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: April 10, 2014
Meeting Time: 10:00 am – 2:00 pm
Meeting Location: Office the State Fire Marshal, Training Conference Room
1131 S Street
Sacramento, California 95811

Staff Present:
Kevin Reinertson, Division Chief
James Parsegian, Supervising Deputy State Fire Marshal
Jennifer Lorenzo, Senior Environmental Scientist, Committee Chair
Denise Gibson, Senior Environmental Scientist

Members Present:
Rich Erickson,* Donlee Pump Company
Craig Fletcher, Fletcher Consultants
Laura Fisher,* State Water Resources Control Board (State Water Board)
Adrea Fox,* California Farm Bureau Federation
Wayne Geyer,* Steel Tank Institute (STI)
David Harris,* Donlee Pump Company
Michael Huber, Department of the Navy
Joyce Jaszarowski, Division of Oil, Gas, and Geothermal Resources (DOGGR)
Jay McKeeman, California Independent Oil Marketers Association
John Paine,* California Environmental Protection Agency (CalEPA)
Sande Pence,* San Diego County Environmental Health Certified Unified Program Agency (CUPA)
Randy Sawyer* (Co-Chair), Contra Costa County Hazardous Materials Division CUPA
Todd Tamura,* Tamura Environmental Inc. (Consultant to Western States Petroleum Association [WSPA])
Janice Witul,* U.S. Environmental Protection Agency (US EPA)
Patrick Wong, PG&E
Mike Vizzier* (Co-Chair), San Diego County Environmental Health CUPA

Guests Present:
Christina Graulau,* Department of the Navy

** Via Conference Call*

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Members Absent:
Raymond Bizal, National Fire Protection Association (NFPA)
Jason Boetzer, Calaveras County Environmental Health Certified Unified Program Agency (CUPA)
Stephen Crimaudo, American Petroleum Institute
Armand Delgado, Verizon Wireless
John Denholm, Oil Changer, Inc.
Louis Dinkler, Air Resources Board
Philip Gairson, Southern California Fire Prevention Officers
John Gamper, California Farm Bureau Federation
Michelle Le, Pacific Gas and Electric (PG&E)
Vince Mendes, Fresno County Environmental Health CUPA
Peter Reich, US EPA
Jason Rizzi, Northern California Fire Prevention Officers
Patty Senecal, WSPA
Stuart Strum, Defense Logistics Agency

I. Call to Order

Committee Chair Jennifer Lorenzo called the meeting to order at 10:03 a.m. and welcomed everyone to the meeting.

II. Roll Call and Introductions

Denise Gibson 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 23, 2014, were reviewed. Mike Huber motioned to accept the minutes and Craig Fletcher seconded the motion. All members were in favor and none opposed.

IV. Review of Action Items from January 23, 2014

<u>Completed Action Items</u>

1. The draft Recycled Underground Storage Tanks (UST) as Aboveground Storage Tanks (AST) Information Bulletin has been submitted to the committee members and the Recycled USTs-Farm Tanks Workgroup for review and comments.

Ongoing Action Items

1. The 1998 Memorandum of Agreement (MOA) between DOGGR and the Department of Forestry and Fire Protection (CAL FIRE) – Office of the State Fire Marshal (OSFM) concerning each agency's authority on tanks and pipelines has been updated to incorporate the APSA Program information. The MOA was submitted to DOGGR for their review and approval. A copy of the MOA will be sent to committee members when the MOA is approved and signed by the Director of the Department of Conservation and the State Fire Marshal.
2. OSFM is working with CalEPA to develop an information bulletin regarding the APSA surcharge. OSFM has yet to develop a letter describing the process that led to the decision on the APSA surcharge.
3. The Recycled USTs-ASTs Information Bulletin has yet to be finalized by OSFM to incorporate additional comments received.

V. Old Business – Workgroup Updates

A. Surcharge

The information bulletin regarding the APSA surcharge was drafted and almost finalized as it was also approved by CalEPA. When our office met with CalEPA executives on March 24, 2014, regarding the APSA surcharge, CalEPA stated that they may not want to increase the Unified Program surcharge. At the regional CUPA forum meetings, it was communicated to the CUPAs that the surcharge was placed on hold.

John Paine mentioned that on April 9, 2014, CalEPA informed our office and the CUPA Forum Board that the Secretary approved the APSA surcharge. CalEPA will submit the rulemaking package before the end of this month to the Office of Administrative Law (OAL) to amend the Unified Program state surcharge to include a surcharge for the APSA Program. The new surcharge will be effective the next fiscal year 2014-2015, which starts on July 1, 2014. Although the actual effective date may not be exactly on July 1, 2014, the fee will still be required to be assessed and collected in the next fiscal year. This may present a problem for many CUPAs who have already presented before their Board of Supervisors or City Council with their new fee schedules.

B. Regulations

Since the last meeting in January, the Regulations Workgroup has met at least three times. After the last advisory committee meeting in January, another meeting followed with our senior staff counsel, a select group of industry stakeholders and their legal representative to discuss the purpose and scope of APSA. An

agreement was reached. From that meeting, WSPA and their legal representative was to provide the language for the purpose and scope of APSA. As such, the main focus of the last three Regulations Workgroup meetings was on the purpose and scope of the regulations. The workgroup has finally come to a consensus on the purpose and scope of the regulations and gained the approval from WSPA's legal representative on the modifications made to date.

The next meeting for the APSA Regulations Workgroup is Tuesday, April 15, 2014, from 1:30 – 3:00 pm.

Tanks in Underground Areas

Craig Fletcher provided an update on the Tanks in Underground Areas Group. Note that the proposed regulations for the tanks in underground areas will only apply to those facilities with 1,320 gallons or greater of petroleum. Those that are below the threshold or contain other hazardous materials besides petroleum products will still be regulated under the UST program.

This group was able to finish its discussion on whether or not AST requirements found in the federal Spill Prevention, Control, and Countermeasure (SPCC) rule or the fire code satisfy or are deemed equivalent in protecting the environment compared to the UST program. Of the 16 items discussed, three items were identified as not being equivalent.

1. Installation, construction and repair of ASTs – These fire code requirements are currently enforced by the local authorities having jurisdiction (AHJ). There are areas within the state where the fire code is not being implemented; therefore, there may be several tanks that may already be out of compliance. To ensure the proper installation, construction and repair of petroleum ASTs, the group proposes to give UPAs the authority to enforce specific aspects of the fire code, where necessary. This will be similar to the plan review process required for the UST program for which UPAs have the authority; although in the case of the APSA program, the authority to enforce the fire code will still rely on the fire code officials.

2. Inspections of tanks in underground areas by UPAs – Only those with 10,000 gallons or more of petroleum are required by law to be inspected by the UPAs at least once every three years. Those with less than 10,000 gallons of petroleum are not required to be inspected at all. UST requirements require tanks to be inspected annually. The State Water Board would like it if all APSA regulated tank facilities with tanks in underground areas be inspected at least once every three years. This frequency is consistent with the other inspection frequency schedule mandated under APSA.

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3. Buried piping – Secondary containment is not required in the fire code or federal SPCC rule. A conceptual risk analysis was developed that included the types of tanks and facilities with buried piping. The group determined that those with the highest risk of undetected release would be required to have requirements similar to or equivalent to the UST requirements on buried piping. For example, secondary containment and release detection method will be required. However, those posing less risk of an undetected release would have a less stringent requirement. For example, secondary containment may not be needed, but release detection, including testing, may be required. The group is reviewing options or alternatives based on available technology.

The group is beginning to develop regulations to address the three topics. Both UST and AST statutes will need to be changed. Note that this does not address all tanks in underground areas, especially those that do not store petroleum or those with less than 1,320 gallons in aggregate storage capacity. These facilities will still be regulated under the UST program requirements, unless legislative changes to APSA are made.

Timeline of Regulation Packages

Currently, we have a total of three rulemaking packages:

1. The APSA Program regulations package, which will be in Title 19, Division 1, Chapter 15 of the California Code of Regulations (CCR), is still on schedule to be submitted to OAL before the end of this year.

2. There will be two packages from the Tanks in Underground Areas Group. One will be CCR Title 19 and the other in the CCR Title 24, Part 9 of the Fire Code. These two rulemaking packages will be done separately from the main APSA Program regulations package. Also, any CCR Title 24 amendments must be done through the California Building Standards Commission (not OAL).

    a. Changes to the installation, construction or repair requirements of ASTs in underground areas storing flammable or combustible liquids will be addressed in the fire code; these are considered building standards and are related to the management of flammable or combustible liquids storage. These will be addressed in the fire code instead of CCR Title 19, Division 1. This is planned to be completed for submittal to the California Building Standards Commission by early 2015.

    b. The proposed language on providing UPAs the authority to enforce certain aspects of the fire code regarding petroleum ASTs will be in CCR Title 19, Division 1. Changes to the AST and UST laws will need to be made first before submitting the rulemaking package to OAL on

this subject, which is expected to be initiated one to two years from now.

C. Recycled USTs-Farm Tanks

Denise Gibson presented the status of this group. The draft information bulletin on recycled USTs as ASTs has been reviewed by management and sent to both the workgroup and the advisory committee for review and comments. Some of the comments received have been incorporated into the information bulletin. The information bulletin will be submitted to the advisory committee for final review.

D. OSFM Staffing Update

OSFM is still in the process of hiring an environmental scientist that was left vacant at the end of January. The position was posted in February, interviews were conducted in March, and a candidate has been selected. We have submitted paperwork to our human resources unit to determine whether or not we may hire the selected candidate.

VI. New Business

A. Violation Library

CalEPA is in the process of updating its violation library in the California Electronic Reporting System (CERS). The main goal of this project was to update the inspection checklist or list of violations specifically for the hazardous materials business plan program since the entire business plan law was revised through Senate Bill 483, effective January 1, 2014. CalEPA has asked that each state agency with Unified Program responsibility, review their respective program's violation library in CERS. As such, an email was sent to this committee requesting feedback or comments, if any, on the current APSA program violation library. Committee members have been made aware of this list since last year. We have made some suggested edits to the current list, although we have not done a complete review. The final list will be sent to our legal for their review. The original list was developed and reviewed by the APSA Working Group back in 2010; however, it was not reviewed by our legal office since we had no oversight authority back then.

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.

Mike Huber was concerned about the dwindling attendance by advisory committee members at these quarterly meetings and that it is important to have face-to-face meetings in these advisory committee meetings. Andrea Fox agreed and suggested that the advisory committee should have at least one meeting be

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attended in person. Jay McKeeman suggested that we continue to have the quarterly meetings at this time and have one of those meetings be done face-to-face. The advisory committee meetings may eventually be reduced from quarterly to twice a year or so, once the APSA Program regulations are in place and "major" issues that do not require frequent meetings. The Committee Chair suggested that the October 2014 meeting be attended by committee members in person.

Christina Graulau commented that the APSA Program implementation was good at this time.

Craig Fletcher mentioned that the [federal government] has regulations regarding tanks in flooded areas. Laura Fisher clarified that anchoring is required to be in place if the tank is in a flood zone area. Laura stated that the regulations by the federal Occupational Safety and Health Administration (OSHA) are for worker health and safety; California OSHA is required to adopt the federal OSHA regulations. Regarding the requirements on tanks in flooded areas, the thought was not to require retrofit for old or existing tanks, but to incorporate current industry standards for installation of new tanks. The tanks should be anchored properly. OSFM and the State Water Board had requested CalEPA to provide guidance for Unified Program Agencies regarding requirements for tanks in flooded areas.

VIII. Action Items

1. Surcharge – OSFM to finalize the APSA surcharge letter and information bulletin. The information bulletin will be posted on the OSFM website. The letter will be sent to CalEPA for posting on their website.
2. MOA with DOGGR – OSFM to submit a copy of the final (signed) MOA with DOGGR to committee members.
3. Recycled USTs as ASTs Information Bulletin – OSFM to submit to advisory committee for final review. OSFM to finalize bulletin and post on website.
4. Committee Chair to send doodle poll to members for upcoming meetings (July and October).
5. Violation Library for the APSA Program – OSFM to submit copy to committee members after legal review.

IX. Schedule Next Meeting and Adjourn

The next two meetings will be scheduled in July and October 2014. The exact dates, times and locations will be determined at a later time. Committee members were asked to attend the October meeting in person.

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

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