

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

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I N D E X

FACILITATOR: JOSHUA CLEAVER, Legal Counsel,
CAL FIRE

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

AUDIENCE:	PAGE
DAVID WRIGHT	29
RALPH COMBS (via e-mail)	33

1 THURSDAY, FEBRUARY 16, 2017, HUNTINGTON BEACH, CA

2 * * * *

3 (3:03 P.M.)

4

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

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

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

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

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

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

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

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

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

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

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

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

1 may not be possible.

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

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

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

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

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

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

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

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

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

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

1 in state waters and to wildlife.

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

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

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

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

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

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

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

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

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

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

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

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

14 (Interruption off the record.)

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

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

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

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

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

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.

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

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

17 In large part it's going to be checklists
18 from API 1175 and 1130 and various other sections.
19 And API 1175, if you look specifically at Section
20 6.6, 6.7 and 6.8 and 7, as well as Annex A and Annex
21 B. In API 1130 you're going to look at Section 1.5.
22 So again, within those guidelines and checklists the
23 State Fire Marshal's Office is also going to have to
24 take into account effectiveness and engineering
25 feasibility of the best available technology there,

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

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

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

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

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

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

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

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

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

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

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

1 ecologically sensitive area.

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

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

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

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

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

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

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

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

25 So if you had -- went back there and you

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Western States Petroleum Association who could not
2 attend today.

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

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

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

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

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

12 In relation to the definition of pipeline,
13 WSPA believes that the current proposed
14 AB 864 is not clear regarding the definition of a
15 pipeline. WSPA believes the use and definition of
16 pipeline as stated in California Code Section
17 51010.5, Section A, will address most of WSPA's
18 concerns. That was established many years ago and
19 is a very consistent definition that's been used in
20 many regulations in other areas regarding
21 regulations of pipelines in the State.

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

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

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

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

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

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

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

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

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

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

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

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

24 MS. FRENCH: Yes.

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

1 just having a little bit of a technical issue here.

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

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

1 our code development website.

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

8

9 (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