



**DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL**

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ATTACHMENT 5

Date: November 19, 2015

To: State Board of Fire Services

From: Michael Richwine, Assistant State Fire Marshal
Robert Gorham, Program Manager, Pipeline Safety Division

SUBJECT/AGENDA ACTION ITEM:

An update regarding recent legislation that will impact the Pipeline Safety Division and an update on proposed regulations for Title 19, California Code of Regulations, regarding the Pipeline Safety Division's fee increase and civil penalty assessment.

Recommended Actions:

Information Only

Background Information:

The recent oil spill at Refugio Beach in Santa Barbara County spilled over 100,000 gallons of crude oil and impacted over 25 miles of coastline and ocean water. The impacts from the spill were devastating, both environmentally and economically.

As a result, Senate Bill 295 (Jackson, Chapter 607, Statutes of 2015) and Assembly Bill 864 (Williams, Chapter 592, Statutes of 2015) were recently passed into law. AB 295 requires the CAL FIRE/Office of the State Fire Marshal (OSFM) to conduct annual inspections of pipeline operators and their pipelines; adopt regulations regarding annual inspections by January 1, 2017, and increase the fees assessed on pipeline operators in order to pay for the increased number of inspections. AB 864 requires the OSFM to develop regulations by July 1, 2017 which includes researching the use of best available technology on pipelines to reduce the amount of oil released in an oil spill, create a definition of automatic shutoff systems, develop a process to assess the adequacy of the pipeline operator's risk analysis, develop a process by which an operator may request confidential treatment of information submitted in their plan or contained in any documents associated with the risk analysis, and determine how near to an environmentally and ecologically sensitive area a pipeline must be to be subjected to regulation (based on the likelihood of the pipeline impacting those areas).

In addition, Government Codes §51011 and §51018.6 require that the OSFM adopt hazardous liquid pipeline safety regulations that are in compliance with federal laws

relating to hazardous liquid pipeline safety which would include, but are not limited to, compliance orders, civil penalties, inspection and maintenance provisions, and may include amendments to those laws and regulations which may be hereafter enacted and adopted.

Proposed regulations will establish guidelines which the State Fire Marshal shall use when assessing civil penalties. Also, the OSFM is submitting a Budget Change Proposal (BCP) for staff augmentation of 17 new positions starting July 2016. The OSFM anticipates adopting the regulations and filling all new positions by January 2017.

Analysis/Summary of Issue:

These regulations would provide the appropriate fees to fully fund the implementation of new regulations, including an updated civil penalties fees, enforced by the program. By establishing a range for each civil penalty, the OSFM has the ability to adjust the civil penalty to match the severity of each violation. In addition, the proposed civil penalties would more closely align the penalties involving intrastate pipelines with those penalties controlled by the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation (PHMSA) for interstate pipelines. These regulatory proposals would, enhance public safety, protect California's vital natural resources, reduce the risk of future oil spills from pipelines, and ensure consistency of penalty enforcement.