training CUPA personnel in the requirements of the act.

# AB 1130

## SUMMARY

This bill

- ◆ Transfers the responsibility for the implementation, enforcement, and administration of the Aboveground Petroleum Storage Act (APSA) from the State Water Resources Control Board (SWRCB) to the Certified Unified Program Agencies (CUPAs) effective January 1, 2008.

# AB 1130

## SUMMARY

This bill

- ◆ Makes changes to ensure consistency with the federal Spill Prevention Control and Countermeasure (SPCC) rule provided in the U.S. Code of Federal Regulations, title 40, part 112 (40CFR112).

# What is an SPCC?

## Spill Prevention Control & Countermeasure Plan

- ◆ The SPCC rule describes requirements for certain facilities to prepare, amend, and implement plans for the prevention of oil spills to navigable water whenever quantities of petroleum are handled.
  - In California, the SPCC Plan is implemented to prevent spills into the waters of the State.
- ◆ Details the equipment, workforce, procedures and steps to prevent, control and provide adequate countermeasure to a discharge.

# AB 1130

## PREVIOUS LAW

- ◆ Required the SWRCB and the Regional Water Quality Control Boards (RWQCBs) to administer the program with regard to a tank facility that is subject to specified federal regulations.
- ◆ Required CUPAs to verify that a SPCC plan had been prepared when they conducted the routine Unified Program compliance inspections at tank facilities.

# AB 1130

## PREVIOUS LAW

- ◆ If an SPCC plan had not been prepared, the CUPAs were required to submit a referral to the appropriate RWQCB for enforcement.
- ◆ It also required a tank facility owner or operator to file a storage statement with the SWRCB and pay the fee specified in law to the SWRCB.



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# APSA Highlights

## THE BILL

- ◆ Establishes the California Aboveground Petroleum Storage Act (APSA).
- ◆ Became effective on January 1, 2008.
- ◆ Defines key terms, such as: *aboveground storage tank; petroleum; storage capacity; tank facility; etc.*
- ◆ Identifies when tank facilities are subject to and exempt from the APSA.

# APSA Highlights

## THE BILL

- ◆ Transfers the authority and responsibility for administration of the APSA from the SWRCB and RWQCBs to the CUPAs.
- ◆ Requires the owner or operator of a tank facility, with an **aggregate storage capacity of 1,320 gallons or more of petroleum**, to prepare and implement an SPCC plan in accordance with federal law, 40 CFR 112.

# APSA Highlights

## THE BILL

- ◆ Requires the CUPAs to conduct inspections at tank facilities with an aggregate storage capacity  $\geq 10,000$  gallons of petroleum at least every three years.

# APSA Highlights

## THE BILL

- ◆ Requires inspectors conducting the inspection to complete an AST training program and satisfactorily pass an examination on the SPCC plan provisions and safety requirements for aboveground storage tank inspections.
- ◆ The training program and examination are to be developed by the Secretary for Environmental Protection.

# APSA Highlights

## THE BILL

- ◆ Establishes civil penalties
- ◆ Specifies that any penalties assessed and recovered in a civil action by a city or district attorney would be shared 50% to the CUPA and 50% to the city or district attorney.
- ◆ Clarifies that transportation-related tanks regulated by the U.S. Department of Transportation (DOT) and underground storage tanks regulated by HS&C 6.7 and CCR Title 23 are not subject to the APSA.

# Aboveground Petroleum Storage Act

So, what do we do now...

# REQUIREMENTS OF APSA

The CUPA must inspect each storage tank or a representative sampling of the storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum at least once every three years. (*H&SC § 25270.5*)

- A. The purpose of the inspection shall be to determine whether the owner or operator is in compliance with the SPCC Plan requirements of the APSA.

The CUPA will be reviewing the SPCC Plan for all facilities with  $\geq 1,320$  gallons of petroleum.

# REQUIREMENTS OF APSA

Owner/Operators subject to this Chapter (*H&SC § 25270.4.5(a)*) shall:

A. Prepare a Spill Prevention Control and Countermeasure (SPCC) Plan

- in accordance with U.S. Code of Federal Regulations Title 40, Part 112 (40 CFR 112)

B. Conduct periodic self inspections

- to assure compliance with 40 CFR 112 (Inspections, Tests, and Records)

C. Implement SPCC Plan

- in compliance with 40 CFR 112
- *May require installing secondary containment*

# Secondary Containment?

1) "Sized Secondary Containment"– applies to bulk storage– 100% of largest container/tank plus freeboard for precipitation

2) General Containment 112.7(c)

- ◆ Provide appropriate containment or diversionary structures or equipment to prevent a discharge.
- ◆ Options: Dikes, berms, retaining walls, curbs, culverts, gutters or other drainage systems, weirs, booms or other barriers, diversion ponds, retention ponds or sorbent materials.
- ◆ Applies to:
  - Loading/unloading *areas*(fuel transfers by flex line, not "Loading Racks"which are subject to 112.7(h));
  - Above-ground single-wall piping;
  - Oil-filled operational equipment (unless eligible for new alternatives);
  - Mobile refuelers.



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# REQUIREMENTS OF APSA

On or before January 1, 2009, and on or before January 1 annually thereafter, each owner or operator of a tank facility subject to the APSA shall file with the CUPA a tank facility statement. (*H&SC § 25270.6(a)*)

At this time San Diego County is requesting the submittal of the tank facility statement. In the future, an owner or operator of a tank facility that submits a complete business plan may satisfy the requirement to file a tank facility statement.



# Total Facility Capacity

How to Calculate Total Petroleum Capacity for your Facility:  $a + b + c = \text{Total Facility Capacity}$

No. of tanks and containers x size = Total Capacity <i>in gallons</i> (e.g., 2 x 550 gal. AST = 1100; 6 x 55 gal. drums = 330; 1100 + 330 = 1430 gals.)		
_____ x 55 gal. = _____	_____ x 1,000 gal. = _____	_____ x _____ gal. = _____
_____ x 100 gal. = _____	_____ x 2,000 gal. = _____	_____ x _____ gal. = _____
_____ x 250 gal. = _____	_____ x _____ gal. = _____	_____ x _____ gal. = _____
_____ x 500 gal. = _____	_____ x _____ gal. = _____	_____ x _____ gal. = _____
Subtotal (a) = _____	Subtotal (b) = _____	Subtotal (c) = _____

## TOTAL FACILITY CAPACITY

921. TOTAL FACILITY CAPACITY – Enter the facility’s total petroleum aboveground storage tank capacity (in gallons). Aboveground storage tank means a tank or container that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground. Petroleum includes waste oil. Storage includes **standby storage**, **seasonal storage**, and **temporary storage**. To calculate the capacity of 55 gallon drums on site, use the **maximum** number of drums that would **typically be stored** at your facility.



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# REQUIREMENTS OF APSA

Each year, beginning January 2010, each owner or operator of a tank facility subject to the requirements of Chapter 6.67 shall pay a fee to the CUPA. (*HSC §25270.6(b)*)

- A. The governing body of the CUPA shall establish a fee, as part of the single fee system implemented pursuant to Section 25404.5, **sufficient to pay the costs incurred by the CUPA** in administering the APSA, including, but not limited to, inspections, enforcement, and administrative costs.

# REQUIREMENTS OF APSA

Each owner or operator of a tank facility shall immediately, upon discovery, notify the **Governor's Office of Emergency Services** and the **CUPA** 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 Section 13272(a) of the Water Code. *(H&SC § 25270.8)*

*-Remember, the H&SC requires you to report ANY amount of a significant release or threatened release of a hazardous material.*



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# APSA VIOLATIONS

## Violations : Failure to

- ◆ prepare a SPCC Plan
- ◆ file a tank facility statement (or an annual certification of the business plan)
- ◆ submit required annual fee (in 2010)
- ◆ report spills
- ◆ comply with other APSA requirements

*(H&SC § 25270.12)*

# APSA PENALTIES

## CIVIL PENALTIES:

- ◆ Not more than \$5,000 for each day the violation continues.
- ◆ Not more than \$10,000 for a second or subsequent violation for each day the violation continues

*(H&SC § 25270.12)*

# EXEMPTIONS

The image features a solid teal background. At the bottom, there is a silhouette of a mountain range in a slightly darker shade of teal. The word "EXEMPTIONS" is centered in the upper half of the image in a bold, white, sans-serif font with a thin black outline.

# EXEMPTIONS

*Exempt from definition of Aboveground Storage Tank:*

1. Pressure vessel or boiler subject to Labor Code Division 5 Part 6 §7620 et al
2. Hazardous waste tank with a Hazardous waste facility permit from DTSC
3. Aboveground oil production tank subject to Public Resources Code § 3106

# EXEMPTIONS

*Exempt from definition of Aboveground Storage Tank:*

4. Oil-filled electrical equipment (transformers, circuit breakers, capacitors) if it
  - contains  $< 10,000$  gal of dielectric fluid
  - contains  $\geq 10,000$  gal of dielectric fluid with PCBs  $< 50\text{ppm}$  with appropriate containment to prevent oil from reaching navigable water & visual inspection.

# EXEMPTIONS

*Exempt from definition of Aboveground Storage Tank:*

5. A tank regulated as an underground storage tank under H&SC Chapter 6.7 and 23 CCR Div 3 Ch 16
6. Any transportation-related tank subject to the authority of the U.S. Department of Transportation (DOT) per 40 CFR 112 Appendix A

# EXEMPTIONS - Conditional

*Exempt from preparing a SPCC:*

A tank facility located on a farm, nursery, logging site, or construction site, if

1. No storage tank at the location exceeds 20,000 gallons, and
2. The cumulative storage capacity of the tank facility does not exceed 100,000 gallons

# EXEMPTIONS - Conditional

A tank facility located on a farm, nursery, logging site, or construction site, can maintain the exemption if they

1. Conduct a daily visual inspection of any storage tanks storing petroleum
2. Allow the CUPA to conduct periodic inspections
3. Install secondary containment if the CUPA determines that it is necessary for the protection of the waters of the state

*Note: There is no exemption for these facilities under the federal law*

# Please send us your feedback!

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# Let's Review

Frequently  
Asked  
Questions

# Who is subject to the requirements of APSA?

- ◆ A tank facility is subject to APSA if:
  - the "tank facility" is subject to the oil pollution prevention regulations specified in Part 112 (commencing with section 112. 1) of subchapter D of chapter I of title 40 of the Code of Federal Regulations; or
  - the tank facility has a storage capacity of 1,320 gallons or more of petroleum.

Important Note: The California APSA only regulates tank facilities that store petroleum and not other oils, as does the federal (SPCC) Rule (subject to 40CFR112). The Act's definition of petroleum and tank facility must first be applied before considering the first applicability criteria above.

# What is petroleum?

- ◆ The Act defines “petroleum” to mean crude oil, or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure (normal atmospheric pressure at sea level). Some examples of petroleum products stored in aboveground storage tanks and are subject to APSA are as follows:
- ◆ Petroleum-based liquid fuels, including:
  - Aviation fuels (including jet, turbine, and piston fuels)
  - Automotive and other petroleum-based internal combustion engine fuels
  - Fuel oils and distillate fuels (turbine, boiler, and other types)
  - Heating oil and distillates
- ◆ Illuminating (e.g. lamp) oils
- ◆ Gasoline and other fuel blending stocks
- ◆ Petroleum-based lubricating, tapping, seal, penetrating, machining, and road oils and greases (including waste oils)
- ◆ Petroleum distillates; Petroleum- or petroleum-distillate based additives (including fuel, oil, ink and paint additives)
- ◆ Petroleum solvents
- ◆ Petroleum spirits (e.g. mineral spirits, Stoddard solvent, paint thinners)
- ◆ Hydrocarbon liquids; Naphthas and naphthalenes of all types
- ◆ Olefins, alkanes, alkylates, aromatics; Petroleum-based inks and ink extenders
- ◆ Oil-based paints, coatings, thinners and solvents; Petroleum extender oils; Mineral oils (derived from petroleum); Crude oil

# What tank facilities are exempt from the APSA program?

- ◆ A tank facility located on a farm, nursery, logging site, or construction site, while still regulated under APSA, is not subject to the requirement to prepare and implement an SPCC Plan if:
  - no storage tank at the location exceeds 20,000 gallons;  
and,
  - the cumulative storage capacity of the tank facility does not exceed 100,000 gallons.

Please note that while farms, nurseries, logging sites, or construction sites are conditionally exempt from the requirement to prepare an SPCC Plan under APSA, these facilities are not exempt from federal SPCC requirements enforced by US EPA.

Does any percentage of petroleum oil content in a mixture (no matter how small) bring the mixture into APSA regulation as 'petroleum'?

- ◆ Yes, all mixtures that contain any amount of petroleum are considered to be petroleum and therefore must be included when determining the tank facilities total storage capacity.

# Are businesses with aboveground storage tanks containing vegetable and/or animal oil, which are required under the federal SPCC plan rule, also included under the APSA program?

- ◆ No. The requirements of the California APSA program only regulates petroleum and only applies to “tank facilities that have ASTs that contain or are intended to contain petroleum products.
- ◆ Be aware that EPA’s SPCC rule regulates facilities with ASTs that contain other non-petroleum based oils, which are not captured under APSA, and may be subject to federal regulation and US EPA oversight.
- ◆ For tank facilities with both petroleum and non-petroleum oils subject to both APSA and the federal SPCC rule, a single integrated SPCC Plan can be prepared. A separate SPCC Plan is not required for APSA.

Does the phrase “construction site” as used in section 25270.4.5 (b) of the Health and Safety code include construction “yards” and quarries?

- ◆ No, a construction yard is not considered to be a construction site. A yard is a place where construction equipment is stored and maintained and subject to the requirements of APSA.
- ◆ Yes, quarries are considered to be included in the meaning of “construction site:”

Construction activities are being performed on a portion of a manufacturing, commercial or maintenance facility with aboveground tanks. Is the entire facility considered a “construction site”?

- ◆ No, only the portion of the facility actually undergoing construction would be considered a “construction site.” Only the AST’s associated with the construction activities could be included in a conditional exemption.

If a tank facility has multiple ASTs that are *owned and operated* by different persons, and if the total capacity of the tank(s) for each business is less than 1,320 gallons, but the total for all tanks at this single location exceeds 1,320 gallons, is each business subject to APSA?

- ◆ No. The Health & Safety Code (H&SC), Section 25270.3 states that a "tank facility" that has a storage capacity of 1,320 gallons or more of petroleum is subject to regulation under APSA. However, Section 25270.2 of the H&SC defines "tank facility" as being used by a single business entity at a single location or site. Therefore, the storage capacity would not be the cumulative amount of petroleum on site, but rather the cumulative amount of petroleum that is owned and operated by the same business entity.

# What is a storage tank?

- ◆ An “aboveground storage tank” or “storage tank” means a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground.

# What is storage capacity?

- ◆ Storage capacity is the shell or design capacity of the aboveground tank. Shell or design capacity may be greater than the actual amount of petroleum a facility routinely stores in that tank.
- ◆ However, it is the rated design or shell capacity of a tank that must be counted, not the actual amount of petroleum actually contained.

# If an AST is "empty", is that still an AST?

- ◆ Yes, unless they are closed in a specific manner. If an aboveground storage tank is "empty" but will still or can readily be used to store a petroleum product (usually the same product that it previously contained), then this "empty" AST is still considered an AST, and is regulated under APSA. However, if the "empty" AST container meets the federal SPCC rule definition of "permanently closed", it is not captured under APSA.
- ◆ "Permanently closed," as defined in 40 CFR 112.2, refers to containers "for which (1) All liquid and sludge has been removed from each container and connecting line; and (2) All connecting lines and piping have been disconnected from the container and blanked off, all valves (except for ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure.
- ◆ If the AST can and will no longer be used to store a petroleum product, that AST is no longer subject to APSA, but the AST must be completely emptied, cleaned of all petroleum residuals, and completely physically disconnected from all petroleum-containing piping.
- ◆ The SPCC plan should be updated as necessary to reflect the status of all regulated tanks.



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## Is it a requirement for tank facilities to submit, file or provide their SPCC Plans to the CUPA, or for the CUPA to 'approve' the Plan?

- ◆ No. The APSA only requires a tank facility to submit/file a Tank Facility Statement with the CUPA.
- ◆ There is no requirement in APSA for a tank facility to submit or file its SPCC Plan itself. However the UPA may require a copy of the SPCC Plan to be submitted as part of the UPA's city/county ordinance or policy. There is also no requirement in APSA for a tank facility's SPCC Plan to be approved by the CUPA.
- ◆ Federal regulations (40 CFR 112) also do not require the routine submittal, filing or approval of an SPCC Plan (although a Plan may be required to be submitted to USEPA after certain significant oil spills into navigable waters).

# Can a facility use an SPCC Plan template?

- ◆ In general, an SPCC Plan must be prepared in accordance with good engineering practice. No specific format is required, but if the Plan is not organized to follow the sequence of the requirements in 40 CFR 112, it must have a cross-reference.
- ◆ As long as the Plan contains all the required 40 CFR 112 elements, is facility-specific and is prepared in accordance with good engineering practice, any format or template may be used.

# Who reviews the SPCC Plan and how often is the SPCC Plan reviewed?

- ◆ The owner or operator is required to review the SPCC Plan at least once every 5 years. Every review must be documented.

# When must an SPCC Plan be amended by the facility operator?

- ◆ The owner or operator is required to amend the Plan within 6 months following a review to incorporate more effective control and prevention technologies if the technology will significantly reduce the likelihood of a release, and the technology has been field proven at the time of review.
- ◆ The owner or operator must also amend the SPCC Plan as described in 40 CFR 112.5, whenever there is a change in the facility design, construction, operation or maintenance that materially affects the facility's potential for discharge into navigable waters of the United States or adjoining shorelines. Such amendments must be fully implemented no later than 6 months after the change occurs.
- ◆ Technical amendments must be certified by a licensed Professional Engineer in accordance with Section 112.3(a) of title 40 of the federal code of regulations.

# How often must the owner or operator perform visual inspections of their ASTs?

- ◆ The owner or operator of a tank facility that is required to prepare and implement an SPCC Plan pursuant to the Act is required to perform periodic inspections of storage tanks containing petroleum to determine compliance with 40CFR112.
- ◆ The owner or operator of a tank facility that is exempt, pursuant to the Act, from the preparation and implementation of a SPCC Plan are required to conduct a daily visual inspection of any storage tank storing petroleum.