



OFFICE OF THE STATE FIRE MARSHAL

ABOVEGROUND PETROLEUM STORAGE ACT (APSA) ADVISORY COMMITTEE

DRAFT MEETING MINUTES

Tuesday, June 20, 2023

9:30 AM to 2:30 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
Eireann Flannery, Analyst

Members Present:

Craig Fletcher, Fletcher Consultants, Inc.
Devra Lewis, Bay Area Region Certified Unified Program Agency (CUPA)
Eloy Luna, * Southern Region CUPA
Eric Scott, * Santa Fe Springs Fire Department
Jason Rizzi*, Northern California Fire Prevention Officer (FPO)
Jeremy Gates, Southern California Edison
Kevin Buchan, Western States Petroleum Association
Michael Chilberto,* Oil Changers
Mike Huber, U.S. Department of Defense (DoD) Liaison
Paul McCarty, Northern Region CUPA
Stacey Miner,* Walmart

Members Present (continued):

Veronica Badillo,* U.S. DoD Liaison
Yama Noorzai, Central Region CUPA

Subject Matter Experts:

John Paine, California Environmental Protection Agency (CalEPA)

Guests Present:

Aaron Gao, Santa Barbara County CUPA
Joe Mentzer, Steel Tank Institute (STI)/Steel Plate Fabricators Association (SPFA)
Monica Ronchetti, San Bernardino County CUPA
Robin Ward, Santa Clara County CUPA
Sharon Preece, San Diego County CUPA
Steve Pollock, STI/SPFA

Members Absent:

Janice Witul, U.S. Environmental Protection Agency (US EPA)
Peter Ansel, California Farm Bureau
Peter Reich, US EPA
Greg Matas, Donlee Pump Company
Mark Taylor, Mossier Bros.
Dante Wiley, Northern California FPO
Jovan Diaz, Glendale Fire Department

*Alternate member

1. 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. Approval of minutes from previous meetings

Meeting minutes from December 2022 were reviewed. Ms. Devra Lewis motioned to approve the minutes, and Mr. Jason Rizzi second the motion. Mr. Kevin Buchan abstained from voting on the December 2022 minutes. All other committee members in attendance were in favor and none opposed.

Meeting minutes from April 2023 were reviewed. Ms. Devra Lewis motioned to approve the minutes, and Mr. Jason Rizzi second the motion. All other committee members in attendance were in favor and none opposed.

C. Announcements

Mr. Mike Huber has been reappointed as US DoD liaison. Ms. Veronica Badillo and Ms. Christina Graulau have been appointed as US DoD liaison alternates. Ms. Aleasha Enciso is now an alternate for the Southern Region CUPA.

The Committee Chair addressed that under the Bagley Keene Act, a quorum of appointed members must be physically present at the primary meeting location in order to vote.

2. APSA PROGRAM UPDATES

A. Regulations

The committee reviewed the following documents:

- “Draft APSA Regulations” (Draft Regulations) document (available at <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fosfm.fire.ca.gov%2Fmedia%2Fy0lh0vf%2Fapsa-regulations-draft-24.docx&wdOrigin=BROWSELINK>) and
- “Draft APSA Regulations ISOR [Initial Statement of Reasons]” document (available at <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fosfm.fire.ca.gov%2Fmedia%2F4y1gk031%2Fapsa-regulations-isor-for-draft-24-draft-1.docx&wdOrigin=BROWSELINK>).

Scope [All] – Draft Regulations and ISOR:
No edits.

Definitions – Draft Regulations and ISOR:
No edits.

Corrosion – Draft Regulations:
No edits.

Corrosion – ISOR:

Suggested edits include adding the following statement at the end of the first paragraph:

“This regulation is to provide consistency in implementation authority for all UPAs [Unified Program Agencies].”

Additionally, the following new third paragraph was added:

“Corrosion impacts many types of piping, and associated support structures. Corrosion is a leading cause of structural material failures and releases, therefore it is necessary to include this requirement in regulations in addition to other materials or training that may include or explain corrosion.”

Waters of the state – Draft Regulations and ISOR:

No edits.

Minor violation – Draft Regulations and ISOR:

No edits.

Formal enforcement and routine inspection – Draft Regulations and ISOR:

No edits.

Federal Regulations – Draft Regulations and ISOR:

No edits.

UPA Enforcement – Draft Regulations:

Suggested edits to subsection (g) were as follows:

“An inspection report shall be provided not more than 30 calendar days after the conclusion of the inspection. This 30-calendar day timeline may be extended in the case of a state of emergency, as declared by a local government body or the governor, for any jurisdictions directly impacted and jurisdictions providing mutual aid, the report may be delayed until the incident has stabilized and the UPA has returned to regular service. The inspection report shall be provided by the UPA to the tank facility owner or operator, or authorized representative.”

UPA Enforcement – ISOR:

Suggested edits to subsection (d) were as follows:

“Federal enforcement guidance specifies that the failure to prepare an SPCC Plan is not a minor violation. This regulation is consistent with federal enforcement regarding failure to prepare an SPCC [Spill Prevention, Control, and Countermeasure] Plan. This requirement is specifically ~~clarified~~ highlighted in these regulations because UPAs have challenged the OSFM’s interpretation of state and federal law regarding failure to prepare an SPCC Plan.”

Suggested edits to subsection (e) were as follows:

“These ~~This subsection~~ subsections clarifies specific enforcement responsibilities. ~~Statute specifies that the failure to prepare an SPCC plan is not a minor violation.~~ This requirement is clarified in these regulations because the OSFM [Office of the State Fire Marshal] has observed through enforcement efforts that the requirement has not been consistently implemented by local UPAs. This regulation clarifies that the UPAs do have enforcement authority for non-minor violations.”

Suggested edits to subsection (f) were as follows:

“This regulation is necessary due to an existing set of violations that has remained uncorrected for several years. The documentation for these

violations is found in the California Environmental Reporting System (CERS) database. This is required for consistent implementation throughout the state.

The 6-year timeframe is consistent with ~~2, 3-year~~ triennial inspection cycles. This provides sufficient time to maintain public safety while not imposing an overly burdensome timeframe on either UPAs or owner-operators.”

Suggested edits to subsection (g) included splitting the first paragraph with the first sentence being the first paragraph and the new second paragraph as follows:

“UPA staff also responds to many types of emergencies. In emergencies such as a flood, earthquake, or wildland fire, UPA staff may be diverted to assist with the emergency. If UPA staff are directed to an emergency as declared by a local government body or the Governor, the report may be delayed until the incident has stabilized and the UPA has returned to regular service.”

Instructions During Inspections – Draft Regulations:

Suggested edits to subsection (c) were as follows:

“~~Routine Inspections~~ inspections of tank facility operations including tanks, piping, appurtenances onsite shall be performed in person, and shall not be performed remotely or offsite.”

Instructions During Inspections – ISOR:

Suggested edits to subsection (c) were as follows:

“While record review and interviews can be performed offsite, the physical conditions of a facility can only be effectively evaluated ~~observed~~ in person. Conditions such as housekeeping, releases, spills, ~~the~~ condition of the tanks, piping, and appurtenances, ~~can~~ should only be ~~effectively evaluated~~ assessed in person. The OSFM has determined that ~~Video~~ video or other type of virtual inspections ~~does~~ do not provide sufficient detail ~~for~~ to ensure public safety. The Advisory Committee and other stakeholders concur with this conclusion.”

Minor edits to subsection (d) were as follows:

“Tank facilities that meet the exemption conditions in HSC [Health and Safety Code] Section 25270.4.5 are not required to prepare and implement an SPCC plan under APSA.”

SPCC Plans for a Tank Facility with a Tank in an Underground Area (TIUGA) and storage capacity of less than 1,320 – Draft Regulations and ISOR:

Both the draft regulation and ISOR language regarding an alternative SPCC Plan template for a tank facility with a TIUGA and petroleum storage capacity of less than 1,320 gallons were retracted. The

committee decided to review and discuss the draft SPCC Plan template further in a future meeting and include in a separate future rulemaking.

UPA Inspections – Draft Regulations and ISOR:

Section header was updated to “UPA inspections – Facilities with Less than 10,000 gallons that are required to prepare an SPCC Plan”.

UPA Inspections – Draft Regulations:

Suggested edits to subsection (a) were as follows:

“The Unified Program Agency may inspect tank facilities with a storage capacity of less than 10,000 gallons at least once every three years, to ensure compliance with these regulations.

Those tank facilities which are near navigable waters, potable water supplies, or sensitive ecosystems, such as wetlands and marshes ~~shall~~ should be prioritized for inspections. The primary purpose of the inspection ~~shall be~~ is to determine whether the owner or operator is in compliance with the SPCC Plan, Health and Safety Code Chapter 6.67, and these regulations.”

UPA Inspections – ISOR:

Suggested edits were as follows:

~~“This requirement is more stringent than state law because tank facilities with this quantity of petroleum pose a risk in the case of spills or leaks. These facilities are included in the program, however, State law does not address inspection requirements.~~

While ~~This~~ this requirement is more stringent than is specified in the Health and Safety Code Section 25270.5. [sic]

It is necessary to impose a more stringent requirement in order to meet the public safety purpose of the APSA.

~~The risk to the environment posed by facilities of this size is comparable to the larger facilities outlined in state law. These regulations provide guidance for UPAs to prioritize inspections, due to limited resources. The option of an alternative inspection and compliance plan is consistent with the options provide to other types of facilities in statute.”~~

UPA inspections of facilities that are conditionally exempt from preparing an SPCC Plan – Draft Regulations:

Suggested edits to the following sentences in subsection (a) were as follows:

“Those tank facilities which are near navigable waters, potable water supplies, or sensitive ecosystems, such as wetlands and marshes ~~shall~~ should be prioritized for inspections. The primary purpose of the

inspection ~~shall be~~ is to determine whether the owner or operator continues to meet the conditions as described in Health and Safety Code Section 25270.4.5(b).”

UPA inspections of facilities that are conditionally exempt from preparing an SPCC Plan – ISOR:

Suggested edits were as follows:

~~“These regulations provide guidance for UPAs to prioritize inspections due to limited resources. Tank facilities all that meet the exemption conditions~~ HSC 25270.4.5 (b) are not required to prepare and implement an SPCC plan under APSA.

UPA staff training – Draft Regulations and ISOR:

No edits.

Tank facility electronic reporting – Draft Regulations and ISOR:

No edits.

Notify the Regional Water Quality Control Board – Draft Regulations and ISOR:

No edits.

Non-compliant tanks – Draft Regulations:

Draft proposed regulation language was retracted. However, the committee will revisit this section in the next committee meeting.

3. NEW BUSINESS

A. None

4. MEMBERS ORGANIZATION UPDATES

A. CUPAs

Bay Area Region: None

Northern Region: None

Central Region: None

Southern Region: None

B. FPOs and Other Fire Districts/Departments: None

C. US EPA: None

D. STI/SPFA

The next SP001 training class will be held September 25-29, 2023, at Long Beach.

E. APSA Technical Advisory Group: None

F. Regulated Community and Industry: None

G. Private Consulting: None

H. Tank Manufacturer and Distributor/Maintenance: None

5. OPEN FORUM AND PUBLIC COMMENT

None

6. SCHEDULE NEXT MEETING AND ADJOURN

The Committee Chair will reach out to the members regarding the next meeting in July 2023.

The Committee Chair requested to adjourn the meeting. Ms. Devra Lewis motioned to adjourn the meeting, and Mr. Jason Rizzi 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 2:39 p.m.