



**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 Date: April 9, 2013

Meeting Time: 0900-1200

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

**Staff Present:**

Mike Richwine, Assistant State Fire Marshal  
James Parsegian, Supervising Deputy State Fire Marshal  
Jennifer Lorenzo, Staff Environmental Scientist, Chair  
Diane Arend, Retired Annuitant  
Yevonne Costa, Management Services Technician

**Members Present:**

Jason Boetzer, Calaveras County Environmental Health  
Mike Vizzier, Co-chair, San Diego County Environmental Health  
Vince Mendes,\* Fresno County Environmental Health  
Randy Sawyer, Co-chair, Contra Costa County Hazardous Materials Division  
Jason Rizzi, Northern California Fire Prevention Officers  
Jay McKeeman, California Independent Oil Marketers Association (CIOMA)  
Patty Senecal, Western States Petroleum Association (WSPA)  
Armand Delgado, Verizon Wireless  
Michelle Le, Pacific Gas & Electric (PG&E)  
John Gamper\* for Andrea Fox, California Farm Bureau Federation  
Mike Huber,\* Department of the Navy  
Stuart Strum,\* Defense Logistics Agency  
Rich Erickson, Donlee Pump Company  
David Harris, Donlee Pump Company  
John Paine, California Environmental Protection Agency (Cal/EPA)  
Laura Fisher, State Water Resources Control Board (SWRCB)  
Lou Dinkler, Air Resources Board (ARB)  
Joyce Jaszarowski, Division of Oil, Gas, and Geothermal Resources (DOGGR)  
Janice Witul, U.S. Environmental Protection Agency (US EPA)  
Wayne Geyer, Steel Tank Institute (STI)  
Stephen Crimauddo,\* American Petroleum Institute (API)  
Raymond Bizal, National Fire Protection Association (NFPA)

**Members Absent:**

Philip Gairson, Southern California Fire Prevention Officers  
John Denholm, Oil Changer, Inc.

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**Guests Present:**

Todd Tamura, Tamura Environmental, Inc. (Consultant to WSPA)  
Jackie Bretschneider,\* Gilroy Fire Department  
Mary Pitto,\* Regional Council of Rural Counties

\* *Via Conference Call*

**I. Call to Order**

Committee Chair Jennifer Lorenzo called the meeting to order at 9:05 a.m. and welcomed everyone to the meeting.

**II. Roll Call**

Yevonne Costa took a roll call.

**III. Introductions**

Self-introductions were conducted.

**IV. Rules of Advisory Committee**

James Parsegian discussed the California Department of Forestry and Fire Protection (CAL FIRE) – Office of the State Fire Marshal’s (OSFM) policy on advisory committees.

Committee goals support the overall mission of OSFM and complete operations or provide recommendations to the State Fire Marshal. Members are appointed by the State Fire Marshal and membership term is approximately two years. The number of committee members generally does not exceed 15, unless authorized. Committee members may be comprised of, but not limited to, representatives of the private industry, the fire service and related organizations, community-based organizations, federal, state and local government, public members, and national organizations. A voting member may designate an alternate in the event that he or she is unable to attend a meeting; however, the alternate must be appointed by the State Fire Marshal to be able to vote. Also, if and when a member and his or her alternate attend a meeting, then only the primary member is able to vote; the alternate member cannot vote. Technical advisors and ex-officio members may also be appointed by the State Fire Marshal based on their specific area of expertise. Technical advisors and ex-officio members serve as non-voting members of the committee.

Committee meetings are generally limited to one day duration, but may be extended for just cause. Meetings will be scheduled on an as-needed basis at the discretion of the chairperson. Members of the committee serve without stipend or reimbursement for travel expenses. If a member is absent for three consecutive meetings, that person will be deemed to have abandoned his or her appointment. All committee meetings will be conducted openly so that the public may remain informed. Meeting agendas will be distributed and posted on OSFM’s advisory committee website at least 10 days before each meeting. If a guest from the general public has several issues or concerns, the guest is requested to raise his or her issues or concerns with a respective member of the committee.

**V. Overview of OSFM**

James Parsegian presented an overview of the OSFM.

**VI. Goals and Objectives of Committee**

The goals and objectives of the committee were discussed.

The purpose of the committee is to provide coordinated and consistent interpretation and guidance of the Aboveground Petroleum Storage Act (APSA) or "Aboveground Storage Tank" (AST) program throughout the State of California. The committee was formed pursuant to Assembly Bill 1566 (Chapter 532, Statutes of 2012) to act in an advisory capacity on AST program policies.

The goal of the committee is: *Professional, effective, and consistent delivery of the Aboveground Storage Tank Program throughout the State of California.*

The committee's objectives were identified:

1. Develop regulations (California Code of Regulations [CCR], Title 19, Division 1).
2. Establish surcharge.
3. Conduct analyses of AST program issues.
4. Review and evaluate existing and future Unified Program regulations that affect the AST program, including the Unified Program data dictionary.
5. Develop standardized AST program templates and guidance documents for current use, as well as incorporation and use in the California Electronic Reporting System.
6. Provide consistent interpretations and guidance for AST program concerns and issues.
7. Review and evaluate AST program issues at the request of the Unified Program Administrative and Advisory Group (UPAAG). Provide program-related assistance, if any, to UPAAG.

The committee is comprised of representatives from OSFM, Unified Program Agencies, fire service, the industry and other interested parties. Ex-officio members (technical advisors) are comprised of federal and state agency liaisons, and industry standards organizations.

A representative from the engineering consulting industry may be added to the committee if approved by the State Fire Marshal. Many of the Spill Prevention, Control and Countermeasure (SPCC) plans are reviewed and certified by professional engineers that work as consultants. Committee members were asked if this is acceptable and the members consented. Laura Fisher stated that an environmental group should also be added to the membership.

Lastly, the members' commitments to the committee were discussed. The chair and co-chairs will forward advisory committee and workgroup status reports to UPAAG quarterly. All members will participate in meetings (or conference calls) when possible. Members will provide timely review and comment on draft documents. Meetings will be held quarterly or

as necessary. Workgroups may be established to address specific technical issues and workgroup meetings will be held on an as-needed basis.

## **VII. New Business**

### **A. Need for Regulations (including Surcharge)**

Regulations are needed for the AST program for consistent implementation and enforcement of ASTs throughout the state by all Certified Unified Program Agencies (CUPAs); to develop statewide standards and ensure consistency with state and federal requirements. CUPAs are required to consolidate, coordinate and make consistent the administrative requirements, permits, fee structures, and inspection and enforcement activities for all six Unified Program elements within their jurisdiction. The APSA regulations will be developed to clarify the intent of the law.

Surcharge is needed to fund the necessary and reasonable cost of the state to oversee the AST program. Two permanent full-time scientist positions (one environmental scientist and one staff environmental scientist) will be hired and expected to begin on July 1, 2013. Data, such as the number of facilities and other factors as agreed by the Surcharge Workgroup, will be used to determine the surcharge. A few years ago, Cal/EPA developed an estimated surcharge calculation with various options and noted that a tiered approach (versus flat rate) would be appropriate. Jay McKeeman stated that a list of APSA fees from CUPAs and the number of tanks will be good to have in determining the surcharge. Mike Vizzier stated that their APSA surcharge is a combination of two factors: number of tanks and the total volume at each facility.

#### **1. Establish Workgroups**

Two workgroups (Regulations and Surcharge) were established. Membership to these workgroups is not limited to committee members.

The AST program regulations will be in the California Code of Regulations, Title 19, Division 1, Chapter 15. The format will follow other OSFM regulations found in CCR Title 19, Division 1: Administration – authority, purpose, scope; Definitions; General Provisions; Specific Requirements; and Enforcement. The workgroup will meet at least monthly (or as determined by the workgroup). The Regulations Workgroup will determine the regulations needed for the program. The federal SPCC rule requirements will be referenced as in APSA and not duplicated in the AST program regulations.

The Surcharge Workgroup's goal is to establish a surcharge (formula, tiered cost or so) by the next committee meeting. This workgroup will meet once every two weeks or as determined by the workgroup. Once approved by the committee, the surcharge will be sent to Cal/EPA. Members stated that the AST surcharge language (not the amount) has been included in Cal/EPA's CCR Title 27 rulemaking package; so that once Cal/EPA's proposed regulations are approved by the Office of Administrative Law (OAL), then the surcharge may be posted on the state's "Z Register" for public notice.

Jay McKeeman asked if the surcharge will include the cost of training inspectors. The overall budget includes all the necessary costs for the state to oversee the program. Additional funding, such as for training, is available through the Unified Program Account, if needed. The Unified Program Account is managed by Cal/EPA.

## **2. Timeline for Regulations**

James Parsegian provided a basic summary of the rulemaking process. An advisory committee generally assists OSFM in developing regulations. The timeline varies and is greatly dependent on the committee members' commitment to completing the proposed regulations. Once the regulations workgroup meets, a general timeline may be established by the next committee meeting.

When the proposed regulations package is approved by the committee and Division Chief, it is forwarded to the Code Development and Analysis Division for review. Once reviewed by that division and approved by the State Fire Marshal, the proposed regulations package is sent to the agency (Natural Resources Agency) for approval and then submitted to OAL for posting for the 45-day comment period. After the comment period, all comments must be addressed by either the "final statement of reasons" (FSOR) or change in regulation. If the regulations are changed, then it must go through a 15-day comment period where only the changes to the regulations can be addressed. When the regulations package is completed, it is sent to OAL for final approval; they have 30 days to approve or reject the package. If approved, then it is sent to the Secretary of State for publishing. Publishing is done four times a year (January, April, July and October). The process usually takes approximately one year.

Diane Arend stated that if the economic and fiscal impact of the proposed regulations on businesses and public individuals exceeds \$50 million, an additional cost analysis will be required. Also, for each new regulation, the committee must identify the reason(s), so that developing the "initial statement of reasons" (ISOR) will be manageable.

### **B. Underground Storage Tanks (UST) Recycled into ASTs**

The issue of underground storage tanks being re-used as aboveground storage tanks was raised. Unfortunately, many of these tanks were sold to the agricultural community. These tanks have never been approved or permitted. Although the installation of these tanks fall under the local authority having jurisdiction (such as local fire officials), the CUPAs now implement APSA.

Jay McKeeman was concerned that this issue may be too political to approach as it targets the agricultural community. However, other members stated that educating and providing outreach to the agricultural community would be good. The OSFM should work with the counties, fire protection districts, and CUPAs to get the word out. An "Ag Alert" through the California Farm Bureau Federation is available for use to send the message to the farm community. Developing fact sheets and guidance on the OSFM website is another way to put the word out. OSFM has an "informational bulletin" website that may be used for this purpose.

### **C. ASTs at Oil Production Sites**

Under APSA, an aboveground storage tank does not include an aboveground oil production tank that is subject to section 3106 of the Public Resources Code. The CUPAs and OSFM request clarification of authority/jurisdiction at oil production sites.

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Joyce Jaszowski stated that aboveground storage tanks that are attendant to oil and gas production sites are under DOGGR's authority. She clarified that an AST at a maintenance yard that is not within an oil production site is under the CUPA's authority. An AST at a maintenance area within an oil production site is under DOGGR's authority.

The APSA Working Group (Kern County CUPA) initially developed a letter for use by DOGGR to further define and clarify the authority/jurisdiction between DOGGR and CUPAs. DOGGR also requested a letter from OSFM about their authority on ASTs. OSFM and Cal/EPA will review the letter developed by Kern County CUPA and OSFM will also develop a separate letter to DOGGR.

**VIII. Open Forum**

Members requested that a general overview of the AST program and what the state and CUPAs have done thus far should be discussed at the next committee meeting.

Jason Boetzer stated that a consolidated inspection checklist for use by the CUPAs should be developed.

**IX. Public Comments**

Jackie Bretschneider stated that the issue of underground storage tanks being recycled into aboveground storage tanks is not exclusive to the farm community/agricultural industry but other businesses as well.

**X. Schedule Next Meeting and Adjourn**

The next meeting will be held on Thursday, July 11, 2013, from 1:00 p.m. to 4:30 p.m. The location will be determined at a later time to consider a larger conference room and parking availability. A teleconference line and web conference will be available.

Meeting was adjourned by the chair at 11:40 a.m.