California Aboveground Petroleum Storage Act: Requirements for Farms per Senate Bill 612

This fact sheet summarizes the requirements for farms under the California Aboveground Petroleum Storage Act (APSA) pursuant to Senate Bill (SB) 612 (Jackson, Ch. 452, Stats. of 2015), effective January 1, 2016.

Is my farm subject to APSA?

APSA applies to a farm that:

- Stores, contains, handles, or treats petroleum oil or petroleum products for a period of time, including on a temporary basis.
- Stores at least 1,320 gallons of petroleum in aboveground tanks or containers.
- Stores at least 2,500 gallons of oil, including petroleum, animal and vegetable oils and oil products, in aboveground tanks or containers.

If your farm meets all of these criteria, then your farm may be subject to APSA.

What is a farm under APSA?

APSA does not define "farm" but references the federal Spill Prevention, Control, and Countermeasures (SPCC) rule as described in the Code of Federal Regulations Title 40, Part 112 (40 CFR 112) and APSA "borrows" its definition from there for consistency. The SPCC rule defines a farm as "a facility on a tract of land devoted to the 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."

What did SB 612 change?

SB 612 aligned the applicability threshold for a farm under APSA with the applicability threshold for a farm under the federal SPCC requirements. APSA regulates a tank or tank facility located on and operated by a farm regardless of its location with respect to navigable waters or adjoining shorelines.

What is the Water Resources Reform and Development Act (WRRDA) and how does it impact the federal SPCC rule?

The WRRDA of 2014 changed the applicability provisions and the criteria for self-certification of SPCC Plans for farms. It also required certain actions by EPA. WRRDA went into effect as soon as it was signed into law by President Obama on June 10, 2014. For information on WRRDA, visit the U.S. Environmental Protection Agency (EPA) website on SPCC for agriculture and refer to the WRRDA fact sheet for additional details.

Under WRRDA, a farm is not required to have an SPCC Plan if it has:

- An aggregate aboveground storage capacity less than 2,500 gallons

OR

- An aggregate aboveground storage capacity greater than 2,500 gallons and less than 6,000* gallons; and
- No reportable discharge history.

A farmer can self-certify the SPCC Plan if the farm has:

- An aggregate aboveground storage capacity greater than 6,000* gallons but less than 20,000 gallons;
- No individual tank with a capacity greater than 10,000 gallons; and
- No reportable discharge history.

*This threshold may be adjusted by EPA, following a study to determine the appropriate exemption.

Pursuant to WRRDA, the EPA published a study in June 2015, which recommended that the ceiling for the exemption for farms be set at 2,500 gallons of oil. The EPA is expected to promulgate a rule amending the SPCC requirements to adjust the applicability thresholds for farms and incorporate other WRRDA requirements. However, until the federal SPCC rule is amended, the provisions provided by WRRDA remain in effect.

What is the APSA facility conditional exemption?

A farm is conditionally exempt from the requirement to prepare an SPCC Plan in California under the APSA program provided that the owner or operator of the farm:

- Has no single tank with a capacity larger than 20,000 gallons,
- Has an aggregate facility capacity not exceeding 100,000 gallons,
- Conducts daily[†] inspections of their aboveground petroleum storage tanks,
- Allows Unified Program Agency (UPA) inspectors to conduct periodic inspections, and
- Installs secondary containment if requested to do so by the UPA.

[†] Pursuant to SB 612, for purposes of the conditions of exemption under APSA, "daily" means every day that contents are added to or withdrawn from the tank, but no less than five days per week. The number of days may be reduced by the number of state or federal holidays that occur during the week if there is no addition to, or withdrawal from, the tank on the holiday. The UPA may reduce the frequency of inspections to not less than once every three days at a tank facility that is conditionally exempt if the tank facility is not staffed on a regular basis, provided that the inspection is performed every day the facility is staffed.

The APSA conditional exemption is specific to the California APSA program only. Federal SPCC requirements may apply, including requirements to prepare and implement an SPCC Plan, irrespective of a farm's qualification for the APSA conditional exemption. Refer to the EPA website on SPCC for agriculture or contact EPA for more information.

What if my facility does not meet the conditions of exemptions under APSA?

A farm that does not meet the conditions of exemptions under APSA is required to do the following:

- Prepare and implement an SPCC Plan applying good engineering practices to prevent petroleum releases using the same format required by 40 CFR 112,
- Conduct periodic inspections of each aboveground storage tank, and
- Comply with current federal regulations found in 40 CFR 112.

What are the other requirements under APSA?

A farm that is regulated under APSA, regardless of whether or not the facility is conditionally exempt, is required to file an annual tank facility statement (or a hazardous materials business plan) into the statewide information management system (CERS) and pay the Unified Program state surcharge for the APSA program. Contact your UPA representative for additional requirements.

How do I determine my farm's storage capacity?

1. Calculate your total aboveground **oil** storage capacity subject to the federal SPCC rule.
   Do not count:
   - All containers on separate parcels that have a capacity that is 1,000 gallons or less;
   - Containers storing heating oil used solely at a single-family residence;
   - Pesticide application equipment or related mix containers(with adjuvant oil) ;
   - Any milk and milk product container and associated piping and appurtenances;
   - Underground storage tanks (UST) regulated under the UST Program by the UPA;
   - Containers holding animal feed ingredients approved for use in livestock feed by the Commissioner of the U.S. Food and Drug Administration (FDA);
   - Permanently closed containers; and
   - Motive power oil containers.

2. Calculate your total aboveground **petroleum** storage capacity subject to APSA.
   Do not count:
   - Containers such as pressure vessels or boilers, hazardous waste tanks (identified on a hazardous waste facilities permit), oil production tanks, certain oil-filled electrical equipment; and
   - Containers of non-petroleum based oils.

3. Review your reportable discharge history. Under WRRDA, "reportable discharge history" means a single oil discharge, as described in Section 112.1(b) of 40 CFR 112, that exceeds 1,000 gallons or 2 oil discharges, as described in Section 112.1(b) of 40 CFR 112, that each exceed 42 gallons within any 12-month period – (i) in the 3 years prior to the certification date of the SPCC Plan (as described in Section 112.3 of 40 CFR 112); or (ii) since becoming subject to 40 CFR 112, if the facility has been in operation for less than 3 years.

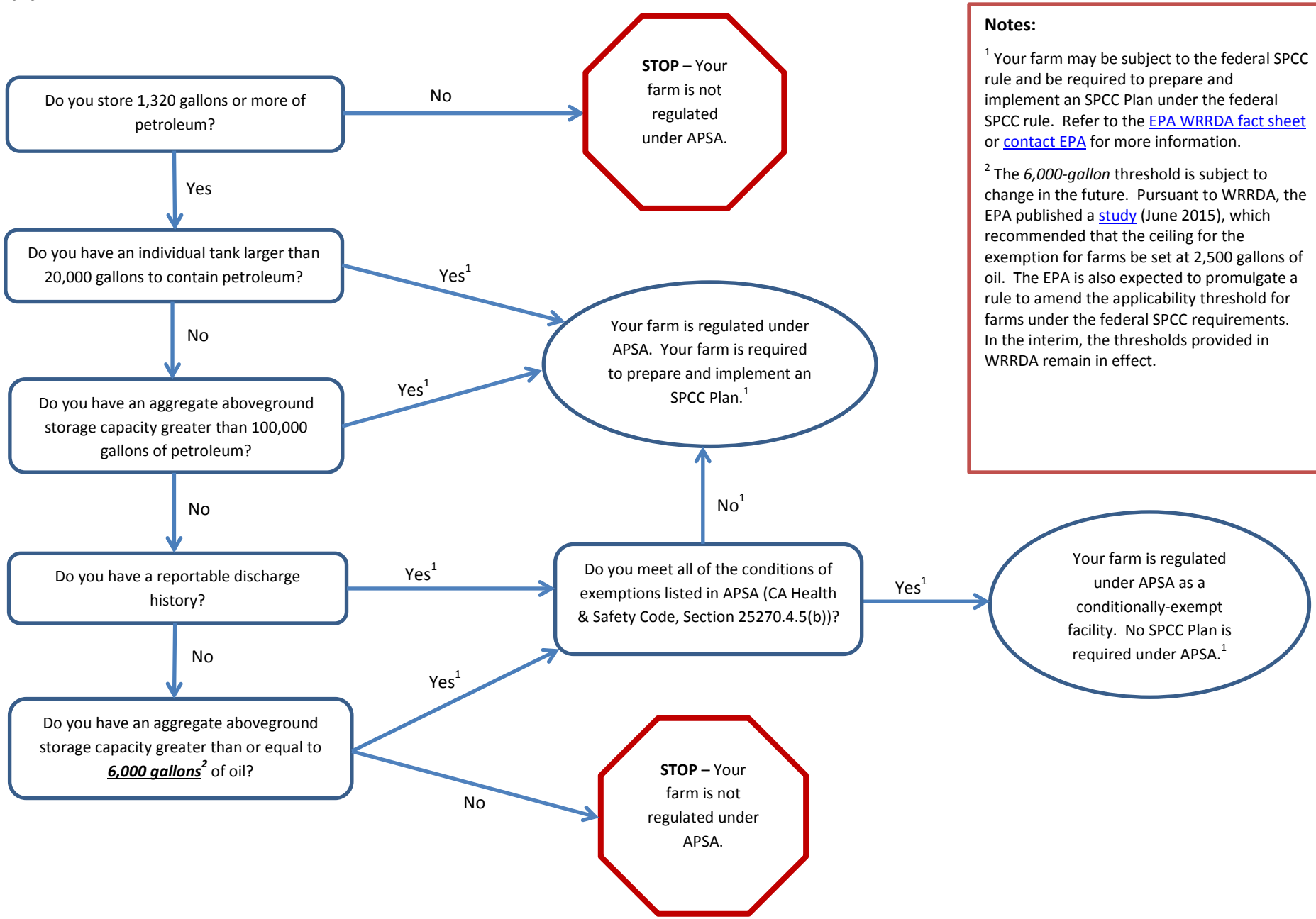
4. Use the following table and flowchart to determine if you are regulated under the state APSA. Refer to the EPA WRRDA fact sheet or contact EPA for requirements under the federal SPCC rule whether you may self-certify your SPCC Plan or if you must have it certified by a professional engineer.

Table 1.

Facility Storage Capacity[1] & Criteria	**APSA[2]**
Less than 2,500 gallons of oil	No
Exactly 2,500 gallons of oil • **No reportable discharge history**	No
Exactly 2,500 gallons of oil • **Has reportable discharge history**	Yes[3]
Greater than 2,500 gallons & less than *6,000 gallons*[4] of oil • **No reportable discharge history**	No
Greater than 2,500 gallons & less than *6,000 gallons*[4] of oil • **Has reportable discharge history**	Yes[3]
Exactly *6,000 gallons*[4] of oil • **No reportable discharge history**	Yes[3]
Exactly *6,000 gallons*[4] of oil • **Has reportable discharge history**	Yes[3]
Greater than *6,000 gallons*[4] & less than 20,000 gallons of oil • **No reportable discharge history AND** • **No individual tank larger than 10,000 gallons of oil**	Yes[3]
Greater than *6,000 gallons*[4] & less than 20,000 gallons of oil • **Has reportable discharge history AND/OR** • **One or more tanks larger than 10,000 gallons of oil**	Yes[3]
Exactly 20,000 gallons of oil	Yes[3]
Greater than 20,000 gallons of oil & less than 100,000 gallons of petroleum • **No individual tank larger than 20,000 gallons of petroleum**	Yes[3]
Greater than 20,000 gallons of oil & less than 100,000 gallons of petroleum • **One or more tanks larger than 20,000 gallons of petroleum**	Yes[5]
Exactly 100,000 gallons of petroleum • **No individual tank larger than 20,000 gallons of petroleum**	Yes[3]
Exactly 100,000 gallons of petroleum • **One or more tanks larger than 20,000 gallons of petroleum**	Yes[5]
Greater than 100,000 gallons of petroleum	Yes[5]

[1] Oil as referenced in this table includes all types of oil as defined in the federal SPCC rule (40 CFR Section 112.2), including but not limited to petroleum, animal and vegetable oils and oil products.
[2] For applicability under APSA, facility's total storage capacity must include 1,320 gallons or more of petroleum.
[3] Under APSA, facility is conditionally exempt only from preparing an SPCC Plan. Other APSA requirements apply.
[4] The *6,000-gallon* threshold is subject to change in the future. Pursuant to WRRDA, the EPA published a study, which recommended that the ceiling for the exemption for farms be set at **2,500 gallons** of oil. The EPA is also expected under WRRDA to promulgate a rule to amend the applicability threshold for farms under the federal SPCC requirements. In the interim, the thresholds provided in WRRDA remain in effect.
[5] Under APSA, facility is required to have an SPCC Plan that is certified by a professional engineer.

Flowchart 1.



Notes:

[1] Your farm may be subject to the federal SPCC rule and be required to prepare and implement an SPCC Plan under the federal SPCC rule. Refer to the EPA WRRDA fact sheet or contact EPA for more information.

[2] The *6,000-gallon* threshold is subject to change in the future. Pursuant to WRRDA, the EPA published a study (June 2015), which recommended that the ceiling for the exemption for farms be set at 2,500 gallons of oil. The EPA is also expected to promulgate a rule to amend the applicability threshold for farms under the federal SPCC requirements. In the interim, the thresholds provided in WRRDA remain in effect.