

**FINAL STATEMENT OF REASONS
FOR
PROPOSED HAZARDOUS LIQUID PIPELINES – ANNUAL
INSPECTIONS
OF THE
OFFICE OF THE STATE FIRE MARSHAL (OSFM)
California Code of Regulations, Title 19, Division 1, Chapter 14**

UPDATE OF INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons (ISOR), released August 5, 2016, is incorporated by reference herein, and contained a description of the rationale for the adoption of the proposed regulations. On August 5, 2016, all documents relied upon and referenced in the ISOR were made available to the public.

The OSFM received seventeen (17) public comments from two (2) individuals on the text as originally noticed during the 45-day comment period. Upon review and consideration of the comments received, including staff comments, the OSFM determined that no modification to the text of the regulations or documents incorporated by reference was necessary.

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

PUBLIC COMMENT PERIODS

The original text of the proposed regulations was made available to the public for 45 days from August 5, 2016, through September 19, 2016. A public hearing was scheduled for September 19, 2016. However, no interested party or authorized representative requested a public hearing and therefore no public hearing was held. There were no further comment periods.

NO MODIFIED REGULATION TEXT AS A RESULT OF COMMENTS RECEIVED DURING 45-DAY COMMENT PERIOD

The OSFM received seventeen (17) public comments from two (2) individuals during the 45-Day comment period on the text as originally noticed. After considering the comments received, the OSFM determined that no modification to the text of the regulations was deemed necessary.

MATERIALS ADDED TO THE RULEMAKING FILE - TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY OR REPORT OR SIMILAR DOCUMENT RELIED UPON

No additional materials were added to the Rulemaking File.

DOCUMENTS INCORPORATED BY REFERENCE

The regulations and the incorporated forms adopted by the OSFM incorporate by

reference the following documents:

1. California Intrastate Pipeline Operator Annual Report, Form PSD-101 (dated July 1, 2016) located in the proposed regulation at Section 2021(a)(1).
2. Instructions for Form PSD-101 (dated July 1, 2016) located in the proposed regulation at Section 2021(a)(2).
3. California State Fire Marshal Annual Inspection Procedures (dated July 1, 2016) located in the proposed regulation at Section 2020(c).

INCORPORATION BY REFERENCE

Any forms incorporated by reference were also available on the OSFM website or from the OSFM at any time during the rulemaking action and will remain available on the OSFM website in the future. Neither the standards nor forms incorporated by reference in this action will be printed in the California Code of Regulations because to do so would be cumbersome, unduly expensive, and otherwise impractical.

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.

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.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL 45-DAY NOTICE PERIOD FROM August 5, 2016 THROUGH September 19, 2016.

Below is a list of those who submitted comments during the 45-day comment period:

Comments	Commenter	Affiliation
#1-1h	Reheis-Boyd, Catherine H.	Western States Petroleum Association
#2-2g	Krop, Linda*	Environmental Defense Center
	Aminzadeh, Sarah*	California Coast Keeper Alliance
	August, Rebecca*	Safe Energy Now!
	Charter, Richard *	The Ocean Foundation
	Hanthorn, Joshua*	Defenders of Wildlife
	Hines, Jim*	Sierra Club Los Padres Chapter
	Hough, Ken*	Santa Barbara County Action Network
	Hutchison, Helen L.*	League of Women Voters of California
	Jordan, Susan*	California Coastal Protection Network
	Lyons, Michael T.*	Get Oil Out!
	Moldaver, Lee*	Citizens Planning Association of Santa Barbara County
	Murray, Dana*	Heal the Bay
	Nagami, Damon*	Natural Resources Defense Council
	Phillips, Kathryn*	Sierra Club California
	Redmond, Kira*	Santa Barbara Channelkeeper
	Savage, Jennifer*	Surfrider Foundation
	Vargas, Marco*	Fund for Santa Barbara
	Wright, Sigrid*	Community Environmental Council
	Zuber, Domenique*	Pacific Environment

The commenters listed above with an asterisk (*) signed on to written comments provided by Ms. Linda Krop of the Environmental Defense Center. Senator Hannah-Beth Jackson submitted a letter, on September 30, 2016, after the close of the public comment period, in agreement with the comments provided by Ms. Linda Krop in the Environmental Defense Center’s letter.

Set forth below 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 changed to accommodate each objection or recommendation, or the reasons for making no change. 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.

COMMENT #1: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA) commented and asked a general question as to: How will the data from the reports and audits be handled? Specifically, if a party submitting the information indicates that any or all of the data are business confidential, how will that data be protected?

RESPONSE: The data from the reports and audits will be managed by the OSFM in a manner consistent with departmental procedures and the California Public Records Act. The information submitted to the OSFM is not considered business confidential merely because a claim that any or all of the data is considered business confidential. Information submitted to the OSFM that may be considered business confidential by the party submitting the information will be evaluated on a case-by-case basis consistent with the California Public Records Act and other applicable law.

COMMENT #1a: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA), commented about the minimum cost threshold related to Form PSD-101 (dated July 1, 2016), Section CO.02.

RESPONSE: There is no minimum cost threshold regarding new construction projects scheduled for the next calendar year. The incorporated Instructions for Form PSD-101 (dated July 1, 2016) explain that "operators must consider all new construction projects."

COMMENT #1b: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA) commented about the pipeline specifications on Form PSD- 101 (dated July1, 2016) and needed clarification regarding "Line Numbers." She asked whether the requested "Line Numbers" for the PSD-101 Form are the OSFM assigned "Line Number" or if the requested "Line Numbers" are the operator assigned "Line Numbers."

RESPONSE: The "Line Numbers" requested for the PSD-101 Form are the OSFM assigned "Line Numbers." The section titled SUBMISSION METHOD on Page 1 of the incorporated Instructions for Form PSD-101 (dated July 1, 2016) specifies OSFM Line ID is to be used.

COMMENT #1c: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA) commented about Sections PS-01 through PS-07 & MP-01 through MP-09 on Form PSD-101 (dated July 1, 2016). She asked the following question about the Pipeline Specification and Miles Of Pipe By Type information requested in the PSD-101 form: “Are PS-01 through PS-07 & MP-01 through MP-09 of the [National Pipeline Mapping System] NPMS Standard that California uses? This would be duplicate reporting.”

RESPONSE: No. California has developed State Pipeline Mapping System (SPMS) standards for pipeline operators submitting mapping information. These standards were recently revised to include requirements for identifying all commodities in each pipeline. SPMS standards do not include the requirements for information requested in PS-01 through PS-07 or MP-01 through MP-09. The OSFM will attempt to populate the commodity field in the PSD-101 (dated July 1, 2016) using the commodity information submitted in the SPMS. Operators will be responsible to verify this information and maintain supporting documents.

COMMENT #1d: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA), commented that all references to “operator’s repair criteria” in Form PSD-101 (dated July 1, 2016), INTEGRITY TESTING (IL.08), be changed to “195.452 repair criteria” in order to ensure an apples-to-apples comparison of submitted data.

RESPONSE: This issue is explained in the incorporated Instructions to Form PSD-101 (dated July 1, 2016). The operator’s repair criteria for anomalies in segments that could affect a HCA must be at least as conservative as those required by IM regulations in 49 CFR 195.452. Section 195.452 sets a minimum for repair criteria, operators can and do set repair criteria that goes beyond the minimum requirement in Section 195.452. The operator’s repair criteria are best suited for reporting to the OSFM.

COMMENT #1e: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA) commented that the INTEGRITY TESTING fields IL.09, IL.08 through IL.12 of Form PSD-101 (dated July 1, 2016) are asking for anomalies reported by the vendor or selected for investigation.

RESPONSE: This issue is explained in the incorporated Instructions to Form PSD-101 (dated July 1, 2016). IL.08 through IL.12 ask: “Were there any...anomalies identified...” “Any” means all anomalies, including those reported by the vendor and/or selected for investigation.

COMMENT #1f: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA) commented that a clarification is needed of how to account for investigations that extend beyond the calendar year which are described under the INTEGRITY TESTING field IL.14 of Form PSD-101 (dated July 1, 2016).

RESPONSE: The Instructions to Form PSD-101 (dated July 1, 2016), bottom of Page 7, states “...all actions taken during the previous calendar year that resulted from information obtained during an ILI inspection. This also includes actions taken as a result of ILI inspections conducted during prior years and for which all required actions were not completed during the year of the inspection.”

COMMENT #1g: Form PSD-101 (dated July 1, 2016), under PROJECTS field PR.01. Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA), commented on the Form PSD-101, bottom of Page 12. For

Relocation/Replacement/Reconditioned Projects, she asked “Instructions (referring to the Instructions to Form PSD-101) are for >1,000 feet in length; is this adequate?”

RESPONSE: The Form PSD-101 must be submitted to the OSFM no later than July 1 of each year. The OSFM is asking pipeline operators to report, in the Form PSD-101, pipeline projects greater than 1000-feet that are anticipated to occur in the next calendar year because the OSFM believes projects of this length would require a significant lead time allowing operators to identify the project schedule well ahead of the actual construction. Smaller pipeline projects may not require a large lead time making it difficult for operators to report the project so far ahead.

COMMENT #1h: Ms. Catherine H. Reheis-Boyd of Western State Petroleum Association (WSPA) commented on Cathodic Protection (CP) Projects under PR.02 of the PSD-101 Form. She asked “is there a minimum cost threshold? Instructions are for >\$50,000; is this adequate?”

RESPONSE: Yes, there is a minimum cost threshold for projects scheduled in the next calendar year that will cost greater than \$50,000. The OSFM believes that is adequate.

COMMENT #2: Ms. Linda Krop of Environmental Defense Center commented that a threat assessment should be prepared and confirmed by the OSFM or a State-approved independent expert prior to inspection to ensure that the inspection tools and methodology are comprehensive and appropriate to the pipeline and surrounding environment.

RESPONSE: The annual inspection regulation is a two phase risk-based inspection approach that begins with the State Fire Marshal evaluating risk through review of inspection history including review of inspection tools and methodology, among others. This approach meets the same objective of a threat assessment. The legislation directs the State Fire Marshal to develop regulations to conduct annual inspections. However, the legislation does not call for, nor grant the State Fire Marshal authority to allow State-approved independent experts to conduct review or assessment.

COMMENT #2a: Ms. Linda Krop of Environmental Defense Center commented that the threat assessment should consider the pipeline design, materials, operation history, prior inspection results, and any other relevant factors. Although the proposed regulation references operation history, integrity testing results, construction activities, leak history and compliance history, it does not address factors related to the design and materials involved with the pipeline. These factors were critical to the Line 901 leak.

RESPONSE: See the response to Comment #2 regarding threat assessments and evaluation by the OSFM. Among the factors listed in the comment and regulation, the regulation will also address factors related to the design and materials involved with a pipeline in the incorporated Form PSD-101 (dated July 1, 2016).

COMMENT #2b: Ms. Linda Krop of Environmental Defense Center commented that the threat assessment should consider external factors that may affect the integrity of the pipeline.

RESPONSE: The threat assessment will be based on information from Form PSD-101 (dated July 1, 2016) and OSFM staff will review each submitted Form PSD-101 (dated July 1, 2016), assess the potential threat(s) and assign inspection modules for each jurisdictional hazardous liquid pipeline based on pipeline operating history, integrity testing, preventative and mitigative measures, construction activities, and the OSFM internal review.

COMMENT #2c: Ms. Linda Krop of Environmental Defense Center commented that the threat assessment should consider interactive threats as well as individual threats.

RESPONSE: The OSFM agrees with the comment. The threat assessment should consider interactive threats as well as individual threats.

COMMENT #2d: Ms. Linda Krop of Environmental Defense Center commented that the inspection tools and methodology must be capable of detecting corrosion, cracks, dents and other anomalies.

RESPONSE: The OSFM agrees with the comment. The inspection tools and methodology must be capable of detecting corrosion, dents and other anomalies.

COMMENT #2e: Ms. Linda Krop of Environmental Defense Center commented that the frequency of inspections may need to be further increased to address corrosion or other anomalies.

RESPONSE: The OSFM understands the concern. However, the legislation directs the State Fire Marshal to inspect annually. It is outside the scope of the legislation to increase the frequency of annual inspections. However, this does not preclude the State Fire Marshal from addressing corrosion or other anomalies as deemed necessary for compliance with other regulations.

COMMENT #2f: Ms. Linda Krop of Environmental Defense Center commented that the inspection results should be reviewed and analyzed by the OSFM and an independent third party.

RESPONSE: The OSFM will review and analyze the inspection results however the legislation does not provide for review by an independent third party.

COMMENT #2g: Ms. Linda Krop of Environmental Defense Center commented that the information from the pipeline inspections should be readily available for public review (e.g., posted on the OSFM's website).

RESPONSE: The OSFM acknowledges and appreciates the comment and will take it into consideration in the future, but believes that it is beyond the scope of the regulation.
