



OFFICE OF THE STATE FIRE MARSHAL

ABOVEGROUND PETROLEUM STORAGE ACT (APSA) ADVISORY COMMITTEE

MEETING MINUTES

Wednesday, June 18, 2019

9:30 AM – 12:00 PM

2251 Harvard Street, 4th Floor, Sequoia Conference Room
Sacramento, California 95815

Staff Present:

Jennifer Lorenzo, Senior Environmental Scientist (Supervisor), Committee Chair
Glenn Warner, Senior Environmental Scientist (Specialist)
Joann Lai, Environmental Scientist
Carmen Zamora, Environmental Scientist
Kevin Chan, Special Assistant to the State Fire Marshal

Members Present:

Bridget McCann,* Western States Petroleum Association (WSPA)
Craig Fletcher, Fletcher Consultants, Inc.
David Harris,* Donlee Pump Company
Devra Lewis,* Contra Costa County Hazardous Materials Certified Unified Program Agency (CUPA)
Jason Rizzi, Northern California Fire Prevention Officers (FPO)
Lori Luces-Nakagawa,* Pacific Gas and Electric (PG&E)
Michael Chilberto,* Oil Changers
Michael Palazzola,* Orange County Environmental Health CUPA
Mike Huber, U.S. Department of Defense
Randy Sawyer, Committee Co-Chair, Contra Costa County Hazardous Materials CUPA
Ryan Hanretty, California Fuels & Convenience Alliance
Sande Pence, San Diego County Environmental Health CUPA

Subject Matter Experts:

Wayne Geyer, Steel Tank Institute/Steel Plate Fabricators Association
Janice Witul,* U.S. Environmental Protection Agency (US EPA)

Guests Present:

Gareth Smythe, U.S. Department of Defense
Mark Landin, Southern California Edison

* Alternate member

Members Absent:

James Carver, Southern California FPO
Jim Whittle, Shasta County Environmental Health CUPA
John Paine, California Environmental Protection Agency
Lisa Espinosa,* AT&T
Mathew Hopwood, AT&T
Michelle Le, PG&E
Peter Reich, US EPA
Rich Erickson, Donlee Pump Company
Stacey Miner, Walmart
Tom Ellison, Kern County Fire Department
Tom Umenhofer, WSPA
Vince Mendes, Fresno County Environmental Health CUPA

I. Call to Order and Introductions

Committee Chair, Jennifer Lorenzo, called the meeting to order at 9:31 a.m. and welcomed everyone to the meeting. Attendees and guests introduced themselves.

II. Roll Call/Determine Quorum

Ms. Joann Lai conducted the roll call and it was determined that a quorum was present.

III. Approval of Minutes

Minutes from the meeting on October 19, 2018, were reviewed. Ms. Sande Pence motioned to approve the minutes as amended and Mr. Mike Huber second the motion. All other committee members in attendance were in favor and none opposed.

IV. Announcements

A. OSFM Staffing

Ms. Carmen Zamora is the new OSFM Environmental Scientist since May. Ms. Zamora will be trained on different duties such as the CUPA evaluation process and administrative tasks on the APSA online training course.

Chief Mike Richwine remains the Acting State Fire Marshal.

Chief James Hosler is the Assistant Deputy Directory of Pipeline Safety and CUPA Programs, replacing Chief Ben Ho. Chief Hosler is based in the OSFM Long Beach office.

B. New Members

One position representing the farm industry has remained vacant since Andrea Fox retired from the California Farm Bureau Federation.

Representatives from AT&T have replaced Verizon to represent the telecommunications industry.

Mr. Michael Palazzola is a new alternate for Ms. Pence of the Southern Region CUPAs.

Mr. Michael Chilberto is a new alternate for Ms. Stacey Miner for the oil change and auto repair industry.

V. Old Business

A. Review of Action Items from October 19, 2018

Ongoing Action Items:

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

B. Regulations

There were no changes proposed since the last advisory committee meeting. The initial statement of reasons (ISOR), and notice of proposed action NOPA or notice of proposed rulemaking (NOPR) are slowly being updated but not completed. OSFM still needs to obtain an updated fiscal and economic impact from the industry stakeholders. The Committee Chair also mentioned that she will be taking the three-day Office of Administration (OAL) rulemaking class next month.

Mr. Michael Huber asked about the time frame and process on the ISOR and NOPA/NOPR.

Ms. Sande Pence asked if the proposed changes from the last advisory committee meeting are posted online. The draft of the meeting minutes and the rulemaking were finalized but were not posted online due to the ADA (Americans with Disabilities Act) state website accessibility requirements of Assembly Bill (AB) 434. OSFM documents are being remediated to meet the accessibility requirements by July 1, 2019. The most recently proposed regulation will be posted soon. The Committee Chair advised the committee members to download all OSFM APSA documents now before the website becomes unavailable during the remediation process.

The Committee Chair reviewed the proposed regulations to date. [Refer to the attachment to the October 2018 minutes which may be available at <https://osfm.fire.ca.gov/boards-committees/aboveground-petroleum-storage-act-advisory-committee/#APSA2019>.] Outreach may be needed to inform unified program agencies (UPAs) that there are spill prevention, control, and countermeasure (SPCC) compliance verification for facilities with less than 10,000 gallons, which is separate from UPA inspection requirements at facilities with 10,000 gallons or more of petroleum storage capacity, and/or facilities with tanks in an underground area (TIUGA). Facilities with less than 10,000 gallons or petroleum storage capacity can self-certify [for compliance with the SPCC verification requirements as described in proposed Section 2180.00]. However, a self-certification form has not been developed. OAL may potentially ask if a self-certification form has been developed for consistency throughout the State.

Ms. Pence clarified that a facility with a TIUGA cannot do the SPCC compliance verification [as described in proposed section 2180.00] and is subject to a full APSA inspection [by the UPA as described in Section 2180.01]. The Committee Chair agreed. Facilities with TIUGAs and/or facilities with 10,000 gallons or more of petroleum are going to be required to be inspected [by the UPA] for SPCC Plan compliance with APSA. Ms. Pence asked if storage capacity mattered for TIUGAs. In coordination with the State Water Resources Control Board (State Water Board), facilities with TIUGAs have no specific total storage capacity requirement to be inspected by the UPA. Under the Underground Storage Tank (UST) program, these tanks would have been required to be inspected annually. Also, the once every three-year inspection for facilities with TIGUAs is consistent with the statute for facilities with 10,000 gallons or more of petroleum.

The Committee Chair reviewed proposed Section 2190.00 [UPA staff training]. The proposal clarified the training examination as a requirement. Since Assembly Bill (AB) 1130, Health and Safety Code (HSC) Section 25270.5(c) included 'exam' in the language, but the statute was amended to have inspectors pass the training program without the explicit language to take and pass the exam. Historically, it was always a requirement for an exam to be taken and passed. A statement was also inserted in proposed Section 2190.00 for inspectors that meet the training requirement if they've already taken the training prior to the OSFM online training.

The Committee Chair discussed the refresher training section. The Committee Chair initially proposed eight hours of ongoing training but it was reduced to four hours every three years [to appease the request of CUPAs with limited staffing resources such as rural area CUPAs]. From a State evaluator's perspective, it would be difficult to determine certification since CUPA evaluations are conducted once every three years. Therefore, refresher training is now set for six hours. It was also at the request of California Council for Environmental Economic Balance (CCEEB) to address training issues. The proposal to increase refresher training by two additional hours, for a total of six hours every three years was approved by the committee members. No issues have been raised, especially from smaller jurisdictions. Mr. Jim Whittle and Mr. Vince Mendes had no objections to six hours every three years. Refresher training does not have to be taken consecutively every year. The inspector can choose their pace to complete the refresher training. Refresher training can be divided into two hours each year, or six hours in one year, or three hours every two years, depending on the inspector [and their CUPA]. The Committee Chair reminded the committee members that training is only required for inspectors conducting SPCC Plan compliance of APSA. These initial and refresher trainings are not required for inspectors conducting inspections only at conditionally exempt tank sites.

The Committee Co-Chair asked about inspectors who have taken the initial training and passed the exam but does not take their refresher training, thereafter. The Committee Chair responded that, once the refresher training requirement is adopted and implemented, then the CUPA may receive a deficiency from OSFM during their CUPA evaluation, unless, the inspector is not conducting APSA inspections [or only doing inspections at conditionally exempt tank facilities]. If they start doing APSA inspections again, then they would have to take their refresher training. Note, this has not been implemented yet as it still needs to be adopted.

The Committee Chair asked Ms. Janice Witul about US EPA's refresher training requirements for SPCC inspectors. Ms. Witul responded that SPCC inspectors maintain their HAZWOPER with an eight-hour course and a four-hour SPCC refresher each year given by Mark Howard from headquarters at the US EPA Office of Emergency Management. They also complete one module of the Basic Inspector Training, a computer based training. The Committee Chair asked if it is for only federal agencies. Cal EPA also has their own Basic Inspector Academy that regulators, including CUPA inspectors, may take. Ms. Witul confirmed that it is only for federal agencies.

Mr. David Harris voiced his concerns about new inspectors and their lack of knowledge in regulations. The Committee Chair asked what types of inspections were being conducted. Mr. Harris explained inspection for one program would bleed into other program elements; for example, an inspector would come to look

at a gasoline tank, and starts talking about fire code requirements for tank systems. This shows a concern in the inspector's knowledge.

Mr. Jason Rizzi stated that those regulations are in the fire code, which are found in the California Code of Regulations (CCR) Title 24; those are not APSA requirements. Whoever is installing that tank, needs to know about CCR Title 24, including the fire code, and they need to submit plans and permits. Mr. Harris clarified that the tank has been there for 20 years, but it still can cause an explosion. Mr. Rizzi believed that the tank was more than likely put in without permits or documents. Mr. Harris stated that this is one type of occurrence. Different inspectors would come discussing different programs and do not know the applicable regulations. Mr. Rizzi understands that this is a bigger issue that will take a long time to resolve.

The Committee Co-Chair identified it as issues related to inspectors looking at the fire code, but it can be relatable to APSA inspectors, too. The inspectors have to make sure they understand what the regulations are and make sure the facilities are following them.

The Committee Chair described a time when the Unified Program was still in its early stages, some CUPAs belonging to an environmental health agency wanted more authority over the fire code as it relates to hazardous materials because more than half of the fire code is on hazardous materials management. The fire code, however, addresses other requirements not related to the health department, such as fire rated doors and sprinkler systems. CUPAs have the authority to review installations and permitting for UST systems, but not for ASTs. It makes it difficult for CUPAs to know if ASTs are installed properly.

Mr. Rizzi understands this; to address this issue, classes on this topic have been provided at the CUPA conference for the past years. Mr. Rizzi suggested that they keep providing training and suggested they can record one of the classes at the CUPA conference to have available online. Mr. Rizzi mentioned that, in this class, he tries to bridge the CCR Title 24 regulations with the CUPA regulations. Most times, fire inspectors are expected to have brief knowledge on several subjects, making it difficult to specialize and know everything. It's almost impossible.

Mr. Michael Palazzola asked if there have been any changes to the annual certification requirement with the California Environmental Reporting System (CERS) or if it will stay in place. It will stay in place, unless it is changed in the statute. The statute requires a tank facility statement be submitted annually.

AB 1429 was introduced a while back, originally addressing the UST program, but then it was amended a couple times and is now a business plan change from requiring businesses to make an annual to a triennial submittal to CERS. The Committee Co-Chair added that there is an exception for APSA. The Committee Chair confirmed there is an exception for certain types of facilities, and now CUPAs must differentiate what their EPCRA (Emergency Planning and

Community Right to Know) sites are. It is easy to identify APSA tank facilities because facilities can select 'yes' to the CERS Field ID 8 on the business activities section in CERS. For EPCRA, CUPAs will have to figure out which facilities are EPCRA or not and that may reduce and increase your work load.

The Committee Chair asked if the reduced annual reporting to once every three years would impact the CUPA fees. Mr. Palazzola stated that most of the fees are fee for service and not based on the number of inspections. The Committee Chair clarified that it is not about the inspections, but the review of business plan submittals in CERS.

Ms. Pence commented that the three-year submittal frequency is only if the facility has absolutely no changes. There will be some static facilities, but most of the facilities that CUPAs review in CERS have some minor changes that require a submittal within 30 days which won't impact the CUPA's normal workload by much.

The Committee Co-Chair voiced that the one thing that would make an impact is making sure facilities comply within the 30-day notice. The 30-day notice is something we have to enforce and the CUPAs are not sure how good they've been enforcing it. The Committee Chair agreed that most of the changes have been occurring during the facilities' annual submittal as opposed to the 30-day notice.

In the last committee meeting, Ms. Michelle Le asked if there will be an impact with the new CERS APSA data fields, since the proposed APSA regulations have not yet been adopted. Another set of regulations have already been adopted, in the data dictionary, in CCR Title 27, that mandates businesses to report certain information into CERS. It will request facilities to submit information regardless of the regulations not being adopted yet.

Mr. Huber understands that a lot of work goes into the proposed regulations, but as a regulated entity, want to have this done soon. The Committee Co-Chair agreed and stated that the CUPAs would like that too.

The Committee Chair reminded the group that the OSFM workload is significantly spent on CUPA evaluations. Since 2016, OSFM has participated in all remote CUPA evaluations to ensure CUPAs are doing what they need to do, consistently, throughout the state. Fortunately, OSFM has increased its staffing four staff. OSFM does not only work on the APSA program, but also receives directions from Cal EPA.

The Committee Chair will work with the OSFM Code Development and Analysis Division to go over the three proposed regulations. The rulemaking will be done in the order based on authorizing bills (AB 1566 first, SB 612 second, and then AB 2902) to reduce having one major regulation.

The Committee Co-Chair reassured the Committee Chair that if there is anything they can do to help, let them know. The Committee Chair agreed to reach out to others when needed. The Committee Co-Chair recognized Ms. Pence and Ms. Lewis as good resources to help with the regulations.

Ms. Pence asked if they have evaluated the latest version with amendments from AB 2902. The Committee Chair has incorporated changes for SB 612, but have not evaluated the changes from AB 2902. The TIUGA section is not incorporated yet because it is a separate component. If there are any changes to the definitions section, then it will need to be updated as well. The Committee Chair might contact the subgroup members for help on the regulations.

The Committee Co-Chair asked if CUPAs need any cost estimates for the regulations. The Committee Chair responded that they have been using numbers obtained from the CUPAs' single fee reports. The last time the single fees were requested, only a third of the CUPAs provided feedback. The numbers will be based on those feedbacks that were received. The Committee Chair stated that there haven't been any changes since then but will look into it if there are new changes.

C. Tanks in Underground Areas

The Committee Chair shared the most recent TIUGA factsheet that OSFM revised and posted on the website last December. The TIUGA factsheet has not been updated to reflect the amendments made by AB 2902. The Committee Chair has received more questions on TIUGAs and is unsure when OSFM will update the factsheet again. The factsheet will be remediated to comply with the accessibility requirements per AB 434, and some graphics may be removed.

Mr. Huber acknowledged and appreciated the work done by the committee and the subgroup that helped to create the TIUGA factsheet to clarify these requirements.

The Committee Co-Chair asked if people can contact OSFM staff to obtain the original copy of the TIUGA factsheet before it is remediated. The Committee Chair stated she can email the factsheet and any other guidance documents and forms upon request.

Ms. Pence emphasized that the TIUGA factsheet dated December 2018 is the most recent factsheet that should be utilized. Many people have been referring to the TIUGA factsheet from April 2018 which is outdated.

Mr. Craig Fletcher emphasized the importance of having the local CUPA be involved in the process of TIUGAs in the UST program transferred into the APSA program. He further explained that there are some cases where a facility or owner decides to make this transition without notifying the local CUPA, and then is at risk of noncompliance under UST regulations. It is important for everyone to be aware and to notify the CUPA if they are making that change.

The Committee Chair agreed and explained that before April 1, 2019, a CERS FAQ Help Material was made for facilities that had existing tanks in basements that were regulated under the UST program. The CERS document was developed to assist with the transfer of TIUGA systems from the UST program into the APSA program. The Committee Chair stated that the CERS guidance document has since been taken down because there is now a checkbox, in CERS, under the UST section, that a facility owner/operator can now mark.

The Committee Chair asked if it was beneficial to have the owner/operator to work with the CUPA, to notify them, that the tank system has been transferred. Mr. Palazzola said oftentimes the owner inaccurately closes the UST in CERS and ends up having duplicates and resubmittals; so he believes it would be important to have someone verify that it was done appropriately. Mr. Fletcher agreed and added that the owner can be at risk for a UST violation.

The Committee Chair asked if the State Water Board provided guidance in the UST newsletters. Ms. Pence advised it would be better to contact the State Water Board to update the fact sheet that they've previously developed to reflect the newest changes in CERS.

Mr. Palazzola commented that the State Water Board were putting together multiple webinars. Ms. Pence asked if the webinars addressed the updated version. Ms. Devra Lewis said that the State Water Board sent out information about the webinars. The Committee Co-Chair also commented that the information on the webinars can be found in the monthly newsletters. The monthly newsletters can be found on the State Water Board website.

The Committee Chair reminded the committee members that the APSA section in CERS now has a data field to enter the number of TIUGAs.

The Committee Chair also mentioned that there might be another class at the CUPA conference with updated information. The Committee Chair stated that the webinars for the data fields in CERS is an action item she is still working on with Cal EPA. The APSA Technical Advisory Group (TAG) reviewed the new CERS APSA data fields at their meeting in November 2018.

D. Legislation

There have been no legislative changes since the previous meetings. AB 2902 and AB 1980, which passed last year, has been in effect starting this year.

The Committee Chair corresponded with the legal office to determine whether adding 1,320 gallons or more of petroleum to HSC Section 25270.3(a) is duplicative. At the last committee meeting, Mr. Michael Huber recommended the legal office to review the matter, but stated again that he does not object if it is included in the statute.

The CAL FIRE legal office asked the Committee Chair why 1,320 gallons or more of petroleum needs to be included and whether there is a problem with HSC 25270.3(a) as it is written today. Ms. Pence responded that if a facility has vegetable oil, the statute can be interpreted to seem like the facility is subject to APSA.

This subsection (a) has never changed since 1989 because that is the nexus to navigable water. [The tank facilities subject to this subsection include] the federal facilities, or facilities regulated under the SPCC rule. The Committee Chair stated that the CAL FIRE legal office believed that it was not duplicative to add the 1,320 gallons or more of petroleum, but any modification made to this may potentially contradict any potential changes that the federal government might choose to do in the future.

The CAL FIRE legal office asked if there were any reasons to loosen the language in the statute. The proposal is relaxing the statute for which the APSA was originally based on. Mr. Huber said, from a federal perspective, it is preferable to have a clear cross reference to the federal requirement.

AB 1429 requires tank facilities to annually submit their business plan (or tank facility statement) to CERS.

The Committee Chair asked if Ms. Devra Lewis still remembered a potential amendment to be made to the APSA regarding TIUGAs. Ms. Lewis was unable to recall the specifics, but Ms. Sande Pence mentioned that it may be related to direct viewing.

E. APSA Training

Ms. Joann Lai gave an update on the online APSA Basic Inspector Training course. Since the last committee meeting in October 2018, 70 inspectors enrolled into the course, and since then, 58 inspectors have received their certification. A total of 185 staff received their training through the online course since November 2017, when the OSFM online training course became available. The average passing score is about 88 percent amongst the 185 staff. The median is 87 percent. There are a few outliers. There are two trainees that must take their exam for the fourth time. One passed on the fourth attempt. The other trainee still needs to wait six months to re-take the exam.

The Committee Chair responded that there is one person who is on their fifth attempt. OSFM wants to ensure that the inspectors can pass the exam and have the basic knowledge of the APSA program before conducting inspections. Ms. Lai reminded the committee members that the minimum score to pass the exam is 80 percent.

Ms. Sande Pence asked if OSFM will update the course. The Committee Chair confirmed that they have started reviewing the chapter slides and have identified what needs to be updated. OSFM also received recommendations on topics to

include, like oil-filled equipment. Mr. Jason Rizzi also commented that it would be helpful if aggregate amount is clarified for oil-filled equipment. The Committee Chair clarified that oil-filled equipment is counted per equipment, and not aggregate amount since the statute does not explicitly state an aggregate amount.

OSFM will work on integrating information on TIUGAs, and reviewing and adding new narratives. Ms. Lai is assisting the Committee Chair with this project. The Committee Chair also reached out to the vendor to address the issue of speeders [that fast forward through the training content]. OSFM does not monitor users to that degree regularly, but there was one case where trainees would fast-forward through the courses. This has sparked concerns from CUPA managers. The vendor has suggested an option and provided sample courses for the Committee Chair to try. The vendor suggested having two different shareable content object reference model (SCORM) files. Each chapter has a SCORM file. The solution to prevent trainees from fast-forwarding is to have the first SCORM file not allow fast-forward or rewind capabilities until the chapter is completed from start to finish. Once the chapter is completed, the second SCORM file is made available and enables the trainee to pause, fast-forward and rewind the chapter. In some cases, when internet connection is bad, trainees might not be able to move past a slide. Typically, it is the user's internet connection that is problematic – not the vendor's host site. There have been situations where trainees take the course on multiple devices, which automatically signs them out of the course.

The Committee Chair will also review the exam questions and may remove or replace questions that were answered incorrectly by many trainees. There are currently 70 questions on the APSA exam. There were originally 40 questions based on the traditional classroom training but now there are 70 exam questions, and OSFM has increased the passing score from 70 percent to 80 percent.

Mr. Mike Huber asked if regulated entities can get this form of training in the future. The Committee Chair acknowledged that this request will need to be addressed eventually. Currently, there is a training course available on the San Diego County CUPA website. Though it is a bit outdated, the San Diego County CUPA website has an 8-hour training that is available to the public.

Mr. Huber explained that larger organizations who do internal audits would like to have a few subject matter experts that are also trained at the same level of a CUPA inspector. Becoming trained will hopefully increase a facility's compliance rate. The Committee Chair believes it is possible to provide training to the regulated community. However, OSFM would have to prioritize updating the current online training first, which is catered to regulators; a different online course would have to be developed for the regulated community that shouldn't require an exam to be taken at the end.

Ms. Pence asked what the concerns were if the regulated communities take the exam. The Committee Chair explained that they have limited users, and if the training becomes available to everyone, it would greatly increase the workload for OSFM staff. OSFM did not allot for thousands of users to access the training due to cost restrictions.

Mr. Huber posed an idea to have the regulated communities pay a fee to take the class. The Committee Chair compared this idea to the work the OSFM Training Division is trying to do right now. They have a different software that requires end users to pay.

Ms. Pence asked if the training has reached a maximum number of users. The Committee Chair responded that the number of users is not maxed out, but the issue is that it will increase the workload. The Committee Co-Chair asked what type of workload will increase for the OSFM staff. The Committee Chair listed a potential increase in registering and enrolling new students. Ms. Pence recommended having a pilot course and does not anticipate a high volume of users from the regulated community that may want to take the course. The Committee Chair will consider looking into it.

Mr. Huber expressed that someone from the central office of larger organizations with multiple tanks and multiple facilities can be trained. The Committee Co-Chair agreed that many large organizations conduct self-audits, and a pilot course may be helpful for them. Mr. David Harris commented that his company expects their employees to be knowledgeable in the work they are doing and believes their company would like a few individuals to take the APSA training.

OSFM has reduced the training from 22.5 hours to only a little over 12 hours of narration, not including the interactive quizzes and exercises. Ms. Devra Lewis said it took close to 15 hours for her to complete the course and the exam. The Committee Chair will update the course evaluation survey to ask trainees about how many hours it took for them to complete the entire course, including the exam. There is currently no reliable feedback since many trainees provided vague responses.

Ms. Lewis's only concern with the exam is that there is no access to review the questions that were answered wrong. This is concerning because inspectors that have passed the exam may implement certain aspects of the program incorrectly. The Committee Chair stated that it is OSFM policy to withhold details of the exam. Ms. Lewis understands that the questions should not be disclosed because of cheating, but insisted on allowing inspectors to know what section they got wrong, and give inspectors the chance to check the questions that are marked wrong. Ms. Lewis believed that the APSA training was really good but is concerned that a person receiving an 80 percent score on their exam can mean 20 percent of what they know are wrong. The inspector would have no idea what components of the program they do not understand. The Committee Chair

responded that the APSA TAG can address these issues and clarify questions that are commonly answered incorrectly.

The Committee Co-Chair commented that it might be a good idea to look at the questions that are being missed the most and conduct outreach on those misunderstandings, without having to release the exam questions.

F. APSA Frequently Asked Questions (FAQ)

Mr. Glenn Warner provided an update on the APSA FAQ. Before the FAQ is published, it must be reviewed by the legal office. It will first be reviewed by the workgroup, then the committee. The Committee Chair clarified that the legal office will be the last to review the APSA FAQ so that they won't have to review it again in the event of any drastic changes.

The Committee Co-Chair asked about the timeline of the FAQ project. Mr. Warner cannot predict since he just started working on the project, but there is currently a workgroup reviewing the document. Mr. Warner is working on relaying feedback from the group to incorporate to the FAQ. This APSA FAQ is entirely different than the previous; it is organized in the order of the sections of the statute.

Ms. Pence asked the members and stakeholders how they envisioned using the APSA FAQ and asked what they would like to see from the APSA FAQ. Mr. Mark Landin responded that there is still a lot of people in the industry that don't understand that they must have an SPCC Plan when their facility isn't regulated by the SPCC rule. For example, a facility with no threat to navigable water may not be regulated under the SPCC rule; however, the facility is regulated by the APSA program because the facility has more than 1,320 gallons of petroleum. Other questions that the FAQ should probably address are TIUGA-related. Mr. Landin also commented that he references the old FAQ all the time, and has looked at the draft that the FAQ group is currently working on and thinks it is structured well. He believes the FAQ is a great primary source to get important information out to industry.

The Committee Co-Chair asked if one of the focus points he would like to see is the difference between the SPCC rule and APSA. Mr. Landin confirmed and believes that it would be a good starting point since many don't understand it now. Mr. Mike Huber agreed and believed it tied back to providing training to the regulated industry. Mr. Huber suggested providing training may increase compliance and the APSA program to function smoothly. Mr. Landin continued that there are also complications in entering information in CERS as well.

Ms. Sande Pence reminded that a TIUGA with less than 55 gallons does not have to be included in the SPCC Plan. Mr. Landin stated it did not have to be included in the SPCC Plan if monthly inspections are being conducted by the facility. Mr. Landin and the Committee Chair had a discussion recently about a

facility that wanted to incorporate their TIUGA with less than 55 gallons so that it will force their staff to inspect them as necessary under the statute to be excluded as ASTs. Mr. Landin agreed and stated that he thought if they were exempted under TIUGA, it meant monthly inspections to meet the exclusion. If they aren't exempted, then they will be covered under the SPCC Plan and inspected per the SPCC Plan. Mr. Landin wanted to incorporate the TIUGAs that are less than 55 gallons when they did not have to because if they didn't incorporate them, then his company would still have to do monthly inspections.

Ms. Pence reiterated that a TIUGA with less than 55 gallons of petroleum doesn't have to be included in the SPCC Plan, regardless of whether inspections are done or not. If the inspections are not being done, then the CUPA may issue a violation. Ms. Pence continued that adding everything in the SPCC Plan is a great idea, but there is no mandate to do that under APSA. The Committee Chair stated that the industry might be doing this for the sake of simplicity for their inspectors. Ms. Pence stated that the facility can write their SPCC Plan how they want it, but there's no mandate to include TIUGA with less than 55 gallons.

Mr. David Harris understands that they don't have to put everything, but are still supposed to do monthly inspections and keep a record log. He stated that he would rather do the existing process, rather than creating a new one. Mr. Harris stated that the FAQ will be very helpful for smaller facilities, like a small dairy. The dairy owner might have a full tank that sits there because he needs it for a tractor, but today he probably still does not know what APSA even means. He's lucky to even know what SPCC means. Mr. Harris voiced that these are the kinds of people that are out there and the FAQ is something we, as the industry, can point users to read through and get an idea of what we are talking about.

Mr. Warner worried that there might be a range of very high expectations where OSFM is protected to serve several different audience with very different viewpoints. The FAQ will not encompass everything since OSFM can refer to other factsheets they have developed. The FAQ cross references information that is provided in other guidance documents. The FAQ provides broad perspectives in terms of APSA statute topics, and some important SPCC Plan topics. Mr. Warner expects there will be enough content that addresses the industry perspective. Mr. Warner understands not all questions will be answered.

G. Petroleum FAQ

The Petroleum FAQ has been finalized; however, OSFM has been asked to incorporate additional questions regarding synthetic oil. The Committee Chair is hesitant in including additional questions that relate to "traces of petroleum". There was a question addressing synthetic oil in the APSA FAQ; however, it was removed and incorporated in the Petroleum FAQ. The legal office has already reviewed the Petroleum FAQ.

Mr. Craig Fletcher asked if the term “synthetic” is a defined term or a marketing term. The Committee Chair believes it is a marketing term and the type of base stock had to be considered. If the base stock is crude oil, it is petroleum; but the base stock can also be a blend. In the beginning, the APSA program tried to get away from regulating synthetics since it is already regulated under the SPCC rule. Even 100 percent synthetic oil derived from crude oil shouldn't be regulated under APSA.

Mr. Fletcher stated keeping the APSA program similar to the federal SPCC rule as much as possible. Owners are preparing SPCC Plans, not APSA plans, and are ill advised to exclude synthetic oil from their SPCC Plan. He stated, from a practical perspective, it did not make a difference in the final analysis. The Committee Chair responded that it can make a huge difference when a total storage capacity is tied to a CUPA's single fee. Single fees are assessed by the CUPAs on each facility. Additionally, all oils need to be counted to determine whether a facility requires a Tier I, Tier II, or professional engineer (PE)-certified SPCC plan. The Committee Co-Chair said that, based on the intent of the statute, synthetic oils are not any different from any other petroleum oil because it is a marketing term. The Committee Co-Chair asked why we would exclude regulating synthetic oil. The Committee Chair did not know and asked the committee members as well.

The Committee Co-Chair did not see the reasons to exclude synthetic oil from the APSA program since it has the same hazards like any other petroleum. A lot of synthetic oils are defined as petroleum based.

Mr. Glenn Warner commented if the synthetic oil is stated as derived from petroleum, then it is fundamentally petroleum oil because synthetic oil is classically displayed. If it's derived from non-petroleum sources or non-crude oil sources, then it's fabricated through special chemical processes like coal or natural gas. The general idea is that synthetic oils are not derived from crude oil.

The Committee Co-Chair stated that this is where the confusion is, how the term is being used currently.

Mr. Michael Palazzola believes it gets more complicated when the safety data sheets (SDS) does not explicitly say it is petroleum.

The Committee Chair stated that the committee has gone full circle from synthetic oil not being regulated under APSA, to now regulating synthetic oil due to the same hazard [as petroleum] and for the sake of consistency with the SPCC rule. The Committee Co-Chair pointed out that the main concern is whether it is derived from petroleum or not. If it is derived from petroleum, then it needs to be regulated. If it is not, then it's not regulated.

The Committee Chair asked the group, again, if they want to add this to the Petroleum FAQ or keep it under the APSA FAQ. Ms. Pence answered that having it separate from the APSA FAQ will be better, especially, if the Petroleum

FAQ has already been reviewed by the legal office. Ms. Pence said she receives this type of question the most.

The Committee Chair confirmed that she will add this question to the Petroleum FAQ.

VI. New Business

A. Violation Library

One new violation specific to TIUGAs with less than 55 gallons was added to the 2019 violation library. For those not familiar with the violation library, it is a list of all the violations in CERS for which an inspector can cite on a facility. The Committee Chair suggested the committee members to search online for violation library in CERS to find the list of violations. The effective date for the new version starts September 1st. The Committee Chair stated that it will not include any of the hazardous waste generator improvement rule. The APSA TAG has started working on the newest additions and edits to the APSA violation library for the next cycle.

The Committee Co-Chair explained that the violation library can be used for developing a statewide checklist for inspectors to help provide consistent implementation.

Ms. Lori Luces-Nakagawa asked if the checklist is available to the public. All the violations are in CERS and available to the public. The Committee Chair stated she has provided the links in the past and they could generate their own checklist for all program elements or for only APSA. Ms. Nakagawa believes this would be good for the industry stakeholders, and the Committee Chair said she can resend the link.

The Committee Co-Chair concluded that the checklist can be broken down by sections that are applicable to the facility.

B. CERS 3 Enhancement

There is a new CERS Help Material guidance document that provides instructions on completing the new four APSA data fields. The Committee Chair confirmed that the question from CERS Field ID 8 has been updated on the business activities page. CERS Field ID 8 now includes TIUGA as part of the question. If an owner or operator has a TIUGA, then he/she would mark 'yes'. In the past, Ms. Michelle Le from PG&E asked about excluded tanks. The HSC section is provided for the owner or operator, under the help button ['i' symbol], to reference the exclusions under APSA. For example, if a facility only has transformers, then they are not regulated under APSA. There are still confusions from regulators requiring facilities to mark 'yes' as opposed to 'no', and vice versa. The Committee Chair emphasized regulators to review the submittals that

the owner/operator has submitted to CERS. What is entered in CERS may not be accurate until it's verified by the CUPA.

Mr. Craig Fletcher asked if a facility would answer 'yes' to having a total aboveground storage capacity of 1,320 gallons, but they are all in 5-gallon buckets. The Committee Chair answered APSA does not regulate those in less than 55-gallon storage. Mr. Fletcher asked if the Field ID 8 questions distinguishes that. The Committee Chair answered no, but there is a reference button that can be selected to show the details for that field. Mr. Fletcher is concerned for the people who are not familiar with the program and do not know of these thresholds.

Ms. Sande Pence commented that in such a scenario where a facility marked 'yes', an inspector conducting an inspection that see five-gallon buckets [or less than 55-gallon containers or tanks] would tell the facility to update their information in CERS by marking 'no' for the APSA question. Ms. Devra Lewis also commented that the help button is there for the facility to understand what types of containers are counted to determine APSA applicability. The Committee Chair did not want to add more content to the APSA question on the business activities page in CERS; however, she is open to adding more information to the help button. There is also a CERS Help Material titled "Is My Facility Regulated Under APSA?" that answers a lot of questions. Mr. Mark Landin recommended a decision tree to integrate APSA and CERS.

Ms. Pence clarified a facility with only a stationary TIUGA that is less than 55 gallons would not mark yes for the APSA question on the business activities page. Ms. Lewis stated she has received feedback from tank facilities that the help button is informative and addresses many of the APSA applicability questions that were discussed.

Mr. Fletcher reminded the members that not each person entering information in CERS is knowledgeable in environmental compliance and reporting. Ms. Bridgett McCann recommended having a description at the top of the webpage to direct people to click on the help button for more information. Many people do not know that the help button is available. The Committee Chair said the CalEPA CERS staff would be responsible in changing that.

There are four CERS APSA Help Materials to assist tank facilities navigate through CERS. The Committee Chair states that she still observes some facilities submitting SPCC Plans into CERS which they should not do. Ms. Lewis commented that some facilities would rather keep the plan in CERS if it is not a violation. Mr. Michael Palazzola also commented that having critical documents in CERS is convenient as a central database.

Other issues that need to be discussed with the CERS team is the APSA documentation section, where the preparer or submitter has an option to select "provided to regulator", "stored at facility", or "exempt" which are not applicable selections for APSA; and, therefore, should not be options for tank facilities.

CalEPA has the CERS “next gen” process to work on various requested changes.

Since the launch of the four new APSA data fields, OSFM has observed mistakenly entered data such as: selecting conditionally exempt when they are not, entering the total oil instead of petroleum oil count, entering the total gallon capacity for TIUGA as opposed to the number of TIUGA, entering USTs as TIUGAs, entering the APSA submittal date as the SPCC Plan certification date. OSFM expects the CUPA to verify the information submitted by tank facilities. The TIUGA field should be limited to two digits instead of the current five digits, which has allowed owners/operators to enter an incorrect number of TIUGAs. The CUPAs are expected to verify the information that is entered into CERS when they conduct a field inspection of the tank facilities.

C. STI Update

There is an SP001 certified inspector training class on October 21-25, 2019, in Orange County.

Ms. Dana Schmidt who has worked with STI for several years is retiring by the end of this year. She will not be presenting in the upcoming CUPA conference.

D. APSA TAG

Ms. Devra Lewis provided an update. The last APSA TAG meeting was at the CUPA conference on February 27, 2019. The meeting discussed the violation library and inspector training. The TAG members are trying to encourage industry stakeholders to attend. If interested in attending, contact Ms. Lewis. The APSA TAG typically has two meetings a year, but may increase to three meetings a year. Ms. Lewis announced that the next meeting is on July 10, 2019, and the agenda will be available next week. Training will be discussed with CUPA inspectors. Other topics of discussion will include things CUPA inspectors are seeing and some APSA questions received.

E. US EPA Update

Ms. Janice Witul indicated she is on a workgroup to review comments on the water of the U.S. (WOTUS) ruling. There was no further update to the WOTUS ruling.

The US EPA has no update on farms. The last bill that would have increased the threshold applicability for farms did not move forward.

VII. Open Forum and Public Comments

Mr. Mark Landin spoke about the Industry TAG (ITAG) that was developed after the 2019 CUPA conference to address issues related to industry. He is the Chair for the

APSA sub-committee in the ITAG. Their highest priority and biggest issue is industry training. There are mechanisms in place, such as FAQs, and the next goal is the marketing strategies to get the information to the regulated industry.

The Committee Chair provided data from the 2018 and 2019 CUPA conference that showed CCEEB's issues regarding the APSA program. The three main issues were the lack of industry training, the need for outreach to promote consistency and regulatory implementation, and the need for additional training for CUPA inspectors.

The Committee Chair mentioned that APSA is the newest program element under the Unified Program. APSA training was provided by Steve Lichten, San Diego CUPA, and now OSFM online training. OSFM will look into training for the industry; however, the CUPA conference is available for anyone to attend. The last CUPA conference was the first time that the attendance between the regulators and industry were equally similar.

Ms. Devra Lewis said cost is always the limiting factor for training, and proposed that if the industries are interested, they could sponsor training courses outside of the annual CUPA conference.

Mr. Mike Huber believes the APSA program is doing an excellent job, but OSFM needs more resources and help to meet the action items, especially the regulations. OSFM is pulled in different directions and tasks; there needs to be additional involvement and commitment.

Mr. Fletcher asked about CCEEB's issue regarding the lack of Tier I/Tier II examples creating non-compliance. Ms. Lori Luces-Nakagawa clarified that it was the missed opportunity for using Tier I/Tier II [qualified facility SPCC Plan] templates by applicable tank facilities. The industry wants more outreach for facilities about the use of the templates and self-certification requirements. The Committee Chair addressed that there are several examples for Tier I [qualified facility SPCC Plan] and a full PE-certified SPCC Plan under the US EPA SPCC website. Ms. Lewis has found that consultants would recommend facilities to complete a full PE-certified SPCC Plan even though the CUPA inspector informed them it was not a requirement, because they do not have more than 10,000 gallons.

Ms. Bridget McCann suggested having industry host a training day for the regulators to train their organization.

Mr. Glenn Warner asked if the ITAG has a marketing platform and if there are future strategies to provide useful links. Ms. Luces-Nakagawa responded that ITAG is still new and working on these big goals. Anyone is open to join the ITAG and can contact Ms. Luces-Nakagawa or Ms. Michelle Le to be added to their email list.

The Committee Chair announced that the CUPA Forum Board has begun planning for the 2020 CUPA conference. Ms. Le and Mr. Vince Mendes are involved in the industry track, including coordinating the stakeholder's meeting at the next conference. The Committee Chair, Co-Committee Chair, Ms. Lewis, Ms. Pence, and

Ms. Lai are coordinating the APSA track. If anyone has training ideas or wants to present at the conference, reach out to the APSA track coordinators. The CUPA conference will be held at Burlingame from February 3-6, 2020.

Ms. Sande Pence stated that the TIUGA regulations are not finalized and encouraged CUPAs to take a graduated approach with their regulated facilities by providing information and education first; then in the future, the CUPA may issue violations when necessary.

VIII. Action Items

1. APSA FAQ
2. Petroleum FAQ
3. APSA Regulations, Including Timeline
4. APSA Online Training – Update to incorporate TIUGA information
5. Webinars – Follow-up with CalEPA on CERS webinars

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. Jason Rizzi motioned to adjourn the meeting and Mr. Fletcher 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 12:22 p.m.