



## Public Health Department

### Environmental Health

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## HAZMAT ADVISORY GROUP

# MINUTES

SEPTEMBER 11, 2015

TAHOE ROOM \*\* 202 MIRA LOMA DRIVE, OROVILLE

### I. Preliminary Items

#### A. Call to Order

[Bud called the meeting to order at 10:07 a.m.](#)

#### B. Roll Call and Determination of Quorum

Keven Lemos, Jim Murray, Josh Hubbard, Bud Caldwell, Susan Ricketts, Russ Fowler, and Malcolm Maxwell (arriving after the agenda review and assuming Chair of the meeting at that time) were present. Charina Gaspay, Curt Josiassen, Scott Steele, and Robyn DiFalco were absent.

[A quorum was established.](#)

#### C. Introduction of guests

Matt Tennis and Clark Pickell (Yuba County Environmental Health) attended as guests. Mike Huerta, Tom Parker, and Brad Banner attended on behalf of Environmental Health.

#### D. Review of minutes

[Josh made a motion to accept the minutes as written. Jim seconded the motion and the motion passed unanimously.](#)

#### E. Agenda review

[No changes to the agenda were requested.](#)

#### F. Public comments and input

[There was no public comment.](#)

### II. Action Items

#### A. Review of draft Formal Enforcement Policies and Procedures

1. Malcolm suggested that acronyms be spelled out at the beginning of the document and there should be hyperlinks to assist in reference to codes.



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2. Bud expressed concern about the lack of due process, having been on the receiving end of arbitrary enforcement.
3. Matt expressed frustration that the onward progression of evermore complex and encompassing regulations is an inevitable trend in our State.
4. Jim expressed frustration with inspection by multiple agencies. He described an unpleasant inspection by a state regulator that was training regulatory staff in a very harsh manner and focused more on his paperwork than his operational practices. He also expressed concern that the Administrative Enforcement Policy not open the door for additional regulations.
5. Malcolm described the difficulty with working across jurisdictional boundaries and how requirements and that San Diego and different requirements for CERS input that Butte.
6. Matt and Clark expressed hope that local control by the CUPA provided an insulation to more onerous and arbitrary state control.
7. Clark pointed out that administrative enforcement helped eliminate unfair business practices by helping to assure that all businesses follow the same rules.
8. Bud questioned the authority for administrative enforcement and when Malcolm, Mike, and Clark explained that the authority was in the Health and Safety Code, he stated that the Administrative Enforcement Policies and Procedures seemed reasonable.
9. Russ stated that Administrative Enforcement is a good way to achieve compliance without the need to make referrals to the District Attorney.
10. Bus inquired whether the AEO would be public record, and Mike stated that it would be after compliance was achieved and the enforcement process was completed.
11. Several members asked whether an enforcement action through administrative enforcement would preclude enforcement through the State or the District Attorney. Mike and Clark stated that it would not prohibit enforcement by another entity but would make it very unlikely that it would occur.
12. Matt reminded the group that there are some instances where enforcement was necessary due to businesses that are endangering the public, fire responders, or the environment.
13. [There was not a formal vote, but there was consensus among the group that the proposed Administrative Enforcement Policies and Procedures](#)



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were acceptable. Brad asked if any committee members objected and none objected.

- B. Review of regulations related to Agricultural Handlers and Exemptions available
1. Brad reminded the group that Andrea Fox attended the first advisory group meeting and suggested that the group look at Yuba County as a model for how a CUPA can regulate Ag Handlers.
  2. Clark, invited to the meeting at the group's request, described how the CUPA regulates Ag Handlers in Yuba County. He said that the program started there 10 years ago and faced opposition from the agricultural community. A policy decision that greatly improved the acceptability of the program in Yuba was only regulating Ad Handlers when the hazardous material is stored on the property for more than 30 days. He stated that there is an ambiguity in the law that requires a business plan if hazardous materials are storied on the property for any length of time, but requires reporting only if the materials are on the property for over 30 days. This policy interpretation resulted in reducing the number of farms regulated form 500 to 150. Clark also stated that Yuba County found it easier for both the Ag Handlers and the CUPA to avoid use of exemptions because of the conditions involved when exemptions are used.
  3. Jim pointed out that hazardous materials are necessary tools to farmers but when fire responders show up, they can be hazards for the responders, and stated how important CERS is for first responders.
  4. Mike and Russ stated that some training for fire officials in the use of CERS is being planned.
  5. Russ stated that the best resource for fire responders is the business' plant person in charge who can tell them what that should and should not do to control the flames due to the materials present. He stated that the first engine to arrive is not going to be looking at CERS due to the emergency but fire responders benefit from accurate information provided by the business when they arrive.
  6. Clark and Mike discussed farm exemptions vs. handler exemptions, and Mike stated that we are considering allowing the handler exemptions in Butte, but involve a public hearing and therefore need buy-in within the Public Health Department and by fire responders.
  7. Matt stated that the document Analysis of Statutory Requirements for CUPA Regulation of Farms is not the type of document that will be effective in reaching out to the Ag Handler community. He suggested very plain language along the lines of "This exemption does not apply for you if..."



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8. Susan stated that the requirements for Ag Handlers need to be very clear from the state.
9. Bud stated that educational outreach to the Ag Handlers would be important.
10. Susan and Matt suggested that participation at key events widely attended by Ag Handlers would be more effective for outreach than holding workshops. They suggested looking to attending the following three events: (1) Agriculture Commissioner's Pesticide Applicators Workshop, (2) BCRA's Spring Meeting, and (3) Wholesale Herbicide meeting.
11. Jim suggested that Rich McGowan be invited to attend the next meeting for his perspective.

### III. Agenda Preparation for Next Meeting

The next meeting is planned for the third Friday of October (October 16) at 10:00 a.m. in the Tahoe Room at 202 Mira Loma Drive in Oroville. Brad will invite Rich McGowan to attend the meeting.

### IV. Adjourn

The meeting adjourned at 12:15 p.m.

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Submitted by Brad Banner



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## Hazmat Advisory Group Sign-In Sheet

**Date:** September 11, 2015

**Location:** Tahoe Rm, 202 Mira Loma Dr., Oroville

Working Group Member	Initials
<b>Reliance Propane</b> Scott Steele	
<b>PNP Chico #82</b> Charina Gaspay	
<b>Lundberg Family Farm</b> Keven Lemos	<i>[Signature]</i>
<b>Chico Metal Finishing</b> Jim Murray	<i>[Signature]</i>
<b>ARCO AM/PM #82605</b> Josh Hubbard	<i>[Signature]</i>
<b>Northgate Petroleum</b> Bud Caldwell	<i>[Signature]</i>
<b>Butte County Rice Growers Association</b> Susan Ricketts	<i>SR</i>
<b>Josiassen Farms, Inc</b> Curt Josiassen	
<b>Cal Fire/Butte Fire</b> Russ Fowler	<i>RF</i>
<b>NRC</b> Malcolm Maxwell	<i>MM</i>
<b>Butte Environmental Council</b> Robyn DiFalco	

Guest Name	Business Name	Email Address
T. Parker, M. Huerta, B. Banner	Env Hth	
Matt Tennis	MRT Ptrs.	
Clark Pickell <i>AP</i>	Yuba Co. Env. Health	<a href="mailto:cpickelle.co.yuba.ca.us">cpickelle.co.yuba.ca.us</a>