



**DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL**

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**Office of the State Fire Marshal
Aboveground Petroleum Storage Act Advisory Committee**

Meeting Minutes

Meeting Date: April 4, 2016

Meeting Time: 1:30 pm – 3:30 pm

Meeting Location: Office of the State Fire Marshal, Training Conference Room
1131 S Street
Sacramento, California 95811

Staff Present:

Greg Andersen, Division Chief
Jennifer Lorenzo, Senior Environmental Scientist, Committee Chair
Glenn Warner, Senior Environmental Scientist
Jenna Yang, Environmental Scientist

Members Present:

Ryan Bailey,* Sacramento County Environmental Management Certified Unified Program Agency (CUPA)
Armand Delgado,* Verizon Wireless
Tom Ellison,* Kern County Fire Department
Craig Fletcher,* Fletcher Consultants, Inc.
Andrea Fox, California Farm Bureau Federation
David Harris,* Donlee Pump Company
Michael Huber,* U.S. Department of the Navy
Robert Marshall,* Contra Costa County Fire Protection District
Jay McKeeman,* California Independent Oil Marketers Association
Ernie Medina,* Bakersfield Fire Department CUPA
Vince Mendes,* Fresno County Environmental Health CUPA
Stacey Miner,* Walmart
John Paine,* California Environmental Protection Agency (CalEPA)
Sande Pence,* San Diego County Environmental Health CUPA
Jason Rizzi, Northern California Fire Prevention Officers (FPO)
Nancy Schlotthauer,* San Bernardino County Fire District CUPA
Todd Tamura,* Tamura Environmental, Inc. (Consultant to Western States Petroleum Association [WSPA])
Jim Whittle,* Shasta County Environmental Health CUPA
Janice Witul,* U.S. Environmental Protection Agency (US EPA)
Patrick Wong, Pacific Gas and Electric (PG&E)

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Guests Present:

Christina Graulau,* U.S. Department of the Navy
Cory Hootman,* State Water Resources Control Board
Matt Krenz,* Monterey County Health Department CUPA
Ryan Todd, Department of Fish and Wildlife, Office of Spill Prevention and Response (OSPR)

* *Via Conference Call*

Members Absent:

Jason Boetzer, Calaveras County Environmental Health CUPA
Kevin Buchan, WSPA
Rich Erickson, Donlee Pump Company
Philip Gairson, Southern California FPO
Wayne Geyer, Steel Tank Institute (STI)
Pete Reich, US EPA
Randy Sawyer, Co-Chair, Contra Costa County Hazardous Materials CUPA

I. Call to Order

Committee Chair, Jennifer Lorenzo, called the meeting to order at 1:33 p.m. and welcomed everyone to the meeting.

II. Roll Call and Introductions

Jenna Yang conducted the roll call and it was determined that a quorum was present. Attendees and guests introduced themselves.

III. Approval of Minutes

Minutes from the meeting on January 26, 2016, were reviewed. Patrick Wong pointed out a spelling error in a name. The error was corrected. Jason Rizzi motioned to approve the minutes as amended and Jay McKeeman seconded the motion. All members were in favor and none opposed.

IV. Review of Action Items from January 26, 2016

Completed Action Items

1. Updated APSA factsheet/guide on tanks in underground areas and farms (available on the [OSFM APSA website](#))

Ongoing Action Items

1. APSA Frequently Asked Questions (FAQ)
2. APSA Basic Inspector Training

V. Old Business – Workgroup Updates

A. Regulations

The Committee Chair made changes to certain sections of the draft proposed regulations (California Code of Regulations (CCR), Title 19, Division 1, Chapter 15) that require a vote from the Committee. “Viewing” and “direct viewing” were new terms to the definitions section that were added pursuant to SB 612. This section does not need to be voted on. The section that needed a vote is the refresher training for CUPAs under Section 2190, Article 5. The original language for refresher training was vague and unclear and did not allow for OSFM to assess the fiscal impact on the CUPAs. The language has been changed to require four hours of refresher training once every three years in alignment with the APSA facility inspection requirement and CUPA evaluation schedule. John Paine stated that the title for the training section is misleading and would make the reader think that this is the only training requirement even though there is a separate training requirement in the statute. Language was proposed to better clarify training requirements. Vince Mendes questioned if having to “obtain” training means that an outside entity has to give the training. “Obtain” was changed to “complete”. A vote was conducted to determine if the proposed regulations as amended (see Attachment 1) should be moved to the State Fire Marshal.

Ayes	Noes
Jim Whittle Armand Delgado Tom Ellison David Harris Craig Fletcher Andrea Fox Michael Huber Robert Marshall Jay McKeeman Vince Mendes Stacey Miner Sande Pence Jason Rizzi Ryan Bailey Todd Tamura Patrick Wong	

The fiscal and economic impact was completed. The Initial Statement of Reasons (ISOR) and Notice of Proposed Rulemaking (NOPR) are undergoing additional review before moving the package forward.

Mr. Paine mentioned his concern with the compliance verifications and inspections section, Section 2180, not requiring that inspectors ensure that an SPCC Plan is being implemented at all facilities as required by Section 2170 and statute. Sande Pence stated that a compliance inspection at all APSA facilities require a statutory change. The Committee Chair will contact OSFM legal to determine what other statutory authority OSFM has.

Ryan Bailey had another concern that the enforcement section, Section 2180.07, is citing an incorrect Health and Safety Code section for the definition of class I or class II violations. Ms. Pence explained that the section states what a minor violation is not and, thus, making the citation relevant.

Tanks in Underground Areas

The tanks in underground area regulations will be added as a supplement to the 2016 California Fire Code (CFC) and included in the building standards codes (CCR, Title 24) rulemaking package [by means of the intervening code adoption cycle]. California adopts the model codes through a rulemaking process every three years [along with a supplement (intervening cycle) in between the triennial code adoption cycles]. The fire code is based on the International Fire Code (IFC). California has recently adopted the 2015 edition of the IFC with amendments, making it the 2016 CFC. The tanks in underground area regulations will amend six sections and propose four new sections to the CFC. The Committee Chair went over the express terms (see Attachment 2). Robert Marshall recommended OSFM to look into the California Building Code Chapter 4 for any conflict in language.

Mr. Marshall motioned to vote on moving this regulations package to the State Fire Marshal. Tom Ellison seconded the motion. A vote was conducted to determine if the regulations for tanks in underground areas should be moved to the State Fire Marshal.

Ayes	Noes	Abstain
Jim Whittle Armand Delgado Tom Ellison David Harris Andrea Fox Michael Huber Robert Marshall Ernie Medina Stacey Miner Sande Pence Jason Rizzi Ryan Bailey Patrick Wong		Craig Fletcher Jay McKeeman Todd Tamura

The Tanks in Underground Areas Workgroup is also working on developing clarifying statutory language (for future legislative change) and another rulemaking package for CCR Title 19, Division 1 (separate from the proposed APSA program regulations previously discussed). The proposal for CCR Title 19 will include non-building standards for tanks in underground areas.

B. APSA FAQ

The APSA FAQ document is still a work in progress and has been assigned to Glenn Warner. The [factsheet on APSA farms regarding SB 612 changes](#) has been revised to incorporate the 2,500-gallon storage capacity threshold into the flowchart.

C. APSA Training

Jenna Yang provided an update on the APSA Basic Inspector Training. There are 20 modules. Since December 2015, certain workgroup members have been reviewing the updated first draft modules for consistency and accuracy. After the first draft review, they are sent back to individual workgroup members for completion. There are currently five first drafts left to review and OSFM has received five final drafts back from workgroup members. OSFM will do an additional review of the final drafts. The goal is to complete the project and have it removed from San Diego CUPA by September 2016.

VI. New Business

A. OSPR

Ryan Todd representing OSPR presented on their program. Their statewide program requires spill contingency plans, financial responsibility, drills and exercises, and allows the rating of the cleanup companies. Large handlers or

transporters of oils such as offshore ships/tanks, pipelines, oil wells, railroads, refineries, etc. that may impact state surface waters must have an oil spill contingency plan submitted to and approved by OSPR. The regulations require minimum equipment and response times dictated by the reasonable worst case spill volume. Operators will have to have a contract with an oil spill response organization along with proof of pollution insurance or oil spill cleanup. The amount of insurance is dictated by the reasonable worst case spill volume. Drills and exercises are required annually and unannounced. Every three years an operator must test all the elements in their contingency plan. OSPR is the incident commander for spills to state waters. The emergency regulations expire in September and regulations for inland facilities are being finalized now, with workshops in May. Inland facilities that are within a quarter mile of waters of the state [which excludes groundwater] would be captured under this program unless they are regulated under APSA or UST program and have been approved for exemption.

B. New Staff

Glenn Warner has filled the vacancy for OSFM's Senior Environmental Scientist-Specialist position.

C. SB 1147

SB 1147 was introduced in February as a "spot bill". The language has since been amended. It refers to aboveground storage tank (AST) installation standards. This bill was initiated by the agricultural community from Kern County to request a compliance timeframe for non-compliant tanks, including recycled underground storage tanks (UST) used as ASTs, and to replace non-compliant tanks with Underwriters Laboratories Inc. (UL) listed 142 tanks (instead of UL 2085 protected ASTs).

VII. Open Forum and Public Comments

Due to time constraints, this agenda item was not discussed during the meeting. This item will be addressed in the next meeting.

VIII. Action Items

1. APSA FAQ
2. APSA Basic Inspector Training – Continue to update modules and complete bid package

IX. Schedule Next Meeting and Adjourn

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

The meeting was adjourned by the Committee Chair at 3:33 p.m.

ATTACHMENTS

ATTACHMENT 1

DRAFT

California Code of Regulations

Title 19 Public Safety Code

Division 1

Chapter 15

Aboveground Petroleum Storage Act Program

Articles 1-7

Sections 2150.00-2210.00

ARTICLE 1 ADMINISTRATION

2150.00 AUTHORITY

California Code of Regulations, Title 19, Division 1, Chapter 15 is adopted by the Office of the State Fire Marshal under the authority of the Health and Safety Code, Division 20, Chapter 6.67, Section 25270.4.1.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.4.1(a), (c) and (d), Health and Safety Code.

2150.01 TITLE

These regulations shall be known as the "Regulations for the Aboveground Petroleum Storage Act (APSA)," may be cited as such, and will be hereinafter referred to as "these regulations."

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270 and 25270.4.1(a), Health and Safety Code.

2150.02 PURPOSE

The purpose of these regulations is to implement the Aboveground Petroleum Storage Act which requires tank facilities in California, as described in Health and Safety Code Section 25270.3, to comply with the requirements of the spill prevention, control, and

countermeasure (SPCC) plan specified under the Code of Federal Regulations, Title 40, Chapter I, Subchapter D, Part 112 (commencing with Section 112.1).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.3 and 25270.4, Health and Safety Code.

2150.03 SCOPE

(a) Except as otherwise provided in the exemptions described in Sections 2150.04, 2150.05 and 2150.06, these regulations apply to all tank facilities and Unified Program Agencies as specified in Health and Safety Code Sections 25270.3 and 25270.4.

(b) A tank facility is subject to these regulations if any of the following apply:

(1) The tank facility is subject to the oil pollution prevention regulations specified in the Code of Federal Regulations, Title 40, Part 112 (commencing with Section 112.1).

(2) The tank facility has a total aggregate storage capacity of 1,320 gallons or more of petroleum as described in Health and Safety Code Section 25270.3(b).

(3) The tank facility has a storage capacity of less than 1,320 gallons of petroleum and has one or more tanks in an underground area meeting the conditions specified in Health and Safety Code Section 25270.2(o)(1). If this subsection is applicable, only tanks meeting the conditions specified in Health and Safety Code Section 25270.2(o)(1) shall be included as storage tanks and subject to these regulations.

(c) These regulations apply to the protection of the natural resources of the State of California, including navigable waters of the United States as defined in the Code of Federal Regulations Title 40, Part 112.

Note: Authority Cited: Sections 25270.4.1(a) and (d), and 25270.4.5(a), Health and Safety Code.

Reference: Sections 25270.3, 25270.4, 25270.4.1(a) and (d), and 25270.4.5(a), Health and Safety Code; and Section 1321(o), Chapter 26, Title 33, United States Code.

2150.04 FEDERAL SPCC EXCLUSIONS

Facilities, tanks and equipment that are exempt from the Code of Federal Regulations, Title 40, Part 112 as described in the Code of Federal Regulations, Title 40, Section 112.1(d)(1)(ii) through (d)(12) are exempt from these regulations.

EXCEPTIONS:

(1) A tank in an underground area as defined in Health and Safety Code Section 25270.2(o) is not exempt from this chapter even if exempt under the Code of Federal Regulations, Title 40, Section 112.1(d)(4).

(2) A tank facility with an aggregate storage capacity of 1,320 gallons of petroleum is not exempt from this chapter even if exempt under the Code of Federal Regulations, Title 40, Section 112.1(d)(2)(ii).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(a) and (o), and 25270.4.1(d), Health and Safety Code;
and Section 112.1, Part 112, Title 40, Code of Federal Regulations.

2150.05 STATUTORY EXCLUSIONS

The tank facilities, tanks and equipment listed in Health and Safety Code Section 25270.2 (a)(1) through (7) are not subject to these regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.2(a), Health and Safety Code.

2150.06 For purposes of clarification, Health and Safety Code Section 25270.2(a)(1) through (7) is repeated.

(1) A pressure vessel or boiler that is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A tank containing hazardous waste or extremely hazardous waste, as respectively defined in Sections 25117 and 25115, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank.

(3) An aboveground oil production tank that is subject to Section 3106 of the Public Resources Code.

(4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:

(A) The equipment contains less than 10,000 gallons of dielectric fluid.

(B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or

diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

(5) A tank regulated as an underground storage tank under Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code and Chapter 16 (commencing with Section 2610) of Division 3 of Title 23 of the California Code of Regulations and that does not meet the definition of a tank in an underground area.

(6) A transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, as set forth in Appendix A to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(7) A tank or tank facility located on and operated by a farm that is exempt from the federal spill prevention, control, and countermeasure rule requirements pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(a) and 25270.4.1(d), Health and Safety Code.

ARTICLE 2 DEFINITIONS

2160.00 DEFINITIONS

(a) The following terms used in this chapter shall have the definitions provided in the Code of Federal Regulations, Title 40, Chapter 1, Subchapter D, Part 112, Section 112.2 unless the terms have already been defined in Health and Safety Code, Division 20, Chapter 6.67, Section 25270.2.

(1) Adverse weather

(2) Alteration

(3) Animal Fat

(4) Breakout tank

- (5) Bulk storage container
- (6) Bunkered tank
- (7) Completely buried tank
- (8) Complex
- (9) Contiguous zone
- (10) Contract or other approved means
- (11) Discharge
- (12) Facility
- (13) Farm
- (14) Fish and wildlife and sensitive environments
- (15) Injury
- (16) Loading/unloading rack
- (17) Maximum extent practicable
- (18) Mobile refueler
- (19) Motive power container
- (20) Navigable waters of the United States
- (21) Non-petroleum oil
- (22) Offshore facility
- (23) Oil
- (24) Oil-filled operational equipment
- (25) Oil Spill Removal Organization
- (26) Onshore facility
- (27) Owner or operator
- (28) Partially buried tank
- (29) Permanently closed

(30) Petroleum oil

(31) Produced water container

(32) Production facility

(33) Regional Administrator

(34) Repair

(35) Spill Prevention, Control, and Countermeasure Plan; SPCC Plan, or Plan

(36) Storage capacity of a container

(37) Transportation-related and non-transportation-related

(38) United States

(39) Vegetable oil

(40) Vessel

(41) Wetlands

(42) Worst case discharge

(b) The following terms shall have the definitions provided in Health and Safety Code, Division 20, Chapter 6.67, Section 25270.2.

(1) Aboveground storage tank or storage tank

(2) Board

(3) Certified Unified Program Agency or CUPA

(4) Direct Viewing

(5) Office

(6) Operator

(7) Owner

(8) Person

(9) Participating Agency or PA

(10) Petroleum

(11) Regional board

(12) Release

(13) Secretary

(14) Storage or store

(15) Storage capacity

(16) Tank facility

(17) Tank in an underground area

(18) Unified Program Agency or UPA

(19) Viewing

(c) The following term shall have the definition provided in Health and Safety Code, Division 20, Chapter 6.11, Section 25404(a)(3).

(1) Minor violation

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2, 25270.4.1(a), (c) and (d), and 25404(a), Health and Safety Code; and Section 112.2, Part 112, Title 40, Code of Federal Regulations.

ARTICLE 3 GENERAL PROVISIONS

2170.00 IMPLEMENTATION

(a) Tank facility owners or operators subject to Health and Safety Code, Chapter 6.67 shall prepare and implement an SPCC plan to address discharges or releases.

(b) These regulations shall be applied by the Unified Program Agency (UPA) in a manner that is consistent with the Code of Federal Regulations, Title 40, Part 112. As part of inspections conducted pursuant to Sections 2180.00(b), 2180.02, and 2180.03(a), the UPA shall review SPCC plans, and any updates thereto, prepared pursuant to these regulations to determine whether they contain all of the information required by the Code of Federal Regulations, Title 40, Part 112. In conducting inspections pursuant to Sections 2180.00(b), 2180.02, and 2180.03(a), the UPA shall determine whether such plans are being implemented in compliance with the Code of Federal Regulations, Title 40, Part 112.

(c) The UPA is not authorized under these regulations 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, but the UPA is authorized to review the Plan to ensure that it complies with the Code of Federal Regulations, Title 40, Part 112 and is implemented in accordance with the Code of Federal Regulations, Title 40, Part 112. In carrying out its responsibilities under this chapter, the UPA shall request additional information from the owner or operator of the tank facility if necessary to verify that the Plan meets the abovementioned federal requirements and that the owner or operator is implementing the Plan as written.

(d) In accordance with the Code of Federal Regulations, Title 40, Sections 112.7(c)(1)(i) and 112.8(c)(2), any containment systems that are required must be sufficiently impervious to contain oil such that the entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs. Systems that meet the applicable requirement of being sufficiently impervious to contain oil with respect to the Code of Federal Regulations, Title 40, Sections 112.7(c)(1)(i) and/or 112.8(c)(2) also meet that requirement with respect to the Aboveground Petroleum Storage Act and these regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4.1, 25270.4.5(a), and 25270.5, Health and Safety Code.

2170.01 SPCC PLAN IMPLEMENTATION AND CONDITIONAL EXEMPTION

2170.02 For purposes of clarification, Health and Safety Code, Chapter 6.67, Section 25270.4.5 is repeated.

(a) Except as provided in subdivision (b), each owner or operator of a storage tank at a tank facility subject to this chapter shall prepare a spill prevention control and countermeasure plan applying good engineering practices to prevent petroleum releases using the same format required by Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations, including owners and operators of tank facilities not subject to the general provisions in Section 112.1 of those regulations. Each owner or operator specified in this subdivision shall conduct periodic inspections of the storage tank to ensure compliance with Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. In implementing the spill prevention control and countermeasure plan, each owner or operator specified in this subdivision shall fully comply with the latest version of the regulations contained in Part 112 (commencing with

Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(b) A tank facility located on and operated by a farm, nursery, logging site, or construction site is not subject to subdivision (a) if no storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons. Unless excluded from the definition of an “aboveground storage tank” in Section 25270.2, the owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions:

(1) Conduct a daily visual inspection of any storage tank storing petroleum. For purposes of this section, “daily” means every day that the contents are added to or withdrawn from the tank, but no less than five days per week. The number of days may be reduced by the number of state or federal holidays that occur during the week if there is no addition to, or withdrawal from, the tank on the holiday. The unified program agency may reduce the frequency of inspections to not less than once every three days at a tank facility that is exempt pursuant to this section if the tank facility is not staffed on a regular basis, provided that the inspection is performed every day the facility is staffed.

(2) Allow the UPA to conduct a periodic inspection of the tank facility.

(3) If the UPA determines installation of secondary containment is necessary for the protection of the waters of the state, install a secondary means of containment for each tank or group of tanks where the secondary containment will, at a minimum, contain the entire contents of the largest tank protected by the secondary containment plus precipitation.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Section 25270.4.5, Health and Safety Code.

2170.03 AGGREGATE STORAGE CAPACITY OF A TANK FACILITY

For purposes of these regulations, the aggregate storage capacity shall include aboveground storage tanks and containers with a shell capacity of 55 U.S. gallons or greater including, but not limited to, bulk storage containers (for example, drums, intermediate bulk containers and totes), mobile refuelers, oil-filled operational equipment, and oil-filled manufacturing equipment, as described in the Code of Federal Regulations Title 40, Section 112.2. The aggregate storage capacity shall not include

capacity calculations from exemptions and exclusions identified in Sections 2150.04, 2150.05, and 2150.06.

Note: Authority cited: Section 25270.4.1(a) Health and Safety Code.
Reference: Sections 25270.4.1(a), (c) and (d), 25270.2(a)(1) through (6), Health and Safety Code; and Section 112.1, Part 112, Title 40, Code of Federal Regulations.

ARTICLE 4 UPA INSPECTIONS

2180.00 COMPLIANCE VERIFICATIONS AND INSPECTIONS

(a) At least once every three years, the UPA shall, at a minimum, verify that each tank facility has a current SPCC plan in place that has been reviewed and/or certified as specified in the Code of Federal Regulations, Title 40, Part 112. The UPA will verify that each tank facility subject to these regulations is conducting periodic inspections of their storage tanks to ensure compliance with the Code of Federal Regulations, Title 40, Part 112.

(b) At least once every three years, the UPA shall inspect each tank in an underground area at a tank facility to verify that the tank facility's SPCC plan is being implemented in accordance with the Code of Federal Regulations, Title 40, Part 112, and that each tank in an underground area meets the requirements of Health and Safety Code, Chapter 6.67, Section 25270.2(o).

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.4.5(b), 25270.5, and Section 25270.2(o), Health and Safety Code.

2180.01 STATUTORY INSPECTIONS

2180.02 For purposes of clarification, Health and Safety Code, Chapter 6.67, Section 25270.5(a) and (b) is repeated.

(a) Except as provided in subdivision (b), at least once every three years, the UPA shall inspect each storage tank or a representative sampling of the storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum. The purpose of the inspection shall be to determine whether the

owner or operator is in compliance with the spill prevention control and countermeasure plan requirements of this chapter.

(b) The UPA may develop an alternative inspection and compliance plan, subject to approval by the secretary and the office.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a) and 25270.4.5(a), Health and Safety Code. Reference: Sections 25270.4.5(a) and (b), and 25270.5, Health and Safety Code.

2180.03 OPTIONAL INSPECTIONS

(a) The UPA may inspect tank facilities with a total aggregate storage capacity of less than 10,000 gallons of petroleum to ensure that the tank facilities have prepared and are implementing an SPCC plan in accordance with the Code of Federal Regulations, Title 40, Part 112.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

(b) The UPA may inspect tank facilities conditionally exempt under Section 2170.02(b) to verify compliance with the conditions of the exemption.

Note: Authority cited: Sections 25270.4, 25270.4.1(a), 25270.4.5(b)(2), and 25270.13(a), Health and Safety Code. Reference: Sections 25270.4, 25270.4.5(a) and (b)(2), and 25270.13(a), Health and Safety Code.

2180.04 INSPECTION REPORTS

The inspector shall, if the owner or operator or authorized representative is present, prior to leaving the tank facility, discuss the findings of the inspection and any questions or concerns that the owner or operator or authorized representative might have regarding the inspection. Within five business days after the conclusion of an inspection, the inspector shall provide to the owner or operator or authorized representative of the tank facility an initial summary of all violations or the final inspection report, including applicable citations alleged by the inspector. If not provided

within five business days of the inspection, the final inspection report shall be provided within 30 calendar days after the inspection.

Note: Authority cited: Section 25270.4.1(a) Health and Safety Code.
Reference: Sections 25270.4, 25270.4.5(a), 25270.5(a) and 25185(c)(1), Health and Safety code.

2180.05 NOTICE TO COMPLY

2180.06 For purposes of clarification, Health and Safety Code, Chapter 6.11, Section 25404.1.2(a), (b), (c), (d), and (e) is repeated.

- (a) (1) An authorized representative of the UPA, who in the course of conducting an inspection, detects a minor violation, shall take an enforcement action as to the minor violation only in accordance with this section.
(2) In any proceeding concerning an enforcement action taken pursuant to this section, there shall be a rebuttable presumption upholding the determination made by the UPA regarding whether the violation is a minor violation.
- (b) A notice to comply shall be the only means by which a UPA may cite a minor violation, unless the person cited fails to correct the violation or fails to submit the certification of correction within the time period prescribed in the notice, in which case the UPA may take any enforcement action, including imposing a penalty, as authorized by this chapter.
- (c) (1) A person who receives a notice to comply detailing a minor violation shall have not more than 30 days from the date of the notice to comply in which to correct any violation cited in the notice to comply. Within five working days of correcting the violation, the person cited or an authorized representative shall sign the notice to comply, certifying that any violation has been corrected, and return the notice to the UPA.
(2) A false certification that a violation has been corrected is punishable as a misdemeanor.
(3) The effective date of the certification that any violation has been corrected shall be the date that it is postmarked.
- (d) If a notice to comply is issued, a single notice to comply shall be issued for all minor violations noted during the inspection, and the notice to comply shall list all of the minor violations and the manner in which each of the minor violations may be brought into compliance.
- (e) If a person who receives a notice to comply pursuant to subdivision (a) disagrees with one or more of the alleged violations listed on the notice to

comply, the person shall provide the UPA a written notice of disagreement along with the returned signed notice to comply. If the person disagrees with all of the alleged violations, the written notice of disagreement shall be returned in lieu of the signed certification of correction within 30 days of the date of issuance of the notice to comply. If the issuing agency takes administrative enforcement action on the basis of the disputed violation, that action may be appealed in the same manner as any other alleged violation under Section 25404.1.1.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.4.1(c) and 25404.1.2(b), (c), (d) and (e), Health and Safety Code.

2180.07 ENFORCEMENT

The UPA may pursue enforcement for class I or class II violations as described in Health and Safety Code, Chapter 6.11, Section 25404(a)(3) through an administrative penalty pursuant to Health and Safety Code Section 25270.12.1, an administrative enforcement order pursuant to Health and Safety Code Section 25404.1.1, a civil penalty pursuant to Health and Safety Code Section 25270.12, or as a misdemeanor pursuant to Health and Safety Code Section 25270.12.5.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.2(c)(3)(A), 25270.4, 25270.4.1(c), 25270.12, 25270.12.1, 25270.12.5, 25404(a)(3), 25404.1.1, and 25404.2, Health and Safety Code.

ARTICLE 5 UPA TRAINING

2190.00 UPA STAFF TRAINING

In addition to the initial training required pursuant to Health and Safety Code Section 25270.5(c), UPA staff who inspect tank facilities pursuant to Sections 2180.00(b) and 2180.02(a) shall complete refresher training of at least four hours every three years to maintain knowledge of applicable federal and state laws and regulations regarding tank facilities. Training topics may include, but not be limited to, those covered in an aboveground storage tank training program or any other generally accepted industry practices. Training shall be documented and maintained by the UPA.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Section 25270.5, Health and Safety Code.

ARTICLE 6 REPORTING REQUIREMENTS

2200.00 TANK FACILITY ELECTRONIC DATA REPORTING

(a) Regardless of whether a tank facility statement is submitted pursuant to Health and Safety Code Section 25270.6(a), the owner or operator of a tank facility shall submit the following information electronically to the statewide information management system by the first day of January following the date that the statewide information management system is capable of receiving these data, and, thereafter, annually review and certify that the information in the statewide information management system is complete, accurate, and up to date. Review of this information in conjunction with the annual review and certification of hazardous materials business plan information in accordance with Health and Safety Code, Chapter 6.95, Section 25508.2 satisfies this requirement.

(1) Date of SPCC plan certification or most current 5-year review, whichever is more recent;

(2) Total aggregate storage capacity of a tank facility in gallons of petroleum (as specified in Section 2170.03); and

(3) Number of tanks in an underground area as defined in Health and Safety Code Section 25270.2(o).

(b) Each UPA shall verify that a tank facility has submitted the information listed under subsection (a).

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(m) and (o), 25270.4.1(d), 25270.4.5(a) and (b), 25270.6(a), 25404(e)(4) and 25508.2, Health and Safety Code.

2200.01 TANK FACILITY STATEMENT

Aboveground petroleum storage as reported within the chemical inventory of a hazardous materials business plan shall satisfy the requirement for the submittal of an annual tank facility statement pursuant to Health and Safety Code, Chapter 6.67, Section 25270.6(a).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4.1(c) and 25270.6(a)(2), Health and Safety Code.

ARTICLE 7 AGENCY COORDINATION

2210.00 UPA COORDINATION WITH REGIONAL WATER BOARD

If the UPA determines that cleanup or abatement of a release from an aboveground storage tank at a tank facility is required, or additional investigation is necessary to determine if cleanup is required, then the UPA shall notify and coordinate with the Regional Water Quality Control Board on investigation, cleanup or abatement activities.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4, 25270.9 and 25270.13(b), Health and Safety Code.

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ATTACHMENT 2

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INITIAL EXPRESS TERMS
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF THE STATE FIRE MARSHAL

REGARDING PROPOSED CHANGES TO
2016 CALIFORNIA FIRE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9
2016 INTERIM RULEMAKING CYCLE
(SECTIONS FOR TANKS IN UNDERGROUND AREAS ONLY)**

The Office of the State Fire Marshal (SFM) proposes to make necessary changes to the 2016 edition of the California Fire Code (CFC), based on the 2105 International Fire Code (IFC) model code. The SFM further proposes to:

- Adopt necessary amendments to the model code.
- Repeal amendments to the model code that are no longer necessary.

LEGEND FOR EXPRESS TERMS

1. Existing California amendments or code language being modified are in italics when they appear in the model code text: All such language appears in *italics*, modified language is underlined.
2. New California amendments: All such language appears underlined and in italics.
3. Repealed text: All such language appears in ~~strikeout~~.

INITIAL EXPRESS TERMS

**SECTION 202
DEFINITIONS**

TANK IN AN UNDERGROUND AREA. *A tank located in a structure that is at least 10 percent below the ground surface, including, but not limited to, a basement, cellar, shaft, pit, or vault.*

Note: *A tank in an underground area shall have the same meaning as defined in Health and Safety Code Section 25270.2(o)(1) for the applications specified in Sections 2306.6.2.7, 5703.4.1 and 5703.6.2.2.*

Exception:

1. A pressure vessel or boiler that is subject to Labor Code, Division 5, Part 6 (commencing with Section 7620).
2. A tank containing hazardous waste or extremely hazardous waste, as respectively defined in Health and Safety Code Sections 25117 and 25115, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the tank.
3. An aboveground oil production tank that is subject to Public Resources Code Section 3106.
4. Oil-filled electrical equipment, including but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:
 - a. The equipment contains less than 10,000 gallons of dielectric fluid.

b. The equipment contains 10,000 gallons or more of dielectric fluid with polychlorinated biphenyl levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

5. A tank regulated as an underground storage tank under Health and Safety Code Division 20, Chapter 6.7 (commencing with Section 25280) and the California Code of Regulations, Title 23, Division 3, Chapter 16 (commencing with Section 2610).

6. A transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, as set forth in the Code of Federal Regulations, Title 40, Chapter I, Subchapter D, Part 112 (commencing with Section 112.1).

7. A tank or tank facility located on and operated by a farm that is exempt from the federal spill, prevention, control, and countermeasure rule requirements pursuant to the Code of Federal Regulations, Title 40, Chapter I, Subchapter D, Part 112 (commencing with Section 112.1).

2302.1 Definitions. The following terms are defined in Chapter 2:

AIRCRAFT MOTOR-VEHICLE FUEL-DISPENSING FACILITY.

ALCOHOL-BLENDED FUELS.

AUTOMOTIVE MOTOR FUEL-DISPENSING FACILITY.

DISPENSING DEVICE, OVERHEAD TYPE.

FLEET VEHICLE MOTOR FUEL-DISPENSING FACILITY.

LIQUEFIED NATURAL GAS (LNG).

MARINE MOTOR FUEL-DISPENSING FACILITY.

TANK IN AN UNDERGROUND AREA.

2306.6.2 Piping, valves, fittings and ancillary equipment for above-ground tanks for Class I, II and III liquids. Piping, valves, fittings and ancillary equipment for above-ground tanks storing Class I, II and III liquids shall comply with Sections 2306.6.2.1 through 2306.6.2.67.

2306.6.2.7 Piping for tanks in underground areas. *Piping systems connected to a tank in an underground area shall also comply with Section 5703.6.2.2.*

5702.1 Definitions. The following terms are defined in Chapter 2.

ALCOHOL-BASED HAND RUB.

BULK PLANT OR TERMINAL.

BULK TRANSFER.

COMBUSTIBLE LIQUID.

Class II.

Class IIIA.

Class IIIB.

FIRE POINT.

FLAMMABLE LIQUID.

Class IA.

Class IB.

Class IC.

FLASH POINT.

FUEL LIMIT SWITCH.

LIQUID STORAGE ROOM.

LIQUID STORAGE WAREHOUSE.

**MOBILE FUELING.
PROCESS TRANSFER.
REFINERY.
REMOTE EMERGENCY SHUTOFF DEVICE.
REMOTE SOLVENT RESERVOIR.
SOLVENT DISTILLATION UNIT.
TANK, PRIMARY.
TANK IN AN UNDERGROUND AREA.**

5703.4.1 Spill control and secondary containment for tanks in underground areas.

Tanks in underground areas and associated piping systems shall be provided with spill control and secondary containment that are designed and constructed as outlined in Section 5004.2.

5703.6.2 Design and fabrication of piping systems and components. Piping system components shall be designed and fabricated in accordance with the applicable standard listed in Table 5703.6.2 and Chapter 27 of NFPA 30, except as modified by Sections 5703.6.2.1 and 5703.6.2.2.

5703.6.2.2 Piping systems connected to a tank in an underground area. Piping systems, which are below-grade and connected to a tank in an underground area, shall have secondary containment. The building, room or area in which the flammable or combustible liquid is stored or located may be used as secondary containment if it meets the containment and drainage methods as described in Section 5004.2.2.1. Piping systems shall be monitored by one of the following methods:

1. A listed or approved leak detection system that either activates an audible and visual alarm or stops the flow of product when a leak is detected.
2. Direct visual inspection conducted monthly by designated personnel.
3. Monthly inspection through the use of, but not limited to, mirrors, cameras or video equipment.
4. A method approved by the fire code official with alternate means of protection provided.

Exceptions:

1. Piping systems connected to a tank in an underground area that is used solely in connection with an emergency system or legally required standby system or optional standby system or fire pump as specified in Health and Safety Code Section 25270.2(o)(1)(C)(iii).
2. Piping systems connected to a tank in an underground area that contains petroleum to be used or previously used as a lubricant or coolant in a motor engine or transmission or oil-filled operational equipment or oil-filled manufacturing equipment, as described in Health and Safety Code Section 25270.2(o)(1)(C)(i).
3. Piping systems connected to a petroleum hazardous waste tank in an underground area that complies with the hazardous waste tank standards pursuant to the California Code of Regulations, Title 22, Chapter 15, Article 10 (commencing with Section 66265.190), and the facility has been issued a unified program facility permit pursuant to Health and Safety Code Section 25404.2 for generation, treatment, accumulation, or storage of hazardous waste, as described in Health and Safety Code Section 25270.2(o)(1)(C)(ii).

5703.6.2.2.1 Records. Records of the inspection and testing of piping systems shall include the date of service, name of the qualified personnel conducting the inspection or test, a summary of conditions noted and a detailed description of any conditions requiring correction and what corrective action was taken. Such records shall be maintained for a minimum of three years and be available for inspection by the authority having jurisdiction. Records of inspections and tests kept under usual and customary business practices satisfy the recordkeeping requirements of this section.

5704.2.7.4 Emergency venting. Stationary, aboveground tanks shall be equipped with additional venting that will relieve excessive internal pressure caused by exposure to fires. Emergency vents for Class I, II and IIIA liquids shall not discharge inside buildings. The venting shall be installed and maintained in accordance with Section 22.7 of NFPA 30, except as modified by Section 5703.6.2.2.

Exceptions:

1. Tanks larger than 12,000 gallons (45 420 L) in capacity storing Class IIIB liquids that are not within the diked area or the drainage path of Class I or II liquids do not require emergency relief venting.
2. Emergency vents on protected above-ground tanks complying with UL 2085 containing Class II or IIIA liquids are allowed to discharge inside the building.

Notation

Authority: Health and Safety Code Section 25270.4.1(a)

Reference(s): Health and Safety Code Section 25270.2(a) and (o)

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