

DRAFT - 04/17/2017

TEXT OF REGULATION (Original)

California Code of Regulations Title 19 Public Safety

Division 1

Chapter 14

Hazardous Liquid Pipeline Safety

Article 1. Scope

§ 2000.

Title 49 of the Code of Federal Regulations, Part 195 is hereby adopted by reference as it relates to hazardous liquid pipelines.

Note: Authority cited: Sections 51010.6 and 51011, Government Code.

§ 2004. Definitions.

(a) Definitions applicable to this section:

(1) "API" means American Petroleum Institute.

(2) "Automatic Shutoff Systems" means an automated system not dependent upon human interaction capable of safely shutting down a pipeline system upon detection of an undesirable event or other predetermined criteria.

(3) "Best Available Technology" means the same as defined in Section 51013.1 of the California Government Code.

(4) "Coastal Zone" means the same as defined in the California Public Resource Code, Division 20, California Coastal Act and the California Government Code, Sections 66660 et seq., McAteer-Petris Act.

(5) "Environmentally and Ecologically Sensitive Area" means the same as defined in subdivision (d) of Section 8574.7 of the California Government Code.

(6) "Near" means within half a mile or less.

(7) "New Construction" means the act of building or replacement of an existing in-service petroleum pipeline segment.

(8) "New Pipeline" means a pipeline that is installed in a location where the pipeline did not exist, impacted by this regulation.

(9) "Oil" means hazardous liquid as defined in Section 195.2 of Title 49 of the Code of Federal Regulations.

(10) “Pipeline” means the same as defined in Section 51010.5 (a) of the California Government Code.

(11) “Replacement Pipeline” means pipelines impacted by this regulation being replaced.

(12) “Relocation” means an existing pipeline, impacted by this regulation, that is relocated to a different routing, while maintaining the same starting and ending locations.

(13) “Retrofit” means adding the best available technology to an existing pipeline.

(14) “State Water” means the same as defined in Section 8670.3 of the California Government Code.

Note: Authority cited: Section 51013.1, Government Code. Reference: Section 51013.1, Government Code.

Article 2. Annual Inspection of Intrastate Hazardous Liquid Pipelines and Operators of Intrastate Hazardous Liquid Pipelines (at the Office of Administrative Law for final approval)

Article 2A. Requirements of Pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone.

§ 2025. Incorporated by Reference.

(a) This regulation incorporates by reference the following standards that shall be used for the requirement of pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone:

- 1) American Petroleum Institute (API) Recommended Practice (RP) 1175 (First Edition, December 2015).**
- 2) API RP 1130 (Third Edition, September 2007, Reaffirmed April 2012).**

(b) The following form and procedure, in the format developed by the Office of the State Fire Marshal (OSFM), which are hereby incorporated by reference, shall be used for the purpose of this regulation:

- 1) California Requirements of Pipelines Near an Environmentally and Ecologically Sensitive Area in the Coastal Zone Procedure (dated July 1, 2017).**
- 2) Notice of Intrastate Hazardous Liquid Pipeline Construction, Form PSD-103 (dated July 1, 2017).**

Note: Authority cited: Section 51013.1, Government Code. Reference: Section 51013.1, Government Code.

§ 2026. Notice of Any New Construction or Retrofit of Pipeline.

(a) An operator shall notify OSFM of any new construction or retrofit of an existing pipeline near an Environmentally and Ecologically Sensitive Area in the Coastal Zone. The Form PSD-103 shall be sent to the OSFM Pipeline Safety Division at least 60 days before construction begins.

Note: Authority cited: Section 51013.1, Government Code. Reference: Section 51013.1, Government Code.

§ 2027. Use of Best Available Technology.

(a) By January 1, 2018, any new or replacement pipeline near an Environmentally and Ecologically Sensitive Area in the Coastal Zone shall use best available technology, including, but not limited to, the installation of leak detection technology, automatic shutoff systems, or remote controlled sectionalized block valves, or any combination of these technologies. For the purpose of this regulation, a relocation is not considered a new or replacement pipeline.

(b) By July 1, 2018, an operator of an existing pipeline located near an Environmentally and Ecologically Sensitive Area in the Coastal Zone shall submit a plan to OSFM for approval to retrofit said pipeline with the best available technology, including, but not limited to, the installation of leak detection technologies, automatic shutoff systems and remote controlled sectionalized block valves, or any combination of these technologies.

(c) By January 1, 2020, the operator shall complete the plan approved under paragraph (b).

(d) The selection of best available technology shall be based on a risk analysis conducted by the operator that is reviewed and accepted by OSFM. The analysis shall demonstrate to OSFM's satisfaction that the technology to be implemented will protect state waters and environmentally and ecologically sensitive areas in the coastal zone by limiting the amount of oil released in the event of an oil spill.

(e) The operator shall submit the risk analysis to OSFM for review and acceptance prior to construction of a new pipeline or implementation of a retrofit plan. The OSFM shall make the determination of what the best available technology is and shall consider the effectiveness and engineering feasibility of the technology when making this determination.

(f) For the purpose of this regulation, operators shall use the Environmentally and Ecologically Sensitive Areas in the Coastal Zone developed by the Office of Spill Prevention and Response (OSPR).

Note: Authority cited: Section 51013.1, Government Code. Reference: Section 51013.1, Government Code.

§ 2028. Risk Analysis.

(a) The risk analysis shall identify the applications of best available technology including but not limited to leak detection technology, automatic shutoff systems and remote controlled sectionalized block valves, or any combination of these technologies and demonstrate these technologies achieve a satisfactory level of risk mitigation for an oil spill.

1) Leak Detection System(s) (LDS) Risk Analysis Requirements.

A. The operator shall consider the consequences, likelihood, threats, frequency, and other risk factors identified in the California Requirements of Pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone Procedure (dated July 1, 2017) when conducting their risk analysis.

B. The risk analysis shall identify the LDS, and or Computational Pipeline Monitoring (CPM) that will demonstrate a reduced response time.

2) Automatic Shutoff System(s) Requirements.

A. The operator shall consider the consequences, likelihood, threats, leak frequency, and other risk factors identified for Automatic Shutoff System(s) when conducting their risk analysis.

B. The risk analysis shall identify the Automatic Shutoff System(s) that will demonstrate a reduced release amount.

(b) The OSFM shall assess the adequacy of the operator's risk analysis to reduce the amount of oil released in a leak to protect state waters and wildlife using, but not limited to,

1) The guidelines and checklist contained in the California Requirements of Pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone Procedure (dated July 1, 2017).

2) The risk analysis performed on the pipeline.

3) The effectiveness and engineering feasibility of the best available technology.

4) The overall Leak Detection Program, where applicable.

5) The effectiveness of the Automatic Shutoff System.

(c) Notification to Operator Following Risk Analysis Review

The OSFM shall provide written notification to the operator after review of the Risk Analysis.

Note: Authority cited: Section 51013.1, Government Code. Reference: Section 51013.1, Government Code.

§ 2029. Testing Requirements.

(a) For LDS, the operator shall:

- 1) Test the leak detection capability and leak limitation effectiveness every 3 years in accordance with the California Requirements of Pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone Procedure (dated July 1, 2017) from the date of installation or initial operation.
- 2) For a CPM LDS, the operator shall test in accordance with the California Requirements of Pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone Procedure (dated July 1, 2017).
- 3) Provide to OSFM the summary and analysis of the test results for review within 90 days of completion.
- 4) Retain records of the test results for a period of 6 years.
- 5) Annually test the LDS or CPM for the next 3 years, if the performance results indicate failed or impaired leak detection capability and/or leak limitation capability.

(b) For Automatic Shutoff System(s), the operator shall:

- 1) Test the components of the system according with the OSFM PSD Requirements of Pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone Procedure (dated July 1, 2017).
- 2) Annually test the components of the system and the overall effectiveness of the system.

(c) Two test failures during the 3-year annual testing period shall require a new risk analysis and review of best available technology applicability for leak detection.

Note: Authority cited: Section 51013.1, Government Code. Reference: Section 51013.1, Government Code.

§ 2030. Training Requirements.

(a) The operator shall provide training in accordance with the California Requirements of Pipelines near an Environmentally and Ecologically Sensitive Area in the Coastal Zone Procedure (Version July 1, 2017).

Note: Authority cited: Section 51013.1, Government Code. Reference: Section 51013.1, Government Code.

§ 2031. Record Retention

(a) Operator shall maintain the Risk Analysis for the life of the pipeline.

(b) For the purpose of this regulation, the operator(s) shall maintain records, other than the Risk Analysis, for OSFM to review during inspections to demonstrate compliance for a period of six years.

Note: Authority cited: Section 51013.1. Government Code. Reference: Section 51013.1. Government Code.

§ 2032. Confidential Treatment of Information.

This subsection shall apply to all requests to the OSFM under the California Public Records Act (Government Code Sections 6250 et seq.) for the disclosure of public records or for maintaining confidentiality of information received by the OSFM.

(a) It is the policy of the OSFM that all records not exempted from disclosure by state law shall be open for public inspection with the least possible delay and expense to the requesting party.

(b) An operator may request confidential treatment of information submitted in the plan(s) required by Sections 2027(a) and 2027(b), and the risk analysis required by Section 2028 or contained in any documents associated with the plan and/or risk analysis described

in this section, including, but not limited to, information regarding the proposed location of automatic shutoff valves or remote controlled sectionalized block valves.

(c) Submission of confidential information. Any person submitting to the OSFM any records containing information claimed to be “trade secret” or otherwise exempt from disclosure under Government Code Section 6254 or under other applicable provisions of law shall, at the time of submission, identify in writing the portions of the records containing such information as “confidential” and shall provide the name, address and telephone number of the individual to be contacted if the OSFM receives a request for disclosure of or seeks to disclose the information claimed to be confidential.

(d) Disclosure of information shall apply to all information in the custody of the OSFM, considered by the OSFM, or identified by the person who submitted the information as confidential pursuant to this section.

Appropriate portions of the plan, risk analysis, or in any documents associated with the plan or risk analysis described in this section shall be kept confidential until the review and approval by OSFM has concluded, at which time the documents shall become a public record.

(e) Upon receipt of a request from a member of the public that the OSFM disclose information claimed to be confidential or if the OSFM itself seeks to disclose such information, the OSFM shall inform the individual designated pursuant to subsection (c) by telephone and by mail that disclosure of the information is sought. The person claiming confidentiality shall file with the OSFM documentation in support of the claim of confidentiality. The documentation must be received within five (5) days from the date of the telephone contact or of receipt of the mailed notice, whichever occurs first. The

deadlines for filing the documentation may be extended by the OSFM upon a showing of good cause made within the deadline specified for receipt of the documentation.

(f) The documentation submitted in support of the claim of confidentiality shall include the following information:

(1) the statutory provision(s) under which the claim of confidentiality is asserted;

(2) a specific description of the information claimed to be entitled to confidential treatment;

(3) the period for which confidential treatment is requested;

(4) the extent to which the information has been disclosed to others and whether its confidentiality has been maintained or its release restricted;

(5) confidentiality determinations, if any, made by other public agencies as to all or part of the information and a copy of any such determinations, if available; and

(6) whether it is asserted that the information is used to fabricate, produce, or compound an article of trade or to provide a service and that the disclosure of the information would result in harmful effects on the person's competitive position, and, if so, the nature and extent of such anticipated harmful effects.

(g) Documentation, as specified in subsection (f), in support of a claim of confidentiality may be submitted to the OSFM prior to the time disclosure is sought.

(h) The OSFM shall, within (10) days of the date it sought to disclose the information or received the request for disclosure, review the request and any supporting documentation, if received within the time limits specified in subsection (e) above, including any extension granted, and determine whether the information is entitled to confidential treatment pursuant to Government Code Section 6254 or 6255, or other applicable provisions of law and shall either:

(1) decline to disclose the information and, if a request was received, provide to the person making the request and to the person claiming the information is confidential a justification for the determination pursuant to Government Code Section 6255; or

(2) provide written notice to the person claiming the information is confidential and, if a request was received, to the person requesting the information that it has determined that the information is subject to disclosure, that it proposes to disclose the information, and that the information shall be released.

(i) Should judicial review be sought of a determination issued in accordance with subsection (h), either the person requesting the information or the person claiming confidentiality, as appropriate, may be made a party to the litigation to justify the determination.

Note: Authority cited: Section 51013.1. Government Code. Reference: Section 51013.1. Government Code.

§2033. Intrastate, Interstate, and Other Non-Jurisdictional Pipelines

(a) Should an Interstate pipeline or other pipeline located near an Environmentally and Ecologically Sensitive Area in the Coastal Zone that is not currently under the jurisdiction of the OSFM, become reclassified as an Intrastate pipeline or become jurisdictional to the OSFM, that pipeline shall become subject to this regulation and will be required to comply with Sections 2000 - 2036.

§ 2035. Exemption for Pipelines Located Outside the Coastal Zone

(a) Pipelines located outside the Coastal Zone but located within ½ mile of an Environmentally and Ecologically Sensitive Area may not be subject to this regulation if the operator can demonstrate that a spill from such pipeline will not impact the Coastal Zone portion of that Environmentally and Ecologically Sensitive Area. An operator of a pipeline may request an exemption from the provisions of this chapter through submission of a risk analysis to the OSFM. The exemption request shall include a risk analysis which demonstrates the risk of an oil spill impacting the Environmentally and Ecologically Sensitive Area in the Coastal Zone at issue.

The risk analysis shall include, but not be limited to, the following factors:

(1) A pipeline shall be considered to have the potential to impact an Environmentally and Ecologically Sensitive Area based on the geographical and locational aspects of the pipeline route and operations. Such aspects shall include, but not be limited to, proximity to an Environmentally and Ecologically Sensitive Area, land contour and local drainage properties.

(2) Terrain surrounding the pipeline.

(3) Drainage systems such as small streams and other smaller waterways that could serve as a conduit to the Coastal Zone.

(4) Crossing of roadways with ditches along the side.

(5) The nature and characteristics of the product the pipeline is transporting.

(6) Physical support of the pipeline segment such as by a cable suspension bridge.

(7) Operating conditions of the pipeline.

(8) The hydraulic gradient of the pipeline.

(9) The diameter of the pipeline, the potential release volume, and the distance between the isolation points.

(10) Potential physical pathways between the pipeline and the Coastal Zone.

(11) Response capability.

(12) Potential natural forces inherent in the area.

(13) Natural and manmade barriers.

(b) The request for an exemption from the provisions of this chapter shall be submitted to the OSFM at least 180 days prior to the July 1, 2018 deadline. Note: All days in this section are calendar days unless otherwise noted.

(c) If a pipeline that receives an exemption later suffers a release that impacts an Environmentally and Ecologically Sensitive Area in the Coastal Zone, that pipeline shall become subject to this regulation and will be required to comply with Sections 2000 - 2036.

§ 2036. Enforcement and Compliance Orders

(a) If the State Fire Marshal determines that a person has violated this regulation, that person is subject to a civil penalty pursuant to Government Code Section 51018.6.

(b) The State Fire Marshal may issue orders directing compliance with these regulations pursuant to Government Code Section 51018.8.

Note: Authority cited: Section 51013.1. Government Code. Reference: Section 51013.1. Government Code.