

FINAL STATEMENT OF REASONS (FSOR)

TITLE 19. PUBLIC SAFETY DIVISION 1. STATE FIRE MARSHAL CHAPTER 14. HAZARDOUS LIQUID PIPELINE SAFETY

ARTICLE 7. Requirements For New Or Replacement Pipeline Near Environmentally And Ecologically Sensitive Areas In The Coastal Zone; Plan To Retrofit Existing Pipelines; Notification To State Fire Marshal Of New Construction Or Retrofit Of Pipeline; Consultation With Office Of Spill Prevention And Response

UPDATE OF INITIAL STATEMENT OF REASONS

The Office of the State Fire Marshal is resubmitting this rulemaking action within 120 days of its receipt of the Decision of Disapproval issued by OAL on April 2, 2020 and is requesting to incorporate by reference portions of the prior rulemaking file, Reference number 2020-0212-02S.

The OSFM has considered all relevant matters presented to it and recommends approval of the proposed regulatory action.

The Initial Statement of Reasons (ISOR), released February 15, 2019, is incorporated by reference herein, and contained a description of the rationale for the adoption of the proposed regulations. On February 15, 2019, all documents relied upon and referenced in the ISOR were made available to the public.

PUBLIC COMMENT PERIODS

The Office of the State Fire Marshal (OSFM) received public comments on the text as originally noticed during initial 45-day comment period and in the four subsequent 15-day comment periods. Upon review and consideration of the comments received, including staff comments, the OSFM determined that modifications to the text of the regulations or documents incorporated by reference was necessary.

The original text of the proposed regulations was made available to the public for 45 days from February 15, 2019, through April 2, 2019. Three public hearings were held at the following times and locations:

1. Orange County/Huntington Beach/Los Angeles
Date: February 22, 2019
Time: 1:30 – 4:30
Location: 2000 Main Street
City Council Chambers
Huntington Beach, CA 92648
2. Santa Barbara

Date: March 1, 2019
Time: 1:30 – 4:30
Location: 105 E. Anapamu St.
Board Meeting Room 4th Floor
Santa Barbara, CA 93101

3. Sacramento

Date: April 2, 2019
Time: 1:30 – 4:30
Location: Natural Resources Agency Auditorium
1416 Ninth Street, First Floor
Sacramento, CA 95814

There were no further public hearings. The OSFM revised and modified regulatory text based on comments received during the 45-day comment period and four (4) subsequent 15 -day comment periods. The 15-day public comment periods were noticed and held on the following dates:

1. First 15-day public comment period – October 2 2019 ending October 16, 2019
2. Second 15-day comment period - October 24, 2019 ending November 7, 2019
3. Third 15-day comment period – January 23, 2020 ending February 6, 2020
4. Fourth 15-day comment period – June 8, 2020 ending June 23, 2020

SMALL BUSINESS EFFECTS

The OSFM has determined that the proposed regulations have no “substantial” effect to small business and the OSFM has not identified any alternatives that would lessen any adverse impact on small business and still allow the OSFM to effectively enforce the regulations.

Additionally, Government Code Section 11342.610(b)(9) excludes a petroleum producer, a natural gas producer, a refiner, or a pipeline from the definition of a “small business.”

CONSIDERATION OF ALTERNATIVES

For the reasons set forth in the ISOR, in staff’s responses to comments received during public comment, and this Final Statement of Reasons (FSOR), the OSFM has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective as and less burdensome to affected private persons, or would be more cost-effective to affected persons and equally effective in implementing the statutory policy or other provisions of the law than the action taken by the OSFM.

ALTERNATIVES TO THE REGULATION

The OSFM invited interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the public comment period. However,

the OSFM received no proposed alternatives that would lessen any adverse economic impact on small business.

ALTERNATIVES DETERMINATION

The OSFM has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective as and less burdensome to affected private persons, or would be more cost-effective to affected persons and equally effective in implementing the statutory policy or other provisions of the law than the action taken by the OSFM.

LOCAL MANDATE DETERMINATION

The OSFM has determined that this regulatory action will not result in a mandate to any local agencies or school districts pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code. Additionally, the regulatory action will not result in a mandate because the enabling statute found in subsection 2 of 51013.1, Part 1, Division 1, Title 5 of the Government Code creates, eliminates, or changes the penalty for a new crime or infraction contained therein.

COORDINATION WITH FEDERAL LAW

The OSFM has determined that this proposed regulatory action neither conflicts with, nor duplicates, any federal regulation contained in the Code of Federal Regulations

45-DAY AND 15-DAY PUBLIC COMMENTS

The OSFM received public comments from industry, trade groups, and non-governmental environmental groups during the initial 45-Day comment period. After considering the comments received, the OSFM determined that modification to the text of the regulations was necessary. The modified text, Amended Initial Statement of Reasons (ISOR), addition of documents incorporated by reference, and materials added to the rulemaking file were made available to the public on four (4) subsequent 15-day public comment periods. The notices were sent by electronic mail to all persons specified in subsections (a)(1) through (4) of Section 44 of Title 1 of the California Code of Regulations and Government Code section 1147.1(b).

A summary of the comments and responses are included in “Attachment A” of the FSOR.

FIRST 15-DAY NOTICE

The following summarizes the substantive modifications and rationale for making modifications as released on October 2, 2019 (First Notice), for public comment.

Staff initially modified the proposed language to require pipeline operators to submit risk analyses for low pressure pipelines and pipelines located outside of the Coastal Zone that could impact the Coastal Zone or environmentally sensitive areas. These terms are difficult to identify and in some cases needed clarification through revisions to the text and the addition of a guidance document enabling operators the ability to utilize maps in identifying pipelines required to comply with the proposed regulations. Additional

modifications were made to clarify that exemptions from the regulations may be considered deferrals to comply at a later date because a pipeline may already meet regulatory requirements with existing technologies. Revision was also made to sections addressing pipeline replacement to remove the undefined term “significant” to reflect that modifications that could impact volumes of product released or could impact environmentally sensitive areas due to changes in operations. **Note: the following do not include minor spelling or grammatical corrections/edits.**

Section 2100 – Definitions

Subsection (a)(14) – definition of “Pipeline” is amended to reflect the appropriate citation to Government Code section 51010.5(a)(3).

Subsection (a)(16) – definition of “Replacement Pipeline” is revised by removing the undefined language relating to “significant repair of an existing pipeline.” This resulted in clarifying the difference between New Pipelines, Existing Pipelines, Replacement Pipelines, and issues related to pipeline relocation.

Section 2101 – Incorporated by Reference

Subsection 2101 (a)(4) – in response to several comments/suggestions, the addition of a guidance document was included to allow pipeline operators to use existing mapping resources to identify Environmentally and Ecologically Sensitive Areas as identified by the Office of Spill Prevention and Response for protection.

Subsection 2101 (a)(5) – was renumbered from (a)(4) to (a)(5) because of the addition of new subsection (a)(4).

Section 2102 – Identifying Pipelines Subject to This Article

Subsection 2102 (b) – was added to reference the incorporation of new subsection 2101(a)(4) identified above. This new subsection further clarifies how operators can identify environmental areas in need of protection through existing regulatory data sets.

Subsection 2102(c) – was renumbered from (b) to (c) to reflect the addition of new subsection (b).

Section 2103 – Exemption for Pipelines Located Outside the Coastal Zone

Subsection 2103 (a) – was revised to add clarifying language so operators understand that pipelines identified through the process explained in section 2102 may apply for an exemption based on the demonstration of criteria that a spill will not impact an environmentally sensitive area.

Subsection 2103 (b) – was a new section but pulled from existing language removed from subsection 2103(a). This was done to make clear that the State Fire Marshal

makes the determination of whether an exemption is warranted based on the criteria of the proposed regulation text, not the operator.

Subsection 2103 (c) – was renumbered from (b) to (c) because of the addition of new subsection (b).

Subsection 2103 (d) – was renumbered from (c) to (d) because of the addition of new subsection (b). Language was stricken from this subsection and included above in 2103(a) for better readability and clarity.

Subsection 2103 (e) – was renumbered from (d) to (e) because of the addition of new subsection (b).

Section 2104 – Deferral for Pipelines with Existing Best Available Technology

Section 2104 – The title of this section was revised to replace the word “Exemption” with “Deferral” to reflect that pipelines may not need to comply with the proposed regulations because they presently meet technology requirements. However, the granting of an deferral clarifies that future compliance may be required in following 5 year reviews.

Subsection 2104 (a) - was revised to add clarifying language so operators understand that pipelines identified through the process explained in section 2102 may apply for a deferral based on the demonstration of criteria that a pipeline is currently using best available technology.

Subsection 2104 (b) - was a new section but pulled from existing language removed from subsection 2104(a). This was done to make clear that the State Fire Marshal makes the determination of whether a deferral is warranted based on the criteria of the proposed regulation text, not the operator.

Subsection 2104 (c) – was renumbered from (b) to (c) because of the addition of new subsection (b). A minor revision provides clarity and readability reflecting the language change to “Deferral” from “Exemption.” No substantive changes were made.

Subsection 2104 (d) – was renumbered from (c) to (d) because of the addition of new subsection (b). Language was stricken from this subsection and included above in 2104(a) for better readability and clarity.

Subsection 2104 (e) – was renumbered from (d) to (e) because of the addition of new subsection (b). A minor revision provides clarity and readability reflecting the language change to “Deferral” from “Exemption.” No substantive changes were made.

Subsection 2104 (f) – was added to clarify that where a deferral is granted, operators must still update and review the risk analysis required for submission to the State Fire Marshal. This will ensure that future technological advances are incorporated in to pipeline operations.

Section 2105 – Future releases From Jurisdictional Pipelines Impacting Environmentally And Ecologically Sensitive Areas In The Coastal Zone

Subsection (a)(1) – language was added to this section to reflect that analysis conducted under Section 2102 may have not captured pipelines that should be subject to the regulatory scheme but must comply in the event of a future release that impacts environmentally sensitive areas in the Coastal Zone.

Section 2107 - Relocation of Pipelines

Subsection 2107 (b) – this subsection was revised to remove the undefined term “significant” and inform operators that a relocation that changes pipeline operations or profile and may impact the amount of a release in an environmentally sensitive area. This would result in an operator reviewing and updating risk analyses submitted to the State Fire Marshal regardless of the “significance” of the change in profile or operations of a pipeline.

Section 2110 – Best Available Technology Determination

Subsections 2110 (a)(3) through (8) – were erroneously duplicated in this section twice and corrected to reflect accurate citation. No substantive changes were made.

Section 2111 – Risk Analysis

Subsection 2111 (c)(4)(C)(9) – was amended to include released product behavior through air dispersion and ignition considerations to provide a more comprehensive spill analysis.

Subsection 2111 (c)(4)(C)(11) – was amended to reflect readability. No substantive changes were made.

Section 2112 – State Fire Marshal Risk Analysis Assessment

Subsection 2112 (b)(3)(C) – was amended to reflect changes to the title of Section 2104. No substantive changes were made.

Section 2115 – Testing Requirements and Test Failures

Subsection 2115 (a) – was erroneously uncited in the original text and was added here without substantive change. This required the subsequent renumbering of existing subsections (a) through (h).

Section 2117 – Risk Analysis Updates and Review

Subsection 2117 (a) – added clarifying language for operators to identify when a Risk Analysis must be updated, 5 years from the most recent Letter of Acceptance issued under Section 2112.

SECOND 15-DAY NOTICE

After consideration of the public comments received in response to the First Notice, additional modifications of the regulatory text and the addition of a document relied upon was incorporated by reference and released for a public comment period on October 24, 2019 (Second Notice). The Second Notice added clarifying language and an additional technical, theoretical, or empirical study that was inadvertently omitted from the First Notice that supported the inclusion of low pressure pipelines in the regulatory scheme. The revised text addresses compliance dates to reflect the effective date of the regulations once filed with the Secretary of State and added additional Authority and Reference citations to the Note sections of the proposed text. These additional citations were meant to support the authorizing statute’s intent to protect environmentally and ecologically sensitive areas in the Coastal Zone.

Sections Modified: Article 7 Introduction, 2103(c), 2104(c), 2108(a), 2108(b), 2108(c), 2112(e), 2113(b), 2113(d), 2113(e)

All subsections – were modified to reflect compliance deadlines a specified period of time after the effective date of the regulations that was consistent with the authorizing statute.

Sections Modified: 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2117

All sections – were modified to provide additional citation to statutory authority and reference to regulate low pressure pipelines based on the protective environmental goals of the authorizing statute. The additional citations did not change the scope of the draft regulation substantively.

THIRD 15-DAY NOTICE

After consideration of the public comments received in response to the Second Notice, additional modifications of the regulatory text and a document incorporated by reference were made and released for a public comment period on January 23, 2020 (Third Notice). Modifications were made to remove a definition of “pipeline” for consistency with existing statutory authority and provide clarity in the remainder of the regulatory text. Additional Authority and Reference citations were included in the Note sections of the proposed text. These additional citations were meant to support the authorizing statute’s intent to protect environmentally and ecologically sensitive areas in the Coastal Zone and further identify broader authority to regulate pipelines.

Section 2100 – Definitions

Subsection 2100 (a)(14) – was removed following significant comment regarding clarity, existing statutory authority, and definitions relating to regulation of low pressure pipelines. As revised the statutory definition of Government Code section 51010.5 applies, therefore low pressure pipelines are excluded from compliance with the proposed regulations providing needed clarity and consistency. Removal of this subsection necessitated renumbering all subsequent subsections (a)(15) – (a)(16).

Section 2101 – Incorporated By Reference

Subsection 2101 (a)(4) – the text of the document incorporated by reference remains the same as does the content of the guidance document. A reference to compliance dates was unnecessary in the guidance and it was removed. The change is non-substantive.

Section 2102 – Identifying Pipelines Subject to This Article

Subsection 2102 (a)(3) – was removed following significant comment regarding clarity, existing statutory authority, and definitions relating to regulation of low pressure pipelines. As revised the statutory definition of Government Code section 51010.5 applies, therefore low pressure pipelines are excluded from compliance with the proposed regulations providing needed clarity and consistency. Removal of this subsection necessitated renumbering subsequent subsections (a)(4) – (a)(6) to now read as 2102(a)(3) – (a)(5).

Sections Modified: Article 7 Introduction, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2120

All sections - The authority and reference citations found in the above sections have been amended to remove Government Code section 51015.05. These changes do not affect the substance of the sections but narrows the scope by excluding certain low pressure pipelines from the proposed regulations consistent with existing statutory definitions. The changes clarify the provisions of law permitting the OSFM to adopt regulations and identifies the statutes that the office is implementing and making more specific through the regulatory process.

Sections Modified: Article 7 Introduction, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2120

All sections - The authority and reference citations found in the above sections have been supplemented with additional authorities. These changes do not affect the substance of the sections but clarifies the provisions of law permitting the OSFM to adopt regulations and identifies the statutes that the office is implementing and making more specific through the regulatory process. The proposed changes provide clarity to the Authority and Reference provisions found under “Note:” at the end of each section of the proposed regulations by citing Government Code sections:

- 51010 – Provides broad regulatory authority to the OSFM to exercise exclusive safety regulatory and enforcement authority over intrastate hazardous liquid pipelines.

- 51010.5 – Provides definitions to important terms used in the Elder Pipeline Safety Act where Government Code section 51013.1 (AB 864) resides.
- 51012.4 – Relates to pipeline inspection, maintenance, improvement, or replacement and assessment for certain existing pipelines.
- 51013 – Provides criteria for new pipeline construction to include leak detection acceptable to the OSFM.
- 51013.5 – Provides testing requirements for pipelines and gives OSFM authority to require any pipeline under its jurisdiction to be subjected to testing or inspection at any time in the interest of public safety.
- 51015 – Requires pipeline operators to make information and records available to the OSFM, including design, construction, testing, or operation and maintenance.
- 51015.4 – Requires valve maintenance for safe operation of a pipeline system
- 51016 – Allows the OSFM to adopt regulations regarding valve spacing on existing and new pipelines for the protection of environmental resources and the public interest.
- 51018.6 – Provides the OSFM with enforcement authority for violations of the Elder Pipeline Safety Act or regulations adopted pursuant thereto.
- 51018.7 – Provides punishment for willful and knowingly violating provisions of the Elder Pipeline Safety Act or regulations adopted pursuant thereto.
- 51018.8 - Allows the OSFM to issue orders directing compliance with the Elder Pipeline Safety Act or regulations adopted pursuant thereto and the actions required to achieve compliance.

The OSFM received two comment letters in response to the Third Notice that incorporated all previous comments from the two parties. Only two comments received were related to the noticed 15-Day changes and were in support of the changes.

MINOR MODIFICATIONS

Staff identified the following additional non-substantive changes to the regulation during the public comment period mentioned above.

Minor Modification to Section 2111:

Subsection 2111(c)(2)(A)(1): This subsection had a word misspelled in the last sentence. The text was corrected to read: “seam type” rather than “seem type”.

DECISION OF DISAPPROVAL

Following the Third Notice, the OSFM submitted the rulemaking package including text of the regulation language and supporting documentation to the Office of Administrative Law (OAL) on February 12, 2020. OAL issued a Decision of Disapproval of Regulatory Action on April 2, 2020. The disapproval was not based on the substance of the regulation text but instructed OSFM to revise the text of the regulation to address consistency and clarity standards under sections 11349.1, 11342.2, 11349.1 and 11349 of the Administrative Procedure Act (APA).

FOURTH 15-DAY NOTICE

After consideration of the comments received from OAL, revisions to the regulatory text were made and released for a public comment period commencing on June 8, 2020 (Fourth Notice). Revisions were made to make regulatory text consistent with compliance dates contained in the enabling statute of Government Code 51013.1. Minor modifications for renumbering were made to section 2111. Consistency revisions were made to the preamble and sections 2108, 2112, and 2113 of the proposed regulations. Revisions were also made to clarify regulatory text in sections 2105, 2110, 2112, and 2117. These revisions were made to further clarify to the regulated public what and when additional criteria the OSFM may consider in reviewing documentation and reporting requirements as follows:

Preamble

Was revised and removed because of consistency. OAL noted that the dates proposed in the text differ from the compliance dates in Government Code section 51013.1 and therefore violate the consistency standard of the APA. These dates also appear in several other sections noted below. The preamble was rendered unnecessary following the consistency revisions to sections 2108, 2112, and 2113 noted below.

Section 2105 – Future Releases From Jurisdictional Pipelines Impacting Environmentally And Ecologically Sensitive Areas In The Coastal Zone

Section 2105 was revised for clarity. Subsections 2105(a)(1), 2105(a)(1)(A), and 2105(a)(1)(A)1.-3. are revised to further clarify that records associated with deferrals under section 2104 must be included in analysis following a release from a pipeline that previously received an exemption or deferral. The previous iteration stated that pipelines that received exemptions or deferrals need to analyze this data in relation to a possible future spill and provide that information in conducting a failure analysis. The revision makes it clear that deferrals must also be evaluated following a release.

Subsection 2105(a)(1)(A) also struck language in the last sentence stating what a report must include, “but not be limited to”. OAL noted that this language lacked clarity and was inconsistent with APA requirements found in Government Code 11349 and 11349.1. The stricken language was revised and was included in revision to subsection 2105(a)(3). The revised language addresses OAL’s concern for clarity by including when and how additional information may be required for inclusion in a release failure report. The additional criteria provide for the circumstances in which additional data may be required and how the OSFM intends to use that information in evaluating best available technology performance.

Section 2108 – Timing For Compliance And Pipeline Prioritization

Subsections 2108(a)-(c) were revised for consistency. OAL noted that the dates proposed in the text differ from the compliance dates in Government Code section 51013.1 and therefore violate the consistency standard of the APA. This section was

revised to include language specifying when the OSFM will commence enforcement action for various deliverables following the regulation effective date. By revising to include enforcement language, the OSFM rectified inconsistency across the regulatory text and enabling statute while retaining timelines specified within the enabling statute.

Subsection 2108(d) was rendered superfluous with the revisions to subsections 2108(a)-(c) and was removed.

Section 2110 – Best Available Technology Determination

Subsection 2110 was revised for clarity. Subsection 2110(a) struck “but not be limited to” language in the first sentence that stated what the OSFM will review in making a best available technology determination. OAL noted that this language lacked clarity and was inconsistent with APA requirements found in Government Code 11349 and 11349.1. The stricken language was revised and was included in new subsection 2110(a)(11). There are several criteria listed in this section that relate to how OSFM will make its determination but the stricken language appeared open ended to OAL. The revised language addresses OAL’s concern for clarity by including when and how additional information may be required for review and determination by the OSFM. The revision closes the open ended universe of possible criteria to those contained within subsections 2110(a)(1)-(10). Additional materials required by OSFM will be relevant or appropriate and used to inform the criteria contained therein.

Section 2112 – State Fire Marshal Risk Analysis Assessment

Section 2112 was revised for consistency and clarity.

OAL noted that the dates proposed in the text differ from the compliance dates in Government Code section 51013.1 and therefore violate the consistency standard of the APA. Subsection 2112(e) was revised to include language specifying when the OSFM will commence enforcement action for various deliverables following the regulation effective date. By revising the enforcement language, the OSFM rectified inconsistency across the regulatory text and enabling statute while retaining timelines specified within the enabling statute.

Additionally, OAL noted that Subsection 2112(b)(3) lacked clarity. Subsection 2112(b)(3) struck “but not be limited to” language that stated what the OSFM will review in making assessing the adequacy of a risk analysis. OAL noted that this language lacked clarity and was inconsistent with APA requirements found in Government Code 11349 and 11349.1. The stricken language was revised and was included in new subsection 2112(b)(3)(F). There are several criteria listed in this section that relate to how OSFM will evaluate the adequacy of a risk analysis. However, the stricken language appeared open ended to OAL. The revised language addresses OAL’s concern for clarity by including when and how additional information may be required for review and determination by the OSFM. The revision closes the open ended universe of possible criteria to those contained within subsections

2112(b)(3)(A)-(E). Additional materials required by OSFM will be relevant or appropriate and used to inform the criteria contained therein.

Section 2113 – Implementation Plan

Subsections 2113(b), 2113(d), and 2113(e) were revised for consistency. OAL noted that the dates proposed in the text differ from the compliance dates in Government Code section 51013.1 and therefore violate the consistency standard of the APA. This section was revised to include language specifying when the OSFM will commence enforcement action for various deliverables following the regulation effective date. By revising to include enforcement language, the OSFM rectified inconsistency across the regulatory text and enabling statute while retaining timelines specified within the enabling statute

Section 2117 – Risk Analysis Updates And Review

OAL noted that Subsection 2117(b) lacked clarity. The revision to subsection 2117(b) struck “but are not be limited to” language that stated under what circumstances the OSFM may require an update to an existing risk analysis. OAL noted that this language lacked clarity and was inconsistent with APA requirements found in Government Code 11349 and 11349.1. Striking the language from 2117(b) has no substantive impact to the text of the regulation as subsection 2117(b)(7) contains language with sufficient clarity to identify other situations when an updated risk analysis may need to be submitted based on deficiencies observed by the OSFM.

MINOR MODIFICATIONS

Staff identified the following additional non-substantive change to the regulation during the public comment period mentioned above.

Minor Modification to Section 2111:

The first subsection of 2111 was not properly identified with an alphanumeric citation. The text was revised to identify the first subsection as 2111(a). This necessitated renumbering the existing identifiers from (a) to (b), (b) to (c), and (c) to (d). No changes to the content of those subsections was made.

DOCUMENTS INCORPORATED BY REFERENCE

The regulations and the incorporated forms adopted by the OSFM incorporate by reference the following documents:

1. American Petroleum Institute Recommended Practice 1175, “Pipeline Leak Detection – Program Management” (First Edition, December 2015).
2. American Petroleum Institute Recommended Practice 1130, “Computational Pipeline Monitoring for Liquids” (First Edition, September 2007, Reaffirmed April 2012).

3. Notice of Intrastate Hazardous Liquid Pipeline Construction, Form PSD-103 developed by the State Fire Marshal (July 1, 2017).
4. CAL FIRE – OFFICE OF THE STATE FIRE MARSHAL, Download Ecologically And Environmental Sensitive Sites In The Coastal Zone (January 1, 2020).

These documents were incorporated by reference because it would be cumbersome, unduly expensive, and otherwise impractical to publish them in the California Code of Regulations. In addition, some of the documents are copyrighted, and cannot be reprinted or redistributed without violating licensing agreements. The documents are lengthy and highly technical engineering documents that would add unnecessary volume to the regulation. Distribution to all recipients of the California Code of Regulations is not needed because the interested audience for these documents is limited to the technical staff at operator facilities, most of whom are already familiar with the documents and methods contained therein. The incorporated documents and any forms were made available by the OSFM upon request during the rulemaking action and will continue to be available in the future. The documents are also available from college and public libraries, or may be purchased directly from the publishers.

ADDITION OF DOCUMENT RELIED UPON TO THE RULE MAKING FILE

The OSFM added the following document relied upon to the rule making file during the Second Notice and was made available upon request during the rulemaking action and will continue to be available in the future:

1. An Assessment of Low Pressure Crude Oil Pipelines and Crude Oil Gathering Lines in California, Office of the State Fire Marshal, April 1997.

SUMMARY AND RESPONSE TO COMMENTS

“Attachment A” of the FSOR provides a list of those who submitted comments during the 45-day comment period (February 15, 2019 through April 2, 2019), or gave oral comment at the three public hearings held on February 22, 2019, March 1, 2019, and April 2, 2019.

Also, included in Attachment A are lists of those who submitted comments during the four subsequent 15-Day comment periods noticed on:

First 15-day comment period – October 2, 2019 ending October 16, 2019,
Second 15-day comment period – October 24, 2019 ending November 7, 2019,
Third 15-day comment period – January 23, 2020 ending February 6, 2020 and
Fourth 15-day comment period – June 8, 2020 ending June 23, 2020.

During the 45-Day comment period, OSFM received comments from:

Comment Written (W) Oral (O)	Organization, Commenter, Title, Letter/Public Comment Date
W1	Environmental Defense Center, Linda Krop, Chief Counsel; letter dated 3/26/19
W2	Wickland Pipelines LLC, Daniel Hall; letter dated March 26, 2019
W3	Chevron, Henry Perea, Manager, State Government Affairs; letter dated March 28, 2019
W4	County of Santa Barbara, Lisa Plowman, Planning & Development Director; letter dated 4/2/2019
W5	Crimson Midstream, LLC Brendan Geraghty, Regulatory Compliance Specialist; letter dated March 28, 2019
W6	California State Lands Commission, Chris Beckwith, Division Chief Marine Environmental Protection Division; letter dated March 29, 2019
W7	Western States Petroleum Association, Bridget McCann, Manager, Technical and Regulatory Affairs; letter dated April1, 2019
W8	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer; letter dated April 1, 2019
W9	Santa Barbara Channel Keeper, Molly Troup, Science & Policy Associate; letter dated 4/2/2019
O1	Unidentified member of the public, Public Comment at 2/22/19 Hearing Huntington Beach
O2	Brandon Geraghty, Crimson Midstream; Public Comment at 2/22/19 Hearing Huntington Beach
O3	Troy Valenzuela, Plains All American Pipeline; Public Comment at 2/22/19 Hearing Huntington Beach

During the first 15-Day comment period, OSFM received comments from:

Comment Written (W) Oral (O)	Organization, Commenter, Title, Letter/Public Comment Date
W10	Environmental Defense Center, Linda Krop, Chief Counsel; letter dated 10/10/2019
W11	Crimson Midstream, LLC, David Blakeslee, Regulatory Compliance Manager, email dated 10/11/19
W12	Wickland Pipelines, LLC, Daniel Hall, letter dated 10/14/19
W13	Mary Ellen Brooks, Citizens Planning Association of Santa Barbara County, President, letter dated 10/14/19
W14	Chevron, Henry Perea, Manager, State Government Affairs; letter dated 10/16/2019
W15	County of Santa Barbara, Lisa Plowman, Planning & Development Director; letter dated 10/16/2019
W16	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter dated 10/16/19
W17	Climate First: Replacing Oil & Gas, Robin Gerber, Board President, letter dated 10/16/19
W18	Western States Petroleum Association, Bridget McCann, Manager Technical and Regulatory Affairs, letter dated 10/16/19
W19	Phillips 66, Gabriel Munoz, Region Manager, Western Region; letter dated 10/16/2019

During the second 15-Day Comment period, OSFM received comments from:

Comment Written (W)	Organization, Commenter, Title, Letter/Public Comment Date
W20	Environmental Defense Center, Linda Krop, Chief Counsel; letter dated 11/04/2019
W21	Chevron, Henry Perea, Manager, State Government Affairs; letter dated 11/07/2019
W22	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter dated 11/04/19
W23	Western States Petroleum Association, Bridget McCann, Manager Technical and Regulatory Affairs, letter dated 11/07/19
W24	Phillips 66, Gabriel Munoz, Region Manager, Western Region; letter dated 11/06/2019
W25	California Legislature, Senator Hannah-Beth Jackson and Assemblymember Monique Limón, letter dated 11/07/09

During the third 15-Day Comment period, OSFM received comments from:

Comment Written (W)	Organization, Commenter, Title, Letter/Public Comment Date
W26	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter dated 02/06/2020
W27	Western States Petroleum Association, Thomas Umenhofer, Vice President, letter dated 02/06/2020

During the fourth 15-Day Comment period, OSFM received comments from:

Comment Written (W)	Organization, Commenter, Title, Letter/Public Comment Date
W28	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter undated and received 06/23/2020

W29	Western States Petroleum Association, Ben Oakley, California Coastal Region Manager, letter dated 06/23/2020
W30	County of Santa Barbara, Nancy Anderson, Assistant County Executive Officer, letter dated 06/22/2020 submitting comments from Santa Barbara County Fire Department, Rob Hazard, Division Chief/Fire Marshal, letter dated 6/17/2020

Set forth in “Attachment A” is a summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been revised to accommodate each objection or recommendation, or the reasons for making no revision. Only objections or recommendations directed at the agency’s proposed action or the procedures followed by the agency in proposing or adopting the action are summarized as permitted by Government Code, Title 2, Section 11346.9. Repetitive or irrelevant comments have been aggregated and summarized as a group. A comment is “irrelevant” if it is not specifically directed at the agency’s proposed action or to the procedures followed by the agency in proposing or adopting the action. The comments have been grouped by topic whenever applicable.