

MINUTE ITEM

This Calendar Item No. C116 was approved as Minute Item No. 116 by the California State Lands Commission by a vote of 3 to 0 at its 12/16/98 meeting.

**CALENDAR ITEM
C116**

A: 1, 6, 12, 13, 14, 16, 19, 21, 27, 33, 35, 37,
41, 53, 54, 67, 70, 73, 74, 78

12/16/98
W 9777.106

S: 2, 3, 8, 9, 11, 15, 18, 19, 23, 27, 28, 35,
38, 39, 40

Kloman
Prabhu
Meier

**CONSIDER ADOPTION OF AMENDMENTS TO CLARIFY AND
UPDATE EXISTING REGULATIONS REGARDING
INSPECTION AND MONITORING OF MARINE OIL TERMINALS**

PROPOSAL:

The Commission proposes to amend existing regulations comprised of Sections 2300 through 2407 in Title 2, Division 3, Chapter 1, Article 5 of the California Code of Regulations. These sections pertain to marine oil terminals, defined in Public Resources Code section 8750 as facilities used for transferring oil and liquid petroleum products to and from tank vessels and barges. The proposed amendments would provide minor alterations to the existing regulations. The modifications include the following: changing the name of the Marine Facilities Division; modifying the title of Article 5; adding definitions for the terms "bunkering," "transfer area," and "mobile transfer units;" incorporating as regulations certain recommendations and requirements adopted by international, federal and other state agencies which impact marine terminals; modifying requirements for items included on the Declaration of Inspection; requiring vacuum testing of cargo transfer hoses; prohibiting the practice of air blending on barges; incorporating references to the Commission's training regulations; and eliminating certain pre-booming requirements.

BACKGROUND:

On September 24, 1990, the State of California enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (the "Act"). The Act added Public Resources Code section 8750 through 8760, establishing a comprehensive program for the prevention of oil spills in California's marine waters. Under Public Resources Code section 8755, the Commission is required to adopt rules, regulations, guidelines and leasing policies for reviewing the location, type, character, performance standards, size and operation of all existing and proposed marine terminals within the state, whether or not on lands leased from the Commission, to minimize the possibilities of a discharge of oil. Public Resources Code section 8756 requires that the regulations be periodically reviewed and accordingly modified to ensure that all operators of marine terminals

CALENDAR PAGE	539
MINUTE PAGE	004613

CALENDAR ITEM NO. C116 (CONT'D)

within the state always provide the best achievable protection of the public health and safety and the environment.

Initially, the Commission adopted emergency regulations with an effective date of June 10, 1991, to ensure that all marine terminals were at least in compliance with existing state and federal regulations regarding oil pollution prevention during transfer operations. The emergency regulations, with minor modifications, were readopted as permanent regulations on December 5, 1991. This first set of permanent regulations was superseded by the Commission's more comprehensive regulations entitled "Marine Terminals Inspection and Management," which became effective December 20, 1992. Amendments, which further clarified provisions of the regulations or addressed acts or circumstances not included in the 1992 version, were added to Article 5 and became effective on November 7, 1994.

The Commission Staff is now proposing to further amend Article 5, to bring its regulations into conformance with recent U.S. Coast Guard regulatory changes, international agreements and statutory changes. Changes to the definitions have been made to be consistent with amendments to the Act. There are also minor changes throughout the text, which improve clarity of language and have no regulatory effect.

The public has had an opportunity to review and comment on the proposed amendments from June 4, 1998 to July 31, 1998 and at a public hearing held on July 2, 1998. Those who submitted comments on the proposal had a second opportunity to review and comment on the proposed regulations from September 23, 1998 to October 16, 1998. Members of the Review Subcommittee of the State Interagency Oil Spill Committee reviewed the proposed amendments and, other than one minor editorial change to a reference, made no other comments.

No costs to the state would be incurred beyond those budgeted and already expended on monitoring compliance. Staff has determined that the proposed amendments to Article 5 will not have a significant impact on the creation or elimination of businesses within the State of California, nor will they have an adverse economic impact on business, including the ability of California businesses to compete with businesses in other states.

The Commission Staff considered alternatives to the proposed amendments, but found none that would be more effective in carrying out the purpose for which the action is proposed and less burdensome to those who would be affected.

STATUTORY AND OTHER REGULATIONS:

- A. Public Resources Code sections 8750 through 8760.

CALENDAR PAGE	540
MINUTE PAGE	004616

CALENDAR ITEM NO. C116 (CONT'D)

PERMIT STREAMLINING DEADLINE

N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 10561), the Commission Staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under classes 7 and 8, Action by a Regulatory Agency as Authorized by State Law to Assure the Maintenance, Restoration, Enhancement or Protection of a Natural Resource and of the Environment where the Regulatory Process involves Procedures for Protection of the Environment, 14 Cal. Code Regs. 15307 and 15308.

Authority: Public Resources Code section 21084 and 14 Cal. Code Regs. 15300.

2. The proposed regulatory amendments do not affect small businesses as defined in Government Code section 11342, sub. (h), because all affected businesses are either petroleum refiners, as specified under Government Code section 11342, sub. (h)(2)(H), or transportation and warehousing businesses having annual gross receipts of more than \$1,500,000, as specified under Government Code section 11342, sub. (h)(2)(l)(vii).

EXHIBIT:

- A. Proposed Amendments.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASSES 7 AND 8, AN ACTION BY A REGULATORY AGENCY AS AUTHORIZED BY STATE LAW TO ASSURE THE MAINTENANCE, RESTORATION, ENHANCEMENT, OR PROTECTION OF NATURAL RESOURCES AND OF THE ENVIRONMENT WHERE THE REGULATORY PROCESS INVOLVES PROCEDURES FOR THE PROTECTION OF THE ENVIRONMENT (14 CAL. CODE REGS. 15307 AND 15308).

CALENDAR ITEM NO. C116 (CONT'D)

2. FIND THAT THE REGULATORY AMENDMENTS DO NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOVERNMENT CODE SECTION 11342, SUB. (h), BECAUSE ALL AFFECTED BUSINESSES ARE EITHER PETROLEUM REFINERS, AS SPECIFIED UNDER GOVERNMENT CODE SECTION 11342, SUB. (h)(2)(H), OR TRANSPORTATION AND WAREHOUSING BUSINESSES HAVING ANNUAL GROSS RECEIPTS OF MORE THAN \$1,500,000, AS SPECIFIED UNDER GOVERNMENT CODE SECTION 11342, SUB. (h)(2)(I)(VII).
3. FIND THAT THE REGULATORY AMENDMENTS WILL NOT HAVE A SIGNIFICANT IMPACT ON THE CREATION OR ELIMINATION OF JOBS OR NEW OR EXISTING BUSINESSES WITH CALIFORNIA, NOR WILL THEY HAVE AN ADVERSE ECONOMIC IMPACT ON BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES.
4. FIND THAT NO ALTERNATIVE WOULD BE MORE EFFECTIVE IN CARRYING OUT THE PURPOSE FOR WHICH THE REGULATION IS PROPOSED OR WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO AFFECTED PRIVATE PERSONS THAN THE PROPOSED REGULATION.
5. ADOPT AMENDMENTS TO SECTIONS 2300 THROUGH 2407 IN TITLE 2, CALIFORNIA CODE OF REGULATIONS, SUBSTANTIALLY IN THE FORM OF THOSE SET FORTH IN EXHIBIT "A", TO BECOME EFFECTIVE IMMEDIATELY UPON FILING WITH THE SECRETARY OF STATE.
6. AUTHORIZE THE COMMISSION STAFF TO MAKE MODIFICATIONS IN THE AMENDMENTS IN RESPONSE TO RECOMMENDATIONS BY THE OFFICE OF ADMINISTRATIVE LAW.
7. DIRECT THE COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO COMPLY WITH PROVISIONS OF THE GOVERNMENT CODE REGARDING ADOPTION OF REGULATIONS AND AMENDMENTS AND TO ENSURE THAT THE REGULATIONS BECOME EFFECTIVE.
8. DIRECT COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO IMPLEMENT THE AMENDMENTS TO THE REGULATIONS AT SUCH TIME AS THEY BECOME EFFECTIVE.

[Note: ONLY THOSE SECTIONS OF ARTICLE 5 BEING AMENDED OR ADDED ARE PRESENTED HERE]

ARTICLE 5. MARINE TERMINALS INSPECTION AND MANAGEMENT MONITORING

§2300. The Marine Facilities ~~Inspection and Management~~ Division.

- (a) There is in the Staff of the California State Lands Commission the Marine Facilities ~~Inspection and Management~~ Division, which has the primary responsibility for carrying out the provisions of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 within the Commission's jurisdiction.
- (b) The primary office of the Division is at 330 Golden Shore, Suite 210, Long Beach, California 90802-4246, telephone ~~(310)~~ (562) 499-6312.

Authority: Sections 8751, 8755, and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8755 and 8757, Public Resources Code.

§2305. Purpose, Applicability and Date of Implementation.

- (a) The purpose of the regulations in Title 2, Division 3, Chapter 1, Article 5 of the California Code of Regulations is to provide the best achievable protection of the public health and safety and of the environment by using the best achievable technology.
- (b) The provisions of this article shall not apply to:
 - (1) Oil transfer operations conducted at offshore drilling and production platforms.
 - (2) Tank cleaning operations which begin after the removal of cargo or fuel from any tank vessel or barge.
 - (3) Oil transfer operations to or from vessels other than tank vessels or barges if such vessels have oil carrying capacities of less than 250 barrels.
- (c) Unless otherwise specified in these regulations, ~~all of the provisions of these regulations become effective 30 days after they have been filed with the Secretary of State, and~~ any new sections or modifications to existing sections shall become effective 30 days after they have been filed with the Secretary of State.

CALENDAR PAGE	543
MINUTE PAGE	004617

EXHIBIT A

W 9777.106

Authority: Sections 8751, 8755, and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756 and 8757, Public Resources Code.

§2310. Alternative Requirements or Exemptions.

(a) Petitions for Alternative Requirements or Exemptions.

- (1) Any person subject to these regulations may submit a petition to the Division Chief for alternative requirements or exemptions to the requirements of Article 5.
- (2) All petitions for alternative requirements or exemptions must be submitted in writing. A petition may be in any form, but it must contain all data and information necessary to evaluate its merits.

(b) Review and Response to Petitions.

~~The Division Chief shall respond in writing to any petition for alternative requirements or exemptions within 30 days of receipt of the petition.~~

- (1) Upon receipt, the Division shall review a petition for an alternative to or an exemption from any provision of this Article 5 to ensure that it contains all necessary information to support the petition.
- (2) If the Division Chief determines that the proposed alternatives to or exemptions from the requirements of Article 5 will ensure an equivalent or greater level of protection of the public health and safety and the environment, he or she shall notify the petitioner that the petition is complete and proceed under the provisions of subsection (c)(3) of this section for approval of the petition.
- (3) If the Division Chief determines that the proposed alternatives to or exemptions from the requirements of Article 5 will not ensure an equivalent or greater level of protection of the public health and safety and the environment, he or she shall notify the petitioner, in writing, giving specific reasons for such determination.
- (4) In all cases, whether a petition is approved or not, the Division Chief shall respond in writing to the petitioner within 30 working days of receipt of a completed petition.
- (5) A petitioner who is in receipt of written notification from the Division Chief

CALENDAR PAGE 544

MINUTE PAGE 004618

EXHIBIT A

W 9777.106

under subsection (b)(3) of this section shall not be precluded from resubmitting petition for alternatives to or exemptions from similar provisions of this Article 5.

(c) Approval of Alternative Requirements or Exemptions.

(1) Any person subject to these regulations may depart from the requirements of Article 5 if the Division Chief ~~makes both of the following findings:~~ finds that

~~(A) Because of unusual circumstances or conditions compliance with the requirements of Article 5 would be ineffective in protecting the public health and safety and the environment; and~~

~~(B) The persons~~ the person subject to these regulations can and will comply with alternative measures which will ensure an equivalent or greater level of protection of the public health and safety and the environment were the person to comply with the provisions of Article 5.

(2) Any person subject to these regulations may be exempt from one or more of the requirements of Article 5 if the Division Chief finds that compliance with a requirement or requirements cannot be achieved at that terminal because of unusual circumstances or conditions at that terminal or because materials or personnel needed for compliance are unavailable.

(3) If the Division Chief approves an alternative requirement or an exemption under this section, a letter of approval shall be issued to the petitioner setting forth the findings upon which the approval is based, and a copy of that letter shall be maintained at all times at the terminal with the terminal's operations manual required under §2385.

(4) (A) The Division Chief may withdraw the letter of approval of an alternative requirement at any time if he or she ~~makes any of the following findings:~~ finds that

~~1. The unusual circumstances or conditions at the terminal upon which the approval was based no longer exists; or~~

~~2. The~~ the person or persons subject to these regulations have not regularly and consistently complied with the approved alternative requirement.

EXHIBIT A

W 9777.106

- (B) The Division Chief may withdraw the letter of approval of an exemption at any time if he or she determines that compliance with the requirement or requirements of Article 5 can be achieved.
- (C) Withdrawal of a letter of approval under this section shall be effective upon the receipt by the petitioner of written notification of the withdrawal.

Authority: Sections 8751, 8755, 8756, and 8758, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, and 8758, Public Resources Code; Sections 15375, 15376 and 15378, Government Code.

§2315. Definitions.

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

- (a) "Administrator" means the administrator for oil spill response, as referenced in Public Resources Code §8750, subsection (a).
- (b) "Apparent violation" means an act, course of action or omission which, in the opinion of an agent or employee of the Division authorized to make such a determination, appears to be in violation of one or more of the provisions of Article 5.
- (c) "Barge" means any vessel that carries oil in commercial quantities as cargo, but is not equipped with a means of self-propulsion.
- (d) "Bunkers" or "bunker fuel" means fuel oil or lubrication oil supplied to any vessel for operating its propulsion and auxiliary machinery.
- ~~(d)~~(e) "CFR" means the currently effective edition of the United States Code of Federal Regulations as in effect on September 23, 1992.
- ~~(e)~~(f) "Commission" means the California State Lands Commission.
- ~~(f)~~(g) "Division" means the Marine Facilities ~~Inspection and Management~~ Division of the California State Lands Commission.

CALENDAR PAGE	546
MINUTE PAGE	004620

EXHIBIT A**W 9777.106**

- ~~(g)~~(h) "Division Chief" means the Chief of the Marine Facilities ~~Inspection and Management~~ Division or any employee of the Division authorized by the Chief to act on his behalf.
- (i) "HOSE TECHNICAL INFORMATION BULLETIN: No. IP-11-4" means the 1995 edition of the "Hose Technical Information Bulletin: No. IP-11-4; Oil Suction and Discharge Hose; Manual for Maintenance, Testing and Inspection", published by the Rubber Manufacturers Association (RMA), 1400 K Street, N.W., Washington, D.C. 20005.
- ~~(h)~~(j) "Hot work" means work involving sources of ignition or temperatures sufficiently high to cause the ignition of a flammable gas mixture. This includes any work requiring the use of welding, burning or soldering equipment; blow torches; permitted power driven tools; portable electrical equipment which is not intrinsically safe or contained within an approved explosion proof housing; sand blasting equipment; or internal combustion engines.
- ~~(i)~~ "~~Hot work permit" means a document issued by the U.S. Coast Guard permitting specific hot work to be done during a specific time interval in a defined area.~~
- ~~(j)~~(k) "ISGOTT" means the ~~Third~~ Fourth Edition of the International Safety Guide for Oil Tankers and Terminals, published in ~~1988~~ 1996 by the International Chamber of Shipping (ICS), 30/32 St. Mary Axe, London EC3A 8ET, England.
- (l) "International Safety Management (ISM) Code" or "ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organization (IMO) by resolution A.742(18), as an amendment to the Annex to the International Convention for the Safety of Life at Sea, 1974 (SOLAS), (new Chapter IX) at the IMO's May 1994 SOLAS Conference.
- ~~(k)~~(m) "Marine terminal" means a facility, including a mobile transfer unit, other than a vessel, located on or adjacent to marine waters in California, used for transferring oil to or from tank vessels or barges. The term references all parts of the facility including, but not limited to, structures, equipment and appurtenances thereto used or capable of being used to transfer oil to or from tank vessels or barges. For the purpose of these regulations, a marine terminal includes all piping not integrally connected to a tank facility. A tank facility means any one or combination of above ground storage tanks, including any piping which is integral to the tank, which contains crude oil or its fractions and which is used by a single business entity at a single location or site. A pipe is integrally related to an above ground storage tank if the pipe is connected to the

CALENDAR PAGE	547
MINUTE PAGE	004621

EXHIBIT A

W 9777.106

tank and meets any of the following:

- (1) The pipe is within the dike or containment area;
- (2) The pipe is connected to the first flange or valve after the piping exits the containment area; or
- (3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

~~(h)~~(n) "MARPOL 73/78" means the final act of the International Conference on Marine Pollution, 1973, including the International Convention for the Prevention of Pollution from Ships, 1973 and of the Protocol of 1978, published in *MARPOL 73/78, Consolidated Edition, 1991*, IMO Publications, International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, England.

(o) "Mobile transfer unit" means a marine fueling facility that is a vehicle, truck, trailer, tank car, or land based transportable tank, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact marine waters.

~~(m)~~(p) "Offshore marine terminal" means any marine terminal at which tank vessels or barges are made fast to a buoy or buoys.

~~(n)~~(q) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

~~(e)~~(r) "Onshore marine terminal" means any marine terminal at which tank vessels or barges are made fast to land structures or substantially land structures.

~~(p)~~(s) "Operator" when used in connection with vessels, marine terminals, pipelines, or facilities, means any person or entity which owns, has an ownership interest in, charters, leases, rents, operates, participates in the operation of or uses that vessel, terminal, pipeline, or facility. "Operator" does not include any entity which owns the land underlying the terminal or the terminal itself, where the entity is not involved in the operations of the terminal.

~~(e)~~(t) "Spill" or "discharge" means any release of oil into marine waters which is not authorized by any federal, state, or local government entity.

EXHIBIT A

W 9777.106

- ~~(r)~~(u) "Tank vessel" or "tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.
- ~~(e)~~(v) "Terminal" means marine terminal.
- ~~(t)~~(w) "Terminal person in charge" or "TPIC" means an individual designated by the terminal operator as the person in charge of a particular oil transfer operation at a particular terminal.
- ~~(u)~~(x) "Threatened violation" means any threatened act, course of action or omission which, if carried out, in the opinion of an agent or employee of the Division authorized to make such a determination, would appear to be in violation of one or more of the provisions of Article 5.
- ~~(v)~~(y) "Transfer" means any movement of oil to, from or within any part of the marine terminal or vessel by means of pumping, gravitation or displacement while oil is moving between the terminal and the vessel. The term "transfer" also includes the movement of bunkers or bunker fuel.
- (z) "Transfer area" means that part of a terminal through which oil product moves between a vessel and the first manifold or shut-off valve outside the terminal area as described in the terminal operations manual.
- ~~(w)~~(aa) "Transfer operations" means the following:
- (1) For all terminals, all activities carried out with regard to a transfer, including, but not limited to:
 - (A) Preparation for transfer;
 - (B) Hookup and disconnect of hoses, mechanical loading arms and any other equipment used for transferring oil; and
 - (C) Steady pumping.
 - (2) For offshore terminals:
 - (A) All activities set forth in subsection ~~(w)~~(aa)(1) of this section; and
 - (B) The procedures and maneuvers for mooring and unmooring of the tank vessel or barge to and from the buoy or buoys as described in

EXHIBIT A

W 9777.106

the terminal operations manual.

~~(x)~~(bb) "Vessel" means every description of watercraft or other artificial contrivance, used or capable of being used, as a means of transportation on water and includes, but is not limited to, tank vessels and barges.

~~(y)~~(cc) "Vessel person in charge" or "VPIC" means the person in charge of the vessel's oil transfer operations.

Authority: Sections 8750, 8751, 8755, and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, and 8756, Public Resources Code.

§2320. Inspections and Monitoring.

- (a) The Division shall carry out an inspection program which shall include the following:
- (1) At least once a year, the Division shall cause to be carried out an inspection of each marine terminal in the state to determine whether all parts of the terminal are being maintained and operated in such a manner to ensure the public health and safety and the protection of the environment and in accordance with the operations manual required and approved under §2385 of these regulations and 33 CFR Part 154.
 - (2) At least once every three years, the Division shall cause to be carried out a thorough examination of each marine terminal in the state to determine whether the structural integrity of the terminal, the oil transfer operations system and the safety equipment are designed and being maintained in a safe working condition.
 - (3) On a continuing basis, the Division shall monitor transfer operations at all marine terminals.
- (b) Every agent or employee of the Division shall, prior to the inspection of a marine terminal or monitoring of an oil transfer operation, or at the time the agent or employee arrives at the terminal or vessel to carry out inspection or monitoring activities, make every reasonable attempt to notify the TPIC or VPIC, as appropriate, of the intended activity.
- (c) (1) Every terminal operator shall provide to the Division access at any time to any and all parts of the operator's terminal.

EXHIBIT A**W 9777.106**

- (2) (A) Every terminal operator shall provide to the Division access at any time to any and all documents, records, policies, guidelines and reports relating to terminal personnel training, testing, inspections, maintenance and operation of the terminal, including, but not limited to, the following:
1. A copy of the terminal operator's letter of intent;
 2. A copy of the state approved terminal operations manual with its letter of adequacy;
 3. The name of each person currently designated as a TPIC at that terminal;
 4. The date and result of the most recent test or examination of each item tested or examined as required by 33 CFR 156.170;
 5. The hose information required by §2380, subsections (a)(1)(E), (F) and (G), including that marked on the hose;
 6. The record of all inspections and examinations of the terminal by the U.S. Coast Guard and the Division within the last 3 years;
 7. The record of all safety related inspections and examinations of the terminal by the State Fire Marshal, local fire department or any port police within the last 3 years;
 8. Any current permits to ~~work and hot work~~ permits perform work of a hazardous nature issued pursuant to §2360; and
 9. The Declaration of Inspection required by §2335.
- (B) If policies, guidelines and reports described in subsection (A) of this section for a particular terminal are not available at the terminal, except in an office or other location which is open and reasonably accessible only during reasonable business hours, the terminal operator shall not be required to provide the Division access to those policies, guidelines and reports except during reasonable business hours.

EXHIBIT A**W 9777.106**

- (C) No terminal operator shall be required to provide access to policies, guidelines and reports except during reasonable business hours, during transfer operations, or during investigations resulting from emergency situations, including, but not limited to, oil discharge events or situations where an oil discharge involving the terminal may be imminent.
- (3) Each operator of any vessel shall provide to the Division access on board the vessel at any and all times the vessel is engaged in oil transfer operations at any terminal. Access shall be provided to any and all parts of the vessel necessary, as deemed by the employee or agent of the Division, to monitor any and all phases, aspects and parts of transfer operations for compliance with regulations of the State of California.
- (4) Access under subsections (c)(1), (2) and (3) of this section shall be provided without warrant or prior notification by the Division.
- (5) (A) If any duly authorized employee or agent of the Division is denied access, as specified in this section, to any part of the terminal or to any vessels at the terminal, the employee or agent shall immediately make every reasonable attempt to notify the TPIC or the VPIC, whichever is appropriate, that access has been denied.
- (B) No terminal may be used in transfer operations with any vessel during any period where any duly authorized employee or agent of the Division is denied access to that vessel.
- (6) If any duly authorized employee or agent of the Division is denied access as specified under this section, the Division shall do all of the following:
- (A) Provide notification of the denial of access to the U.S. Coast Guard Marine Safety Office having jurisdiction;
- (B) Provide notification of the denial of access to the Administrator; and
- (C) Take whatever legal action is necessary or appropriate to obtain access.
- (d) In the event of an oil spill, the presence of any employee or agent of the Commission shall in no way relieve or alter any responsibility any operator of a terminal or vessel may have to report the discharge to the Office of Emergency Services, as required under Government Code §8670.25.5, and to comply with

EXHIBIT A

W 9777.106

all applicable contingency plans and all requirements under the Government Code regarding response to oil spills.

Authority: Sections 8751, 8755, and 8757, Public Resources Code.

Reference: Sections 8670.1 through 8670.70, Government Code; Sections 8750, 8751, 8755, and 8756, Public Resources Code.

§2325. Notification.

- (a) Unless the Division and a terminal operator agree otherwise, at least four (4) hours, but not more than twenty four (24) hours, prior to the initiation of any transfer operation, the operator of the terminal where the transfer is to take place shall provide notice of the transfer to the Division. For barge operations, where the terminal operator has less than four (4) hours advance notice of the transfer, the terminal operator shall provide the Division with notice of the transfer as soon as possible after receiving notice of the anticipated transfer, but in any case prior to the initiation of transfer operations.
- (b) Notifications shall be made in person, by telephone or by facsimile machine to the local area Division field office. For terminals located north of the boundary between Monterey and San Luis Obispo Counties, notifications are to be made to the Division field office in Hercules, (510) 741-4950; facsimile number (510) 741-4975. For terminals located south of the boundary between Monterey and San Luis Obispo Counties, notifications are to be made to the Division field office in Long Beach, ~~(310)~~ (562) 499-6348; facsimile number ~~(310)~~ (562) 499-6355.
- (c) The notification shall include the following:
 - (1) The location of the transfer;
 - (2) The expected time of arrival of the vessel;
 - (3) Time anticipated for initiation of the transfer operations;
 - (4) The name of the tank vessel or barge involved; and
 - (5) The type or types of oil, oil products, or mixtures containing oil being transferred, including, but not limited to, cargo, bunkers or bunker fuel, slops and dirty ballast.
 - (6) The approximate quantity of each type of oil, oil products or mixtures

containing oil being transferred.

- (d) The terminal operator or TPIC shall promptly notify the local area Division field office of any report or notification received from the VPIC, that the tank vessel berthed at the terminal for the purpose of conducting a transfer operation does not have the ability to move away from the berth, under its own power, within 30 minutes, as described in §2340, subsection (c)(28)(A).
- (e) The terminal operator or TPIC shall promptly notify the local area Division field office of any ~~significant~~ damage to structure or equipment at the terminal ~~caused by an incident such as impact from a vessel, heavy weather, fire, explosion, equipment failure or seismic activity. For the purpose of this subsection, "significant damage" shall mean damage~~ that is likely to adversely impact public health and safety and the environment adversely, or is damage in excess of \$50,000 in value. Examples of incidents causing damage to be reported shall include, but not be limited to, impact from a vessel, heavy weather, fire, explosion, equipment failure, acts of terrorism or seismic activity.

Authority: Sections 8751, 8755, and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8755, and 8757, Public Resources Code.

§2330. Exchange of Information.

- (a) Exchange of Information Prior to a Vessel's Arrival at a Terminal.
 - (1) Prior to arrival of a tank vessel or barge at the terminal, the terminal operator shall acquire from the tank vessel or barge or its owners, operators or agents, and the vessel's owner, operator or agent shall provide, all of the following items of information which are applicable:
 - (A) Draft on arrival;
 - (B) Maximum draft and trim expected during transfer operation;
 - (C) Whether tank cleaning or crude oil washing will be undertaken;
 - (D) Any repairs that could delay commencement of cargo transfer;
 - (E) Manifold details, including type and size;
 - (F) Quantity and nature of slops, dirty ballast to be transferred at the

EXHIBIT A

W 9777.106

terminal and any contamination thereof by chemical additives;

- (G) Any defect of hull, machinery, piping, valves or other equipment which may:
 - 1. Affect the safe maneuverability of the tank vessel or barge; or
 - 2. Constitute a hazard to public health and safety and the environment; ~~and~~
- (H) Any other information pertinent to mooring, transfer of vessel's stores and cargo transfer operation; and
- (I) Commencing July 1, 1998, for tank vessels, verification that the tank vessel is in compliance with the ISM Code. Such verification shall be confirmed by ensuring that the tank vessel carries, at a minimum, current certification on board the tank vessel in the forms of:
 - 1. A Document of Compliance; and
 - 2. A Safety Management Certificate.

For a tank vessel of a country not party to Chapter IX of SOLAS, verification must be evidenced by valid current documentation showing that the vessel's company has a safety management system which has been audited and assessed consistent with the ISM Code.

The requirement to be certified under the ISM Code does not apply to barges.

- (2) Prior to arrival at the terminal, the terminal operator shall provide, as applicable to the operator of the tank vessel or barge, information which shall include but not be limited to:
 - (A) Least depth of water expected at the berth while the vessel will be at the berth;
 - (B) The minimum number, length, size and material of mooring lines and emergency towing wires and accessories which the vessel

EXHIBIT A**W 9777.106**

should have available for mooring operations;

- (C) Manifold, hose and mechanical loading arm details, including, but not limited to, type and size, used for oil transfer;
- (D) Details and requirements concerning any vapor ~~recovery~~ control system;
- (E) Terminal requirements for crude oil washing and tank cleaning procedures;
- (F) Any arrangements for the reception of slops or oil ballast residues;
- (G) Any particular features of a dock or mooring or any significant damage which is considered essential to bring to the notice of the Master of the tank vessel, crew of the barge, Pilot or Mooring Master;
- (H) At offshore terminals, the number of tugs required and the number of mooring support vessels that will be provided for mooring and unmooring operations;
- (I) At offshore terminals information on wind, sea, swell, current, tide, visibility and load limitations and terminal restrictions including conditions under which mooring will not be permitted and conditions requiring cessation of transfer operations and departure from the moorings; and
- (J) Any other information pertinent to available port services, mooring and cargo transfer operations.

(b) Exchange of Information upon Arrival (Pre-transfer Conference).

- (1) Transfer operations shall not commence until both persons in charge are present and mutually agree to commence transfer operations after having conducted a pre-transfer conference and completed the declaration of inspection.
- (2) The TPIC and the VPIC shall hold a pre-transfer conference, to ensure that each person in charge clearly understands all information and agrees to all procedures necessary for a safe and pollution-free transfer operation.

CALENDAR PAGE	556
MINUTE PAGE	004630

EXHIBIT A**W 9777.106**

- (3) Those matters to be addressed in the pre-transfer conference shall include, but not be limited to, detailed information concerning the following:
- (A) The quantities and temperatures of the products to be transferred;
 - (B) The cargo information listed in §2385, subsection (d)(2)(E) for the products to be transferred;
 - (C) The transferring and receiving systems, including, but not limited to, the following:
 - 1. The sequence of transfer operations;
 - 2. Maximum allowable working pressure;
 - 3. Maximum allowable product temperature;
 - 4. The control of line pressures;
 - 5. The location of pressure gauges;
 - 6. Settings of relief valves and the direction of their discharge;
 - 7. Communications between vessel and terminal to compare and confirm quantities transferred and received;
 - 8. Limitations on the movement of loading hoses and mechanical loading arms;
 - 9. The initial, maximum and topping off transfer rates;
 - 10. Tank changeover procedures;
 - 11. Topping off procedures;
 - 12. Transfer shutdown procedures;
 - 13. Signals to be used for standby, slowdown transfer rate, stop transfer, and emergency shutdown in case of a breakdown of communications systems;
 - 14. If any part of the transfer is to be by gravity, the maximum

EXHIBIT A

W 9777.106

marine terminal transfer rate possible using gravity; and

15. If the transfer is expected to take less than an hour, the approximate anticipated length of time needed for the transfer.
- (D) Critical stages of the transfer operation;
 - (E) Federal, state, and local rules that apply to the transfer of oil;
 - (F) Emergency procedures;
 - (G) Discharge containment procedures;
 - (H) Discharge reporting procedures and requirements;
 - (I) Watch or shift arrangement; ~~and~~
 - (J) Frequency and means of checking that communications systems are operating effectively; and
 - (K) Minimum underkeel clearance required by the terminal operator.
- (4) In addition to the requirements of subsection (b)(3) of this section, the TPIC and VPIC shall verify the following during the pre-transfer conference:
- (A) The name or title and location of each person participating in the transfer operation;
 - (B) That vessel's cargo tanks which are required by the Coast Guard to be inerted have an oxygen content in the vapor space of cargo tanks of 8 percent by volume or less;
 - (C) That inerted tanks will remain inerted throughout the transfer operation or, if not, that Coast Guard approved alternate safety procedures will be employed;
 - (D) Whether tank cleaning or crude oil washing will be conducted during the transfer operation;
 - (E) The number and sizes of hose connections or loading arms to be

EXHIBIT A

W 9777.106

used;

- (F) Arrangements for the transfer of slops and ~~or~~ oily ballast residues; and
- (G) The maximum transfer rate of vapor ~~recovery~~ control systems used during the transfer operation.

Authority: Sections 8750, 8751, 8752, 8755, and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, and 8757, Public Resources Code.

§2335. Declaration of Inspection.

- (a) No person may transfer oil to or from a vessel unless both the TPIC and VPIC have filled out and signed a declaration of inspection described in subsection (c) of this section.
- (b) No person in charge may sign the declaration of inspection unless he or she has determined by visual inspection, unless visual inspection is precluded, and indicated by initialing in the appropriate space on the declaration of inspection form, that the terminal, ~~or vessel,~~ or both, as appropriate, meets the requirements of §2340.
- (c) The declaration of inspection may be in any form, but must contain at least the following:
 - (1) The name or other identification of the transferring vessel and the terminal;
 - (2) The address of the terminal;
 - (3) A list of the requirements in §2340, subsection (c), with each requirement set forth separately and with spaces on the form following each requirement for the person in charge of the vessel, ~~or terminal,~~ whichever is or both, as appropriate, to indicate by initialing that the requirement is met for the transfer operation; and
 - (4) A space for the date, time of signing, signature, and title of each person in charge during transfer operations on the transferring vessel or terminal and space for the date, time of signing, signature, and title of each person

CALENDAR PAGE	559
MINUTE PAGE	004633

EXHIBIT A

W 9777.106

in charge during transfer operations on the receiving terminal or vessel.

- (d) On completion of the transfer operation the TPIC and VPIC shall annotate the declaration of inspection with:
 - (1) The date and time of hookup for the transfer operation; and
 - (2) The date and time of disconnection upon completion of the cargo transfer.
- (e) The VPIC and TPIC shall each have a signed copy of the declaration of inspection available for inspection by any employee or agent of the Division during the transfer operation.
- (f) Each TPIC and VPIC who is different from the person who originally signed the declaration of inspection shall sign the declaration of inspection before assuming or re-assuming the duties of a person in charge. Prior to their signing or re-signing the declaration of inspection, each person in charge shall inspect the terminal or vessel, as appropriate, to ensure that the requirements of §2340, are being maintained.
- (g) The terminal operator shall retain a signed copy of the declaration of inspection for at least three (3) years from the date of signature.

Authority: Sections 8750, 8751, 8752, 8755 and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, 8757 and 8758, Public Resources Code.

§2340. Requirements for all Transfer Operations.

- (a) No operator, crew member or personnel of a vessel or terminal shall carry out or perform any willful or negligent act or omission which causes the entry of any amount of oil into marine waters during any transfer operation.
- (b) (1) Unless, because of emergencies or unanticipated circumstances, doing so would harm public health or safety or the environment, all transfer operations shall be conducted in accordance with the terminal operations manual approved under §2385 of these regulations or vessel transfer procedures required by 33 CFR 155.720, as appropriate, and with the mutual agreements and understanding established during the pre-transfer conference.

EXHIBIT A**W 9777.106**

- (2) Notwithstanding the provisions of subsection (b)(1) of this section, in circumstances where for operational or safety reasons the sequence of transfer operations or any other conditions or procedures agreed to in the pre-transfer conference are to be changed, the TPIC and VPIC shall, prior to continuation of the transfer operation, confer with each other to ensure that each person in charge clearly understands all information regarding the changes and agrees to all procedures necessary for continuation of a safe and pollution free transfer operation.
- (c) The respective requirements with which the terminal and vessel must comply and which must be set forth on the declaration of inspection and initialled separately by both the TPIC and VPIC or both, as appropriate, as required by §2335, shall include, but not be limited to, the following:
- (1) The vessel's moorings are strong enough to hold during all expected conditions of surge, current, and weather and are long enough to allow adjustment for changes in draft, drift, and tide during the transfer operation.
 - (2) Transfer hoses and loading arms are long enough to allow movement of the vessel while secured at the berth without placing strain on the hose, loading arm, or transfer piping system.
 - (3) To prevent kinking or other damage to the hose and strain on its coupling, each hose is supported in accordance with the operational recommendations of the "HOSE TECHNICAL INFORMATION BULLETIN: No. IP-11-4," ~~Oil Suction and Discharge Hose; Manual for Maintenance, Testing and Inspection,~~ 1987 edition, published by the Rubber Manufacturers Association (RMA), 1400 K Street, N.W., Washington, DC 20005.
 - (4) Each part of the transfer system is aligned to allow the flow of oil.
 - (5) Each part of the transfer system not necessary for the transfer operation is securely blanked off. Each test cock, sampling or bleeder valve is closed and securely capped.
 - (6) The end of each hose, loading arm and manifold that is not connected for the transfer of oil is blanked off with a bolt in at least every other hole and in no case less than four (4) bolts.
 - (7) The transfer system is attached to a fixed connection on the vessel and

EXHIBIT A

W 9777.106

the terminal.

- (8) Except when used to receive ballast as agreed within the pre-transfer conference, each overboard discharge or sea suction valve that is connected to the vessel's transfer or cargo tank system is sealed or lashed in the closed position.
- (9) Each transfer hose has no unrepaired loose covers, kinks, bulges, soft spots, or other defect which would permit the discharge of oil through the hose material and no gouges, cuts, or slashes that penetrate any layer of hose reinforcement. "Reinforcement" means the strength members of the hose, consisting of fabric, cord ~~and~~ or metal.
- (10) Each hose or loading arm in use meets the requirements of §2380, subsections (a) and (b), respectively.
- (11) Each connection meets the requirements of §2380, subsection (d).
- (12) Any monitoring devices used to detect or limit the size of a discharge of oil, if installed, are operating properly.
- (13) The small discharge containment equipment for the terminal, required by §2380, subsection (f), is readily accessible or deployed as applicable and will be periodically drained as required by subsection (g) of §2380.
- (14) The discharge containment equipment for the vessel is in place and will be periodically drained to provide the required capacity.
- (15) Each drain and scupper is securely closed by mechanical means.
- (16) All connections in the transfer system are leak free, except that a component in the transfer system, such as the packing glands of a pump which cannot be made leak free, shall not leak at a rate that exceeds the capacity of the discharge containment provided during the transfer operation.
- (17) The communications required by §2370 are operable for the transfer operation.
- (18) The emergency means of shutdown for the terminal, required by §2380, subsection (h) and the emergency means of shutdown for the vessel required by 33 CFR 155.780 are in position and operable.

EXHIBIT A**W 9777.106**

- (19) There is a TPIC and a VPIC, and each:
- (A) Meets the appropriate requirements of §2375 for persons in charge;
 - (B) Is at the site of the transfer operation and immediately available to the transfer personnel;
 - (C) Has ready access to a copy of the terminal operations manual or vessel transfer procedures, as appropriate; and
 - (D) Conducts the transfer operation in accordance with the terminal operations manual or vessel transfer procedures, as appropriate.
- (20) The personnel required, under the terminal operations manual and the vessel transfer procedures, to conduct the transfer operation:
- (A) Are on duty; and
 - (B) Conduct the transfer operation in accordance with the terminal operations manual or vessel transfer procedures, as appropriate.
- (21) At least one person is at the site of the transfer operation who fluently speaks the language or languages spoken by both persons in charge.
- (22) The TPIC and VPIC of transfer operations have held a pre-transfer conference as required by §2330, subsection (b).
- (23) The TPIC and VPIC of transfer operations agree when the transfer operation is to begin.
- (24) If any part of the transfer operation may take place between sunset and sunrise or during periods of reduced visibility, the lighting required by §2365 will be provided.
- (25) A transfer operation which includes collection of vapor emitted from a vessel's cargo tanks through a vapor ~~recovery~~ control system not located on the vessel must have the following verified by the TPIC:
- (A) Each manual valve in the vapor collection system is correctly positioned to allow the collection of cargo vapor.

EXHIBIT A**W 9777.106**

- (B) A vapor collection hose or arm is connected to the vessel's vapor connection.
- (C) The electrical insulating device ~~recommended in chapter 6 of ISGOTT~~ required under subsections (b) and (c) of §2341, is fitted between the terminal vapor connection and the vessel vapor connection.
- (D) The initial loading rate and the maximum transfer rate are confirmed by the TPIC and VPIC.
- (E) The maximum and minimum operating pressures at the terminal vapor connection are confirmed by the TPIC and VPIC.
- (F) The barge overfill control system, if compatible with the connection to the terminal, is connected to the terminal, is tested, and is operational.
- (G) The following have been performed not more than 24 hours prior to the start of the transfer operation:
1. Each alarm and automatic shutdown system has been tested and found to be operating properly; and
 2. Hydrocarbon gas and oxygen analyzers have been checked for calibration by use of a span gas.
- (H) Each vapor ~~recovery~~ control hose has no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of vapor through the hose material, and no external gouges, cuts, or slashes that penetrate any layer of hose reinforcement.
- (I) The oxygen content of the tank vessel's cargo tanks, if inerted, is at or below 8 percent by volume.
- (26) Fire fighting equipment required in §2345 is in readiness.
- (27) Where required, the spill containment provisions of sections 2395 and 2396 are being complied with.
- (28) The tank vessel has either of the following capabilities:

EXHIBIT A

W 9777.106

- (A) The tank vessel's boilers, main engines, steering machinery and other equipment essential for maneuvering are maintained in a condition so that the tank vessel has the capability to move away from the berth within 30 minutes under its own power; or
 - (B) Where the tank vessel does not have the capability specified in §2340, subsection (c)(28)(A), appropriate tug assistance is available so that the tank vessel can be moved away from the berth within 30 minutes.
- (29) Operations and practices are carried out in compliance with the following recommendations in ISGOTT:
- (A) Emergency towing wires are rigged forward and aft and the ends maintained not greater than 5 feet above the water (chapter 3).
 - (B) Precautions regarding openings in superstructures are being observed (chapter 6).
 - (C) Precautions regarding flame screens are being observed (chapter 6).
 - (D) Precautions regarding unauthorized craft alongside a tank vessel or barge are being observed (chapter 6).
 - (E) Precautions regarding entry to pumprooms, pumproom ventilation and bilges, are being observed (chapter 2).
- (30) The requirements of ~~section~~ §2341 to prevent electrical arcing at onshore terminals are being complied with.
- (31) Commencing July 1, 1998, the tank vessel is in compliance with the ISM Code and has on board a Document of Compliance and a Safety Management Certificate. A tank vessel of a country not party to Chapter IX of SOLAS shall have on board current valid documentation showing that the vessel's company has a safety management system which has been audited and assessed consistent with the ISM Code.
- The requirement to be certified under the ISM Code does not apply to barges.
- (d) No person shall conduct an oil transfer operation unless the TPIC and VPIC

CALENDAR PAGE	565
MINUTE PAGE	004639

EXHIBIT A

W 9777.106

have:

- (1) Conducted the pre-transfer conference required under §2330, subsection (b);
 - (2) Ensured that transfer connections have been made as specified in §2380, subsection (d);
 - (3) Ensured that discharge containment equipment on the terminal and on or around the tank vessel or barge required under §§2380 and 2395 are in position or on stand-by, as appropriate; and
 - (4) Filled out and signed the Declaration of Inspection as required by §2335, subsection (a).
- (e) No TPIC shall conduct a transfer operation with a tank vessel unless the tank vessel has either one of the capabilities of moving away from the berth within 30 minutes, as specified in §2340, subsection (c)(28).
- (f) During all transfer operations, the TPIC shall be in attendance at the terminal.
- (g) Each TPIC shall ensure that the means of operating the emergency shutdown is continually manned so that it can be activated in 30 seconds or less, as required in §2380, subsection (h)(5), while oil is being transferred between the terminal and the vessel.
- (h) Each person conducting an oil transfer shall stop the transfer operation whenever oil from any source is discharged into the water or upon the adjoining shoreline. The transfer operation shall not resume unless authorized by the U.S. Coast Guard and the operator has complied with, or is complying with, the contingency plan approved by the Administrator for the terminal where the transfer is taking place.
- (i) (1) Each person conducting a transfer operation shall stop the transfer operation whenever oil from any source is leaked onto the transfer operation work area, but not in the water, and shall not resume the transfer operation until after both of the following are completed:
- (A) The oil leaked into the oil transfer work area has been cleaned up; and
 - (B) All necessary preventive measures have been taken to ensure that

CALENDAR PAGE	566
MINUTE PAGE	004640

EXHIBIT A

W 9777.106

a similar leak of oil does not recur.

- (2) Transfer operations need not be stopped under subsection (i) of this section if all of the following occur:
 - (A) The leak is directly into the small discharge containment of the terminal or the discharge containment aboard the vessel;
 - (B) No oil is displaced outside of the small discharge containment of the terminal or the discharge containment of the vessel; and
 - (C) Immediate corrective action is taken to stop the leakage of oil.
- (j) Notwithstanding the provisions of subsections (h) and (i) of this section, the transfer operation may resume or may continue without interruption if both of the following occur:
 - (1) Continuation or resumption of the transfer operation is necessary to avoid further discharge of oil; and
 - (2) Both the TPIC and VPIC agree that continuation or resumption is necessary to avoid further discharge of oil.
- (k) The provisions of subsections (h), (i) and (j) of this section are subject to any direction by the Administrator issued directly in response to the discharge into the water.

Authority: Sections 8750, 8751, 8752, 8755, and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, 8757, and 8758, Public Resources Code.

§2341. Requirements to Prevent Electrical Arcing at Onshore Terminals.

- ~~(a) The provisions of §2341, become effective 180 days after these regulations have been filed with the Secretary of State.~~
- (b)(a) Insulating Flange Joint.

For the purpose of this section, an "insulating flange joint" means a typical insulating flange joint as described in Appendix D of ISGOTT or any other insulating flange that meets the electrical resistance requirements of subsection ~~(f)~~(e) of this section.

~~(e)~~(b) Insulating Flange Joints on Metallic Cargo or Vapor ~~Recovery~~ Control Arms.

Each metallic cargo or vapor ~~recovery~~ control arm used during a transfer operation shall be fitted with an insulating flange joint to ensure electrical discontinuity between the terminal and vessel. All metal on the vessel's side of the insulating flange joint shall be electrically continuous to the vessel and that on the terminal's side shall be electrically continuous to the terminal's grounding system.

~~(e)~~(c) Cargo and Vapor ~~Recovery~~ Control Hose Connections.

Each cargo hose string or vapor ~~recovery~~ control hose used during a transfer operation shall have either an insulating flange joint or a single length of non-conducting hose to ensure electrical discontinuity between the terminal and vessel. All metal on the vessel's side of the non-conducting length of hose shall be electrically continuous to the vessel and that on the terminal's side shall be electrically continuous to the terminal's grounding system.

~~(e)~~(d) Testing of Insulating Flange Joints.

- (1) The terminal operator shall test or cause to be tested each insulating flange joint by measuring the electrical resistance between the metal pipe on the terminal side of the flange joint and the end of the hose or metal arm when freely suspended. Such tests shall be conducted at intervals not exceeding three months.
- (2) At terminals which conduct infrequent transfers of oil and the interval between transfers exceeds three months, the test specified in subsection ~~(e)~~(d)(1) of this section need not be conducted at intervals not exceeding three months. However, such test shall be conducted no more than 7 days prior to the connection of any metallic loading or vapor recovery arm or hose string for the purpose of transferring oil.
- (3) The terminal operator shall maintain records of test dates, measured electrical resistance and name and designation of person conducting the test at the terminal for a period of at least one year from the date of testing.

~~(f)~~(e) Insulating Flange Joints: Minimum Resistance.

No insulating flange joint whose measured electrical resistance is less than 1000

EXHIBIT A

W 9777.106

ohms shall be used in any metallic cargo or vapor recovery arm or hose string connection between the terminal and a vessel.

~~(g)~~(f) ~~Vessel-to-Shore~~ Vessel-to-shore Electrical Bonding Cables.

No ~~vessel-to-shore~~ vessel-to-shore electrical bonding cables or wires shall be used for a transfer operation.

Authority: Sections 8750, 8751, 8752, 8755, and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, 8757, and 8758, Public Resources Code.

§2345. Fire Prevention for Transfer Operations.

- (a) Immediately before or on arrival at a terminal at which it is intended to conduct an oil transfer operation, fire hoses shall be connected to the tank vessel's fire main, one forward and one aft of the tank vessel's manifold. Where monitors are provided, they shall be pointed towards the manifold and be ready for immediate use.
- (b) At least two type B-II portable fire extinguishers shall be placed near the manifold, one forward of and one aft of the manifold.
- (c) When oil is being transferred, pressure shall be maintained on the tank vessel's fire main from the tank vessel's fire pump. Where this is impracticable, the tank vessel's fire pump shall be in a standby condition and ready for immediate use. Fire mains shall be pressurized or be capable of being pressurized within 2 minutes.
- (d) The vessel's fire extinguishing equipment shall be operational and ready for immediate use.
- (e) No packaged cargo or vessel's stores may be transferred between the terminal and the vessel during a transfer operation unless authorized by both the TPIC and VPIC. When authorizing transfers under this subsection, the TPIC and VPIC shall consider any potential risk of fire or explosion.
- (f) Blending of two or more oil products in any tank or tanks of a tank vessel or barge alongside a terminal by the introduction of pressurized air shall not be permitted.

EXHIBIT A

W 9777.106

Authority: Sections 8750, 8751, 8752, 8755, and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, and 8757, Public Resources Code.

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§2360. ~~Permit to Work and Hot Work Permits~~ Precautions for Performing Hot Work.

(a) ~~Permit to~~ Hot Work on Terminal.

(1) No construction, repair, maintenance, dismantling or modifications of facilities shall be carried out at a terminal without the written permission of the terminal operator. If a tank vessel or barge is moored at the terminal, the written agreement of the Master or the VPIC, as appropriate, shall also be obtained if the work is on the berth. The person or entity performing such work shall ensure that work does not commence until written permission is obtained.

~~(2) In all cases, except for routine work of a non-hazardous nature, this permission shall be given in the written form of a permit to work.~~

(b) ~~Permit to~~ Hot Work on Tank Vessel or Barge.

(1) When any repair or maintenance is to be done on board a tank vessel or barge alongside a terminal, the Master or VPIC shall inform the terminal operator. Agreement shall be reached on the safety precautions to be taken, with due regard to the nature of the work.

(2) Hot work on board a tank vessel or barge shall be prohibited ~~until~~ unless all applicable regulations and safety requirements of the National Fire Protection Association's Standard for Fire Prevention in Use of Cutting and Welding Processes - NFPA 51B, 1994, NFPA, 1 Batterymarch Park, Quincy, MA 02269-9101 have been met ~~and a hot work permit has been issued by the U.S. Coast Guard.~~

Authority: Sections 8750, 8751, and 8755, Public Resources Code.

Reference: Sections 8750, 8751, 8752, and 8755, Public Resources Code.

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§2370. Communications.

- (a) Each terminal shall have a means that enables continuous two-way voice communication between the TPIC and the VPIC.
- (b) The means required by subsection (a) of this section shall be usable and effective in all phases of the transfer operation and all conditions of weather at the terminal.
- (c) A terminal may use the voice communications system for emergency shutdown specified in §2380, subsection (h)(6)(B), to meet the requirement of subsection (a) of this section.
- (d) An alternate continuous two-way voice communication system shall be available in the event that the primary communications system is disabled.
- (e) Portable radio devices used in compliance with this section shall be intrinsically safe, as defined in the Institute of Electrical and Electronics Engineers Standard Dictionary, 1984 edition, ~~Published~~ published by the Institute of Electrical and Electronics Engineers, available from the American Society of Mechanical Engineers, 22 Law Drive, Box 2300, Fairfield, New Jersey and meet Class I, Division I, Group D requirements as defined in the National Electric Code, Article 500, ~~1993~~ 1996 edition published by NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.
- (f) The means of communication shall be continuously manned during a transfer operation by a person or persons who can immediately contact the TPIC and VPIC.
- (g) If the means of communications has not been used within a period of 60 minutes during a transfer operation, the means of communications shall be checked to ensure that it is operative.

Authority: Sections 8750, 8751, and 8755, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, 8757, and 8758, Public Resources Code.

§2375. Requirements for Persons in Charge.

- (a) Terminal Person in Charge (TPIC).

EXHIBIT A

W 9777.106

- (1) The TPIC of oil transfer operations shall have successfully complied with all of the following:
- (A) A program of operations and supervisory personnel training as prescribed in 2 CCR §2542(e);
 - (B) A testing and evaluation procedure to qualify for certification as prescribed in 2 CCR §2545(f);
 - (C) Recertification as prescribed in 2 CCR §2545(g), as appropriate;
 - (A)(D) At least 48 hours of experience in oil transfer operations, including a minimum of 6 connections and transfers and 6 transfers and disconnects; and
 - (B)(E) Sufficient experience at the terminal for the terminal operator to determine that this experience is adequate for being in charge of oil transfer equipment and procedures.
- (2) ~~To meet the requirement of subsection (a)(1) of this section, the terminal operator shall determine that the TPIC knows and understands the following:~~
- (A) ~~The hazards of each product that is transferred at the terminal;~~
 - (B) ~~Title 2, Division 3, Chapter 1, Article 5 (commencing with Section 2300) of the California Code of Regulations;~~
 - (C) ~~The provisions in 33 CFR Parts 154 and 156;~~
 - (D) ~~The terminal operating procedures as described in the terminal operations manual;~~
 - (E) ~~Tank vessel and barge oil transfer systems, in general;~~
 - (F) ~~Tank vessel and barge control systems, in general;~~
 - (G) ~~Each terminal oil transfer control system to be used;~~
 - (H) ~~Terminal vapor control system;~~
 - (I) ~~Federal, state and local procedures for reporting discharges of oil;~~
and

~~(d) The terminal's oil spill contingency plan.~~

The terminal operator shall ensure that each TPIC has valid documentation to authenticate that the requirements of subsections (a)(1)(A) through (E) of this section have been met.

- (3) The terminal operator shall designate in writing each person authorized to serve as a TPIC and advise the Division, in writing, of his or her designation.
- (4) Each TPIC shall carry evidence of their authorization to serve as a TPIC when they are engaged in transfer operations, unless such evidence is immediately available at the terminal.

(b) Vessel Person in Charge (VPIC).

~~(1) The VPIC of a tank vessel during transfer operations shall hold at least one of the following:~~

~~(A) For U.S. tank vessels, a valid U.S. Coast Guard issued license as Master or Mate on inspected, mechanically propelled vessels as required by the U.S. Coast Guard for the tonnage of the vessel; Pilot of inspected mechanically propelled vessels; or Engineer; or~~

~~(B) For foreign tank vessels, a valid license or certificate authorizing service on that vessel as a Master, Mate, Pilot or Engineer.~~

~~(2) The VPIC of a barge shall hold any valid U.S. Coast Guard issued license as specified in subsection (b)(1) of this section or shall hold a valid U.S. Coast Guard issued Merchant Mariners Document endorsed as Tankerman for the grade of cargo carried.~~

(1) For the purpose of this subsection, a "PIC" means Person in Charge.

(2) The operator of a tank vessel or barge with a capacity of 250 or more barrels of oil, shall designate, in writing, a person in charge of each transfer operation.

(3) The VPIC of oil transfer operations shall have sufficient training and experience with respect to the cargo to be transferred and the relevant characteristics of the vessel or barge on which he or she is engaged,

EXHIBIT A**W 9777.106**

including, but not limited to, the cargo system, cargo containment system, transfer procedures, shipboard emergency equipment and procedures, control and monitoring systems, procedures for reporting pollution incidents, and, if installed, Crude Oil Washing (COW), inert gas, and vapor control systems, to conduct a transfer of oil safely. The minimum qualifications necessary to be designated as VPIC are those set forth in this Article 5 and 33 CFR Part 710.

- (4) Each designated VPIC of a tank vessel documented under the laws of the United States shall:
- (A) Hold a license issued under 46 CFR Part 10 authorizing service aboard a vessel certified for voyages beyond any Boundary Line described in 46 CFR Part 7, except on tank vessels not certified for voyages beyond the Boundary Line; and
 - (B) Hold a Tankerman-PIC endorsement issued under 46 CFR Part 13 that authorizes the holder to supervise the transfer of oil or liquid cargo in bulk.
- (5) Each designated VPIC of a tank barge required to be inspected under Title 46, of the United States Code, Section 3703, shall hold a Tankerman-PIC or Tankerman-PIC (Barge) endorsement issued under 46 CFR Part 13 that authorizes the holder to supervise the transfer of oil or liquid cargo in bulk.
- (6) Each designated VPIC of a foreign tank vessel shall:
- (A) Hold a license or other document issued by the flag state or its authorized agent authorizing service as master, mate, pilot, engineer, or operator on that vessel;
 - (B) Hold a Dangerous-Cargo Endorsement or Certificate issued by a flag state party to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), or other form of evidence attesting that the VPIC meets the requirements of Chapter V of STCW as a PIC of the transfer of oil or liquid cargo in bulk;
 - (C) Be capable of reading, speaking, and understanding in English, or a language mutually agreed upon with the TPIC, all instructions needed to commence, conduct, and complete a transfer of oil, or a

EXHIBIT A

W 9777.106

liquid cargo in bulk, except that the use of an interpreter meets this requirement if the interpreter:

1. Fluently speaks the language spoken by each PIC;
2. Is immediately available to the VPIC on the tank vessel at all times during the transfer; and
3. Is knowledgeable about, and conversant with terminology of tank vessels and transfers; and

(D) Be capable of effectively communicating with all crew members involved in the transfer, with or without an interpreter.

(7) Each designated VPIC of foreign tank barge shall:

(A) Hold a Dangerous-Cargo Endorsement or Certificate issued by a flag state party to STCW, or other form of evidence attesting that the VPIC meets the requirements of Chapter V of STCW as a PIC of the transfer of oil;

(B) Be capable of reading, speaking, and understanding in English, or a language mutually agreed upon with the TPIC of the transfer, all instructions needed to commence, conduct, and complete a transfer of oil or liquid cargo in bulk, except that the use of an interpreter meets this requirement if the interpreter:

1. Fluently speaks the language spoken by each PIC;
2. Is immediately available to the VPIC on the tank barge at all times during the cargo transfer; and
3. Is knowledgeable about, and conversant with terminology of, tank vessels, barges and transfers; and

(C) Be capable of effectively communicating with all crew members involved in the transfer, with or without an interpreter.

Authority: Sections 8750, 8751, and 8755, Public Resources Code.

Reference: Sections 8750, 8751, 8752, and 8755, Public Resources Code.

§2380. Equipment Requirements: Testing and Inspections.**(a) Hose Assemblies.**

(1) Each hose assembly used for transferring oil shall meet the following requirements:

(A) The minimum design burst pressure for each hose assembly shall be:

1. At least 600 pounds per square inch; and
2. At least four times the sum of the pressure of the relief valve setting (or four times the maximum pump pressure when no relief valve is installed) plus the static head pressure of the transfer system at the point where the hose is installed.

(B) The maximum allowable working pressure (MAWP) for each hose assembly shall be:

- ~~(1)~~ ~~At least 150 pounds per square inch; and~~
- ~~(2)~~ More more than the sum of the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the transfer system at the point where the hose is installed.

(C) Each nonmetallic hose shall be usable for oil service.

(D) Each hose assembly shall have one of the following:

1. Full threaded connections;
2. Flanges that meet standard B16.5, Steel Pipe Flanges and Flange Fittings, 1988, or standard B16.24, Brass or Bronze Pipe Flanges, 1979, of the American National Standards Institute (ANSI), available from the American Society of Mechanical Engineers (ASME), 22 Law Drive, Box 2300, Fairfield, New Jersey 07007-2300; or

EXHIBIT A**W 9777.106**

3. ~~Quick-connect~~ disconnect couplings that either meet ASTM F-1122, Standard Specifications for Quick Disconnect Couplings, published in 1987 by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187 or have been accepted by the U.S. Coast Guard.
- (E) Except as provided in subsection (F) of this section, each hose shall be marked near the two ends in the vicinity of the flanges, where it can best be seen, with the following:
1. Any of the following:
 - a. The name of each product for which the hose may be used;
 - b. For oil products, the words "OIL SERVICE"; or
 - c. For hazardous materials, the words "HAZMAT SERVICE - SEE LIST" followed immediately by a letter, number or other symbol that corresponds to a list or chart contained in the terminal's operations manual or the vessel's transfer procedure documents which identifies the products that may be transferred through a hose bearing that symbol;
 2. Maximum allowable working pressure;
 3. Date of manufacture; and
 4. Date of the latest annual test required by either 33 CFR 156.170 or subsection (a)(2) of this section, whichever is later. ~~with dates~~ Dates of previous tests shall be obliterated.
- (F) The information required by subsections (a)(1)(E)3. and (a)(1)(E)4. of this section need not be marked on the hose if it is recorded in the hose records of the terminal or vessel and the hose is marked to identify it with that information.
- (G) The hose burst pressure and the pressure used for the test required by 33 CFR 156.170 shall not be marked on the hose and shall be recorded elsewhere at the terminal.

EXHIBIT A

W 9777.106

- (H) Each non-conducting length of hose used for transferring oil or for vapor ~~recovery~~ control at onshore terminals shall be clearly marked "NON-CONDUCTING" where it can best be seen.
- (2) Each hose used for transferring oil shall be inspected, maintained, handled, ~~and stored~~ and tested in accordance with the recommended practices in "HOSE TECHNICAL INFORMATION BULLETIN: No. IP-11-4," ~~Oil Suction and Discharge Hose; Manual for Maintenance, Testing and Inspection," 1987 edition, published by the Rubber Manufacturers Association (RMA), 1400 K Street, N.W., Washington, DC 20005.~~ except that the frequency of periodic hose testing shall be in accordance with 33 CFR 156.170 and subsections (A), (B) and (C) of this section.
- (A) All new hose, recoupled hose, or hose taken from storage shall be tested before it is placed in service.
- (B) Hose assemblies subjected to severe end pull, flattening, crushing or sharp kinking shall be immediately inspected and subjected to a pressure test, and if applicable, an electrical continuity test.
- (C) The following tests shall be conducted at intervals not to exceed twelve months:
1. A hydrostatic pressure test;
 2. A vacuum test for hoses which have an inner tube liner; and
 3. For electrically continuous lengths of hoses, an electrical continuity test which may be performed at the same time as the tests in subsection (d) of §2341 of this Article 5.
- (b) Loading Arms.
- (1) Each mechanical loading arm used for transferring oil and placed into service after June 30, 1973, shall meet the design, fabrication, material, inspection, and testing requirements in American National Standards Institute (ANSI) B31.3. published in 1990 and available from the American Society of Mechanical Engineers (ASME), 22 Law Drive, Box 2300,

EXHIBIT A

W 9777.106

Fairfield, New Jersey 07007-2300.

- (2) The manufacturer's certification that the standard American National Standards Institute (ANSI) B31.3 has been met shall be permanently marked on the loading arm or recorded elsewhere at the terminal with the loading arm marked to identify it with that information.
 - (3) Each mechanical loading arm used for transferring oil shall have a means of being drained or closed before being disconnected.
 - (4) Each mechanical loading arm shall be marked where it can best be seen, with the following:
 - (A) Maximum allowable working pressure; and
 - (B) Date of the latest annual test required by 33 CFR 156.170; dates of previous tests shall be obliterated.
 - (5) Each mechanical loading arm shall have its maximum allowable lateral movement envelope limits conspicuously marked on the terminal at the position of the loading arm. The maximum allowable extension limits of the loading arm shall also be indicated visibly.
- (c) Closure Devices.

The terminal shall have sufficient blank flanges or other means acceptable to the Division to blank off the ends of each hose or loading arm that is not connected for the transfer of oil. New, unused hose is exempt from this requirement.

- (d) Connection.
- (1) Each person who makes a bolted connection for transfer operations shall:
 - (A) Use suitable material in joints and couplings to ensure a leak-free seal;
 - (B) Use a bolt in every hole;
 - (C) Use bolts of the correct size in each bolted connection; and
 - (D) Tighten each bolt and nut uniformly to distribute the load sufficiently and to ensure a leak free seal.

EXHIBIT A

W 9777.106

- (2) A person who makes a connection for transfer operations shall not use any bolt that shows signs of strain or is elongated or deteriorated.
- (3) Except as provided in subsection (4) of this section, no person may use a connection for transfer operations unless it is:
 - (A) A bolted or full threaded connection; or
 - (B) A quick-~~connect~~ disconnect coupling that either meets American Society for Testing and Materials (ASTM) F-1122; Standard Specifications for Quick Disconnect Couplings, published in 1987 by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187 or has been accepted by the U.S. Coast Guard.
- (4) No person may transfer oil to a vessel that has a fill pipe for which containment cannot practically be provided unless an automatic back pressure shutoff nozzle is used.

(e) **Monitoring Devices.**

Monitoring devices shall be installed and maintained at the terminal if required by the U.S. Coast Guard Captain of the Port.

(f) **Small Discharge Containment.**

- (1) Except as provided in subsections (3) and (4) of this section, an onshore terminal shall have fixed catchments, curbing, or other fixed means to contain oil discharged at the following locations:
 - (A) Each hose handling and loading arm area (that area on the terminal that is within the area traversed by the free end of the hose or loading arm when moved from its normal stowed or idle position into a position for connection); and
 - (B) Each hose connection manifold area.
- (2) The discharge containment means required by subsection (f)(1) of this section shall have a capacity of at least:
 - (A) Two barrels if it serves one or more hoses of 6-inch inside diameter or smaller or one or more loading arms of 6-inch nominal pipe size

EXHIBIT A

W 9777.106

diameter or smaller;

- (B) Three barrels if it serves one or more hoses with an inside diameter of more than 6-inches, but less than 12 inches, or one or more loading arms with a nominal pipe size diameter of more than 6 inches, but less than 12 inches; or
 - (C) Four barrels if it serves one or more hoses of 12-inch inside diameter or larger or one or more loading arms of 12-inch nominal pipe size diameter or larger.
- (3) The terminal may use portable means of not less than ½ barrel capacity each to meet the requirements of subsection (f)(1) of this section for part or all of the terminal if the Division finds that fixed means to contain oil discharges are not feasible.
- (4) A mobile ~~terminal transfer unit, such as a tank truck,~~ may have use portable means of not less than five gallons capacity to meet the requirements of subsection (f)(1) of this section, when conducting transfer operations to or from tank vessels or barges.
- (g) Discharge Removal.
- (1) Each onshore terminal and each mobile transfer unit shall have a means to remove discharged oil from the containment system required by subsection (f)(1) of this section safely and quickly without discharging the oil into the water.
 - (2) Each onshore terminal and each mobile transfer unit shall safely remove discharged oil from the containment system within one hour of the completion of any transfer.
- (h) Emergency Shutdown.
- (1) The terminal shall have an emergency means to shutdown and stop the flow of oil from the terminal to the tank vessel or barge.
 - (2) A point in the transfer system at which the emergency means stops the flow of oil on the terminal shall be located near the dock manifold connection to minimize the loss of oil in the event of the rupture or failure of the hose, loading arm, or manifold valve.
 - (3) For oil transfers, the means used to stop the flow under subsection (h)(1)

EXHIBIT A

W 9777.106

of this section shall stop that flow within:

- (A) 60 seconds on any terminal or portion of a terminal that first transferred oil on or before November 1, 1980; and
 - (B) 30 seconds on any terminal that first transfers oil after November 1, 1980.
- (4) The VPIC and TPIC shall each be capable of ordering or activating the emergency shutdown.
- (5) If the VPIC or TPIC orders an emergency shutdown, the shutdown shall be capable of being activated and shall be activated within 30 seconds of the order.
- (6) To meet the requirements of subsections (h)(4) and (5) of this section, the means to stop the flow of oil shall be either of the following:
- (A) An electrical, pneumatic or mechanical linkage to the terminal; or
 - (B) A voice communications system continuously operated by a person on the terminal who at all times during the transfer can hear the communications and can, at any time, activate the emergency shutdown.
- (i) Vapor Control Systems.

Any ~~Vapor Control System~~ vapor control system at any marine terminal shall meet the following requirements of:

- (A) 2 CCR §§2550 through 2556;
 - (B) 33 CFR Part 154, Subpart E, or, and
 - (C) any Any other such state and federal regulations governing Vapor Control Systems vapor control systems.
- (j) ~~Equipment Tests and Inspections.~~

~~No person may use any equipment for conducting an oil transfer unless it has been inspected and is in the condition specified in 33 CFR 156.170.~~

EXHIBIT A

W 9777.106

Authority: Sections 8750, 8751, 8752, 8755, and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, 8757, and 8758, Public Resources Code.

§2384. Marine Terminals in Caretaker Status.

(a) For the purpose of this section, a "Marine Terminal in Caretaker Status" means a marine terminal which is non-operational for an indefinite period of time. For the purpose of this definition, the term "non-operational" means that the terminal will not conduct any transfers of oil for the period of time it is in caretaker status.

(b) Petition for a Marine Terminal to be Placed in Caretaker Status.

(1) Any operator of a marine terminal may submit a petition to the Division Chief requesting the terminal be placed in caretaker status.

(2) The petition shall be in writing, and shall include documents and certification to validate that:

(A) All pipelines, hoses, loading arms, oil storage tanks located at the terminal and any other oil transfer equipment at the terminal are free of oil or oil products;

(B) All pipelines terminating within the marine terminal on or adjacent to any body of water are properly blanked; and

(C) All pipelines, loading arms and oil storage tanks, if any, located at the terminal have been certified as being free of hydrocarbon gas by a marine chemist.

(3) For those terminals on lands leased from entities other than the Commission, the petition shall also include written acknowledgment from the lessor that the lessor is aware of the petitioner's intention to place the terminal in caretaker status.

(c) Review and Response to Petitions.

(1) The Division shall review a petition for a marine terminal to be placed in caretaker status to ensure that it contains all the necessary information specified in subsections (b)(2)(A), (B), (C) and, if applicable, (b)(3), of this section.

EXHIBIT A

W 9777.106

- (2) The Division Chief may require an inspection of the terminal be carried out by Staff of the Division as part of the review process.
 - (3) If the Division Chief determines that the petition meets the requirements of subsections (b)(2)(A), (B), (C) and where applicable, (b)(3), of this section, he or she shall proceed under the provisions of subsection (d) of this section.
 - (4) If the Division Chief determines that the petition does not include all of the requirements of subsections (b)(2)(A), (B), (C) and where applicable, (b)(3), of this section, he or she shall notify the petitioner, in writing, giving specific reasons for such determination.
 - (5) In all cases, whether a petition is approved or not, the Division Chief shall respond in writing to the petitioner within 30 working days of a completed petition.
 - (6) A petitioner who is in receipt of written notification from the Division Chief under subsection (c) (4) of this section may resubmit the petition including the information indicated in such notification.
- (d) Approval of Petitions.
- (1) The Division Chief shall approve the petition for a marine terminal to be placed in caretaker status if he or she is satisfied that the requirements of subsections (b)(2)(A), (B), (C) and, if applicable, (b)(3), of this section have been met.
 - (2) Approval of such a petition shall be in the form of a letter of authorization from the Division Chief to the petitioner, authorizing the terminal to be placed in caretaker status.
 - (3) A letter of authorization for a terminal to be place in caretaker status may specify any extra conditions that the terminal may have to comply with because of the design of the terminal or any unusual circumstances prevalent at the terminal.
- (e) Withdrawal of Approval.
- (1) The Division Chief may withdraw the letter of authorization to be in

EXHIBIT A

W 9777.106

caretaker status any time the Division verifies that the terminal operator subject to these regulations is not in compliance with any applicable requirements of subsections (b)(2) and (b)(3) of this section or any other terms and conditions set forth in the letter of authorization.

- (2) Withdrawal of the letter of authorization to be in caretaker status shall be effective immediately upon receipt by the petitioner of written notification of the withdrawal from the Division Chief.
 - (3) Withdrawal of the letter of authorization to be in caretaker status may subject the terminal operator to enforcement procedures under §2407 of this Article 5 and Government Code §§2670.57 through 2860.69.6.
- (f) Voiding of Letter of Authorization for the Terminal Operations Manual for Terminals in Caretaker Status.

The letter of authorization for the terminal's operations manual required by §2385(c) of this Article 5 shall be voided with effect from the date the terminal has been authorized to be placed in caretaker status.

- (g) Inspections of Marine Terminals in Caretaker Status.
- (1) Except for appropriate provisions of §2320(c)(1), §2320(c)(4), §2320(c)(6), §2400, §2405, §2406 and §2407 of this Article 5, and subsection (g)(2) following, a terminal in caretaker status shall not be required to comply with the provisions of this Article 5 and Article 5.3 of Title 2, Division 3, Chapter 1 of the California Code of Regulations.
 - (2) Periodic, unscheduled inspections may be conducted by staff of the Division to ensure that the terminal is being maintained as specified in subsections (b)(2)(A), (B), and (C) of this section and complying with any additional terms or conditions set forth in the letter of authorization.
- (h) Restoration of a Marine Terminal from Caretaker Status to Operational Status.
- (1) Not less than sixty days prior to the proposed date of restoration of a marine terminal in caretaker status to operational status, the terminal operator shall submit a written request to restore the terminal to operational status to the Division Chief. The request shall meet all the requirements for approval of an operations manual and contain all the provisions required by §2385(a), (b), (d) and (f) of this Article 5, as well as those required by §2385(e), if applicable.

- (2) In evaluating the request for approval of the resumption of transfer operations and of the new operations manual, the Division shall follow the same procedures set forth in §2385(c) of this Article 5. The letter of approval shall indicate the date on which the terminal may resume transfer operations.
- (3) Prior to commencement of transfer operations following the letter of approval, the terminal operator shall also ensure that:
- (A) All pipelines, hoses, loading arms and other oil transfer equipment at the terminal have been tested and are in compliance with all applicable regulations;
- (B) All oil storage tanks located at the terminal have been inspected to ensure that they are in safe condition to receive and store oil;
- (C) All operational controls, safety alarms, communications systems, emergency shut-down systems, pressure relieving devices and other transfer related safety systems have been tested and are in good working order; and
- (D) All personnel at the terminal meet the requirements of Article 5.3, Marine Terminal Personnel Training and Certification.
- (i) Voiding of Letter of Authorization for the Terminal to be Placed in Caretaker Status.

The letter of authorization for the terminal to be placed in caretaker status shall be voided with effect from the date on which the Division Chief issues a letter of approval for the terminal to resume transfer operations as specified in subsection (h)(3) of this section.

Authority: Sections 8750, 8751, 8752, 8755 and 8757, Public Resources Code.

Reference: Sections 8750, 8751, 8752, 8755, 8757 and 8758, Public Resources Code; Sections 8670.57 through 8670.69.6, and 15375, 15376 and 15378, Government Code.

§2385. Operations Manuals.

- (a) Operations Manual Requirements.

- (1) No terminal may conduct transfer operations except in accordance with an operations manual approved by the Division.
- (2) ~~Operators of terminals who hold a letter of adequacy issued by the U.S. Coast Guard for their operations manual, at the time the provisions of this article become effective, may continue to carry out transfer operations in accordance with that manual without Division approval until the earlier of the following:~~
- ~~(A) One year from the date this article becomes effective; or~~
- ~~(B) The letter of adequacy is invalidated by the U.S. Coast Guard.~~
- (3) ~~Notwithstanding the provisions of subsection (b) of this section, each terminal operator shall submit to the Division, the following:~~
- ~~(A) Within 30 days of this article becoming effective, two copies of their current operations manual together with its letter of adequacy, for information purposes; and~~
- ~~(B) Within one (1) year of this article becoming effective, a new operations manual which meets the requirements of this section, for Division approval under subsection (c) of this section.~~
- (4) Operators of terminals shall maintain their operations manual so that it is:
- (A) Current; and
- (B) Readily available for examination by the Division.
- ~~(5)~~(3) Operators of terminals shall ensure that a sufficient number of copies of their operations manual are readily available for each TPIC and VPIC while conducting a transfer operation.
- (b) Letter of Intent.
- (1) Any person who proposes to install a new marine terminal or proposes to assume control over the operation of an existing marine terminal shall, not less than 60 days prior to the intended assumption of operations, submit a letter of intent to operate the terminal to the Division.

- (2) The letter of intent required by subsection (b)(1) of this section may be in any form, but shall at least include the following:
- (A) The name, address, telephone number and facsimile number of the terminal operator;
 - (B) The name, address, berth number, telephone number and facsimile number (if any) of the terminal; ~~and~~
 - (C) The proposed operations manual for the terminal; and
 - (D) The proposed oil spill prevention training and certification programs required by 2 CCR §§2540 through 2548.
- (3) The operator of any terminal for which a letter of intent has been submitted shall, within five (5) days of any change in operations or information or a termination of use of the terminal, advise the Division in writing of the changes and shall cancel, in writing, the letter for any terminal at which transfer operations can no longer be conducted.
- (c) Operations Manual: Approval.
- (1) The Division shall review and, within 30 working days of ~~submission~~ receipt at the Division, approve any operations manual which meets the requirements of this section. If the Division finds that the manual does not meet the requirements of this section, then it shall notify the submitting party within 30 working days of the manual's ~~submission~~ receipt.
 - (2) The approval by the Division is voided if the terminal operator:
 - (A) Amends the operations manual without following the procedures in subsection (f) of this section; ~~or~~
 - (B) Fails to amend the operations manual when required by the Division; or
 - (C) Receives written authorization from the Division Chief to place the marine terminal in caretaker status as set forth in subsection (d) of §2384 of this Article 5.
 - (3) Any terminal operator whose operations manual has been disapproved by

EXHIBIT A**W 9777.106**

the Division may appeal the disapproval to the Commission, provided that the appeal is submitted in writing to the Commission Executive Officer within 30 days after the operator receives notice of the disapproval.

(d) **Operations Manuals: Contents.**

(1) Each operations manual required by this section shall:

- (A) Describe how the applicant meets the operating rules and equipment requirements specified in this article and in 33 CFR Parts 154 and 156, Subpart A; and
- (B) Describe the responsibilities of personnel under this section and under 33 CFR Parts 154 and 156, Subpart A, in conducting oil transfer operations.

(2) Each operations manual required by this section shall contain all of the following:

- (A) Maps and diagrams showing the location and configuration of the terminal, including, at minimum, the following:
 - 1. Scale and direction;
 - 2. A point on the map with its latitude and longitude taken with a geographic positioning system, with differential correction;
 - 3. A site plan of the major structural components of the current facility, including, but not limited to, piers, mooring structures, buoys, manifolds, mechanical loading arms, pipelines and pipeline end manifolds (PLEMs);
 - 4. The location of the general and emergency shutdown system controls;
 - 5. Locations of any environmental and discharge monitoring devices;
 - 6. Storage locations for pollution containment equipment including those deployed during transfer operations;
 - 7. Configuration of boom containment and arrangements for

EXHIBIT A

W 9777.106

boom stand-off for each type of transfer operation that takes place at the terminal;

8. Location and type of fire extinguishing, first aid and other safety equipment;
 9. Location of facilities used for personnel shelter, if any;
 10. Locations of environmentally sensitive areas in the immediate vicinity of the terminal, if any;
 11. Where applicable the locations of special shut-off valves and other safety equipment to be used in case of earthquakes;
 12. Locations of sump wells, if any, at or in the vicinity of the terminal;
 13. Emergency exit routes for personnel; and
 14. Bathymetry and sea floor characteristics;
- (B) A physical description of the terminal including a plan of the terminal showing mooring areas, transfer locations, control stations, and locations of safety equipment;
- (C) The hours of operation of the terminal;
- (D) The sizes, including the maximum size of tank vessel or barge that can be accommodated at the terminal, types, and number of tank vessels and barges to and from which the terminal can transfer oil at any time. The maximum tank vessel size shall be specified by its:
1. Length Overall;
 2. Maximum or Loaded Draft; and
 3. Deadweight Tonnage (DWT).
- (E) For each product transferred at the terminal:
1. Generic or chemical name; and

EXHIBIT A**W 9777.106**

2. The following cargo information:
- a. The name of the cargo, as listed under Appendix II of Annex II of MARPOL 73/78, Table 30.25-1 of 46 CFR 30.25-1, Table 151.05 of 46 CFR 151.05-1, or Table 1 of 46 CFR 153;
 - b. A description of the appearance of the cargo;
 - c. A description of the odor of the cargo;
 - d. The hazards involved in handling the cargo;
 - e. Instructions for safe handling of the cargo;
 - f. The procedures to be followed if the cargo spills or leaks or if a person is exposed to the cargo; and
 - g. A list of fire fighting procedures and extinguishing agents effective with fires involving the cargo.
- (F) The minimum number of persons on duty during transfer operations and their duties;
- (G) The names and telephone numbers of the terminal operator or operators, U.S. Coast Guard, California State Office of Emergency Services, and other personnel who may be called by the employees of the terminal in an emergency;
- (H) A description of each communication system required by §2370 of these regulations;
- (I) A description of the facilities and the location of each personnel shelter, if any;
- (J) A description and instructions for the use of drip and discharge collection, and vessel slop reception facilities, if any;
- (K) A description of and instructions for seep monitoring from sump wells, if any;
- (L) A description of the operation of and the component location of

EXHIBIT A**W 9777.106**

- each emergency shutdown system;
- (M) Quantity, types, locations, and instructions for use of oil discharge monitoring devices, if any;
- (N) Quantity, type, location, instructions for use, and time required for gaining access to and deployment of initial response containment equipment;
- (O) A description of the spill containment for transfer operations required under §2395 and, if applicable, the basis used for determining that the onshore marine terminal is subject to high velocity currents as defined in §2395, subsection (b)(3);
- (P) Quantity, type, location, and instructions for use of fire extinguishing equipment required by federal, state and local fire prevention regulations;
- (Q) The maximum relief valve setting or, where relief valves are not provided, maximum system pressure for each transfer system and the method used to determine that pressure;
- (R) Procedures for:
1. Operating each mechanical loading arm including the limitations of each loading arm;
 2. Transferring oil;
 3. Completion of pumping; ~~and~~
 4. Emergencies; and
 5. Notifying the Division of damage as required by subsection (f) of §2325 of this Article 5.
- (S) Procedures for reporting and initially containing oil discharges;
- (T) A brief summary of applicable federal, state, and local oil pollution laws and regulations;
- (U) Procedures for shielding portable lighting authorized by the Division under §2365;

EXHIBIT A

W 9777.106

- (V) A description of the training and qualification program for TPIC's;
- (W) A list of all designated TPIC's for the terminal;

- (X) Statements explaining that each oil or hazardous materials transfer hose is marked either with the name of each product which may be transferred through the hose; with the words, "OIL SERVICE"; or with letters, numbers or other symbols representing all such products and the location in the operations manual where a chart or list of the symbols used and a list of the compatible products which may be transferred through the hose can be found for consultation before each transfer; and

- (Y) A list and brief description of all operating restrictions placed upon the particular terminal by federal, state or local authorities with proper jurisdiction.

- (3) If a terminal collects vapors emitted from vessel cargo tanks for recovery, destruction, or dispersion, the operations manual shall contain a description of the vapor ~~collection~~ control system at the terminal which includes the following:
 - (A) A line diagram or simplified piping and instrumentation diagram (P&ID) of the terminal's vapor control system piping, including the location of each valve, control device, pressure-vacuum relief valve, pressure indicator, flame arrester and detonation arrester; and
 - (B) A description of the vapor control system's design and operation, including the:
 1. The Vapor vapor line connection;
 2. Startup and shutdown procedures;
 3. Steady state operating procedures;
 4. Provisions for dealing with pyrophoric sulfide (for facilities which handle inerted vapors of cargoes containing sulfur);
 5. Alarms, shutdown devices and Safety Analysis Function Evaluation (SAFE) chart as prescribed in Recommended

EXHIBIT A

W 9777.106

Practice 14C, Fourth Edition, published on September 1, 1986 by the American Petroleum Institute (API), Publications and Distribution Section, 1220 L Street, NW, Washington, DC 20005; and

6. Pre-transfer equipment inspection requirements.
- (4) Each operations manual shall also contain an electrical hazardous (classified) area diagram of the current terminal, as described in National Fire Protection Association (NFPA) No. 70, National Electrical Code, Articles 500 and 515, ~~4993~~ 1996 edition, published by NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. This diagram need not be bound with the operations manual, but must be located at the terminal. Copies of the operations manual submitted to the Division under subsection (a)(3)(B) of section 2385 need not contain the diagram.
 - (5) For ease of amendment, the terminal's operations manual shall be contained in a binder which allows easy replacement of pages. The terminal operator shall incorporate a dated copy of each amendment to the operations manual under subsection (f) of this section in each copy of the manual with the related existing requirement or add the amendment at the end of each manual if not related to an existing requirement. Language in the manual which no longer applies shall be removed from the manual.
 - (6) The operations manual shall be written in the order specified in subsections (d)(2) and (d)(3) of this section or contain a cross-referenced index page in that order.
- (e) Operations Manual: Offshore Terminals.
- (1) Each operations manual for an offshore marine terminal shall contain all applicable provisions of subsection (d) of this section and shall also include at least the following:
 - (A) Calculations with supporting data and other documentation to show that the charted water depth at each berth of the terminal is sufficient to provide at least a 6-foot net underkeel clearance at all times and under all conditions for each tank vessel or barge that the terminal expects to be moored at the terminal.

EXHIBIT A

W 9777.106

- (B) A description of prevailing currents, tides, winds and other weather conditions most commonly experienced at the terminal and a description of the monitoring equipment, if any, employed at the terminal which relays information about wind, wave and current conditions at the terminal.
 - (C) A description of specific limiting wind, wave, current and meteorological conditions under which each of the following will occur:
 - 1. Oil transfer operations will be shut down;
 - 2. Departure of the tank vessel or barge from the mooring will be required; and
 - 3. Mooring operations will be prohibited.
 - (D) A description of the navigational aids, if any, provided for approach to the berth and times of operation;
 - (E) A description of mooring support vessels duties and services;
 - (F) A detailed description of mooring and unmooring maneuvers with supporting graphical illustrations for each berth of the terminal;
 - (G) A description of the duties and responsibilities of mooring masters and assistant mooring masters, including the numbers of such personnel that will be in attendance at mooring^g, unmooring^g or cargo transfer operations; and
 - (H) A description of each of the tugs available in compliance with §2390, subsection (b), including, at least, the following:
 - 1. Bollard pull; and
 - 2. Towing and pushing arrangements.
- (2) The additional provisions required by subsection (e)(1) of this section may be incorporated under appropriate existing headings of the operations manual or may be added to the end of the manual.
- (f) Operations Manual: Amendment.

EXHIBIT A

W 9777.106

- (1) Using the following procedures, the Division may require the terminal operator to amend the operations manual if the Division finds that the operations manual does not meet the requirements of this section:
 - (A) The Division shall notify the terminal operator in writing of any inadequacies in the operations manual within 30 days of receipt of the manual.
 - (B) The terminal operator may submit written information, views, and arguments on and proposals for amending the manual within 30 days from the date of the Division notice.
 - (C) After considering all relevant material presented, the Division shall, within 30 days of receipt of the material submitted under subsection (f)(1)(B) of this section, notify the terminal operator of any amendment required or adopted, or rescind the notice.
- (2) The amendment becomes effective 30 days after the terminal operator receives the Division's notice, unless the terminal operator petitions the Division Chief to review the Division's notice, in which case its effective date is delayed pending a decision by the Division Chief. Petitions to the Division shall be submitted in writing.
- (3) If the Division finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in subsection (f)(1) of this section impractical or contrary to the public interest, the Division may issue an amendment effective on the date the terminal operator receives notice of it. In such a case, the Division shall include a brief statement of the reasons for the findings in the notice. The owner or operator may petition the Division Chief to review the amendment, but the petition shall not delay the amendment.
- (4) The terminal operator may propose amendments to the operations manual by submitting any proposed amendments in writing to the Division.
- (5) The proposed amendment shall take effect upon approval by the Division or, if the Division takes no action within 30 days of its receipt, then at the end of that period. If the operator requests that immediate action be taken, the Division may provide immediate approval if it determines that circumstances warrant it, provided that such approval is conditioned upon

EXHIBIT A

W 9777.106

subsequent review within 30 days of receipt of the proposed amendment.

- (6) The Division shall respond to proposed amendments submitted under subsection (f)(4) of this section by:
 - (A) Approving or disapproving the proposed amendments;
 - (B) Advising the terminal operator whether the request is approved, in writing;
 - (C) Including any reasons in the written response if the request is disapproved; and
 - (D) If the request is made under subsection (f)(5) of this section, immediately approving or rejecting the request.

- (7) Amendments which do not affect compliance with the requirements of this article, such as amendments to personnel and telephone number lists required by subsection (d)(2)(G) of this section do not require prior Division approval, but the Division shall be advised of such amendments as they occur.

Authority: Sections 8750, 8751, 8755, and 8758, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8757, and 8758, Public Resources Code.

§2395. Spill Containment for Transfer Operations.

- (a) ~~Applicability and Date of Implementation.~~
 - ~~(1) The provisions of §2395 apply only to oil transfer operations between vessels and terminals where the oil transferred is a persistent oil as defined in subsection (b)(1) of this section.~~
 - ~~(2) The provisions of §2395 become effective 180 days after these regulations have been filed with the Secretary of State.~~

The provisions of this section apply to:

- (1) All transfer operations where the oil transferred is a persistent oil; and

EXHIBIT A**W 9777.106****(2) All transfer operations into vessel's tanks containing persistent oil or residues of persistent oil.****(b) General.**

- (1) For the purpose of this section and section 2396, "persistent oil" means a petroleum-based oil that does not meet the distillation criteria for a non-persistent oil. "Non-persistent oil" means a petroleum-based oil, such as gasoline, diesel or jet fuel, which evaporates relatively quickly; specifically, an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 degrees Fahrenheit and at least 95 percent of which, by volume, distills at a temperature of 700 degrees Fahrenheit.
- (2) For the purpose of this section and section 2396, the term "boom" means flotation boom or other effective barrier containment material suitable for containment of oil that is discharged onto the surface of the water.
- (3) For the purpose of this section and section 2396, an "onshore marine terminal subject to high velocity currents" means an onshore terminal at which the maximum current velocities are 1.5 knots or greater for the majority of the days in the calendar year.

(c) Vessel Loading Operations at Onshore Terminals.

- (1) Prior to commencement of each transfer operation from the terminal to the vessel at an onshore terminal, the terminal operator shall deploy boom to enclose the water surface surrounding the vessel so as to provide common containment area for:
 - (A) The entire vessel at the waterline; and
 - (B) Either of the following:
 1. The entire dock; or
 2. Portions of the dock where oil may spill into the water.
- (2) To meet the requirements of subsection (c)(1)(B) of this section, where the face of the dock is capable of acting as an effective barrier on the inboard side of the vessel, the boom on that side may be deployed so that it provides containment between the vessel and the dock.

EXHIBIT A

W 9777.106

- (3) The boom shall be deployed so that it provides a stand-off of not less than 4 feet from the outboard side of the vessel.
 - (4) For onshore marine terminals subject to high velocity currents, the terminal operator may provide sufficient boom appropriate to the conditions at the terminal, trained personnel and equipment, maintained in a standby condition at the berth for the duration of the entire transfer operation, so that a length of at least 600 feet of boom will be deployed for effective containment within 30 minutes of a spill as an alternative to the requirements set forth in subsections (c)(1) and (c)(2) of this section.
- (d) Vessel Offloading Operations at Onshore Terminals.
- (1) Prior to commencement of each transfer operation from the vessel to the terminal at an onshore terminal, the terminal operator shall deploy boom to enclose the water surface on the inboard side of the vessel, so as to provide common containment area for:
 - (A) The vessel's entire inboard length, at the waterline; and
 - (B) Either of the following:
 - 1. The entire dock; or
 - 2. Portions of the dock where oil may spill into the water.
 - (2) Where the face of the dock is capable of acting as an effective barrier, the boom shall be deployed so that it provides containment between the vessel and the dock.
 - (3) For onshore marine terminals subject to high velocity currents, the terminal operator may provide sufficient boom appropriate to the conditions at the terminal, trained personnel and equipment, maintained in a standby condition at the berth for the duration of the entire transfer operation, so that a length of at least 600 feet of boom will be deployed for effective containment within 30 minutes of a spill as an alternative to the requirements set forth in subsections (d)(1) and (d)(2) of this section.
- (e) Transfer Operations at Offshore Terminals.

Prior to commencement of each transfer operation at offshore terminals, the terminal operator shall provide ~~either one of the following for the duration of the~~

CALENDAR PAGE	599
MINUTE PAGE	004623

~~entire transfer operation:~~

- ~~(1) Boom deployed to enclose the water surface on the transfer side of the vessels manifold, so as to provide effective containment for an area of the water surface that extends from at least 75 feet forward, to at least 75 feet astern of the manifold and outward to a distance of at least 50 feet beyond the position of the pipeline end manifold (PLEM); or~~
- (2) Sufficient ~~sufficient~~ boom appropriate to the conditions at the terminal, trained personnel and equipment, maintained in a stand-by condition at the berth, so that a length of at least 600 feet of boom will be deployed for effective containment within 30 minutes of a spill.

Authority: Sections 8750, 8751, 8752, 8755, 8757, and 8758, Public Resources Code.

Reference: Section 8670.28, Government Code; Sections 8750, 8751, 8752, 8755, 8757, and 8758, Public Resources Code.

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§2405. Notifications regarding Apparent or Threatened Violations.

(a) Authorized Agents or Employees.

- (1) For the purposes of §§2405 and 2406, each of the following shall be referenced as an "authorized agent or employee" of the Division:
 - (A) The Executive Officer of the Commission;
 - (B) The Assistant Executive Officer of the Commission;
 - (C) The Division Chief;
 - (D) The Assistant Chief of the Division;
 - (E) The Marine Terminal Safety Field Operations Supervisor of the Division;
 - (F) Any Marine Terminal Safety Supervisor of the Division;
 - (G) Any Marine Terminal Safety Specialist of the Division;

EXHIBIT A

W 9777.106

- (H) Any Marine Terminal Safety Inspector of the Division; or
- (I) Any other staff as designated by the Executive Officer or Division Chief.

(2) Any and all of the referenced agents or employees listed in subsection (a)(1) of this section, are authorized to make a determination as to apparent or threatened violations, as defined in §2315, subsection (b) and subsection ~~(u)~~(x) of Article 5.

(b) Apparent or Threatened Violations: Reporting and Records.

- (1) In the event that an authorized agent or employee of the Division determines that there is an apparent or threatened violation, he or she shall notify the TPIC or VPIC, as appropriate, of the apparent or threatened violation as soon as he or she has an opportunity to do so.
- (2) Each and every authorized agent or employee of the Division shall report to the Division any and all apparent or threatened violations.
- (3) The Division shall maintain records of all reported violations for a period of not less than five (5) years.
- (4) The Division shall, upon request, make available to the Administrator or the U.S. Coast Guard copies of records of violations.

Authority: Sections 8750, 8751, 8755 and 8760, Public Resources Code.

Reference: Sections 8670.66, 8670.67, 8670.69.4, Government Code; Sections 8750, 8751, 8755 and 8760, Public Resources Code.

CALENDAR PAGE	601
MINUTE PAGE	004675