



**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**

Draft Meeting Minutes

Meeting Date: July 20, 2015
Meeting Time: 10:00 am – 12:00 pm
Meeting Location: Office of the State Fire Marshal, Training Conference Room
1131 S Street
Sacramento, California 95811

Staff Present:

James Parsegian, Supervising Deputy State Fire Marshal
Jennifer Lorenzo, Senior Environmental Scientist, Committee Chair
Denise Gibson, Senior Environmental Scientist
Jenna Yang, Environmental Scientist

Members Present:

Jason Boetzer,* Calaveras County Environmental Health Certified Unified Program Agency (CUPA)
Tom Ellison,* Kern County Fire Department
Rich Erickson,* Donlee Pump Company
Craig Fletcher,* Fletcher Consultants, Inc.
Wayne Geyer,* Steel Tank Institute (STI)
David Harris,* Donlee Pump Company
Jay McKeeman, California Independent Oil Marketers Association
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)
Todd Tamura,* Tamura Environmental, Inc. (Consultant to Western States Petroleum Association [WSPA])
Janice Witul,* U.S. Environmental Protection Agency (US EPA)
Patrick Wong,* Pacific Gas and Electric (PG&E)

Guests Present:

Christina Graulau,* U.S. Department of the Navy
Marcia Kicos,* Defense Logistics Agency (DLA)

* *Via Conference Call*

Members Absent:

Ryan Bailey, Sacramento County Environmental Compliance Division CUPA
Kevin Buchan, WSPA
Armand Delgado, Verizon Wireless
Andrea Fox, California Farm Bureau Federation
Philip Gairson, Southern California FPO
Michael Huber, U.S. Department of the Navy
Ernie Medina, Bakersfield Fire Department CUPA
Peter Reich, US EPA
Randy Sawyer, (Co-Chair), Contra Costa County Hazardous Materials Division CUPA
Nancy Schlotthauer, San Bernardino County Fire District CUPA
Jim Whittle, Shasta County Environmental Health Division CUPA

I. Call to Order

Committee Chair, Jennifer Lorenzo, called the meeting to order at 10:04 a.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 April 29, 2015, were reviewed. Sande Pence suggested a minor grammatical edit to the minutes. Jay McKeeman motioned to approve the minutes as amended and Craig Fletcher seconded the motion. All members were in favor and none opposed.

IV. Review of Action Items from April 29, 2015

Completed Action Items

1. Tank in Underground Areas proposed draft regulations were sent to Jay McKeeman.

Ongoing Action Items

1. Violation Library and Classification for the Aboveground Petroleum Storage Act (APSA) Program
2. APSA Frequently Asked Questions (FAQ)
3. Tier II Qualified Facility Spill Prevention, Control, and Countermeasure (SPCC) Plan Template
4. Unified Program Administration and Advisory Group (AUPAAG) Request – Sent the Board of Professional Engineers, Land Surveyors, and Geologists (BPELSG) complaint process to UPAAG, but still need to post link to complaint process on the OSFM APSA webpage.

V. Old Business – Workgroup Updates

A. Regulations

The Regulations Workgroup has completed their work on the draft regulations for the APSA program. Sande Pence, the Chair for the workgroup, received final comments from the workgroup members and after incorporating all the comments, sent the final product back to the workgroup on June 12, 2015. The draft express terms document has been completed (see Attachment). The necessity or justification will be included in the Initial Statement of Reasons (ISOR).

Jay McKeeman suggested that the committee not review the proposed regulations section by section during this meeting. Todd Tamura and Ms. Pence also agreed with Mr. McKeeman. Mr. McKeeman initiated the recommendation of the proposed APSA regulations to OSFM. Each voting member was called and the following is the result of the vote.

| Ayes | Noes | No Votes Recorded |
|--|-------------|--------------------------|
| Tom Ellison Rich Erickson Craig Fletcher Jay McKeeman Vince Mendes Stacey Miner Sande Pence Jason Rizzi Patrick Wong | Todd Tamura | Jason Boetzer |

The majority of the members were in favor of recommending the proposed APSA regulations to OSFM. James Parsegian gave an overview and timeline of the next steps in the process of moving the regulations package forward. The OSFM APSA Program staff will review the document for grammatical errors and finish the package with the assistance of a few volunteers from the APSA Workgroup. When the express terms, ISOR, notice of proposed rulemaking, and cost/benefit analysis

sections are complete, it will be sent to the OSFM Code Development and Analysis Division for review. After their review, which may take up to 30 days, they will recommend the package to the State Fire Marshal, Chief Tonya Hoover, to sign. If there are “substantial” changes to the proposed regulations prior to review by Chief Hoover, the package will come back to the advisory committee for review and approval of the changes. If there are no substantial changes, the package will be sent up through the Department of Forestry and Fire Protection (CAL FIRE), then the Natural Resources Agency, and finally the Office of Administrative Law (OAL). This process may take up to another 30 days. Once OAL receives the package, it will be available for public comment for a period of 45 days. If there are no comments, the package will be prepared in finalized form. If there are any comments or changes, OSFM will address each one of them. If those comments result in substantial but sufficiently related changes, there will be an extra 15 day comment period for those changes. (If there are major changes, then there will be a new 45-day comment period.) OAL will then take another 30 days to finalize the package and finally send it to the Secretary of State for publishing.

Ms. Pence recommended that since the proposed regulation repeats some language currently in law and Senate Bill (SB) 612 is trying to change some of that language, OSFM should follow SB 612 and if signed into law, incorporate the new language from SB 612 into the regulations package. (This language would be a reprint of law and is not considered substantial change.)

Tanks in Underground Areas

The Tanks in Underground Areas Workgroup has been halted pending SB 612.

B. Recycled Underground Storage Tanks (USTs)-Farm Tanks

Denise Gibson stated that there is not much new going on. There are two information bulletins regarding this issue. A new seller of these recycled tanks has been found in Bakersfield. OSFM is still working with the farm bureau to send out information to the farms.

Mr. McKeeman noted that there has been a considerable amount of confusion amongst the regulated community in regards to the appropriate standards applicable to aboveground tanks and which codes to implement. He suggests that a new workgroup be formed in the future to address this problem. Tom Ellison agrees that there is a lot of confusion and that he addresses this issue on a daily basis in his jurisdiction.

C. APSA Violation Classification

Jenna Yang gave an update on the APSA Violation Library workgroup. CalEPA has reconvened the Violation Library Project. OSFM is the lead for updating the APSA program portion. There are currently 72 APSA violations in the California

Environmental Reporting System (CERS) with a suggestion of 24 additional new violations. The subgroup for updating the APSA Violation Library consists of about 10 inspectors from different CUPAs. There have been two meetings, with the third meeting following the Advisory Committee meeting today. OSFM's goal is to finish the review by September 30, 2015, to allow review time for OSFM's legal department as well. The deadline for submitting any revisions to CalEPA is November 18, 2015. Todd Tamura is interested in seeing the APSA Violation Library.

D. APSA FAQ

The APSA FAQ document is still a work in progress. The document is further updated to remove each interpretation of US EPA's SPCC rule and replace it with a generic statement that refers the reader to the corresponding *US EPA SPCC Guidance for Regional Inspectors* section. Mr. McKeeman suggested that when the FAQ document is ready to be finalized, it should be distributed to the group and a teleconference conducted to discuss the updates or any issues with the document.

E. Tier II Qualified Facility SPCC Plan Template

Comments to the Tier II Qualified Facility SPCC Plan template have been received from Mark Howard of US EPA headquarters. Two major comments were made, one has been fixed and the other is still being worked on with the OSFM legal department. The template will have to go through an internal review process. The template is scheduled to be complete in the fall and will be on the OSFM website.

F. APSA Training

The APSA Basic Inspectors Training will have a kickoff meeting on Wednesday, July 22, 2015, to discuss previous issues with the training, the curriculum, and training topics. The training program update will be done simultaneously with the APSA regulations in order to incorporate current regulations into the training. Ms. Pence added that the San Diego County CUPA will continue to host the APSA Online Training as long as they need to, but do not have the resources to update the current training. The training program will be put on discs and sent to OSFM.

By the next committee meeting, a timeline for transitioning the online training program from San Diego County CUPA to OSFM will be established.

VI. New Business

A. New Members

There are two new appointments to the APSA Advisory Committee. Stacey Miner from Walmart's Environmental, Health and Safety Compliance Team represents the oil changing/automotive repair industry and also Assistant Fire Marshal for Kern County, Tom Ellison, who currently oversees the aboveground storage tank (AST) permitting in his department and represents the rural area fire agencies.

Stuart Strum has left his agency. DLA will need to have a new representative appointed by the State Fire Marshal in order to retain their membership.

B. Federal Water Resources Reform and Development Act (WRRDA)

US EPA and the U.S. Department of Agriculture conducted a joint study on the SPCC rule in regards to farms. The study was completed and released on June 30, 2015. US EPA will later amend the Code of Federal Regulations, Title 40, Part 112 based on the results of the study.

APSA is not affected by WRRDA yet. SB 612 contains language that will align the applicability threshold of farms in California with the federal SPCC rule.

VII. Open Forum and Public Comments

The Committee Chair asked the members and guests to discuss additional items, issues or concerns, if they had any. No one had additional items to discuss.

VIII. Action Items

1. Violation Library and Classification for the APSA Program – Subgroup is currently working on updating the APSA Violation Library, to be complete by November 18, 2015. Send Todd Tamura a copy of the APSA Violation Library.
2. APSA FAQ – Continue to work with US EPA and post completed sections on OSFM APSA website.
3. Tier II Qualified Facility SPCC Plan Template – Finish incorporating comments from US EPA and post on OSFM APSA website.
4. UPAAG Request – Inform CUPAs and owner/operators of the BPELSG complaint process. Post link to BPELSG complaint process on OSFM APSA webpage.
5. APSA Training – Establish a timeline for transitioning the APSA Online Training from San Diego County CUPA to OSFM.

IX. Schedule Next Meeting and Adjourn

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

The meeting was adjourned by the Committee Chair at 11:08 a.m.

DRAFT

ATTACHMENT

DRAFT

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 this chapter if 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) or 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.

(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 (6) 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 (6) 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, as described in subdivision (g) of Section 25316 of the Health and Safety Code, 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, dated November 24, 1971, 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.

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) Office

(5) Operator

(6) Owner

(7) Person

(8) Participating Agency or PA

(9) Petroleum

(10) Regional board

(11) Release

(12) Secretary

(13) Storage or store

(14) Storage capacity

(15) Tank facility

(16) Tank in an underground area

(17) Unified Program Agency or UPA

(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 prepared in accordance with Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. Each owner or operator specified in this subdivision shall conduct periodic inspections of the storage tank to assure compliance with Section 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 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. 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.

(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.

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

UPAs shall provide refresher training for UPA staff who conduct inspections at tank facilities with a total aggregate storage capacity of 10,000 gallons or more of petroleum and tank facilities inspected pursuant to 2180.00(b) to maintain knowledge of applicable

federal and state laws and regulations regarding APSA 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.

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.