Office of the State Fire Marshal
Aboveground Petroleum Storage Act (APSA) Advisory Committee

Draft Meeting Minutes

Meeting Date: February 28, 2017
Meeting Time: 1:00 p.m. – 3:30 p.m.
Meeting Location: Office of the State Fire Marshal, Training Conference Room
1131 S Street
Sacramento, California 95811

Staff Present:
Greg Andersen, Division Chief, Code Development and Analysis
Jennifer Lorenzo, Senior Environmental Scientist, Committee Chair
Glenn Warner, Senior Environmental Scientist
Jenna Yang, Environmental Scientist

Members Present:
Tom Ellison,* Kern County Fire Department
Craig Fletcher,* Fletcher Consultants, Inc.
Andrea Fox,* California Farm Bureau Federation
Wayne Geyer,* Steel Tank Institute (STI)
Ryan Hanretty, California Independent Oil Marketers Association (CIOMA)
David Harris,* Donlee Pump Company
Michael Huber,* U.S. Department of the Navy
Ernie Medina,* Bakersfield Fire Department Certified Unified Program Agency (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)
Randy Sawyer* (Co-Chair), Contra Costa County Hazardous Materials CUPA
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)
Guests Present:
Jeremy Gates,* Riverside County Environmental Health CUPA
Christina Graulau,* U.S. Department of the Navy

* Via Conference Call

Members Absent:
Ryan Bailey, Sacramento County Environmental Management CUPA
Kevin Buchan, WSPA
James Carver, Southern California FPO
Armand Delgado, Verizon Wireless
Rich Erickson, Donlee Pump Company
Michelle Le, Pacific Gas and Electric (PG&E)
Robert Marshall, Contra Costa County Fire Protection District
Vince Mendes, Fresno County Environmental Health CUPA
Pete Reich, US EPA
Patrick Wong, PG&E

I. Call to Order

Committee Chair, Jennifer Lorenzo, called the meeting to order at 1:02 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 October 31, 2016, were reviewed. No amendments were suggested. Randy Sawyer motioned to approve the minutes and Craig Fletcher seconded the motion. All members were in favor and none opposed.

IV. Review of Action Items from October 31, 2016

Ongoing Action Items
1. APSA Frequently Asked Questions (FAQ)
2. APSA Basic Inspector Training
3. Clarify definition of “petroleum”

Completed Action Items
1. Jay McKeeman contacted US EPA to request clarification on “visible discharges from ASTs to be corrected”
2. Randy Sawyer provided feedback from CUPA Forum Board regarding their proposal on certain sections of the proposed APSA regulations
3. Tank in Underground Areas Working Group discussed excluding lubricating tank systems commonly used at powerhouses
4. CERS data field for conditionally exempt tank facilities have been submitted to CalEPA

V. Old Business – Workgroup Updates

A. Regulations

The CUPA Forum Board had some concerns on some sections of the proposed APSA regulations. The Committee Chair went over the new proposed language suggested by the CUPA Forum Board. (Refer to the Attachment for the latest revision.)

Section 2180.00, formerly titled “SPCC Plan Review,” was already approved by the APSA Advisory Committee. (Refer to the Attachment of the October 2016 meeting minutes for the previous version of the proposed APSA regulations.) This section applied to all APSA tank facilities regardless of their storage capacity. The CUPA Forum Board is concerned with the three-year requirement for SPCC Plan implementation verification at APSA tank facilities that store less than 10,000 gallons of petroleum. The CUPA Forum Board proposes to use the word “periodically” instead of every three years. Randy Sawyer stated that “periodically” would refer to what each CUPA has described in their Inspection and Enforcement Program Plan.

The CUPA Forum Board also proposed to separate the SPCC Plan review requirement for clarity. Sande Pence suggested that Section 2180.00 be broken up and inserted to Sections 2180.01 (SPCC Compliance Verification – Less Than 10,000 Gallons) and Section 2180.02 (SPCC Compliance Inspections – 10,000 Gallons or More and Tanks in Underground Areas). This way, instead of having three different sections (all APSA tank facilities, tank facilities storing less than 10,000 gallons of petroleum, and tank facilities storing 10,000 gallons or more of petroleum/tanks in underground areas), there are only two sections (tank facilities storing less than 10,000 gallons of petroleum and tank facilities storing 10,000 gallons or more of petroleum/tanks in underground areas).

The new Section 2180.00 is now titled “SPCC Compliance Verification – Less Than 10,000 Gallons” and the new Section 2180.01 is now titled “SPCC Compliance Inspections – 10,000 Gallons or More and Tanks in Underground Areas”. Section 2180.00 includes the CUPA Forum Board language that requires Unified Program Agencies (UPA) to develop procedures to verify SPCC Plan implementation at tank facilities that take into consideration potential risk.
Since substantial changes have been made to the proposed APSA regulations, a vote was conducted to determine if these changes could be recommended to the State Fire Marshal.

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The Committee Chair will now work with the Office of the State Fire Marshal (OSFM) Code Development and Analysis Division to move this package forward. A timeline will be provided at the next advisory committee meeting.

Tanks in Underground Areas
The Tanks in Underground Areas rulemaking package was included in the California Code of Regulations Title 24 package, which was submitted to the Building Standards Commission in December 2016. The full language of the proposal is available on the OSFM website. Code Advisory Committee meetings (for building, fire and other codes) are scheduled for the end of March 2017. During the Code Advisory Committee meetings, state agencies may have to resubmit certain proposed sections if necessary. The 45-day public period will be coming up between April and June 2017. After the public comment period, the Building Standards Commission will meet in August to approve and adopt the package. The package will next move to the publisher who will publish the package before January 1, 2018, with an effective date of July 1, 2018.

Once effective on July 1, 2018, the full definition of a tank in an underground area in the APSA statute will also be effective. Tanks in underground areas still regulated as underground storage tanks will move to the APSA realm and be required to prepare and implement an SPCC Plan.

The Tanks in Underground Areas Working Group is working on a different rulemaking package to be included in the California Code of Regulations Title 19, Division 1. They have also been trying to develop an abbreviated SPCC Plan template for facilities with one or more tanks in and underground area storing less than 1,320 gallons of petroleum. A monthly inspection checklist has also been developed. The Working Group will additionally be determining what the requirements will be for facilities with a tank in an underground area that has installed a leak detection equipment or device.
John Paine was concerned if OSFM was still coordinating with the State Water Board regarding tanks in underground areas since the State Water Board is no longer a member of the APSA Advisory Committee. The Committee Chair explained that OSFM continues to work in conjunction with the State Water Board throughout the development of these documents and requirements.

Ms. Pence suggested that a working group be formed to discuss how the tanks in underground areas will be applied to the regulated industry and the regulators. She suggested there be a form for a tank facility owner/operator to declare if their tank is a “tank in an underground area” so that it’s clear how that tank will be regulated.

During the last meeting in October 2016, Patrick Wong asked if the subgroup would consider excluding lubricating tank systems that are commonly used at powerhouses, especially if the tank facility has less than 1,320 gallons of petroleum. The subgroup only proposed to exclude certain types of tank systems, such as the hydraulic lifts and heating oil, because under the underground storage tank laws and regulations, those two systems are already excluded from underground storage tank requirements. At this time, the lubricating tank systems suggested by Mr. Wong will not be considered for exclusion.

B. APSA Training

Jenna Yang provided an update on the APSA Basic Inspector Training. OSFM completed updating the APSA training program and sent it off for a bid package on February 21, 2017. There are 19 chapters and a 70-question final exam. At the moment, it is estimated to be a two-day course. The “Request for Quotation” paperwork will be posted for 10 business days. After bidding closes, OSFM will form an evaluation team to determine which contractor will provide the APSA training. OSFM expects to have the training program go live by this summer.

A contingency plan is in place to provide in-classroom training during this period. Jeremy Gates from Riverside County CUPA has volunteered to host and provide the training to CUPA inspectors using the updated training material. The training will occur in April, but details and logistics for the training has not been confirmed yet. Mr. Gates added that the training will take place over three full days to allocate enough time for questions and the final exam.

C. APSA FAQ

Glenn Warner provided an update on the APSA FAQ. More time is available to dedicate to updating the FAQ now that the APSA training program has been completed. However, there is no estimated completion time yet. Christina Graulau had previously requested that a revision history tracking document be kept along with the FAQ. The Committee Chair explained that a revision history will not be kept. Since the FAQ questions will need to be completely revamped, the document will be considered a new OSFM APSA FAQ document.
D. Definition of Petroleum

OSFM has discussed with the legal office and legislation office regarding how to best address the definition of petroleum. The definition of petroleum need to be clarified for consistency for all regulators, industry, and stakeholders. OSFM will need to confirm with the legal office if clarifying the definition in the regulation is the best course of action. If it is, that definition may still make it into the current proposed APSA regulations package. If clarifying in the regulations is not the best course of action, OSFM will form a small subgroup to address this issue.

VI. New Business

A. State Fire Marshal

The Governor has appointed a new State Fire Marshal, Chief Dennis Mathisen.

B. OSFM Restructure

The OSFM ‘CUPA’ Program has been under the Code Development and Analysis Division and Division Chief Greg Andersen until recently. The CUPA Program is now with the Pipeline Safety and CUPA Programs, under Assistant Deputy Director Ben Ho.

C. APSA Advisory Committee Membership

The Committee Chair reminded members to submit an appointment/reappointment request letter to the State Fire Marshal if their membership to the APSA Advisory Committee ends on March 1, 2017.

D. Federal SPCC Updates

A Federal bill was introduced and signed last year to provide clarifying language to the Water Resources Reform Development Act (WRRDA) of 2014. The Water Infrastructure Improvements for the Nation (WIIN) Act now excludes tanks for agricultural feed and sets the total storage capacity at 2,500 gallons of oil. This bill does not supersede WRRDA; there are still some things in WRRDA that need clarification.

VII. Open Forum and Public Comments

A. STI Update

Wayne Geyer stated that an STI SP001 Aboveground Tank System Inspector training will be provided near Newport Beach on October 30 – November 3, 2017. Mr. Geyer also provided an update on the STI SP001 inspection standard that is
currently going through a revision. STI was unable to finish updating the standard by the end of 2016. The committee updating the standard has a face-to-face meeting in April. Asphalt tanks are being discussed to see if it will be included in the standard. The committee has also heavily discussed standards for inspection of water inside tanks. Once the committee comes to a consensus, the updated standard will go out for public comment. The goal is to have the revised SP001 standard completed by the end of 2017.

B. APSA TAG

Jim Whittle provided an update on the APSA TAG. An APSA inspection checklist has been updated and pushed out to the CUPAs that use the Envision database. Randy Sawyer stated that the updated checklists can be posted to the CUPA Forum Board website.

C. Violation Library

The update process for the CERS Violation Library has started. For the APSA program, there are only a few violations that need to be updated. This Violation Library shows all the violations and descriptions that inspectors use.

VIII. Action Items

1. APSA FAQ
2. APSA Basic Inspector Training
3. Timeline for APSA regulations package
4. Definition of petroleum
5. APSA Violation Library

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 in April or May 2017.

The meeting was adjourned by the Committee Chair at 2:27 p.m.
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: Sections 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 facility owners or operators 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

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Federal Regulations, Title 40, Chapter I, Subchapter D, Part 112 (commencing with Section 112.1).


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 EXEMPTIONS TO THESE REGULATIONS

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 these regulations 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 these regulations 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 NONAPPLICABILITY

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 these regulations 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 used in these regulations 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
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.

(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 these regulations, 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 petroleum such that the entire containment system, including walls and floor, must be capable of containing petroleum 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 petroleum 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 PREPARATION, IMPLEMENTATION AND CONDITIONAL EXEMPTION

2170.02 For purposes of clarification, Health and Safety Code, Chapter 6.67, Section 25270.4.1 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.

2170.03 PERIODIC INSPECTIONS BY TANK FACILITY OWNERS AND OPERATORS

In conducting periodic inspections as described in Section 2170.02(a), each owner or operator shall inspect each aboveground storage tank at a tank facility in accordance with the frequency specified in the applicable industry inspection standard or an equivalent inspection program developed by a licensed professional engineer in accordance with good engineering practice.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).
2170.04  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, tanks in an underground area, 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.
(6) Visible discharges from aboveground storage tanks are corrected and accumulations of petroleum in diked areas are removed pursuant to the Code of Federal Regulations, Title 40, Part 112, Section 112.8(c)(10).

(b) In meeting the requirements of subsection (a), the UPA shall develop a procedure, taking into account potential risk, to verify SPCC Plan implementation at tank facilities with less than 10,000 gallons of petroleum storage capacity.

(c) The UPA may inspect tank facilities with less than 10,000 gallons of petroleum storage capacity to verify SPCC Plan implementation.

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 25270.4, 25270.4.5(a), and 25270.5, Health and Safety Code.

2180.01 SPCC COMPLIANCE INSPECTIONS – 10,000 GALLONS OR MORE AND TANKS IN UNDERGROUND AREAS

(a) At least once every three years, for each tank facility with a petroleum storage capacity of 10,000 gallons or more and each tank facility with a tank in an underground area, the UPA shall do the following to ensure compliance with Health and Safety Code Chapter 6.67 and the Code of Federal Regulations, Title 40, Part 112:

(1) Verify that each tank facility has a current SPCC plan in place that has been certified by the owner or operator or a licensed professional engineer.

(2) Review the SPCC plan, and any updates thereto, to determine whether the SPCC plan is complete and appropriate for the tank facility type.

(3) Verify that each SPCC plan is reviewed by the owner or operator at least once every five years and the review is documented.

(b) At least once every three years, the UPA shall inspect each tank facility with a petroleum storage capacity of 10,000 gallons or more and each tank facility with a tank in an underground area to verify SPCC Plan implementation and compliance with all applicable requirements of the Code of Federal Regulations, Title 40, Part 112, and the Health and Safety Code, Chapter 6.67.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).
2180.03  OPTIONAL INSPECTIONS

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

2180.04  INSPECTION REPORTS

(a) The UPA 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.

(b) Within five business days after the conclusion of an inspection, the UPA inspector should provide to the owner or operator or authorized representative of the tank facility an initial summary of all violations, a notice to comply, or the final inspection report, including applicable citations alleged by the inspector. 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), 25185(c)(1) and 25288(b), 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.

ARTICLE 5  UPA TRAINING

2190.00  UPA STAFF TRAINING

(a) 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 Section 2180.02 shall complete a minimum of four hours of refresher training 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 practice.

EXCEPTION: Initial training pursuant to Health and Safety Code Section 25270.5(c) is not required for UPA staff who inspect tank facilities with a storage capacity of less than 10,000 gallons, including tank facilities with one or more tanks in an underground area.

(b) Training shall be documented and the training records maintained by the UPA.

Note: Authority cited: Section 25270.4.1(a), 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 within twelve months 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 shall be completed in conjunction with the annual review and certification of hazardous materials business plan information, if applicable, in accordance with Health and Safety Code, Chapter 6.95, Section 25508.2.

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

(2) Total aggregate petroleum storage capacity of a tank facility in gallons (as specified in Section 2170.04); 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 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 25270.2(j), 25270.4, 25270.9 and 25270.13(b), Health and Safety Code.