STATE OF CALIFORNIA

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

OFFICE OF THE STATE FIRE MARSHAL

PIPELINE SAFETY DIVISION

# PUBLIC WORKSHOP FOR AB 864

Thursday, February 16, 2017

City of Huntington Beach
2000 Main Street, City Council Chambers
Huntington Beach, California

3:00 P.M.

TAKEN BY: Katherine Henry-Sexton, CSR No. 13662

I N D E X

FACILITATOR: JOSHUA CLEAVER, Legal Counsel, CAL FIRE

MODERATOR: DANIEL HASTERT, Office of the Fire Marshal, Pipeline Safety Division

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THURSDAY, FEBRUARY 16, 2017, HUNTINGTON BEACH, CA

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(3:03 P.M.)

MR. CLEAVER: I guess we'll go ahead and get started. It's a couple of minutes beyond the three o'clock start time, so let's begin. Thank you to everybody showing up. This is our third public workshop for the AB 864 regulations on the oil spill response in environmentally and ecologically sensitive areas. Before I get started I just wanted to say thanks to the City of Huntington Beach for providing the facilities for us today.

The regulations I'm about to propose for AB 864 represents a significant amount of work on behalf of a bunch of qualified people in NGOs, State Fire Marshal's Office as well as the Office of Spill Prevention Response and Preservation of Wildlife. So hopefully, all of our work is going to bear some fruit here today.

So before I launch into some more of the interesting topics of the legislation, the presentation today as well as transcripts will also be made available on the State Fire Marshal's Code Development websites. The link is in the notice



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that we sent out for this workshop and will also be provided in this presentation. If for some reason you can't find it in the presentation today, it will be on the notice. If it's not on the notice, it will be on our website, and you can find it under code developments.

So with that, I just want to cover a couple of procedural notes. Sorry, the clicker apparently is not working. Bear with us. Give me just a second.

Here we go, worked it out. So a couple of quick procedural notes: In-person participants have signed up to do public comment today. We're going to give them an opportunity to speak at the end of the presentation. I'll let everybody know at that time. But make sure when you provide your comments, keep them within three minutes. And we'll also accept any written comments thereby as well. Just provide them to the gentleman down here in front. I believe most of you know Daniel. And we'll have them on file so that way we'll have some written, I guess, documentation of anything that you want to submit as well.

Likewise, following the oral comment, we're also going to go ahead and read into the



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record any comments we received before five p.m. on February 13th. That way everybody that's present here and everybody attending online can be privy to those comments. Following that we are going to go ahead and see if anybody that is attending online has submitted any comments electronically to Daniel. So if there's any substantive comments that have come up maybe during the presentation, we'll go ahead and read those into the record.

So today isn't going to be the last time, actually, you can get anything into the record for the public comment period. We will be taking comments in written form submitted via e-mail or in writing to Daniel. I'll provide the contact information later on. But Daniel, his contact information is also on website. So on the 21st -- by the close of business on the 21st by five p.m. we will be taking comments on the material we're covering here today.

So also it's important to keep in mind for those of you who are not familiar with the process that anything you submit in writing or anything you state orally, any of the comments or attachments you provide us as well as any associated contact information -- for example, address, phone, e-mail



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-- could become part of the public record and may be released to the public upon request. So if you are interested in providing comment today, but don't want anybody to know your home mailing address, you may not want to submit that information. The contact information you do provide for us is also important though because if we need clarification or anything you want to talk about, we can still reach out and contact you. So if you represent an organization, it's probably best to do the organization's e-mail and organization's phone number, if that's something you want to provide.

So one last quick procedural note is that if you're experiencing technical difficulty issues such as no audio coming through during the presentation for everybody on the Webcast, please keep in mind that it's sometimes -- since technology is involved -- it may not be something that's necessarily on our end. It could potentially be something on the user end, which is why we'll be posting this presentation for several days after we've completed to our website. If you are experiencing any technical issues, go ahead and send it to the chat function on the Webcast. We'll do our best to try to resolve them, but keep in mind it



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may not be possible.

So with that, we're going to go ahead and dive into just a quick outline, which is basically the purpose of the public workshop, a little background on the legislation, the AB 864 legislation, as well as draft regulation development; and of course, we'll wrap it up with some public comments. Next slide.

So of course, the purpose of this public workshop is to provide the public an opportunity to comment on proposed regulatory language, solicit input on maybe alternatives to what we have for the draft approach, whether it's regulatory language or procedures and guidance, as well as any comments or suggestions on recommendations to that language aimed at better protecting environmentally and ecologically sensitive areas in the costal zone. We're calling them EESAs just because it's a mouthful. So try not to get too tongue-tied up here today. Likewise, if anybody has any comments on economic impacts, pipeline operators or impacts to the State of California, those certainly would be welcome as well.

So as many of us know, this legislation's genesis originated from a spill in May of 2015 up in



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Refugio Beach in Santa Barbara County. The spill was over 100,000 gallons of crude oil and impacted over 25 miles of coastline and ocean water. The impacts from the spill were devastating environmentally and economically -- right?

So in developing these draft regulations, the State Fire Marshal's Office created a stakeholder work group comprised of non-governmental organizations, local government industry. And the work group met regularly since January, 2016, on approximately a monthly basis. The whole point of that, of course, was to find terms not provided in the legislation, identify applicable standards such as American Petroleum Institute or API standards, draft the regulatory language and draft guidance and procedures on the regulatory language as well. In doing this, the State Fire Marshal's Office also worked with OSPR, the Office of Spill Prevention Response for Preservation of Wildlife to look at potential impacts to state waters and wildlife to assist us in identifying EESAs in the coastal zone.

So delving into the requirements here, there are two primary provisions that the ABA 684 regulations require is that by January 1 of 2018 any new or replacement pipeline near EESAs in the



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coastal zone shall use best available technology, or BAT, to reduce the amount of oil released in an oil spill to protect state waters and wildlife.

Similarly, by July 1 of 2018 operators of an existing pipeline near EESAs in the coastal zone submit a plan to retrofit by January 1 of 2020 existing pipelines near EESAs in the coastal zone with best available technology based on a risk analysis that's going to be conducted by the operator to reduce the amount of oil released in an oil spill to protect state waters and wildlife.

So delving into the specifics, they basically follow those two major provisions in the AB 864 legislation. We have, of course, notice requirements, consultation requirements, and the legislation itself also provided some definitions and terms.

Specifically, with the notice requirement the legislation directs operators of pipelines near EESAs in the coastal zone to notify the Office of the State Fire Marshal of any new construction or retrofit of pipeline. Consultation, of course, is, as I mentioned earlier, the State Fire Marshal's Office worked with OSPR to identify EESAs and look to address any potential impacts that might happen



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in state waters and to wildlife.

As far as the first definition here, it was environmentally and ecologically sensitive areas. That was provided in legislation and directs us "to the same terms as described in California Government Code Section 8574.7(d). That same term is essentially a definition that -- well, it's not a definition; it's a descriptive code section that OSPR utilizes to discuss contingency plans that facilities need to have in the event there is a spill in order to respond to that spill.

So when looking at what a contingency plan is, OSPR manages or maintains a database of contingency plans that are provided by operators regarding the facilities. In this case a facility would be a pipeline. Therefore, when there's a release from a facility, it would be a pipeline. They would look at the contingency plan to look how OSPR and an operator would look to respond to that.

Now, areas in these contingency plans are defined pursuant to applicable "contingency plans or geographic response plans as created by the Coast Guard, US EPA and, of course, OSPR. So the primary contingency plan holder here in California will be OSPR; but of course, that doesn't limit the fact



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that the Coast Guard and US EPA could also have contingency plans as well.

So looking at what an EESA is in conjunction with contingency plans, we have to kind of look to what RESA is. So looking at some of the terms that are utilized by OSPR in defining what EESAs are, the definition of EESA could be fairly broad -- right? So you'll have things such as habitat, rare or threatened endangered species, fish, amphibians, plants, terrestrial animals, terrestrial plants, migratory birds, other kind of migratory mammals, for example. So EESAs can be broadly defined with the goal of, essentially, protecting those species or plants or whatever you happen to have would be identified in the EESA.

The contingency plans that OSPR has, of course, have identified EESAs; but at this point in time it doesn't mean that EESAs can't continue to be discovered -- right? So species, of course, can be transient and can move around. So perhaps new EESAs can be identified or a new species of bird or mammal can be identified as threatened or endangered, and that might bring in a new EESA. So not all contingency plans and not all EESAs have identified all the pertinent information. So the main



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take-away here is that they can be discovered -- right?

So that being said, the next definition we have is best available technology. So best available technology is basically defined -- it's defined in the legislation, but it means technology that provides the greatest degree of protection by limiting the quantity of release in the event of a spill taking into consideration whether the processes are currently in use and could be purchased anywhere in the world.

Within that, of course, we can say that it's a fairly broad definition of what best available technology is. So the potential applications here or quite broad. Within that, of course, is the State Fire Marshal's Office is directed by the legislation to determine what is best available technology and shall consider the effectiveness and engineering feasibility of that technology when making this determination based on a risk analysis that will be submitted to the State Fire Marshal's Office.

And our last definition here is oil, which mens hazardous liquid as defined by Section 195.2 of Title 49 under the Code of Federal Regulations.



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Oil, of course, being hazardous liquid jurisdictional to the State Fire Marshall's Office -- which means more than just crude oil in the context of this legislation -- can include refined products such as diesel, jet fuel, propane, butane, among others. The main component is that it's a liquid -- correct?

So what we have as far as other provisions of the regulations or legislation is that the State Fire Marshal's Office shall adopt regulations by July 1 of 2017. The regulations shall include -- sorry -- we need to include a definition of automatic shutoff systems.

(Interruption off the record.)

So the Office of the State Fire Marshal shall adopt regulations by July 1 of 2017. The regulations shall include, but limited to, all the following: A definition of automatic shutoff systems, a process to assess the adequacy of the operator's risk analysis, a process by which an operator my request confidential treatment of information submitted in the plan to retrofit or information contained in any documents associated with the risk analysis, as well as a determination of how near to an EESA a pipeline must be to be



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subject to the requirements of the regulations based on the likelihood of the pipeline impacting those areas.

So looking at what a definition of an automatic shutoff system is, you will see that an automatic shutoff system means an automated system not dependent upon human interaction capable of safely shutting off a pipeline system upon detection of an undesirable event or undetermined criteria. So with input from our stakeholder group and all the other people in the NGOs, as well as input from the State Fire Marshal's Office, this is the draft definition -- right?

So the automatic shutoff component works its way into several other provisions within the legislation. But as we were required to define this -- as this is defined currently, the potential exists that it may not be the exact definition at the end, but this is what all our experience seems to guide us towards at this point in time.

As far as the process to assess the adequacy of the operator's risk analysis, of course, the legislation directs operators to develop a risk analysis and then submit that to the State Fire Marshal's Office. That risk analysis would include



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1 best available technologies and how those would be
2 implemented in a retrofitted existing pipeline. So
3 looking to what that risk analysis would include, we
4 have adopted and incorporated several standards from
5 API 1130 and 1175, which when you look to the
6 procedures, that will provide you with very specific
7 sections within those API standards that would be
8 reflected, and a risk analysis would be submitted to
9 the OSFM.
10 After receiving that risk analysis, of
11 course, the State Fire Marshal's Office would review
12 and either accept or return the risk analysis to an
13 operator based on the information that were
14 contained therein. If there's potential to include
15 additional information that the Office of the State
16 Fire Marshal thinks should be included, contact the
17 operator and say, you know, 'This is information
18 that should be included and explored in the risk
19 analysis and proceed on down the route of receiving
20 a revised risk analysis.
21 So as mentioned, the risk analysis an
22 operator would submit would include what are
23 basically the standards in API 1130 and 1175. But
24 you can look at the procedures that are found on
25 Page 3, and it will explain in a little more detail.


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But in short form, you're going to look at the capabilities or the benefits or the risks and limitations of equipment that would be considered best available technology or accommodations of those types of equipment that would be retrofitted onto a line or potentially retrofitted onto a line. So that includes leak detection systems, automatic shut-off systems, remote control valves, emergency flow restriction devices, for example.

So of course, that brings us to the analysis of the State Fire Marshal's Office is going to conduct on the submitted risk analyses of the plans as submitted by the operators. If you look at Page 4 of the procedures, you'll be able to see what the State Fire Marshal's Office is going to utilize in reviewing these risk analyses.

In large part it's going to be checklists from API 1175 and 1130 and various other sections. And API 1175, if you look specifically at Section 6.6, 6.7 and 6.8 and 7, as well as Annex A and Annex B. In API 1130 you're going to look at Section 1.5. So again, within those guidelines and checklists the State Fire Marshal's Office is also going to have to take into account effectiveness and engineering feasibility of the best available technology there,



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an overview of the overall leak detection system or a leak protection program that the operator had in place; as well as if there's an automatic shutoff system, the effectiveness of that automatic shutoff system.

So following acceptance by the State Fire Marshal's Office of the risk analysis, everybody wants to make sure that the retrofit of best available technologies in those pipelines are actually working as intended in the risk analysis and the plan, which is why there's several provisions in the draft regulations that provide for testing of retrofit on pipelines.

So for leak detection systems, for example, those systems should be tested every three years; and as well as if you have an automatic shutoff system, you're going to have that tested annually -- right? So on every third year you'll be looking at testing your LDS system with your automatic shutoff system in conjunction most likely -- right? So likewise, if during this testing periods you happen to have a failure -- actually, it's two failures -- sorry. So if you have two failures on the LDS system or automatic shutoff system in a three-year period, you're going to be



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required to do a new risk analysis and review the best available technologies that were provided in the plan to retrofit to the State Fire Marshal's Office because if we're running test failures, is there an issue with the technologies that were implemented or they're not meeting the goals -- right?

Likewise, in the legislation there's a provision for confidential treatment of information that is submitted to the State Fire Marshal's Office in the risk analyses and the plans to retrofit. The process as it is envisioned right now in the draft regulations is that the operator would identify portions of the risk analyses or the plan as confidential providing justification for that confidentiality on more likely than not the provision that's related to the Public Records Act that requests exemptions or other applicable law.

This is important too because the State Fire Marshal's Office should it be receiving requests for a risk analysis or plan, we're going to review that request in consistency with Public Records Act requests and laws in California and other applicable law that might be cited there -- right?



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So moving on to what our definition of "near" was, the legislation directed the State Fire Marshal's Office to look at what "near" was because it's really an identifying factor for what pipelines will become subject to these regulations. As it looks -- as it exists now, "near" has been defined as within a half a mile or less. So the idea is if you're going through reading the draft regulations and you're looking at the legislation, wherever you see the word "near," you're going to want to plug in this distance, the half a mile.

So that might be a good stepping off point to kind of lay out graphically what we tried to boil down into words, which is sometimes a challenge. So if we start looking at a map of California, you'll see that we have several -- by the way, this information is all available on the website linked to this data. This is the data that we worked with OSPR to generate; but this is, obviously, a very large, you know, high level view of California. The viewer, which is an Irma [sic] viewer we used to generate this view, is linked on the State Fire Marshal's website. You can utilize it to zoom in closer to areas that you're interested in looking at.



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But this data is also available in downloadable format. So if you have a GIS program already on your computer, you can download the data. But the central point is that there's two different sources to gather this data depending on how you want to use it. The Irma viewer, of course, is free; so if you have access to the Internet or a computer, you can pull this information up.

But what is comprised on these maps at this high-up level is you have different forms of EESA data -- right? So we have these green triangles, which are environmentally and ecologically sensitive areas in the coastal zone, has points. So it's point data. It's not a polygon data, for example.

We also have -- well, you can see our blue lines. Those are typically something like a river or a creek, as well as you'll see it on the next couple of slides -- but essentially, these grid patterns are polygon data. So if you see the cutouts in the San Francisco, Santa Barbara, Los Angeles areas, you'll see what look like basically circles. Those are polygon data of EESAs. And then the red is the coastal zones, which, of course, is also ecologically -- or an environmentally and



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ecologically sensitive area.

So on the next slide you'll see San Francisco Bay area. And this is probably a good opportunity to go through and lay out how an operator would identify a pipeline that might be captured by this regulation. So the starting point is you're going to look towards the coastal zone. And here the Bay Area -- of course, the entire Bay Area is part of the coastal zone. So you're going to look to the coastal zone area, which would be identified in the red kind of contoured areas, and then see if there's an EESA in that coastal zone. For example, the polygon data that would be a circle or perhaps one of those blue lines.

And if you have an ecologically environmental sensitive area -- for example, one of these green points is in the coastal zone -- you would then apply the definition of "near." So you have your green point, what is near to that green point -- it's a half a mile -- so you have that half a mile around that EESA and the coastal zone. And you'd look to see if you have a pipeline that would intersect essentially that half mile buffer. So if the pipeline intersects that EESA, if it's a grid -- or polygon, I mean -- and it's in the coastal zone



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and it goes through that buffer, that pipeline would be subject to these regulations.

So I think it's also important to look at this map because you can see some of these blue lines extend inland, you know, a fair bit of distance. So for those of you that are here, you can see towards the bottom of the screen towards the middle, you'll see this essentially blue line is extending inland quite a bit. For those attending online, it kind of crosses over the disclaimer on the map.

But an example of how, you know, potentially hypothetically this would apply in determining whether the pipeline would be captured by this regulation is you would then again look to see if there's an EESA coastal zone. For purposes here we would look at -- essentially if you can see on the pointer here, but you would essentially look at this lower, essentially, this river that heads towards the inland area. It has a connection to the coastal zone. There's a nexus here.

So you have a blue line that's essentially an ecologically and environmentally sensitive area has a nexus to the coastal zone. That line, obviously, here extends much further beyond the



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coastal zone because it is outside of what is identified in the red zone, the red grid pattern. If you have a pipeline that intersects this blue line, it would be presumptively captured by these regulations in part because it's an EESA, if there was a release in that blue line. So the flowing river, the potential is it can go into the coastal zone and attach the EESA in the coastal zone. But as we'll see, we've also provided some additional information on that for an exemption process for some of these pipelines where the potential of a release in, you know, 40, 60, 70 miles inland on one of these blue line streams may not impact the coastal zone.

So if can look at the next slide, which is for the Santa Barbara/Ventura County area, you can also look at an exemption -- how the exemption might work its way out here. So if you look towards the top of the screen, you will see that there is essentially another blue line that cuts across the top. This actually blue line, I think, terminates about 60 -- from end point to end point it goes about 60 miles to get -- I think it terminates in Lomboc.

So if you had -- went back there and you



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applied it, you have this blue line and it has a nexus to an EESA and the coastal zone, if you have a pipeline that crossed it, you know, inland beyond the coastal zone, it would be presumptively part of this regulation and would need to be submitted by risk analysis to the State Fire Marshal's Office and we go through that process.

However, the exemption process exists whereby an operator can say, '60 miles is too far inland; we don't believe that this release 60 miles inland will impact an EESA coastal zone component.' The way that that is envisioned is that if you have a pipeline that's, of course, outside of the coastal zone, but within a half mile of an EESA, the operator would go ahead and say, 'We're going to request an exemption by submitting what is a similar version to a risk analysis for retrofitting.'

But it would be submitted to the State Fire Marshal's Office for an exemption process. And that exemption process is laid out in the draft language of the procedures. If you look on Page 6, it goes through and outlines in fairly detailed terms what an operator would want to include in that risk analysis exemption, including potential impacts that a release might have on an EESA based on



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geographic or locational aspects of the pipe, about the operations of that pipeline, the proximity that that line has to EESAs -- land contour, location, drainage properties, as well as the terrain surrounding the pipeline, are there any conduits that would deliver released product to the coastal zone, what kind of nature and characteristics of the product the pipeline is transporting -- because those products act differently from crude oil to highly volatile liquids -- propane or butane, for example, have different properties when released.

And then, of course, you'd look at operating conditions like pressure and flow rate, hydraulic radium in a pipeline, diameter of the pipeline, potential release volume and distances between isolation points -- for example, distances between valves that are existing, potential physical pathways of the pipeline to a coastal zone. If there's a plan in place -- for example, if you have contingency plans that are in place, you know, you're going to look at the response time, look at the response capabilities, just how long it would take to get to that release point, what the nature of the response is.

And of course, we're also going to look at



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other issues like is this a flood zone, are there earthquakes, identified fault zones, are there subsidence area that might potentially cause releases on these pipelines as well. And of course, there's also the consideration such as natural manmade barriers, so dams may actually act as a natural barrier to prevent releases that's far inland from actually making it's way down to the coastal zone.

So that's how the exemption process is envisioned right now. Should a pipeline that actually receives one of these exemptions suffer a release later, that then does, in fact, impact an EESA in the costal zone, that pipeline would then become subject to these regulations; and again, a risk analysis would have to be submitted to the Fire Marshal's Office laying out how they would be retrofitting via best available technologies to make sure they reduce the amount of oil or hazardous liquid released, thereby mitigating any harm to State waters and wildlife.

As far as bringing pipelines back into the program that may not have actually been anticipated by the -- or that may have been exempted, we actually have other provisions such as



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reclassifications of pipeline or in the likelihood of future releases -- right? So if a pipeline that is non-jurisdictional to the State Fire Marshal's Office, such as an interstate pipeline instead of an intrastate pipeline, the State Fire Marshal's Office has jurisdiction over intrastate pipelines with some specifications by looking at the applicable government codes. But should an interstate pipeline then be reclassified as an intrastate pipeline or become somehow become jurisdictional to the State Fire Marshal's Office, if that pipeline were crossing over an EESA, going through the analysis of the EESAs and near a coastal zone factors that we discussed earlier, that pipeline would then need to be in compliance with this regulation; and thereby, needing some risk analysis to the State Fire Marshal's Office, go through the evaluation process.

Likewise, as I mentioned, if one of the pipelines receiving an exemption and then suffered a release that impacted a coastal zone of an EESA or an EESA in a coastal zone, that pipeline would then become subject to these regulations. There is a potential that there might be pipeline that is not subject to this regulation as originally envisioned here, but maybe sometime later releases and impacts



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an EESA in a coastal zone, then that pipeline would become subject to this regulation.

The next slide is just the Los Angeles area. It's essentially just another representation of how the data can be boiled to a local area which is in much more detail on these. But of course, again, what you see here are blue lines on various parts of the map; and then, of course, the green points; and then, of course, the polygon data that I mentioned earlier, these kind of large, circular grid-type patterns; and of course, the red is coastal zone.

And this is the map that we have on our Irma viewer on the downloadable data on the State Fire Marshal's website. So I would encourage everybody to go through and look at it, kind of utilize the tool and kind of take an opportunity to view how it might impact you or impact your locality.

So with that I'm going to go ahead and start the public comment timeframe period. If anybody has submitted or signed up at the front, we're going to go ahead and have you come down. We'll read off your name and you can come up, and please try to limit your comments to three minutes.



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And following that, of course, we're going to go ahead and do written comments that were submitted before February 13th and then read off any comments that we may have received during the presentation. And then, of course, this is not your last opportunity to present anything you might want to talk about. We'll still be taking comments via e-mail and mail, snail mail, by February 21st, 2017, to the gentleman identified up here.

So with that, of course, it's not too late to sign up too. So if you want to sign up now, the opportunity is there. Our first commenter will be David Write. Please make sure that you identify yourself, the organization that you work for, so that our reporter over here can record your information and get back to you. Right here will be fine and speak into the mic, and then we'll have it.

MR. WRIGHT: Good afternoon. Thank you for the opportunity to comment. My name is David Wright. I have a consulting company, D.E. Wright, Inc. I'm working as a consultant for WSPA. I'm here to provide comments regarding the pre-regulatory draft for the proposed AB 864 regulations. I'm speaking on behalf of Tom Ewing-Hoffer [phonetic], vice president of WSPA's



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Western States Petroleum Association who could not attend today.

A number of WSPA members have participated in the State Fire Marshal's AB 864 stakeholder workshops over the past months, and their thoughts and input are background for my comments. My comments today reflect WSPA's primary concerns regarding the proposed version of the AB 864 regulation. I might add my comments will be relatively short because of the time allowed. WSPA will be sending a more detailed letter outlining more of their issues.

In general, WSPA believes the number of the definitions and concepts implied in the proposed regulation are already better defined in use already in other state and Federal regulations. And as such, those concepts and definitions should be incorporated in AB 864 rather than introducing new conflicting concepts, in particular the interpretation of the EESAs.

The three areas of primary concern -- the definition of jurisdictional pipeline as opposed to the reg, and then the need for a more specific definition in the application of the EESAs to be more consistent with current State and Federal



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regulations. And finally, the need for more regulatory consistent interpretation of the relationship between the currently defined EESAs and the coastal zone and the size and location of the defined coastal zone relative to pipelines that will be subject to the regulation.

A comment there -- as you saw on the map that you were presenting, the way the interpretations are being made today radically expands the nature and the area that's involved in these regulations.

In relation to the definition of pipeline, WSPA believes that the current proposed AB 864 is not clear regarding the definition of a pipeline. WSPA believes the use and definition of pipeline as stated in California Code Section 51010.5, Section A, will address most of WSPA's concerns. That was established many years ago and is a very consistent definition that's been used in many regulations in other areas regarding regulations of pipelines in the State.

More importantly, the definition does not include other petroleum facilities which are regulated by other state and Federal codes which WSPA believes are not the focus of the underlying



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law. The issue of the EESAs as stated in the AB 864 regulations introduce the concept of EESAs that are significantly different than the currently -- concepts currently used in other regulations in the current office of the oil spill prevention and response group and related contingency plans that are addressed in those regs.

WSPA believes that as proposed the AB 863 [sic] regulation introduces a vastly expanded concept of EESAs in a coastal zone. WSPA believes that as currently being stated in proposed AB 864, that the use of definition of waters of the State in relation to EESAs implies the waters of the State are contiguous EESAs. This relationship --

MR. CLEAVER: I'm sorry, the time is up. Please wrap up.

MR. WRIGHT: Okay. Well, you'll be getting a very detailed letter. I can't believe we're cutting this off with so few people here.

MR. CLEAVER: You can submit that in writing, of course. We're trying to facilitate the process.

MR. WRIGHT: That's right. We're used to the process.

MR. CLEAVER: Thank you, Mr. Wright. Is



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there anybody else here who would like to make oral comment today?

No. Okay. We received one comment submitted via e-mail during the presentation. The comment is from a gentleman, Mr. Ralph Combs with the Termo Company. His question is, "I have a question about AB 864 applicability to upstream O&G operations: Would four inches or less in-field pipelines such as (flow lines or gathering lines) be captured under the proposed rules? Certainly, at the face of it, AB 864 would seem to apply only to the transport, high volume lines." Thank you.

So thank you for your comments, Mr. Combs, and we'll certainly look into it. We didn't receive any comments before the deadline on February 13th. So as I mentioned, please if you feel like submitting comments, you're certainly welcome, especially, for example, if you didn't get to finish your comments today, submit them in writing. And we'll be happy to consider them and, of course, like all comments for the draft regulations.

Moving on -- hold on a second real quick -- Deborah, is this still broadcasting here?

MS. FRENCH: Yes.

MR. CLEAVER: Okay, good. Sorry about that,



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just having a little bit of a technical issue here.

As far as additional workshops go, on the next slide you'll see that we are still developing future workshop plans. And once we have those developed, if you have signed up for notifications regarding regulation development, you will certainly receive notification that we have set up future dates for that. So keep on eye on your e-mail boxes. Anything that we do do in the future, of course, will also be posted to the State Fire Marshal's website. So at this time, of course, you're certainly encouraged to provide any sort of public comment that you'd like to offer up at that time.

The next slide will show our contacts and resources. You'll see that Deborah French is new for one of our contacts. Doug Alan is still a contact on this one. But if you have any question about the public workshops or about the draft AB 864 regulations, please feel free to reach out to these folks. And we'll do your best to answer any questions that we can. Likewise, as I mentioned, you can also reach out to Daniel Hastert for signing up for those notifications on the draft regulations. And related documents, of course, can be found on



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our code development website.

So with that, thank you for attending today, and thank you for your comments. We appreciate all of the input and the hard work that many of the stakeholders put into developing these draft regulations. So thank you and have a wonderful evening.

(Proceeding concluded at 3:46 p.m.)

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REPORTER'S CERTIFICATE

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on the 22nd day of February, 2017.

Katherine Henry-Sexton
CSR No. 13662



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