

TEXT OF REGULATIONS

The State Fire Marshal is proposing to repeal the following sections: 2300, 2301, 2302, 2303, 2304, 2305, 2324, 2325, 2325.1, 2326, 2327, 2328, 2329, 2330, 2331, 2350, 2351, and 2352. The statutory authority for these sections has been repealed. The California Oil Refinery and Chemical Plant Safety Preparedness Act of 1991 was repealed by Statutes of 1991, chapter 924 pursuant to Assembly Bill 100, and operative January 1, 1997.

LEGEND FOR TEXT

Changes are illustrated by ~~strikeout~~ for deletions to language originally proposed.

TITLE 19 PUBLIC SAFETY DIVISION 1. STATE FIRE MARSHAL

CHAPTER 16. Oil Refinery and Chemical Plant Safety Preparedness Program

~~Article 1. General~~

~~§ 2300. Authority.~~

~~Chapter 16 of Division 1 of Title 19 of the California Code of Regulations is adopted by the State Fire Marshal under the authority of the California Oil Refinery and Chemical Plant Safety Preparedness Act of 1991 and Division 1, Part 1, Title 5, Section s 51025, et seq. of the Government Code of the State of California.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2301. Title.~~

~~These regulations shall be known as the "State Fire Marshal Oil Refinery and Chemical Plant Safety Preparedness Program (ORCP) Regulations," and shall constitute the basic standards under which the State Fire Marshal may conduct business and shall be referred to herein as "these regulations".~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2302. Scope.~~

~~These rules and regulations shall govern the State Fire Marshal's collection of fees from oil refineries and chemical plants in California.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2303. Validity.~~

~~If any article, section, subsection, sentence, clause or phrase contained in these regulations is for any reason found to be unconstitutional, contrary to statute, exceeding the authority of the State Fire Marshal, or otherwise inoperative, such finding shall not affect the validity of the remaining portion of these regulations.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2304. Local Ordinances.~~

~~Nothing contained in these regulations shall be considered as abrogating the provisions of any ordinance, rule or regulation of any city, city and county, county government agency, providing such local ordinance, regulation or rule is not less stringent than these minimum standards.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2305. Waiver.~~

~~The State Fire Marshall, upon application by an owner or operator of an oil refinery and chemical plant, may exempt any business from any requirement of these regulations, upon written finding that the exemption would not present a fire, explosion or acutely hazardous material accident risk.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2324. Acutely Hazardous Materials (AHM's). [Repealed]~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Section 51021.5, Government Code.~~

Article 2. Definitions

~~§ 2325. Chemical Plant.~~

~~Any facility producing basic chemicals and facilities manufacturing products by predominantly chemical processes as specified in Code 28 (Chemical and Allied Products) of the Manual of Standard Industrial Classifications, published by the United States Office of Management and Budget, 1987 edition which is hereby incorporated by reference, which handles chemicals listed as extremely hazardous substances in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations in amounts equal to or above the threshold planning quantity.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2325.1. Handle.~~

~~Handle means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of an acutely hazardous material in any fashion. Handle also means the use or potential for use of a quantity of an acutely hazardous material by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any purpose other than the immediate transfer to or from an approved atmospheric tank or approved portable tank.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Section 51021.5, Government Code.~~

~~§ 2326. Local Agency.~~

~~Any city, city and county, county governmental agency, or other agency recommended by the Technical Advisory Committee on Oil Refinery and Chemical Plant Safety Preparedness and found qualified by the State Fire Marshal.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Section 51024, Government Code.~~

~~§ 2327. Office.~~

The term “office” shall mean the Office of the State Fire Marshal.

Note: Authority cited: Section 51025, Government Code.

Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.

~~§ 2328. Oil Refinery.~~

Any plant or manufacturing or other type of facility, as specified in Code 29 (Petroleum Refining and Related Industries) as Industry Group 291 (Petroleum Refining) of the Manual of Standard Industrial Classification Codes, published by the United States Office of Management and Budget, 1987 edition, which handles acutely hazardous materials.

Note: Authority cited: Section 51025, Government Code.

Reference: Section 51021.5, Government Code.

~~§ 2329. Person.~~

The term “person” means any individual, corporation, company, copartnership, partnership, joint venture, or association, including any trustee, receiver, assignee or similar representative thereof or any other organization or any combination thereof.

Note: Authority cited: Section 51025, Government Code.

Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.

~~§ 2330. Threshold Planning Quantity~~

The amount of extremely hazardous substances listed in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

Note: Authority cited: Section 51025, Government Code.

Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.

~~§ 2331. Transportation.~~

~~Acutely hazardous materials which are hazardous materials as defined in Title 49 of the Code of Federal Regulations which are in transit or in the course of transportation are not subject to these regulations.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

Article 3. Fees and Penalties

§ 2350. Fees.

~~Persons doing business as an oil refinery and/or chemical plant shall pay fees to the office in accordance with the following schedule. The total fee paid to the office shall be the sum of the base fee in Section 1 below, plus the fee based on the amount of acutely hazardous materials on-site at any one time in Section 2 below, plus the fee based on the amount of gross annual sales in Section 3 below.~~

~~1. Base Fee: _____ \$250.00~~

~~2. Amount of acutely hazardous materials present at any one time in pounds (lbs.):~~

From	To	Fee
1	50,000	\$ 100.00
50,001	200,000	200.00
200,001	500,000	300.00
500,001	1,000,000	400.00
1,000,001	2,000,000	1,000.00
2,000,001	5,000,000	2,000.00
5,000,001	and over	4,000.00

~~3. Gross Sales (in dollars):~~

From	To	Fee
1	1,000,000	\$ 75.00
1,000,001	25,000,000	150.00
25,000,001	100,000,000	300.00
100,000,001	250,000,000	1,200.00
250,000,001	and over	2,400.00

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

§ 2351. Penalty.

~~The State Fire Marshal shall impose a delinquency fee of 10 percent of the annual fee, per month, if the person does not pay the fee within 60 days after receipt of the billing invoice.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~

~~§ 2352. Certification.~~

~~Prior to the 31st of December of each year, an invoice will be sent to each oil refinery and chemical plant subject to the California Oil Refinery and Chemical Safety Preparedness Act. Each oil refinery and chemical plant shall compute the fee owed based on the calendar year operations (January 1st thru December 31st). This fee is paid on a fiscal year basis (July 1st thru June 30th). The fee shall be paid within 60 days of the receipt of the billing invoice.~~

~~Note: Authority cited: Section 51025, Government Code.~~

~~Reference: Sections 51020.5, 51021, 51021.5, 51022, 51024.5, 51025, 51025.2 and 51025.5, Government Code.~~