



APSA Exclusions & Exemptions

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27th California Unified Program
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March 24-27, 2025

Question

What are the consequences of an incorrect violation?



Overview & Objectives

Understanding of
key exemptions &
exclusions

- SPCC, APSA, Both?

Real-world
application

Agenda

- Regulatory Framework
 - Applicability Recap
- SPCC Facility Exemptions
- APSA Facility Exemptions
- SPCC Containers
- APSA Containers



Exclusions and Exemptions

Exclusion

Something that has been omitted or kept out of regulation

Exemption

Something that is otherwise covered by regulation but has been deliberately carved out of it



Reading Codes

- Break down long/complex blocks into actionable elements
- Each element must be verified individually
- Beware of commas, "and", & "or"

REGULATORY FRAMEWORK

Initial Exemption Discussions



SPCC Rule

Aims to prevent oil discharges into navigable waters and adjoining shorelines

Prevention: Establish procedures/methods to prevent spills

Preparedness: Must be prepared to respond effectively

Response: Must have measures in place to mitigate impacts of spills

SPCC Applicability



Non-transportation-related



Aboveground oil storage capacity greater than 1,320 gallons OR completely buried oil storage capacity greater than 42,000 gallons



Could reasonably be expected to discharge oil to navigable waters or adjoining shorelines in quantities that may be harmful

APSA Overview

Aims to prevent petroleum discharges

Prevention: Establish procedures/methods to prevent spills

Preparedness: Must be prepared to respond effectively

Response: Must have measures in place to mitigate impacts of spills

APSA Applicability



Aboveground petroleum storage capacity of 1,320 gallons or more



Subject to SPCC



Has 1 or more TIUGAs

Both Program Require...



Preparation of a
SPCC Plan



Implementation
of the Plan



Appropriate
inspections



Training of
personnel



Records
maintenance

1,320
Gallons?



SPCC FACILITY EXEMPTIONS & EXCLUSIONS

My facility doesn't count...



Generally Speaking...

APSA requires adherence to the SPCC Rule, therefore most SPCC exemptions are also APSA exemptions



Key Definitions

- Facility
- Oil
- Petroleum
- Navigable Waters



“Facility” Discussion

The boundary or extent of a “facility” depends on site-specific circumstances



No single prescriptive definition for a facility



Owner/Operator and/or certifying PE must use their judgement

Factors to Consider

- Ownership, management, and/or operation
- Similarity in functions or operational characteristics
- Adjacency
- Shared drainage pathways



“Facility” Discussion

Contiguous or non-contiguous buildings, properties, parcels, leases, structures, installations, pipes, or pipelines under the ownership or operation of the same person may be considered separate facilities. [40 CFR 112.2]

*The boundaries of a facility may not be drawn to solely avoid regulation.



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APSA “Facility” Discussion

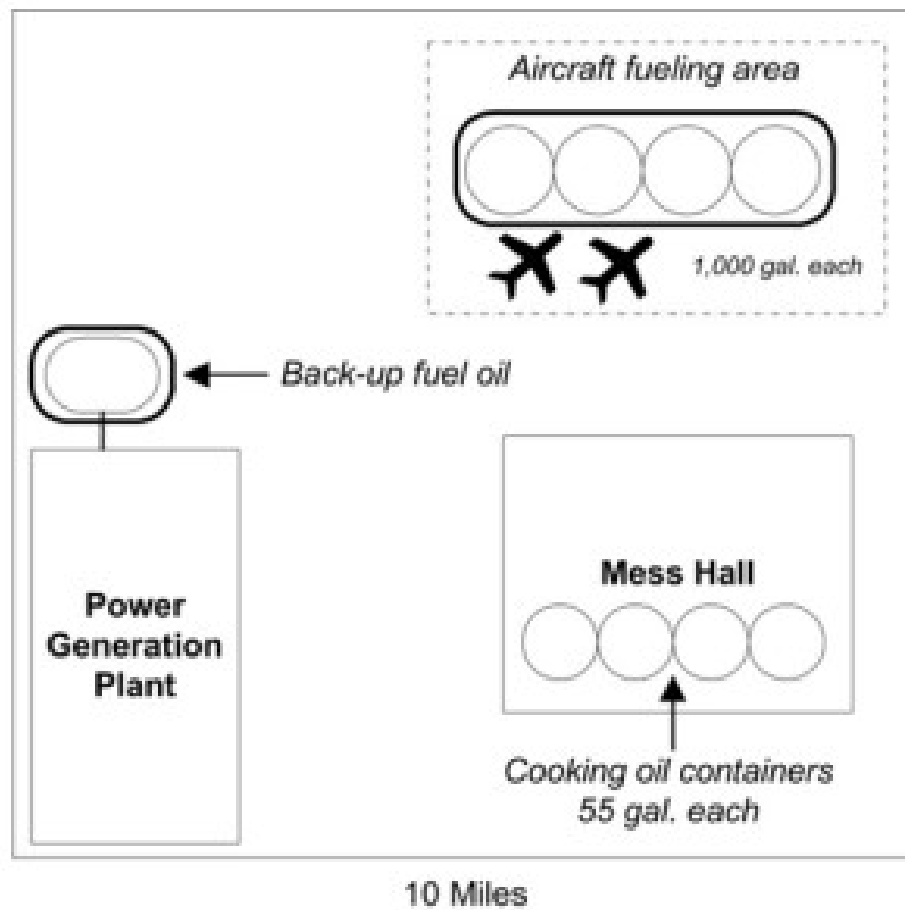
One or more aboveground storage tanks, including integral piping

Contains petroleum

Used by an owner or operator

At a single location or site

[HSC 25270.2(n)]



SPCC Guidance for Regional Inspectors (2013), Figure 2-5

Question

Do facility boundaries for APSA/SPCC need to match those for other UPA programs?



Oil Definition

SPCC definition derived from CWA §311(a)(1)

- *oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.*

Also defined in OPA, but was not incorporated into SPCC because CWA definition was unchanged

Oil Definition

oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil. [40 CFR 112.2]

Non-oils = Excluded

Petroleum

APSA

SPCC

crude oil, or

a fraction thereof,



liquid at 60 degrees Fahrenheit
temperature and

14.7 pounds per square inch

Navigable Waters

- All navigable waters of the United States, as defined in judicial decisions prior to the passage of the 1972 Amendments to the FWPCA (Pub. L. 92-500), and tributaries of such waters
- Interstate waters
- Intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes
- Intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce




“Discharge”

Discharges under the SPCC Rule require cleanup, but may not trigger reporting



Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil [40 CFR 112.2]



Does not include permitted discharges [40 CFR 112.2]

Discharge in Harmful Quantities

- Not described in SPCC Rule, per se
- 40 CFR 110 describes discharges that may be harmful under the CWA and is widely used as a test for SPCC
 1. Causes a sheen or discoloration on the surface of the water or adjoining shoreline
 2. Causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines
 3. Violates an applicable water quality standard



Reasonably be Expected...

Term is not defined

Owner/operator and/or PE must make determination

Must be based solely on consideration of the geographical and location aspects of the facility [40 CFR 112.1(d)(1)(i)]

Must exclude consideration of manmade features [40 CFR 112.1(d)(1)(i)]



Navigable Waters Exclusion

If an otherwise regulated facility cannot possibly have a:

1. Discharge
2. In harmful quantities
3. To navigable waters (adjoining shorelines)

Excluded

Question

Why is a navigable waters exemption important for APSA inspectors to understand?



Question

Are petroleum derivatives regulated by SPCC if they're not liquid until temperatures higher than 70° F?



Transportation

- A series of MOUs between EPA and DOT clarify the types of facilities, equipment, etc that are meant by the terms transportation-related and non-transportation-related
- Complexes are facilities with both transportation-related and non-transportation-related components

[40 CFR 112.2]



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Non-Transportation-Related

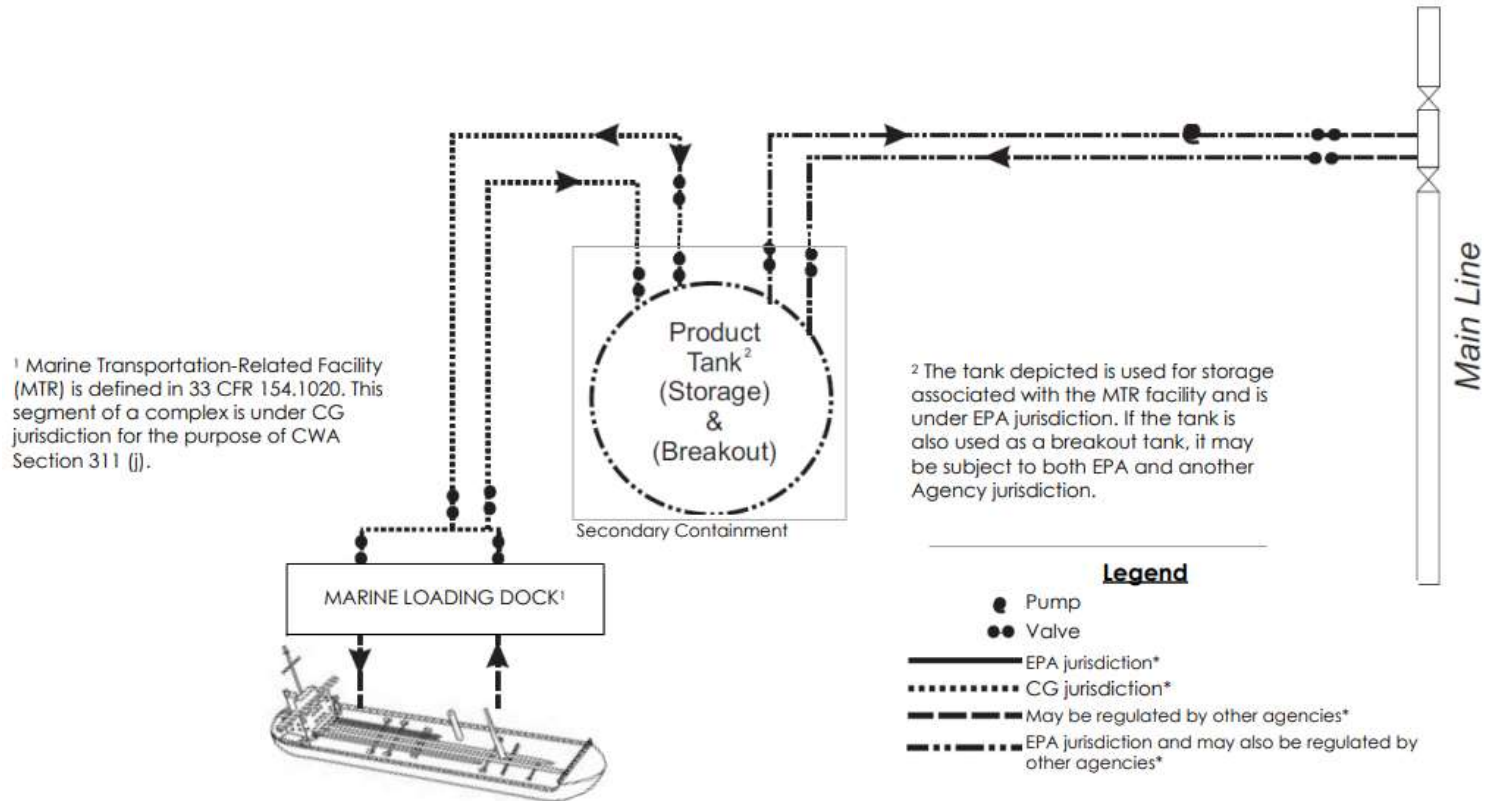
- Tank trucks if they operate solely within the confines of a facility
- Rail cars if they operate exclusively within the confines of a facility
- Loading racks, loading arms, transfers to/from highway vehicles & bulk railcars

Transportation-Related

- Tank trucks not meeting previous definitions
- Railcars in transit, temporarily stopped, or passing through a facility
- Transfers to locomotives & vessels/barges
- Breakout tanks (not used for storage)



EPA, COAST GUARD, AND OTHER AGENCIES JURISDICTION AT COMPLEX FACILITY



* This diagram does not identify the precise location where the change in jurisdiction may occur between EPA and any other agencies for the purpose of the Clean Water Act, Section 311 (j) (33 USC 1321 (j)). When the pipeline operator and the storage or breakout tank operator remain the same, the change in jurisdiction occurs at the first meter, valve, or isolation flange at or inside the facility property line. When the pipeline operator and the storage or breakout tank operator are not the same, the change in jurisdiction occurs at the change in operational responsibility or at the first meter, valve, or isolation flange at or inside the facility property line. In either of the above situations, the location of the property line should not solely be used to determine jurisdiction when operational activities (loading/offloading) extend beyond the property line.

Transportation Exclusion

- SPCC applicability is limited to non-transportation-related facilities [40 CFR 112.1(b) ref. 112.1(d)(1)(ii)-(iii)]
- APSA utilizes the same criteria [HSC 25270.2(a)(6)]

Transportation-related = Excluded



Underground Storage Tanks

- Regulated under 40 CFR 280 or a state program approved under part 281
- Completely buried capacity of no more than 42,000 gallons [40 CFR 112.1(d)(4)]



Completely-Buried Capacity

- Completely buried means any container completely below grade and covered with earth, sand, gravel, asphalt, or other material [40 CFR 112.2]
- Containers in vaults, bunkered tanks, or partially buried tanks are considered aboveground storage containers for purposes of this part
 - Nuclear power plant exception to exemption

Completely Buried Tank Exemption

All the same applicability rules
apply!



Facilities otherwise subject to SPCC
can still have exempted USTs

Must be clearly marked on facility diagram

APSA Exemption

- Tanks regulated under HSC Chapter 6.7 and Title 23 CCR as USTs
 - Vaulted, partially buried, etc

Beware of potential mismatch!



Question

What are some UST types that may not be covered under UST regulations and thus subject to SPCC?



A photograph of a storm drain on asphalt. A rainbow-colored oil spill is visible, flowing from the drain and spreading across the pavement. The spill shows distinct bands of color: red, orange, yellow, green, blue, and purple. The drain cover is visible in the upper right, and the asphalt surface is dark and wet.

APSA FACILITIES

Is my facility out?

APSA Scope Reminder

Petroleum and
petroleum-
containing only

Liquid at 60°F
and 14.7 pounds
per square inch

AFVO excluded

Non-liquids = excluded

Small Facility TIUGAs

If a facility has <1,320 gallons petroleum then TIUGAs are still subject to APSA unless the tank...

1. holds hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, or other similar devices
2. is a heating oil tank
3. is a sump, separator, clarifier, catch basin, or storm drain

[HSC 25270.3(c)]



Conditional Facility Exemptions

1. Farms
2. Nurseries
3. Logging Sites
4. Construction Sites

[HSC 25270.4.5(b)]



Qualifying Tanks

Must be associated
with the exempt
activity



Qualifying Tanks

Must be associated
with the exempt
activity



Qualifying Tanks

Must be associated
with the exempt
activity



Qualifying Tanks

Must be associated
with the exempt
activity



Capacity Criteria

no storage tank at the location greater than 20,000 gallons of petroleum

100,000 gallons or less of total petroleum storage capacity at the facility

Conditional Exemption Criteria

1

Conduct daily
visual inspection

2

Allow UPA to
conduct periodic
inspection

3

Install secondary
containment if
mandated by UPA

Daily Visual Inspection

Every day that contents are added to or withdrawn from the tank

- No less than five days per week
- May be reduced by holidays
 - If no addition/withdrawal

UPA may reduce the frequency of inspections

- not less than once every 3 days
- if the tank facility is not staffed on a regular basis
- inspection must be performed every day the facility is staffed

Daily Inspections

How can you tell
if inspections are
being completed?



Periodic UPA Inspections

Frequency of 3 years OR based on
I&E Plans & priority [19 CCR 1610(a)-(b)]

No routine APSA
inspection by
UPA

Most time
elapsed between
inspections

Threats to waters
of the state



Primary purpose is verification of
exemption criteria [19 CCR 1610(c)]

Secondary Containment Installation

Sized containment may be required

- If the UPA determines installation of secondary containment is necessary
- For protection of waters of the state



Waters of the State

Same as Water Code §13050(e)

- *“...any surface water or groundwater, including saline waters, within the boundaries of the state”*



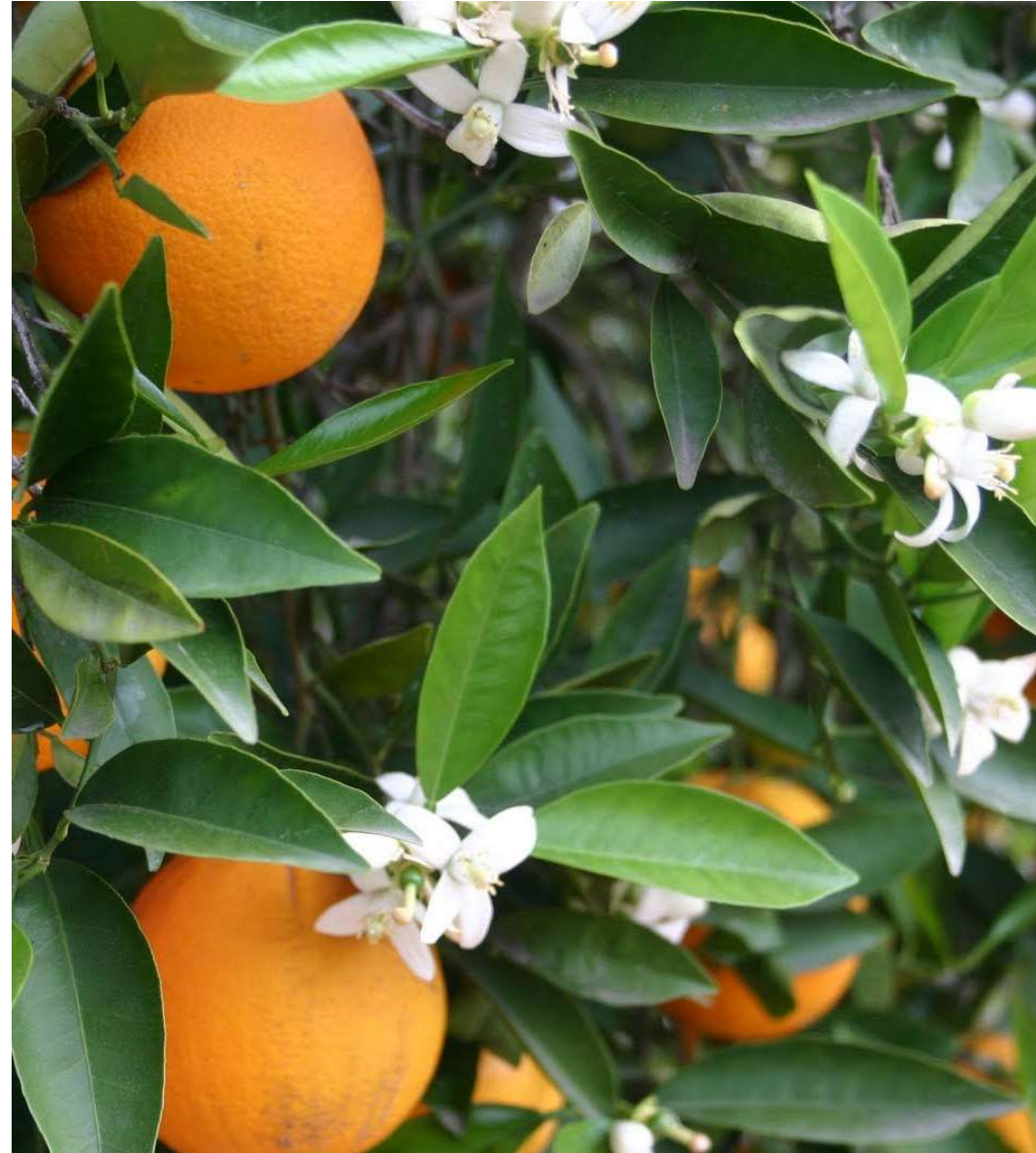
Farms

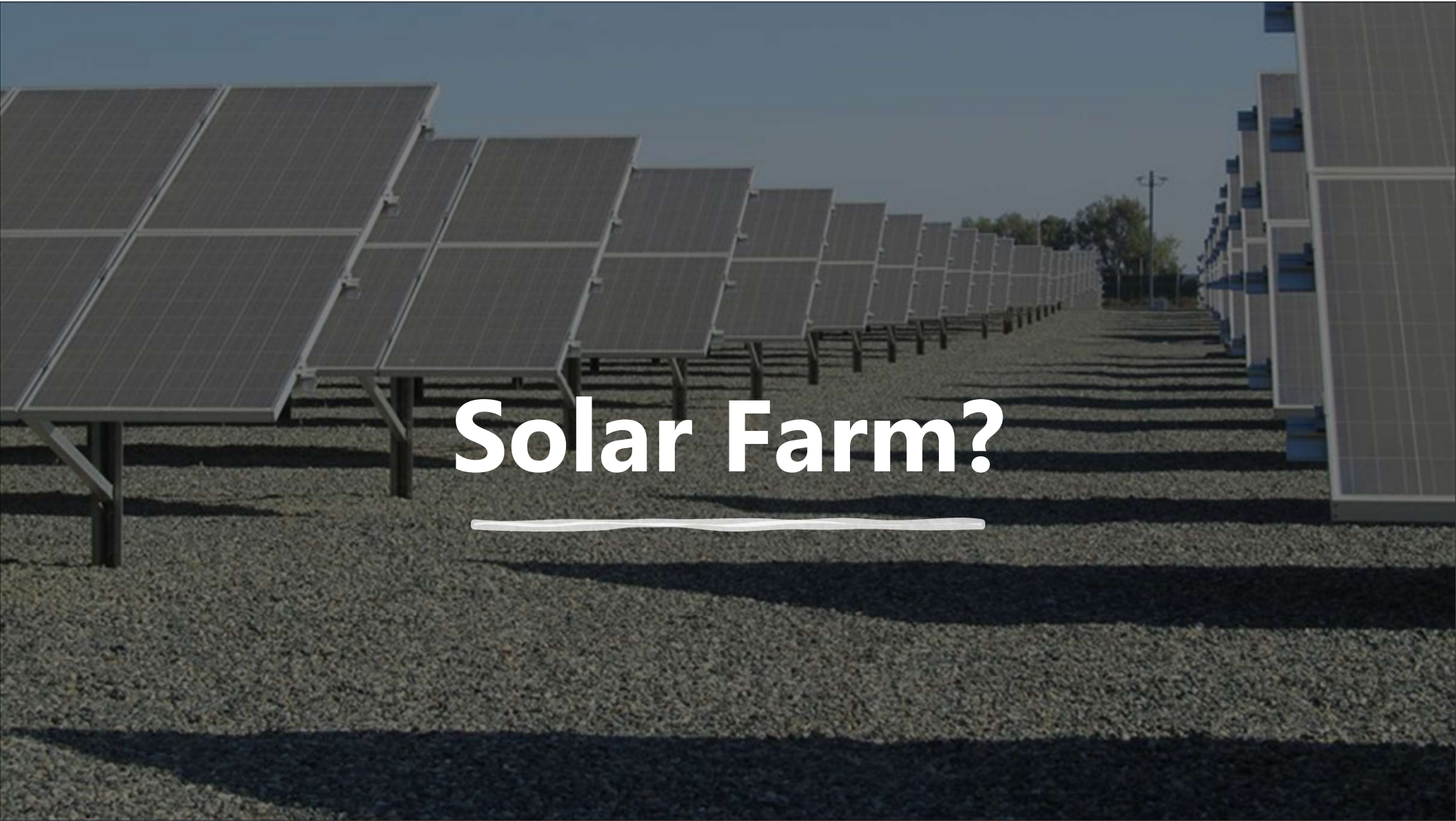
[40 CFR 112.2]

facility on a tract of land

devoted to production of crops or raising of animals, including fish

which produced and sold, or normally would have produced and sold, \$1,000 or more of agricultural products during a year





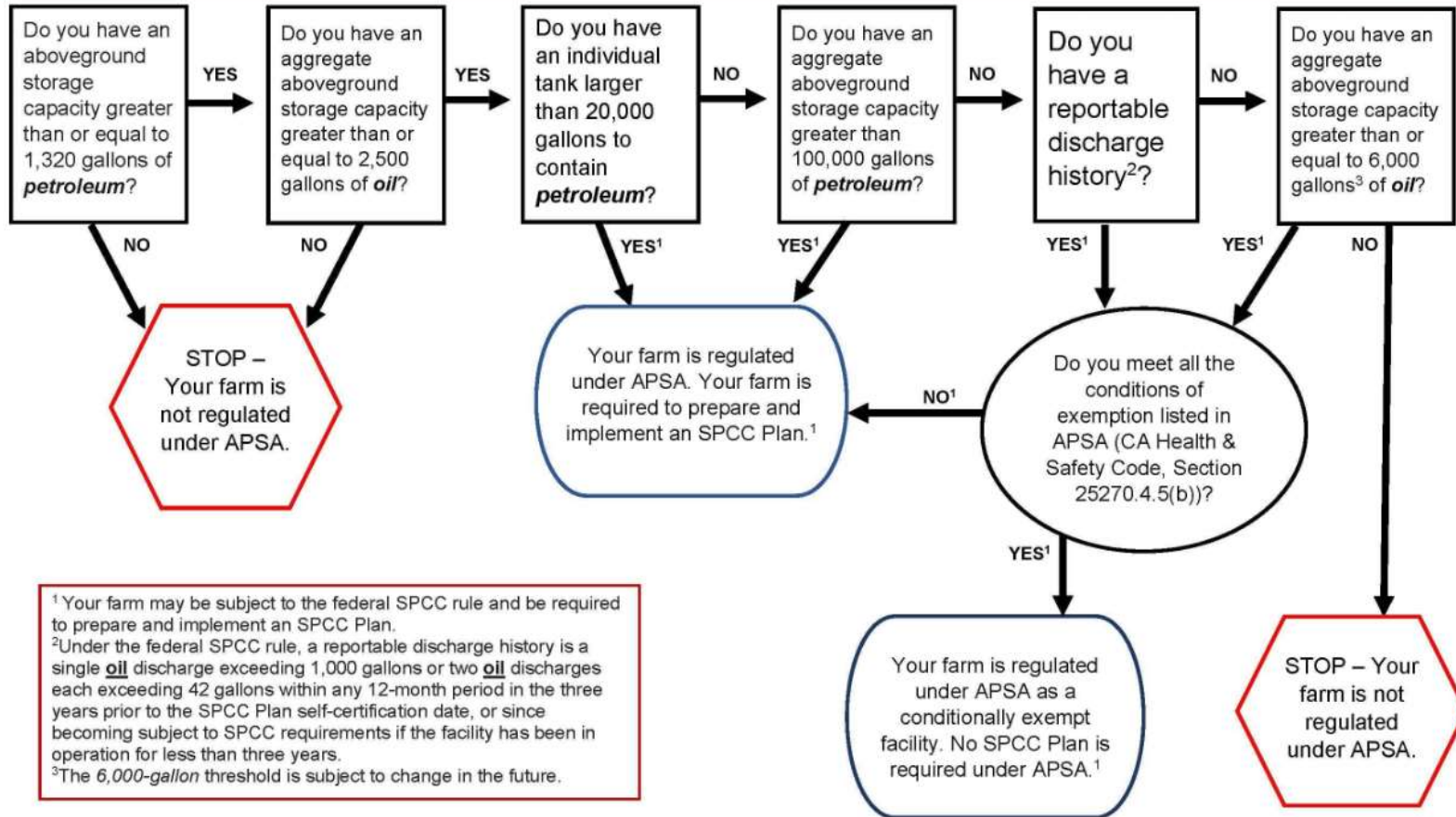
Solar Farm?

WRRDA

Water Resources Reform and Development Act (WRRDA) altered farm inspections & responsibilities

Farms exempted from SPCC are also excluded from APSA [HSC 25270.2(a)(7)]

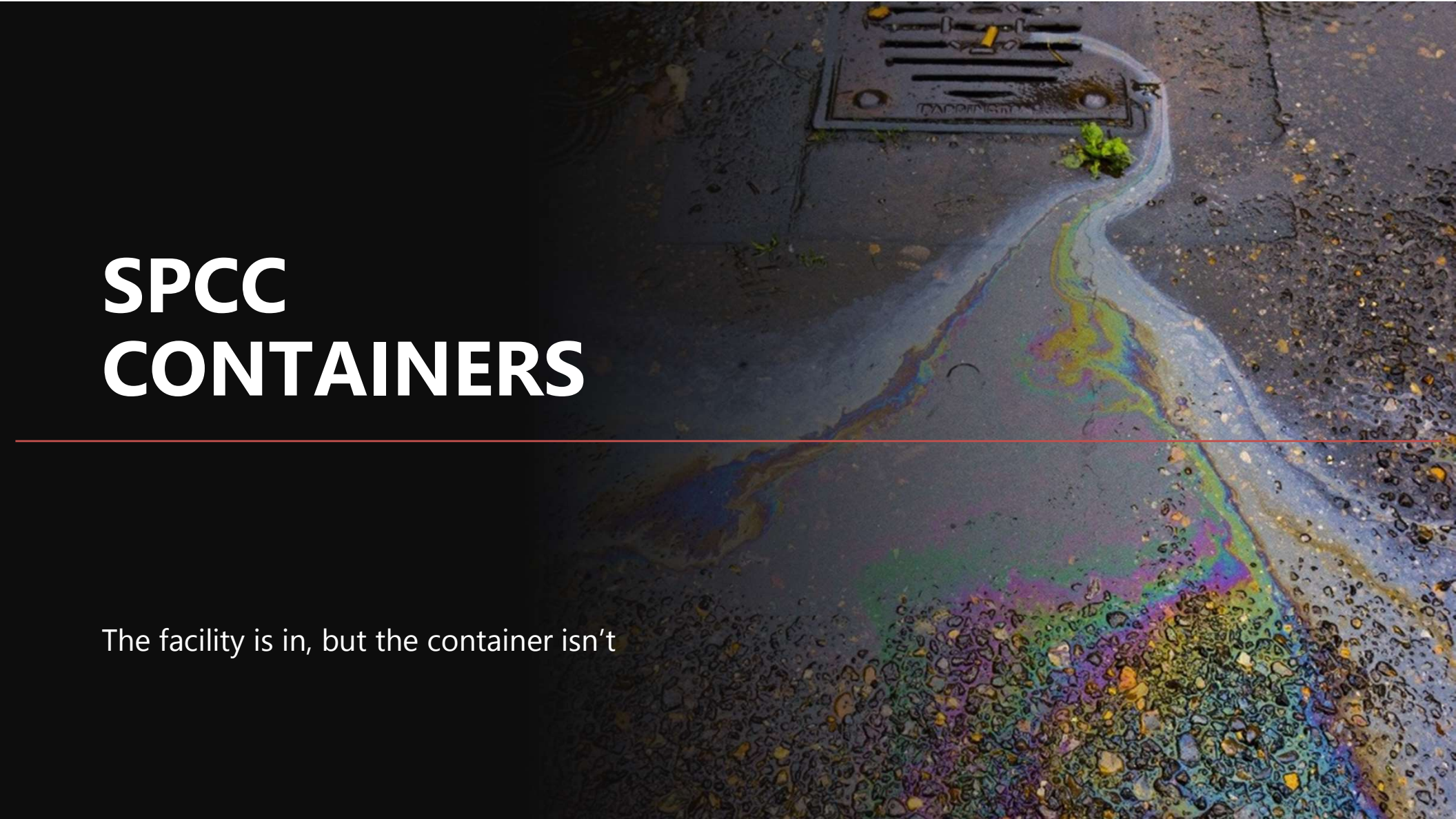
If a farm is regulated under SPCC, it may still be conditionally exempt under APSA



¹ Your farm may be subject to the federal SPCC rule and be required to prepare and implement an SPCC Plan.
² Under the federal SPCC rule, a reportable discharge history is a single oil discharge exceeding 1,000 gallons or two oil discharges each exceeding 42 gallons within any 12-month period in the three years prior to the SPCC Plan self-certification date, or since becoming subject to SPCC requirements if the facility has been in operation for less than three years.
³ The 6,000-gallon threshold is subject to change in the future.

SPCC CONTAINERS

The facility is in, but the container isn't



Counting Containers

Aggregate capacity counts containers with 55 gallons or more of capacity

What don't we count?



[40 CFR 112.1(d)]
[HSC 25270.2(a)]

Permanently Closed

- Containers that are on site but no longer in service
- Can be exempted from facility storage capacity while remaining present



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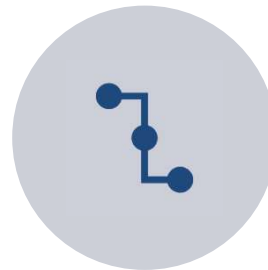
Permanently Closed



All liquid & sludge
has been removed
from container &
connecting line(s)



Permanently Closed



All connecting lines and piping have been disconnected and blanked off

Permanently Closed



All valves (except for ventilation valves) have been closed and locked



Permanently Closed



Conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure

Permanently Closed



All liquid & sludge has been removed from container & connecting line(s)



All connecting lines and piping have been disconnected and blanked off



All valves (except for ventilation valves) have been closed and locked



Conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure

Motive Power

- Any onboard bulk storage container used primarily to power the movement of a motor vehicle
- Or ancillary onboard oil-filled operational equipment



Ancillary Equipment

- Hydraulic and lubrication operational oil-filled containers used for other ancillary functions of a motor vehicle
- Includes motor vehicle bulk storage containers that serve a non-operational purpose in addition to the propulsion of the motor vehicle

Not Motive Power

- Onboard bulk storage containers used to store or transfer oil for further distribution
- Oil drilling or workover equipment, including rigs
- Oil transfers to motive power containers



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Hot Mix Asphalt

- Mixture of aggregates like sand, gravel, and asphalt cement, which is heated before being applied
- Used for projects such as roads, parking lots, and driveways

[40 CFR 112.1(d)(8)]

Why is it exempt?

- HMA must be heated to apply
- Discharge unlikely to reach navigable waters in harmful quantities

APSA – Not a liquid at 60°F



Other Asphalts

- Asphalt cement – used as a binder to hold aggregate
- Asphalt emulsion – asphalt, water, and an emulsifier used in cold processes for road construction
- Asphalt cutback – asphalt cement and solvent used to reduce viscosity for slurry seals, low temperature applications

Question

Why would there potentially be a disagreement between APSA and SPCC for some asphalts?



Heating Oil Tanks

- Single family residence
- Residence may be at a larger facility
- Must be used solely for heating

[40 CFR 112.1(d)(2)(ii)(D)]
[40 CFR 112.1(d)(9)]

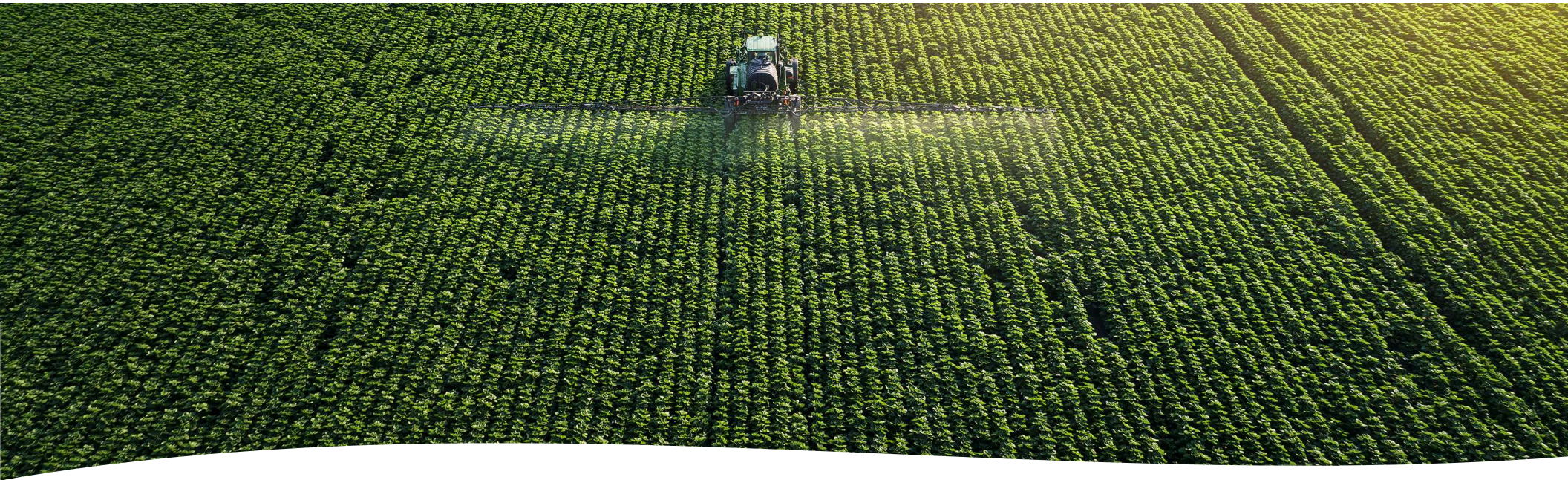




Heating Oil

No distinction regarding grade

- Biodiesel / diesel / #2
- Kerosene
- #1 fuel oil
- #4 fuel oil
- #6 fuel oil
- etc



Pesticide Application & Mix Containers

- May contain petroleum or vegetable-based oils in formulations themselves
- May contain crop oil or other adjuvant oil in mix formulations prior to application

[40 CFR 112.1(d)(2)(ii)(E)]
[40 CFR 112.1(d)(10)]

Adjuvant Oil



Can improve efficacy of applied pesticides



Usually designed to perform specific functions



Usually petroleum or methylated seed oils

Crop Oil

Specific type of oil-based adjuvant

Promotes penetration of a pesticide spray through a plant's waxy cuticle or an insect's shell

Reduces surface tension

Exemption Specifics

Only application equipment & mix containers are exempt from SPCC

Containers storing oil prior to blending and containers used to store blended pesticides are not exempt



Question

How long can a pesticide mixture sit in a mix tank before it becomes a storage tank?





Milk Exemption

Milk

Milk Products

Associated piping

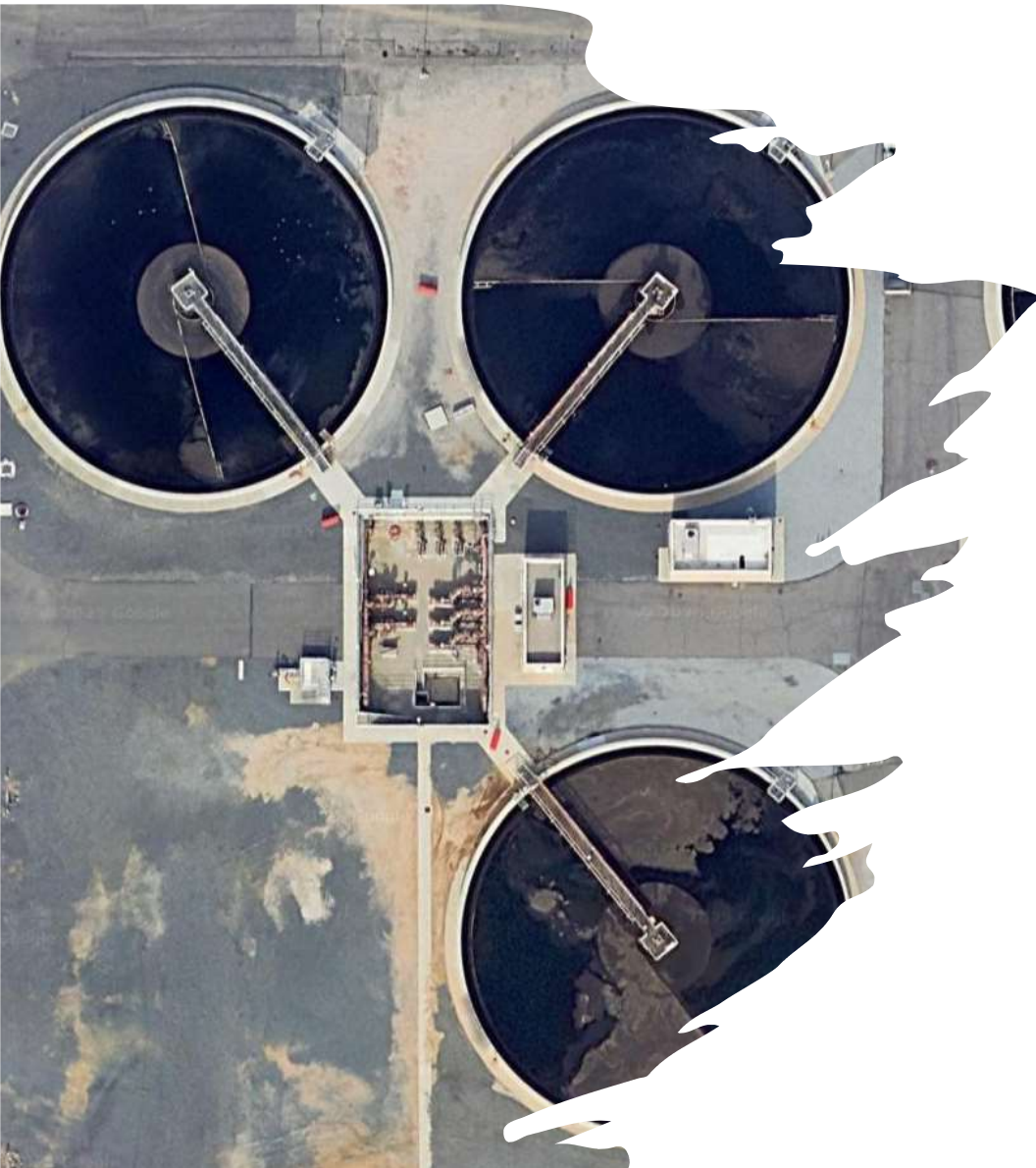
Appurtenances

[40 CFR 112.1(d)(2)(ii)(F)]
[40 CFR 112.1(d)(12)]

Wastewater Treatment

- Facilities or parts of facilities used exclusively for wastewater treatment
- Includes produced water containers used exclusively for wastewater treatment at dry gas production facilities

[40 CFR 112.1(d)(6)]



Exemption Specifics

- Does not apply to
 - production, recovery, or recycling of oil
 - wastewater treatment facility or part of facility that is used to store oil
 - containers used to store oil removed from oil/water separator

No corresponding APSA exemption



Intra-Facility Gathering Lines

- Pipelines designed for transporting oil from production sites to processing or storage facilities
- Located within the boundary of a non-transportation-related facility

Exemption Specifics

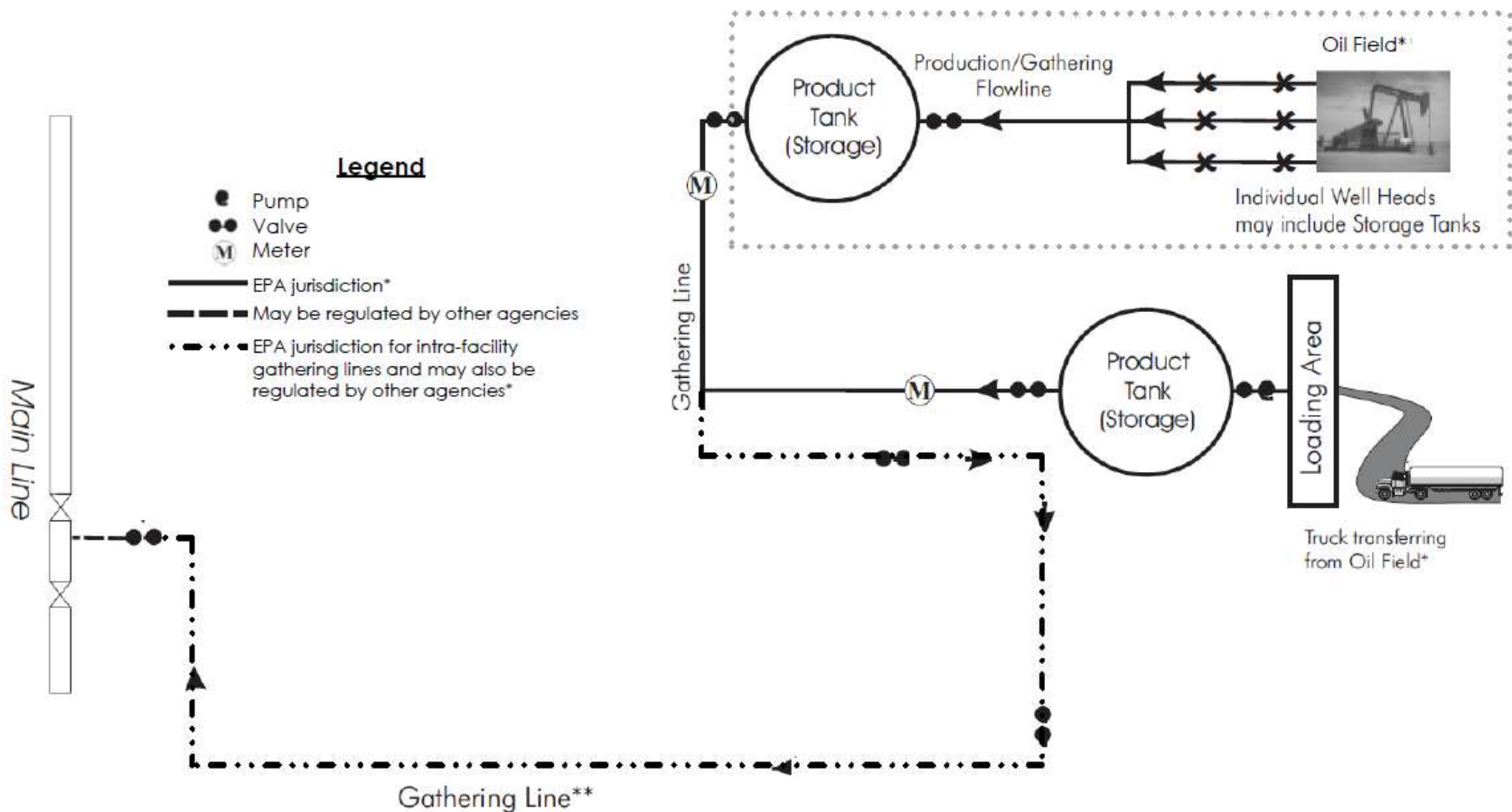
- Must be Subject to either:
 - 49 CFR 192 (Transportation of Natural Gas and Other Gas by Pipeline)
 - 49 CFR 195 (Transportation of Hazardous Liquids by Pipeline)
- Piping must be marked "exempt" on facility diagram

[40 CFR 112.1(d)(11)]

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APSA Exemption Specifics

- 2014 memo between CalGEM and OSFM clarified CalGEM has jurisdiction over all tanks and pipelines that exist on the lease between the wellhead and the point of custody transfer
- OSFM jurisdiction begins at the point of custody transfer



*In 40 CFR 112.1, 112.7 and 112.9 EPA regulates onshore oil production facilities as defined in 112.2 including wells, flowlines, separation equipment, storage facilities, intra-facility gathering lines and auxiliary non-transportation-related equipment and facilities.

** EPA jurisdiction applies to all gathering lines located within an SPCC-regulated facility (i.e., intra-facility gathering lines). However, EPA exempts intra-facility gathering lines subject to the regulatory requirements of 49 CFR part 192 or 195, except that such lines must be identified and marked as exempt on the facility diagram.

APSA CONTAINERS

The container is out ... of APSA ... Maybe ...



Question

What should a UPA inspector do if there are challenges at a facility with APSA-exempt containers?



APSA Piping

APSA

SPCC

Within a dike or containment area

Between the containment area and the first flange or valve outside containment

connected to the first flange or valve on the exterior of the tank if containment not required

connected to a tank in an underground area

[HSC 25270.2(n)]



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APSA

SPCC

Pressure Vessels & Boilers

Subject to Part 6
(starting with §7620),
Division 5 of Labor
Code

[HSC 25270.2(a)(1)]



Boilers

Any fired or unfired pressure vessel used to generate steam pressure by the application of heat



Pressure Vessel Tank

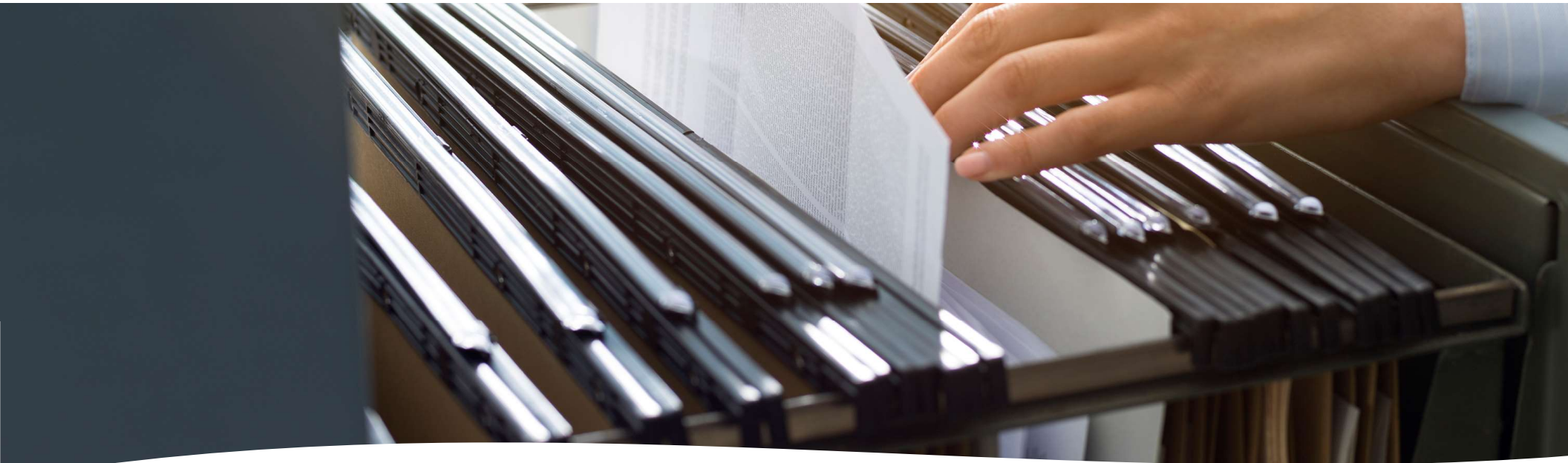


...means any unfired pressure vessel, subject to this part, used for the storage of air pressure or liquefied petroleum gases...



Pressure Vessel Tank

...means any unfired pressure vessel, subject to this part, used for the storage of air pressure or liquefied petroleum gases...



Pressure Vessels and Boilers

Permits are required for air tanks, LPG propane storage tanks over 125 gallons, and high-pressure boilers over 15 psig steam

Hazardous Waste Tanks

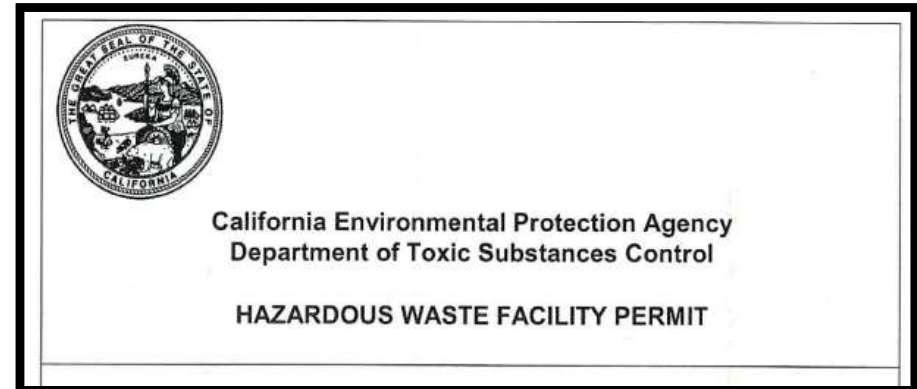
1. Tank containing hazardous waste (HSC 25117), OR
 - extremely hazardous waste (HSC 25115)



[HSC 25270.2(a)(2)]

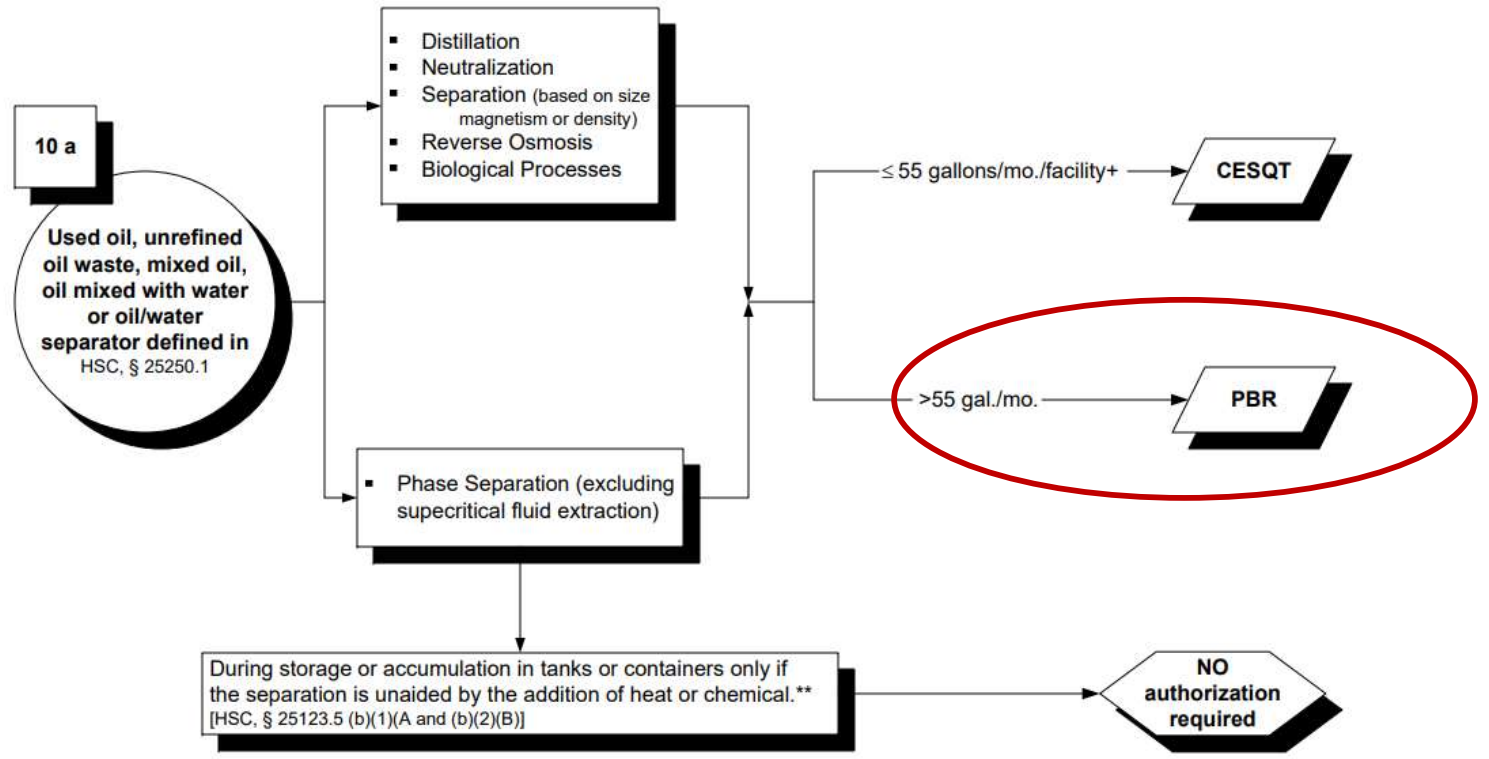
Permit Required

2. Has hazardous waste facilities permit from the DTSC, OR
 - A PBR authorization from the UPA for the storage tank



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Permit Required



APSA

SPCC

Oil Production Tanks

Subject to Section 3106 of
the Public Resources Code

[HSC 25270.2(a)(3)]

Oil Production Tanks

The separation of jurisdiction between DOGGR and CAL FIRE – OSFM rests in part upon the interpretation of tanks and facilities “attendant to” oil and gas production. For purposes of this MOA, tanks and pipelines that are located within the lease areas of oil and gas fields, and are integrally associated with oil and gas production, are generally “attendant to” oil and gas production and therefore under DOGGR’s jurisdiction. Consistent with this interpretation, DOGGR will have jurisdiction over all tanks and pipelines that exist on the lease between the wellhead and the point of custody transfer to a common carrier, pipeline company, refinery, or other third-party for purposes of sales, distribution, or further processing. This includes standalone tanks on the lease, not connected to the wellhead by physical pipeline, that are integrally associated with oil and gas production. The point of custody transfer may include, but is not limited to, the truck loading dock or the lease automatic custody transfer (LACT) unit. CAL FIRE – OSFM jurisdiction will begin at the point of custody transfer. Thus, tanks and pipelines that contain petroleum after it has passed a point of custody transfer (such as a truck loading dock or LACT unit) are subject to CAL FIRE – OSFM jurisdiction.

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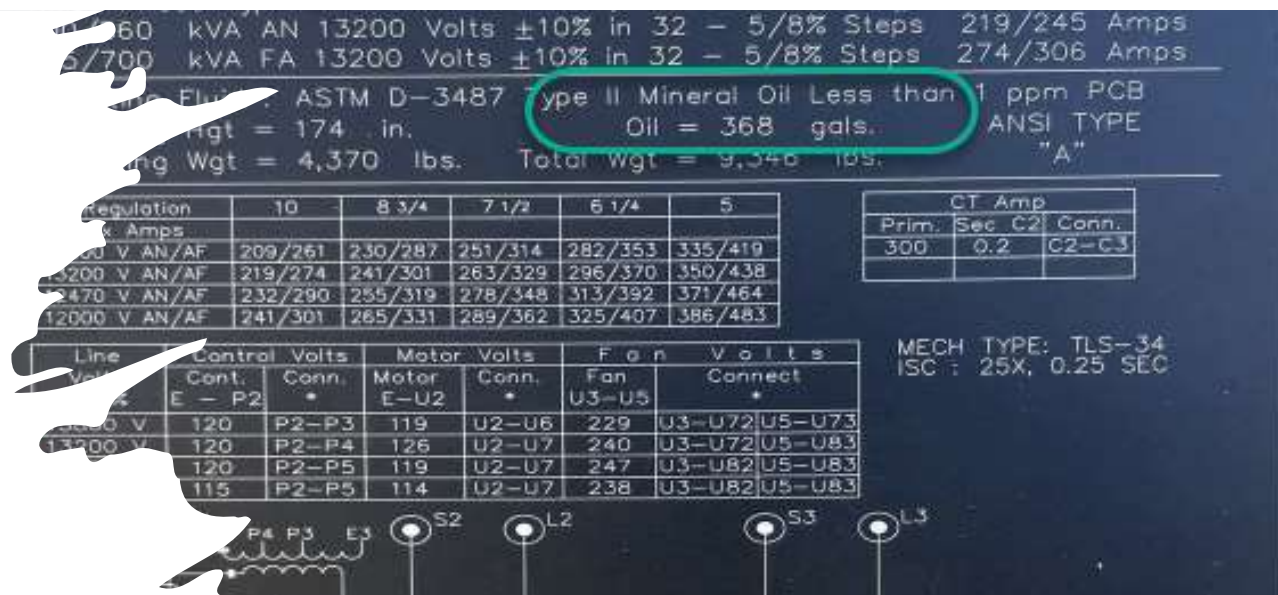
Oil-Filled Electrical Equipment



Oil-Filled Electrical Equipment

Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if...





Capacity

Equipment contains less than 10,000 gallons of dielectric fluid



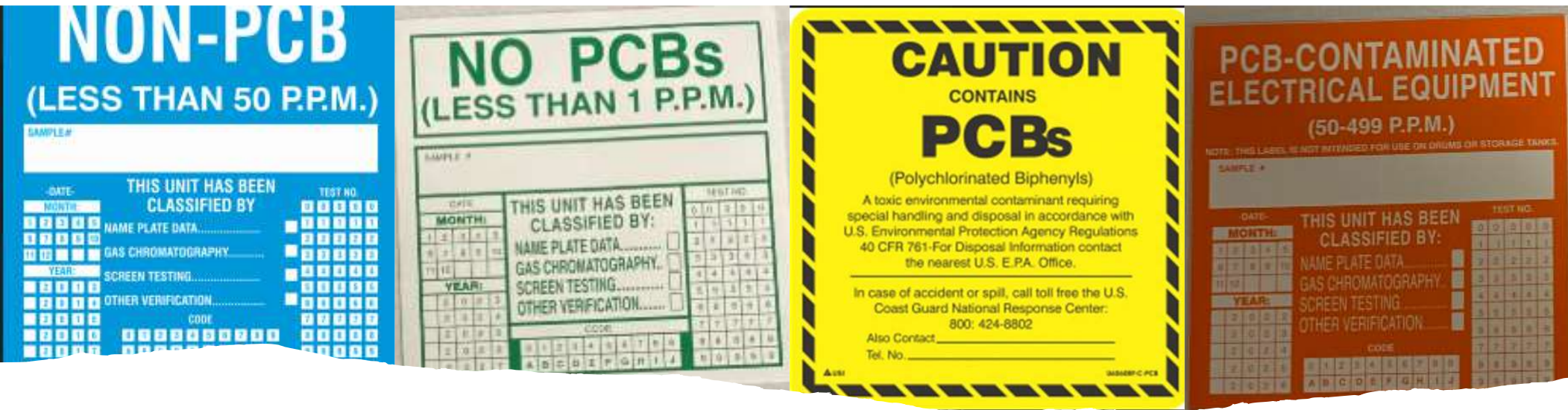
[HSC 25270.2(a)(4)(A)]

10k Gallons or More

1. with PCB levels less than 50 parts per million
2. appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course
3. visually inspected in accordance with the usual routine maintenance procedures of the owner or operator

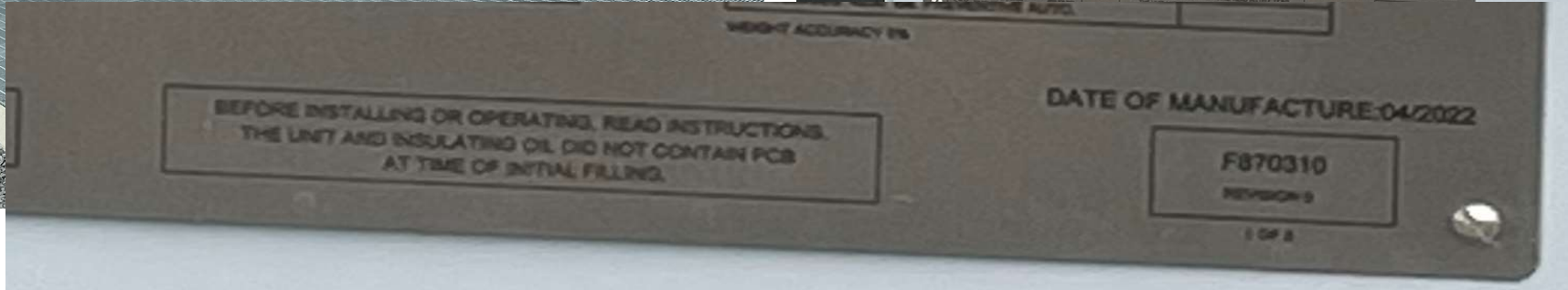
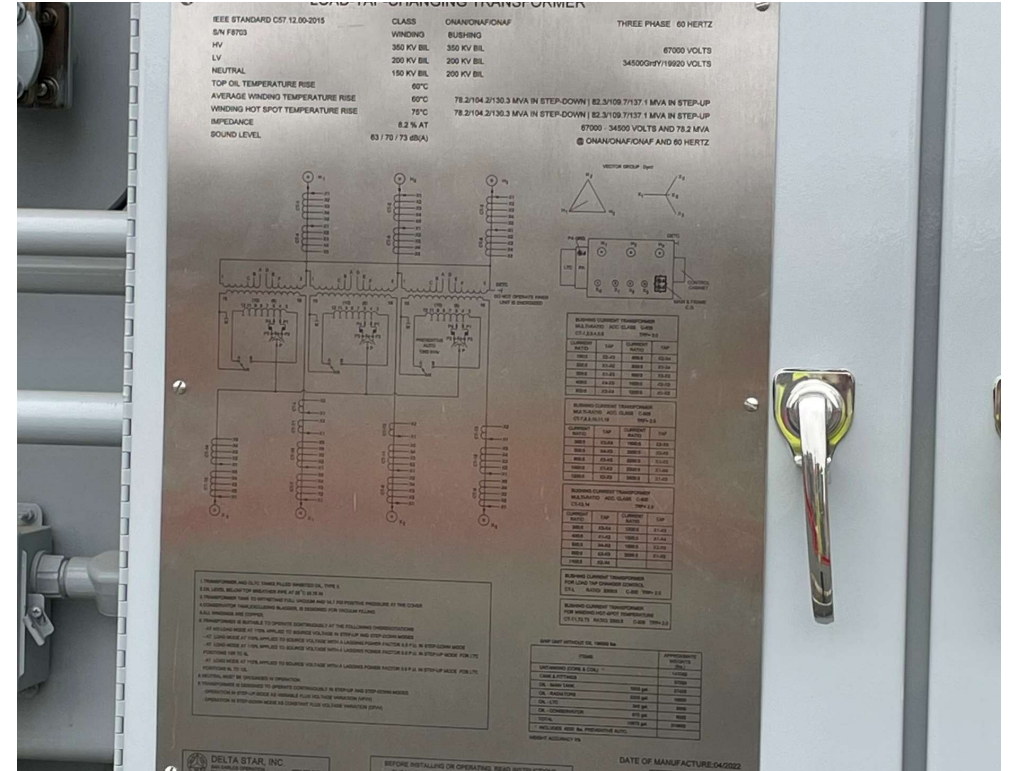
[HSC 25270.2(a)(4)(B)]

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Polychlorinated biphenyls

- Widely used in electrical equipment, paints, plastics, etc
- Manufacture was banned in 1979
- Highly toxic





Diversionary Structures

Must be designed to prevent release from reaching navigable water

Inspections



Visually inspected



Usual routine maintenance procedures

[HSC 25270.3(a)(4)(B)]

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Generators

Oil-filled electrical equipment?

Question

What are possible violations and return to compliance options for a facility with a 20k gal transformer next to navigable water without containment?



APSA

SPCC

Tiny TIUGAs

Capacity of less than 55 gallons

1. Has secondary containment
2. Is inspected monthly
3. Inspections logged & made available

[HSC 25270.2(a)(8)]



Tiny TIUGA Exemption

Fee payment

Tank Facility Statement
HMBP

Preparation of SPCC Plan

Question

Are drums/containers considered TIUGAs?



Remember...

Be aware & evaluate of all exemption elements

- All must be met

SPCC & APSA are very similar but not the same

- Know the differences, applicability, & potential RTC resolution

Take some time to research if there are questions

- SPCC Guidance for Regional Inspectors
- APSA Program Guidance Document
- APSA TAG & Advisory Committee
- Industry TAG

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Thanks!

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