



OFFICE OF THE STATE FIRE MARSHAL

ABOVEGROUND PETROLEUM STORAGE ACT (APSA) ADVISORY COMMITTEE

MEETING MINUTES

Tuesday, April 11, 2023

9:30 AM to 5:00 PM

CAL FIRE – Office of the State Fire Marshal
715 P Street, 9th Floor – Allen Room, Sacramento, CA 95814

Note: This meeting was held in-person and via teleconference.

Staff Present:

Jim Hosler, Assistant Deputy Director
Jennifer Lorenzo, Senior Environmental Scientist (Supervisor), Committee Chair
Mary Wren-Wilson, Environmental Scientist
Denise Villanueva, Environmental Scientist
Jose Sanabria, Deputy State Fire Marshal III, Specialist
Eireann Flannery, Regulatory Analyst

Members Present:

Craig Fletcher, Fletcher Consultants, Inc.
Dante Wiley, Northern California Fire Prevention Officers (FPO)
Devra Lewis, Bay Area Region Certified Unified Program Agency (CUPA)
Eloy Luna,* Southern Region CUPA
Eric Scott,* Santa Fe Springs Fire Department
Greg Matas, Donlee Pump Company
Jason Rizzi, Northern California FPO
Jeremy Gates, Southern California Edison
Jim Whittle, Co-Chair, Northern Region CUPA
Jovan Diaz, Glendale Fire Department
Kevin Buchan, Western States Petroleum Association

Members Present (continued):

Lori Luces-Nakagawa,* Pacific Gas and Electric (PG&E)
Michael Chilberto, Oil Changers
Mike Huber, U.S. Department of Defense (DoD) Liaison
Monica Ronchetti, Southern Region CUPA
Peter Ansel, California Farm Bureau
Stacey Miner,* Walmart
Yama Noorzai, Central Region CUPA

Subject Matter Experts:

Janice Witul, U.S. Environmental Protection Agency (US EPA)
John Paine, California Environmental Protection Agency (CalEPA)

Guests Present:

Bo Medina, City of Oxnard Fire Department
Carol Presto, San Joaquin County CUPA
Christina Graulau,* DoD Liaison
Daniel Yniguez, Los Angeles County Fire Department CUPA
Joe Mentzer, Steel Tank Institute (STI)/Steel Plate Fabricators Association (SPFA)
Matthew Madison, Ventura County CUPA
Robin Ward, Santa Clara County Environmental Health CUPA
Sharon Preece, San Diego County Environmental Health CUPA
Tiffany Chapman, Riverside County Environmental Health CUPA
Veronica Badillo,* DoD Liaison

Members Absent:

Chris Reardon,* California Farm Bureau
Mark Taylor, Mossier Bros.

* Alternate member

I. CALL TO ORDER

- A. Committee Chair, Jennifer Lorenzo, called the meeting to order at 9:45 a.m. and welcomed everyone to the meeting. Attendees and guests introduced themselves.
- B. Mary Wren-Wilson conducted the roll call, and it was determined that a quorum was present.
- C. Approval of minutes from previous meeting

Minutes from the meeting on Monday, December 5, 2022, were reviewed. As the minutes were not posted for public review for the required 10 days, there was no vote to approve them. The minutes will be voted on in the next meeting.

The following changes were suggested: Mike Huber represents DoD.

D. Announcements

Chief Michael Richwine retired as State Fire Marshal in December 2022. Chief Daniel Berlant has been the acting State Fire Marshal since January.

Voting Member Updates:

Kevin Buchan has returned as a voting member representing the oil industry and is from Western States Petroleum Association.

Peter Ansel and Chris Reardon represent the farm/agriculture industry and are from the California Farm Bureau.

The OSFM centennial anniversary event will be held on May 23, 2023. Information is available on the OSFM website.

II. APSA PROGRAM UPDATES

A. Training

The Committee Chair provided an update on the online APSA Basic Inspector Training course. First revision of training content material should be completed by the end of the calendar year. Any rulemaking that will be adopted will be integrated as an ongoing project in the future.

The Committee Chair provided a summary of the Unified Program Annual Training Conference (commonly known as the "CUPA Conference") that took place in March this year. There were over 2,000 attendees and about half were industry. There were 11 APSA courses offered. Some of the sessions were videotaped and will be available on the CUPA Forum Board website (<https://calcupa.org/>) via a learning management system (LMS) platform. The next conference will be held at the Hyatt in Burlingame in February 2024.

Other training available includes the STI SP001 aboveground tank inspector training courses. The next course will be held in September in Long Beach.

US EPA has their 40-hour Facility Response Plan/Spill Prevention, Control, and Countermeasure (SPCC) training in San Francisco in June this year. Invitation is extended to CUPAs if seating is available. Contact Pete Reich or Janice Witul for information.

OSFM hopes to provide training webinars in the future.

B. Regulations

The committee reviewed the “Draft APSA Regulations” document (<https://osfm.fire.ca.gov/media/32bo34o3/draft-apsa-regulations-table-format-16march2023.pdf>).

The order in which the draft proposed regulations as written in the document is simply to align them with the applicable order or sequence of the statute.

The proposed regulations previously drafted and reviewed by the committee have been tossed as several proposals did not meet the Office of Administrative Law (OAL) rulemaking process. However, they were used to draft the new proposed regulations.

Definition of aggregate storage capacity:

In subsection (b), reference to Health and Safety Code (HSC) Section 25270.2(a)(1)-(a)(8) was edited to simply HSC Section 25270.2(a). No edits were suggested for the other subsections.

Piping and supporting components:

Additional edits were suggested, “All piping and supporting components that are susceptible to corrosion and associated with an aboveground storage tank shall be provided with protection from external corrosion and designed to prevent galvanic corrosion.”

Waters of the state definition:

No edits were suggested.

Minor violation definition:

No edits were suggested.

Enforcement actions:

No edits were suggested.

Inspection types:

No edits were suggested.

Federal SPCC terms:

No edits were suggested. Terms (facility and owner or operator) with a strikethrough are already defined in APSA.

Tank or tank facility subject to APSA regulations:

Removed the proposed text, “A tank facility is subject to these regulations if any of the subdivisions of Health and Safety Code Section 25270.3 apply.” New proposal will be further reviewed in the next meeting to incorporate additional edits discussed.

UPA implementation:

No suggested edits to subsection (a). Minor edit to subsection (b), “The UPA is authorized to review the SPCC Plan and ensure plan implementation for compliance with the Code of Federal Regulations, Title 40, Part 112, HSC Chapter 6.67, and these regulations.” Minor edit to subsection (c), “The UPA is not authorized to evaluate the provisions and recommendations contained in an SPCC Plan independent from the provisions of the Code of Federal Regulations, Title 40, Part 112, HSC Chapter 6.67, and these regulations.”

Failure of owner or operator of tank facility to prepare an SPCC Plan:

No edits were suggested.

Compliance with SPCC Plan requirements:

Minor edit to subsection (a)(1), “The SPCC Plan elements are consistent with the HSC Section 25270.4.5.”

Minor edit to subsection (a)(6), “The owner or operator has completed and documented the periodic inspections and applicable tests.”

No edits were suggested for the other subsections.

Availability of SPCC Plan and applicable documentation and Unified Program Agency (UPA) inspection report:

Removed the last sentence in subsection (b) and removed subsection (c). No edits were suggested for the other subsections.

SPCC Plan for a tank facility storing less than 1,320 gallons of petroleum and has a tank in an underground area (TIUGA):

Minor edit to subsection (a), “The owner or operator of a tank facility with one or more tanks in an underground area and a storage capacity of less than 1,320 gallons of petroleum shall comply with one of the following...”

UPA inspections:

The proposal that UPAs must inspect each tank facility with a TIUGA at least once every three years has been removed. The statute would have to be amended to address this inspection proposal.

UPA staff training:

No edits were suggested.

Tank facility electronic reporting:

Minor edit to subsection (b), "For purposes of subsection (a)(4), if the tank facility has a petroleum storage capacity of less than 1,320 gallons and has one or more tanks in an underground area, the number of tanks in an underground area shall not include those excluded under Health and Safety Code Section 25270.3(c)."

Minor edit to subsection (c), "The annual submittal of information required in subsection (a) shall be in conjunction with the submittal of the tank facility statement or hazardous materials business plan as required under Health and Safety Code Section 25270.6(a)."

Insert a new proposal that if a submittal is not accepted by the UPA [because submittal is incomplete or inaccurate], the tank facility has 30 days to resubmit the correct information. Refer to the hazardous materials business plan statute in HSC Chapter 6.95 for reference.

No edits were suggested for the other subsections.

Conditions requiring soil and water investigation (sampling):

Remove proposed section and consider for future rulemaking under APSA for aboveground storage tank closure or Unified Program regulations. UPAs have the authority to require sampling under the hazardous waste generator program and underground storage tank program, but UPAs have no authority to require sampling at facilities with general hazardous materials in aboveground tanks or containers. The Regional Water Quality Control Boards have authority to require the owner or operator of a tank facility to sample. Fire code officials also have the authority to require samples.

Regional Water Quality Control Board:

Replace subsection (a) with "The UPA may pursue formal enforcement for an owner or operator of a tank facility who receives a non-minor violation or who fails to correct minor violations within 30 days."

No edits were suggested for subsection (b).

Non-compliant tank:

Minor edit to first sentence in subsection (a), “A non-compliant storage tank does not meet the requirements of an SPCC Plan or these regulations...”

Edit subsection (b)(1), “A storage tank designed and intended for use as an underground storage tank, such as a storage tank fabricated to Underwriters Laboratories (UL) 58 or UL 1316.”

Edit subsection (b)(2), “A tank car or tank vehicle designed for transportation, such as U.S. Department of Transportation (DOT)-111, DOT-117, or DOT 406, and used as an aboveground storage tank in a fixed or stationary installation.”

Insert a new proposal that discusses proper venting. Proposal will be further reviewed in the next meeting to incorporate additional edits.

This APSA Program rulemaking is expected to be adopted within the first quarter of calendar year 2024.

The Committee Chair asked the committee to review the SPCC Plan template for a tank facility storing less than 1,320 gallons of petroleum and has one or more TIUGAs

(<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fosfm.fire.ca.gov%2Fmedia%2Fpgoi0gaa%2Fdraft-tiuga-plan-template-ada-03-16-2023.docx&wdOrigin=BROWSELINK>). Committee should be ready to provide feedback in the next meeting.

Other proposed regulations under APSA, including other TIUGA provisions, will be incorporated in future rulemaking.

III. NEW BUSINESS

The Committee Chair stated there are no new updates to the APSA question in the Business Activities in the California Environmental Reporting System (CERS).

Does your facility own or operate aboveground petroleum storage tanks or containers AND:

- *Have a total aboveground petroleum storage capacity of 1,320 gallons or more, OR*
- *Have one or more petroleum tanks in an underground area?*

The APSA question in CERS was identified as an issue by industry during the industry stakeholder meeting at the CUPA conference. There is confusion on how facilities are supposed to respond to this question and the differing instructions from CUPAs. There is also confusion on APSA exclusions and conditional exemption. As a short-term solution, OSFM requested CalEPA to update the field help text which now includes a link to the farms webpage (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/farms/>). The OSFM APSA webpage also has additional resources regarding CERS, such as “Is My Facility Regulated Under APSA?” (<https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/is-my-facility-regulated-under-aboveground-petroleum-storage-act-apsa/>). The long-term solution requires edits to the APSA question through a rulemaking. OSFM will continue to work on revising the farms flowchart, make it accessible, and post it on the web in the future.

Mr. Greg Matas mentioned that Underwriters Laboratory (UL) 2085 is legal for outdoor aboveground storage of fuel. There is no similar legal designation for the use of UL 142 tanks for outdoor aboveground storage of fuel tank and Mr. Matas asked why. For fire code interpretation questions, complete a code interpretation request application (<https://osfm.fire.ca.gov/divisions/code-development-and-analysis/code-interpretations/>) and submit the application to the OSFM Code Development and Analysis Division.

IV. MEMBERS ORGANIZATION UPDATES

A. CUPAs

Bay Area Region: None
Northern Region: None
Central Region: None
Southern Region: None

B. FPO: None

C. US EPA

New ruling on the waters of the United States (WOTUS) is now in effect.

D. STI/SPFA

Mr. Craig Fletcher stated the SP001 committee is currently active. SP001 is still undergoing a revision.

E. Industry

None from Mr. Jeremy Gates for the utilizes/power company. Mr. Mike Huber will have Ms. Veronica Badillo as an alternate member. None from the other industry representatives.

F. Other Members

None

V. OPEN FORUM AND PUBLIC COMMENT

None

VI. SCHEDULE NEXT MEETING AND ADJOURN

The Committee Chair will send out a “Doodle” poll to the members to determine the best available date for the next committee meeting.

The Committee Chair requested to adjourn the meeting. Mr. Craig Fletcher motioned to adjourn the meeting and Ms. Devra Lewis second the motion. All other committee members that were present were in favor and none opposed.

The meeting was adjourned by the Committee Chair at 4:05 p.m.