



OFFICE OF THE STATE FIRE MARSHAL

ABOVEGROUND PETROLEUM STORAGE ACT (APSA) ADVISORY COMMITTEE

MEETING MINUTES

Monday, December 14, 2020

1:00 PM to 3:00 PM

CAL FIRE – Office of the State Fire Marshal

2251 Harvard Street, 4th Floor, Sacramento, California 95815

Note: This meeting was held via teleconference to comply with social distancing requirements.

Staff Present:

Jim Hosler, Assistant Deputy Director

Jennifer Lorenzo, Senior Environmental Scientist (Supervisor), Committee Chair

Glenn Warner, Senior Environmental Scientist (Specialist)

Kevin Chan, Special Assistant to the State Fire Marshal

Members Present:

Craig Fletcher, Fletcher Consultants, Inc.

Dante Wiley, Northern California Fire Prevention Officers (FPO)

David Harris,* Donlee Pump Company

Devra Lewis, Bay Area Region Certified Unified Program Agency (CUPA) Forum

Ernie Medina, Other Fire Service/District

Gareth Smythe,* U.S. Department of Defense

Jason Rizzi, Northern California FPO

Jim Whittle, Northern Region CUPA Forum

Lori Lucas-Nakagawa,* Pacific Gas and Electric (PG&E)

Mathew Hopwood, AT&T

Michael Chilberto,* Oil Changers

Michael Palazzola,* Southern Region CUPA Forum

Members Present (continued):

Mike Huber, U.S. Department of Defense
Rich Erickson, Donlee Pump Company
Sam Bayless, California Fuels & Convenience Alliance
Stacey Miner, Walmart
Vince Mendes, Central Region CUPA Forum

Subject Matter Experts:

Janice Witul, U.S. Environmental Protection Agency (US EPA)
John Paine, California Environmental Protection Agency (CalEPA)
Pete Reich, US EPA
Steve Pollock, Steel Tank Institute (STI)/Steel Plate Fabricators Association (SPFA)

Guests Present:

Elena Manzo, San Joaquin County Environmental Health Department CUPA
Mark Landin, Southern California Edison
Monica Hanley, Santa Monica City Fire Department CUPA
Sharon Preece, San Diego County Environmental Health CUPA
Tiffany Treece, San Leandro City CUPA

Members Absent:

Lisa Espinosa,* AT&T
Sande Facinelli, Committee Co-Chair, San Diego County Environmental Health CUPA
Tom Umenhofer, Western States Petroleum Association (WSPA)

* Alternate member

I. Call to Order, Roll Call/Determine Quorum and Introductions

Committee Chair, Jennifer Lorenzo, called the meeting to order at 1:04 p.m. and welcomed everyone to the meeting.

Mr. Kevin Chan conducted the roll call and it was determined that a quorum was present.

Attendees and guests introduced themselves.

II. Approval of Minutes

Minutes from the meeting on June 18, 2019, were reviewed. Mr. Craig Fletcher requested a few minor edits to the minutes. Ms. Lori Lucas-Nakagawa motioned to approve the minutes as amended and Ms. Stacy Miner seconded the motion. All other committee members in attendance were in favor and none opposed.

III. Announcements

A. OSFM Staff

OSFM has filled two vacant Environmental Scientist positions. The candidates are expected to start in January 2021.

B. New Members

Sande Facinelli is now co-chair.

One position representing the southern region Fire Prevention Officers is vacant since Chief James Carver retired.

Samuel Bayless is now the primary member representing the oil industry. He's with California Fuels and Convenience Alliance.

Lori Luces-Nakagawa is the alternate for utilities/power company.

Devra Lewis is now the primary member for the Bay Area Region.

Dante Wiley is a now an alternate for the Northern Region Fire Prevention Officers.

Tom Umenhofer is a member representing the oil industry.

Ernie Medina is a member representing other fire service/district.

IV. Old Business

A. Review of Action Items from Wednesday June 18, 2019

Ongoing Action Items:

1. APSA Frequently Asked Questions (FAQ)
2. Petroleum FAQ
3. APSA Regulations and Rulemaking Timeline

B. Regulations

Members voiced they would like the regulatory package to move forward. The Committee Chair explained the fiscal and economic impact analysis will use data provided in previous years.

C. Tanks in Underground Areas (TIUGA)

A TIUGA FAQ website is now available on the OSFM website at [Aboveground Petroleum Storage Act: Tank in an Underground Area \(TIUGA\)](#). The website meets Americans with Disabilities Act (ADA) requirements.

The Committee Chair announced prior to June 2020 a basement tank that was connected to an underground storage tank (UST) was considered one UST system. As of June 2020, the State Water Resources Control Board (State Water Board) issued a letter clarifying a TIUGA connected to a UST system is considered a separate tank system. The UST is subject to the UST program, while the TIUGA and its connected piping are subject to the TIUGA requirements of APSA. The letter specifies where authority ends and begins for the State Water Board, as well as for the APSA Program. The letter issued by the State Water Board can be found on the TIUGA FAQ website.

Mr. Craig Fletcher asked if the draft APSA regulations would need to be modified due to the new updates and requirements for TIUGAs. The Committee Chair explained the Senate Bill 612 [requirements for TIUGAs] are already addressed [in the fire code], but the committee needs to verify if Assembly Bill 2902 has been incorporated in the draft APSA regulations. Both bills provide two separate authorities for rulemaking. If a bill amended areas of the statute, then the draft regulations will need to be revised accordingly.

The Committee Chair addressed the most common question from CUPAs about their authority to enforce the fire code requirements for TIUGAs. The Committee Chair clarified the CUPAs enforce APSA. Although the TIUGA requirements are clarified in the fire code, the underlying requirements are still found in APSA. If a facility is in violation of those TIUGA fire code requirements, then CUPAs have authority to cite the APSA statute [and may reference the applicable fire code].

The Committee Chair asked if the industry is identifying whether their tank systems fall under TIUGA or UST. The Committee Chair also asked if CUPAs started doing outreach and identifying regulated facilities that have less than 1,320 gallons of petroleum or may have at least one or more TIUGAs. Ms. Stacy Miner stated their tanks meet the TIUGA definition. Mr. Jim Whittle mentioned, within his agency's jurisdiction, the facilities that were not being regulated or were exempt under UST rules are now regulated under APSA. There was no need to transfer them from the UST program to the APSA program.

The Committee Chair asked if facilities ever utilize the UST button in CERS that transfers a tank over to the APSA program. Mr. Whittle stated they have not used that button. Mr. Michael Palazzola commented their agency has not used that button as well; they are tracking those facilities with a separate code. Next, Ms. Devra Lewis mentioned their agency inspectors have not conducted indoor inspections due to COVID safety protocols. However, once inspections are being

conducted, their agency will monitor if facilities utilize the UST to APSA button in CERS.

The Committee Chair asked if the information on the TIUGA FAQ has been relayed to others. Mr. Samuel Bayless mentioned it has been sent out in their newsletter. Mr. Mark Landin explained it is a topic of conversation.

D. APSA Training

The Committee Chair announced the APSA Basic Inspector Training platform Open LMS is now owned by a different company, Learning Technologies Group (LTG). LTG does not have the expertise to make the changes OSFM needs to the sharable content object reference model (SCORM) files [for each chapter module]. Due to the change in ownership, there are some glitches on the site, but it is operable.

The Committee Chair shared the bulk registration and enrollment process has also changed. Staff has not yet been trained on the process.

The Committee Chair announced the next Unified Program Training Conference begins in February 2021 and will cover a span of approximately seven weeks. There will be about 150 classes offered and 10 will be under the APSA track. TIUGA and Spill Prevention, Control, and Countermeasure (SPCC) sessions will be available. Mr. Michael Palazzola asked if the conference will have a class on APSA and CERS. The Committee Chair responded there will be a class on APSA and CERS, but it may be outside the conference.

The Committee Chair mentioned the San Diego County removed their free SPCC Plan online training for Tier I qualified facilities from their website. Ms. Sharon Preece explained it was removed because San Diego did not have rights to the original program, not allowing them to access and edit the course materials. Ruben Williams of Santa Clara County CUPA was provided the training files and will look into whether their IT can resolve the issue.

E. APSA Frequently Asked Questions (FAQ)

Mr. Glenn Warner provided an update on the APSA FAQ. After extensive meetings with the work group, a draft of the FAQ document was created. The document was presented to OSFM management months ago. The Committee Chair stated the final draft still needs to go through legal review and department review process. The Committee Chair and Chief Jim Hosler reviewed the document extensively. The document follows the sequence of APSA, eliminating the need for an index at the end of the document. All questions are at the front of the document.

The Committee Chair stated all voting members have received the APSA FAQ document.

Mr. David Harris mentioned the Air Resources Board's (ARB) FAQ webpage is not available. ARB stated it needed to be taken down due to not meeting ADA requirements. The Committee Chair clarified back in 2018, [Assembly Bill 434](#) was passed requiring all state agency websites to meet the ADA accessibility requirements. Due to this bill, many state agency website links may no longer be valid.

Mr. Harris inquired about the target audience for the APSA FAQ. The Committee Chair stated it is for regulators, regulated entities, and stakeholders. There are questions targeted for owners or operators of tank facilities and Unified Program Agency implementation of the APSA program.

Mr. Harris asked if the link for the *US EPA SPCC Guidance for Regional Inspectors* is available on the APSA FAQ. The Committee Chair responded section 10 of the APSA FAQ contains all the links to each chapter of the *US EPA SPCC Guidance for Regional Inspectors*.

The Committee Chair asked if it would be possible for the committee members to act on the APSA FAQ document so that it is forwarded to our department for additional review, including legal review. Once finalized, then it will be published and posted on the web. Mr. Craig Fletcher asked if it would be possible to look at the APSA FAQ before the committee makes the decision to move the document forward. The Committee Chair responded it can be reviewed and voted on in the next meeting. Mr. Jim Whittle agreed to viewing the document before moving it forward.

Mr. Michael Palazzola asked if members who cannot vote on the document could still review it and identify any issues. The Committee Chair responded, the members who cannot vote and identify issues within the document can contact OSFM directly.

F. Petroleum FAQ

The petroleum FAQ has been reviewed by legal. OSFM was asked to incorporate an additional question regarding synthetic oil. Any synthetic oil that is petroleum-based or derived from crude oil is petroleum under APSA. There were no other changes to the petroleum FAQ. All information on the [petroleum FAQ](#) has been transferred onto the web.

Questions about the traces of petroleum did not get included on the FAQ.

V. New Business

A. Violation Library

No update on the violation library.

B. California Environmental Reporting System (CERS) 3 Enhancements

The Committee Chair stated the four new APSA data fields in CERS are not required, but that could change in the CERS NextGen project. This could also change if there is a change in the statute or a new regulation that would require facilities to submit all or some of the four data fields. The Committee Chair mentioned there is one checkbox for conditionally exempt tank facilities, and if the checkbox is marked, then the conditionally exempt tank facility will not be requested to enter information in the other three fields. The other three fields address the total petroleum storage capacity, the SPCC Plan certification date or date of the last five-year review of the SPCC Plan (whichever is more recent), and the number of TIUGAs.

The Committee Chair suggested if more information is needed about the data fields, a webinar with the Industry Technical Advisory Group (TAG) could be held. The Committee Chair asked Mr. Mark Landin about the suggestion. Mr. Landin stated it could be possible.

The Committee Chair asked if CUPAs are communicating with facilities to ensure the APSA information they provide in CERS is valid. Errors have been identified that could be easily fixed, such as the total petroleum storage vs. oil storage. Mr. Jim Whittle stated Shasta County CUPA is still doing inspections and are finding some errors. During reviews of CERS submittals, they do a comparison of the data in CERS and the information in the facility's SPCC Plan. Ms. Devra Lewis commented Contra Costa County CUPA is working with the facilities. CERS submittals are reviewed by the inspector that inspected the facility and the information in CERS is also verified during inspections. Mr. Michael Palazzola stated it is the same process for Orange County CUPA.

The Committee Chair asked if the industry has seen the CERS help materials that were identified in the last meeting, and inquired if they were disseminated to stakeholders and other organizations or industries. Mr. Sam Bayless responded they have distributed the help materials. Mr. Landin stated it has been referenced. The Committee Chair mentioned there is a link on the CAL FIRE-OSFM APSA website leading to the CERS help materials and the most recent document will be helpful for industry stakeholders.

C. Committee Charter

The Committee Chair asked the members if it is acceptable to make an edit to the charter where it states 'AST' (Aboveground Storage Tank) Program versus APSA Program. Editing 'AST' to APSA would be more consistent with the statute. A vote was not necessary but needed to be mentioned.

VI. MEMBERS ORGANIZATION UPDATES

A. STI Update

The Committee Chair requested an update from STI. Mr. Steve Pollock gave an update. There will be a new Executive Vice President, Tim O'Toole.

Mr. Pollock confirmed they are working on having an STI training in February 2021, but it will be dependent on COVID restrictions.

B. APSA TAG

The Committee Chair asked for an update from the APSA TAG. Ms. Devra Lewis stated the last APSA TAG meeting was in July 2020. The APSA TAG will continue their meetings after the Unified Program Training Conference has concluded.

C. CUPA Regions and Fire Service

Mr. Jason Rizzi stated Roseville City CUPA is still doing inspections and do not have any further updates.

Mr. Dante Wiley and Mr. Ernie Medina both stated their organizations are still doing inspections.

The Committee Chair asked if there have been any issues with AST installations. Mr. Medina responded there have been no issues that he is aware of.

Mr. Michael Palazzola expressed a concern that there are U.S. Department of Transportation (DOT) regulations that may cross over into APSA requirements. This is currently a matter that is being investigated by their agency.

Mr. Jim Whittle stated there are no updates from the Northern Region CUPAs.

Ms. Devra Lewis said there are no updates from the Bay Area Region CUPAs.

D. US EPA Update

The Committee Chair asked US EPA for an update. Mr. Pete Reich stated US EPA is conducting in-person inspections and virtual interviews. The virtual meetings are done through Microsoft Teams. In-person inspections are done with social distancing in mind, full personal protective equipment (PPE), and limited time at the site. Depending on the facility there could be a part three virtual follow-up. All discussions are conducted virtually, allowing limited amount of time at the site.

The Committee Chair asked if there are US EPA regions that will be doing all inspections virtually. Mr. Reich clarified there are no policies issued by headquarters; the regions are at liberty to do what is safe and appropriate.

Ms. Janice Witul mentioned prior to the first virtual meeting with the facilities, they ask for the SPCC Plans. Ms. Devra Lewis stated most facilities are providing their SPCC Plans. If the facility is not willing to provide the plans, then the plans will be reviewed on site.

The Committee Chair asked about the ruling on the waters of the United States. Ms. Witul responded the definition was changed. The facilities that discharge to intermittent streams and certain canals are not jurisdictional to the oil pollution prevention regulations. There have not been many facilities deregulated under the facility response plan requirements. Also, facilities have not been notifying the US EPA that they are no longer regulated under the SPCC rule. There are facilities that are no longer under US EPA jurisdiction.

E. Industry Update

The Committee Chair asked if there are any updates from the oil industry or regulated industry sector. Mr. Samuel Bayless responded there have been no complaints from them.

Ms. Stacy Miner commented they are doing onsite and virtual tours. The inspectors are primarily onsite, with a few virtual or none. They are behind on inspections.

Mr. Michael Chilberto explained they have regional managers onsite. From the CUPA's standpoint they are doing virtual inspections or there has been no contact from the facilities.

Ms. Lori Luces-Nakagawa stated they are primarily conducting onsite inspections. There are facilities that are isolated; inspections at those facilities are being done virtually.

The Committee Chair asked Ms. Luces-Nakagawa if facilities were utilizing the emergency generator and business plan exemption forms. Ms. Luces-Nakagawa explained there have been many facilities using the form. There were many sites that did not qualify. Mr. Mark Landin stated they used many [Hazardous Materials Business Plan (HMBP) Program] exemption forms due to the fires in the area. Only one agency did not approve the form.

VII. Open Forum and Public Comments

Ms. Monica Hanley had a follow-up question about the TIUGA FAQ. She mentioned the TIUGA FAQ website states emergency vents do not need to have secondary containment or be visible. If the vent line goes through a wall, and the vent line is not secondarily contained or can be visually inspected, would that put the vent line in the UST program?

The Committee Chair clarified that if an emergency vent line connects to an emergency generator, only the emergency vent line (solely for relieving excessive internal pressure) does not need secondary containment and leak detection under APSA statute. However, [general] secondary containment [for all piping] is still required under the federal SPCC rule.

Mr. Jim Whittle explained it is common for portions of piping to go through walls. Those portions can be secondarily contained. The containment portion will drain out into a visible spot meeting the requirements. That is how this situation has been handled in the past.

The Committee Chair agreed with Mr. Whittle's response. If it is not already secondarily contained and it does not meet the TIUGA definition, then it is still subject UST requirements. Also, under the UST program, the vent line or portions of the vent line may be required to be upgraded to be secondarily contained or double walled.

Ms. Hanley commented it would be helpful to the CUPAs and businesses to better address the piping portion on the TIUGA FAQ.

Ms. Hanley mentioned on the annual submittals to CERS, the APSA elements are not being submitted by facilities.

The Committee Chair clarified the HMBP is sufficient to meet the Tank Facility Statement requirement, which needs to be submitted annually for all APSA tank facilities. There is currently no statutory or regulatory requirement for APSA tank facilities to submit the APSA facility information to CERS. Although CERS will have both the HMBP and APSA elements for tank facilities to complete, only one complete submittal is required.

Ms. Hanley mentioned the CERS help materials for the APSA program states doing both HMBP and APSA submittals annually. The Committee Chair responded the CERS help materials have been modified. The CERS help materials previously stated 'required' [for both HMBP and APSA submittals], but now the wording has been changed to 'requested' or removed accordingly.

VIII. Action Items

1. APSA FAQ
2. APSA Regulations, Including Timeline

IX. 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. Samuel Bayless motioned to adjourn the meeting and Mr. Jim Whittle seconded the motion. All other committee members that were present were in favor and none opposed.

The meeting was adjourned by the Committee Chair at 3:19 p.m.