

State Water Resources Control Board

December 4, 2015

To: Unified Program Agencies and Other Interested Parties

UNDERGROUND STORAGE TANK PROVISIONS IN SENATE BILL NO. 612 (STATS. 2015, CH 452) FOR TANKS IN UNDERGROUND AREAS

On October 2, 2015, the Governor signed Senate Bill No. 612 (SB 612) authored by Senate Member Jackson. SB 612, in addition to other changes, amends the definition of a “tank in an underground area.” This letter notifies Unified Program Agencies (UPAs) and other interested parties of the underground storage tank (UST) provisions in SB 612 effective January 1, 2016. Some of the provisions, however, do not take effect until such time that the Office of State Fire Marshal (OSFM) adopts and makes effective aboveground storage tank (AST) regulations that apply to “tanks in underground areas.” The complete text of SB612 can be found at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB612.

The purpose of this resource is to help UPAs and other interested parties determine if a tank system is an AST based on the definition of a “tank in an underground area” as defined in Health and Safety Code (Health & Saf. Code). It is not an attempt to fully define how a “tank in an underground area” would be regulated. Although a tank that meets the definition of a “tank in an underground area” is excluded from the definition of a UST and is not subject to the requirements of Health & Saf. Code, chapter 6.7, a “tank in an underground area” is subject to Health & Saf. Code, chapter 6.67 beginning with section 25270 and the regulations for “tanks in underground areas” that are adopted by the OSFM.

The definition of a “tank in an underground area” is limited to tanks storing petroleum, sitting on or above the surface of the floor, located in structures that are at least 10 percent below the ground surface, and the structure in which the storage tank is located, at a minimum, provides secondary containment for the contents of the tank, piping, and ancillary equipment, until cleanup occurs.

As mentioned above, while the provisions of SB 612 becomes effective January 1, 2016, the full definition of a “tank in an underground area” does not go into effect until the OSFM adopts regulations that apply to “tanks in underground areas” and those regulations become effective. Prior to January 1, 2016, the definition of a “tank in an underground area” applies to motor fuels and petroleum lubricants, stored in storage tanks of 55 gallons or more, in an underground area, at facilities with 1,320 gallons or more of aggregate petroleum storage capacity. Effective January 1, 2016, the definition of a “tank in an underground area” applies only to petroleum lubricants or coolants for motor engines, transmissions, and oil-filled operational/manufacturing equipment, stored in storage tanks of 55 gallons or more, in an underground area, at facilities with more or less than 1,320 gallons of aggregate petroleum storage capacity. At facilities with less than 1,320 gallons of aggregate petroleum storage capacity, only the facility’s “tanks in underground areas” are subject to Health & Saf. Code, chapter 6.67. It is not until the regulations that apply to “tanks in underground areas” adopted by the OSFM become effective,

that the definition of a “tank in an underground area” expands to include tanks in underground areas that store a petroleum hazardous waste, petroleum used solely in connection with a fire pump, emergency system, legally required standby system, or optional standby system, and all other petroleum. Once regulations are adopted, it is expected that additional requirements will apply to “tanks in underground areas.”

For your convenience, enclosed is a set of flowcharts that summarizes the process for determining if a tank is a “tank in an underground area” and subject to Health & Saf. Code, chapter 6.67 and the AST regulations adopted by the OSFM or a UST subject to Health & Saf. Code, chapter 6.7 and the UST regulations adopted by the State Water Resources Control Board (State Water Board). The flowcharts are to be referenced according to the corresponding time period that the determination on the system is made. Flowchart 1 of 3 is a reference which can be used until December 31, 2015, after which time it will become obsolete. On January 1, 2016, Flowchart 2 of 3 should be referenced. Flowchart 2 of 3 should continue to be referenced until regulations that apply to “tanks in underground areas” are adopted by the OSFM and become effective. When Flowchart 2 of 3 becomes obsolete, Flowchart 3 of 3 should be referenced from there on. The State Water Board and the OSFM will be providing more detailed guidance as it becomes available.

If you have questions regarding the implementation of the UST provisions of SB 612 please contact Cory Hootman of the State Water Board at (916) 341-5668 or cory.hootman@waterboards.ca.gov or Jennifer Lorenzo of the OSFM at (916) 324-0232 or jennifer.lorenzo@fire.ca.gov.

Sincerely,



Laura S. Fisher, Chief
UST Leak Prevention Unit &
Office of Tank Tester Licensing

Enclosure (3)

1. Flowchart for Determining if a Tank in Underground Area is an AST or UST Effective Until December 31, 2015 (December 2015)
2. Flowchart for Determining if a Tank in Underground Area is an AST or UST Effective January 1, 2016, Until Rescinded (December 2015)
3. Flowchart for Determining if a Tank in Underground Area is an AST or UST Effective After the Office of the State Fire Marshal Adopts Regulations for Tanks in Underground Areas (December 2015)

cc: [Via email only]

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cc: Continued next page

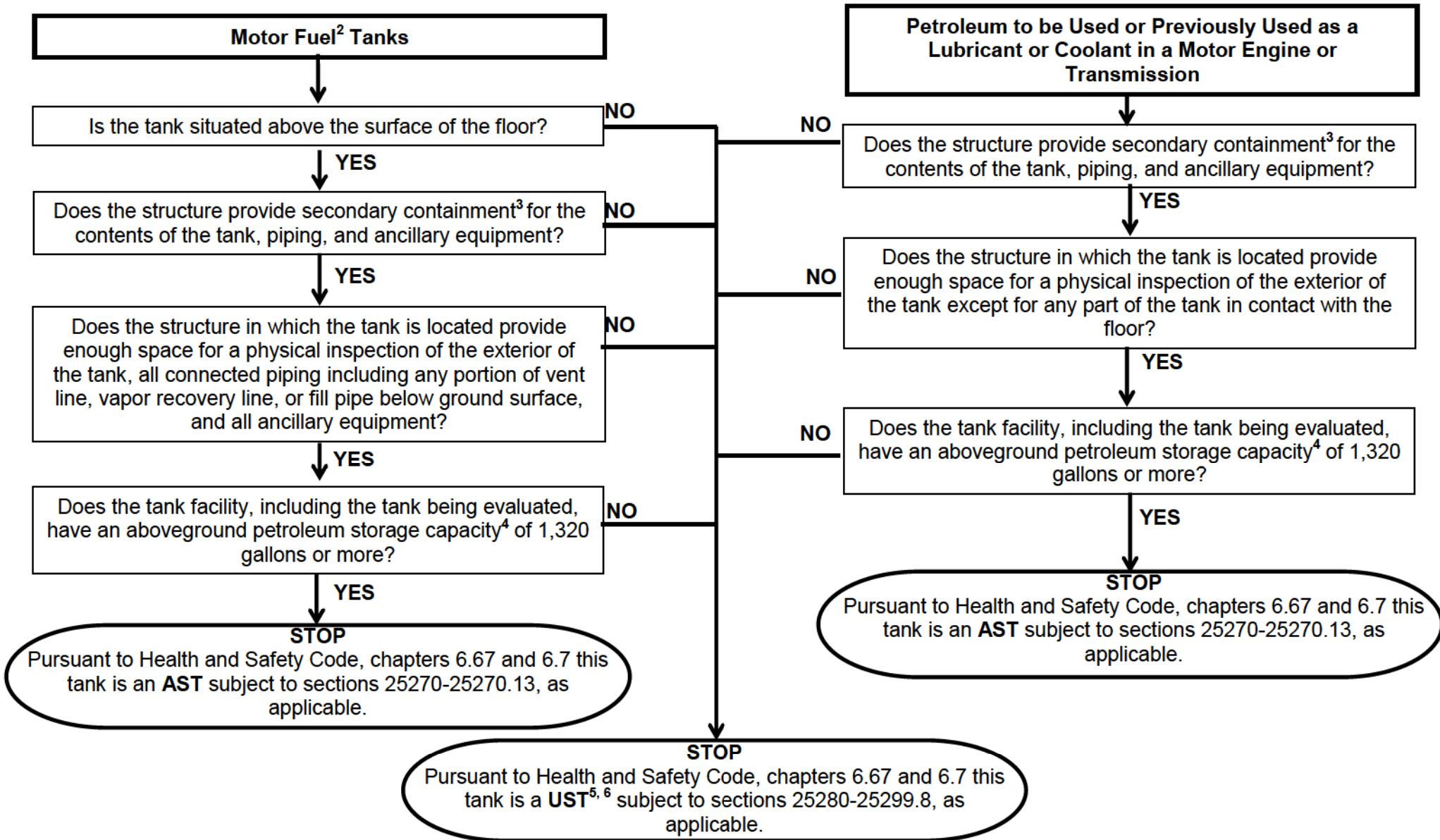
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Flowchart for Determining if a Tank in Underground Area¹ is an AST or UST In Effect Until December 31, 2015



¹The storage tank must be located in a structure that is at least 10 percent below the ground surface including, but not limited to, a basement, cellar, shaft, pit, or vault.

²As defined in Section 280.12 of Title 40 of the Code of Federal Regulations.

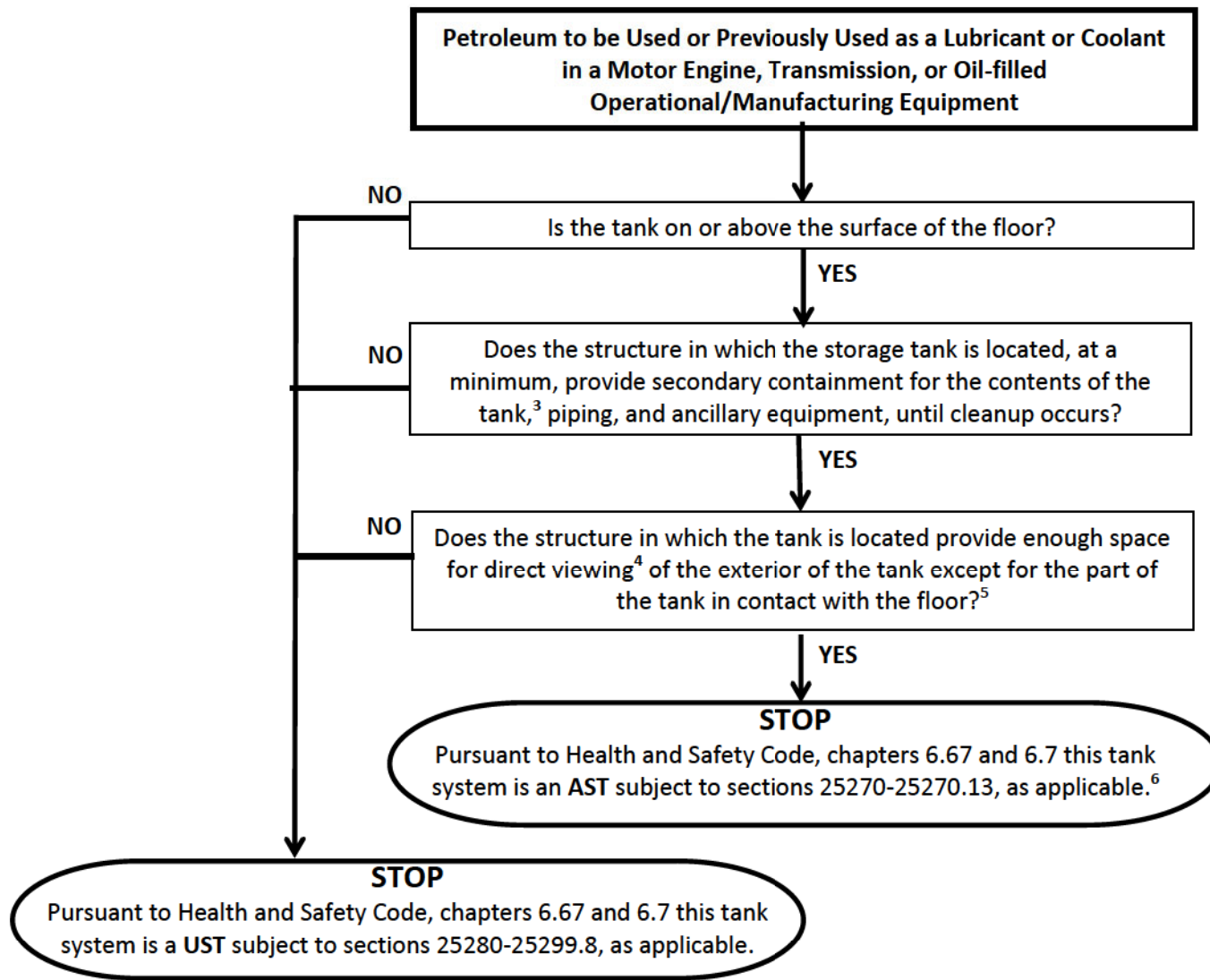
³Until cleanup occurs.

⁴Storage capacity is the aggregate capacity of all aboveground petroleum storage containers of 55 gallons or more at a tank facility.

⁵This tank system may be eligible for an exemption from chapter 6.7 of the Health and Safety Code under the existing section 25283.5.

⁶Systems pursuant to Health and Safety Code, section 25281.5(c) may be eligible for an exemption from chapter 6.7 of the Health and Safety Code under the existing section 25281.6.

Flowchart for Determining if a Tank in Underground Area¹ is an AST or UST Effective January 1, 2016, Until Rescinded²



¹The storage tank must be located in a structure that is at least 10 percent below the ground surface including, but not limited to, a basement, cellar, shaft, pit, or vault.

²The definition of “a tank in an underground area” is expanded after regulations that apply to tanks in underground areas are adopted by the Office of State Fire Marshal and become effective.

³A shop-fabricated double-walled storage tank with a mechanical or electronic device used to detect leaks in the interstitial space meets the requirement for secondary containment of the contents of the tank.

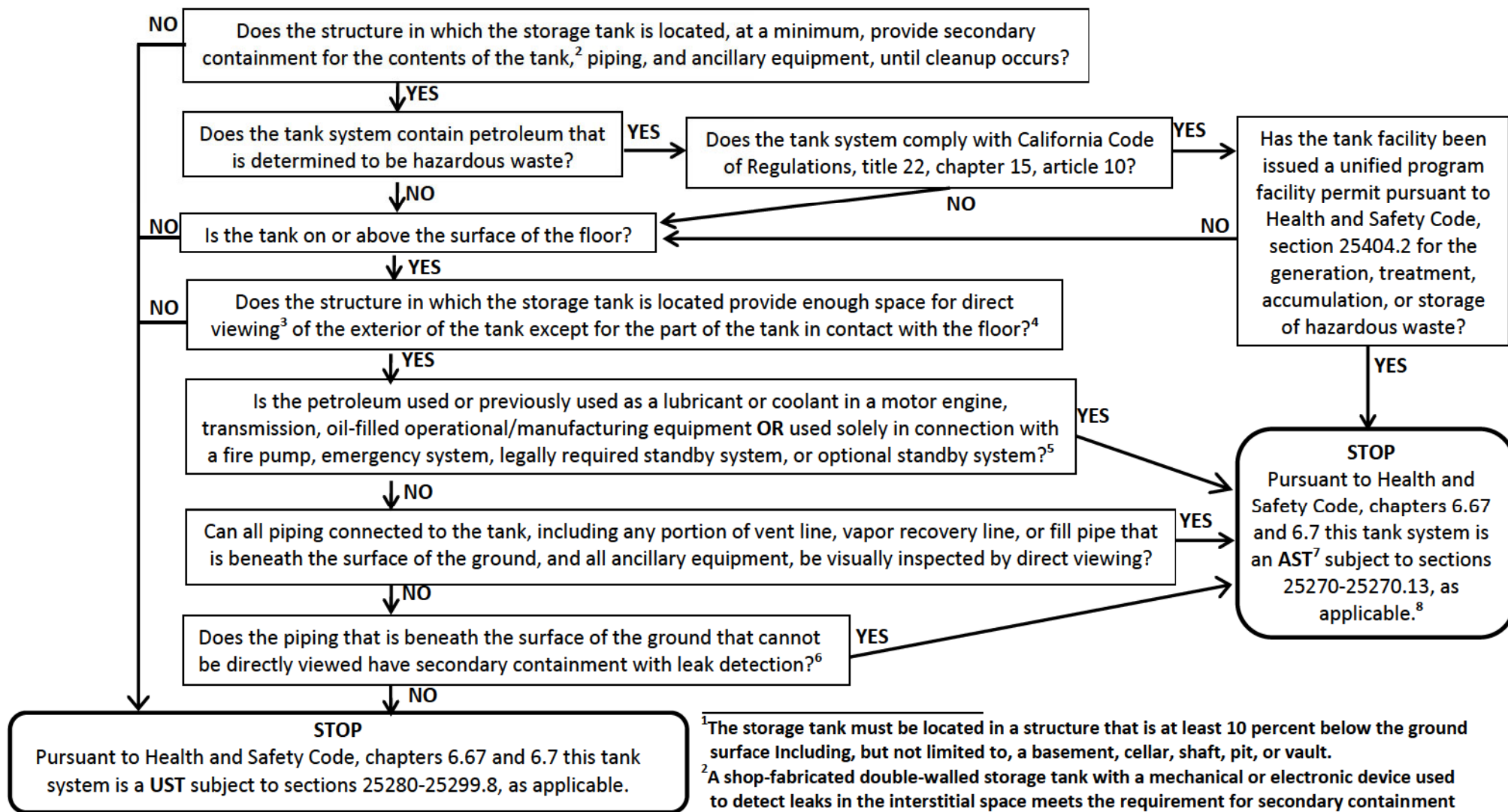
⁴Direct viewing means, in regard to a storage tank, direct visual inspection of the exterior of the tank, except for the part of the tank in contact with the surface of the floor, and, where applicable, the entire length of all piping and ancillary equipment, including all exterior surfaces, by a person or through the use of visual aids, including, but not limited to, mirrors, cameras, or video equipment.

⁵For shop-fabricated double-walled tanks, direct viewing of the exterior of the tank is not required if the interstitial space is inspected or has a mechanical or electronic device that will detect leaks in the interstitial space.

⁶Facilities with less than 1,320 gallons of petroleum are only regulated if they have one or more tanks in an underground area. If this is the case, then only the facility’s tanks in underground areas are subject to APSA.

Flowchart for Determining if a Tank in Underground Area¹ is an AST or UST

Effective After the Office of the State Fire Marshal Adopts Regulations for Tanks in Underground Areas



¹The storage tank must be located in a structure that is at least 10 percent below the ground surface including, but not limited to, a basement, cellar, shaft, pit, or vault.

²A shop-fabricated double-walled storage tank with a mechanical or electronic device used to detect leaks in the interstitial space meets the requirement for secondary containment of the contents of the tank.

³Direct viewing means, in regard to a storage tank, direct visual inspection of the exterior of the tank, except for the part of the tank in contact with the surface of the floor, and, where applicable, the entire length of all piping and ancillary equipment, including all exterior surfaces, by a person or through the use of visual aids, including, but not limited to, mirrors, cameras, or video equipment.

⁴For shop-fabricated double-walled tanks, direct viewing of the exterior of the tank is not required if the interstitial space is inspected or has a mechanical or electronic device that will detect leaks in the interstitial space.

⁵As defined in the most recent version of the California Code of Regulations (California Electrical Code), title 24, part 3, chapter 7, sections 700.2, 701.2, and 702.2.

⁶Must also meet the requirements of the regulation adopted by the Office of State Fire Marshal for piping connected to a "tank in an underground area."

⁷A "tank in an underground area" is also subject to the regulations for ASTs adopted by the Office of State Fire Marshal.

⁸Facilities with less than 1,320 gallons of petroleum are only regulated if they have one or more tanks in an underground area. If this is the case, then only the facility's tanks in underground areas are subject to APSA.