

MINUTE ITEM

This Calendar Item No. C50 was approved as Minute Item No. 50 by the California State Lands Commission by a vote of 3 to 0 at its 11-21-06 meeting.

**CALENDAR ITEM
C50**

A: STATEWIDE

11/21/06
W 9777.106
R. Varma
M. Meier
G. Gregory

S:

CONSIDER ADOPTION OF AMENDMENTS TO UPDATE EXISTING REGULATIONS REGARDING PIPELINE TESTING AT MARINE OIL TERMINALS

PROPOSAL:

The California State Lands Commission (the Commission) proposes to amend existing regulations in Sections 2561, 2563, 2564, 2565, 2566 and 2567 of Title 2, Division 3, Chapter 1, Article 5.5 of the California Code of Regulations. These sections pertain to the Commission's testing requirements for oil pipelines at Marine Oil Terminals in the state. The proposed amendments would:

1. Update the citation of the technical publication "National Association of Corrosion Engineers (NACE) Standard RPO 169-2002;
2. Include additional requirements for pipeline markings and maintenance as prescribed in Divisions 9 and 10 of Title 24, Chapter 31F of the California Code of Regulations;
3. Include specific requirements for determining test results by using the bulk liquid modulus of liquid hydrocarbons used as test mediums for pressure testing and providing the Commission with certain information prior to testing;
4. Include specific requirements for temperature measurement and ambient air and precipitation recording during pressure testing;

The purpose of these modifications to the provisions of Article 5.5 is to improve testing procedures and use improved technological equipment to provide more valid verification of pipeline integrity.

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 §§8750 through 8760, establishing a comprehensive program for the prevention of oil spills in California's marine waters. Under Public Resources Code §8755, the Commission is required to adopt rules,

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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 §8756 requires that the regulations be periodically reviewed and accordingly modified to ensure that all operators of marine terminals 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.

In its continuing efforts to carry out the Commission's mandates, Commission staff developed a comprehensive set of regulations entitled "Marine Oil Terminals Engineering and Maintenance Standards" (the MOTEMS). The California Building Standards Commission approved the MOTEMS under Title 24, Part 2, Volume 1, of the California Code of Regulations (CCR) on January 19, 2005. The MOTEMS became effective on February 6, 2006.

The proposed amendment to Sections 2561, 2563, 2564, 2565, 2566 and 2567 would update the provisions of Article 5.5 in line with the provisions of the MOTEMS. This would largely eliminate any misinterpretation and confusion within the regulated community.

The public has had an opportunity to review and comment on the proposed amendments from July 20, 2006 to September 5, 2006. Members of the Review Subcommittee of the State Interagency Oil Spill Committee (SIOSC) reviewed the proposed amendments. No comments have been received from the regulated community. One comment received from the State Water Resources Control Board, a member of SIOSC, supports the proposed amendment.

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 5.5 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.

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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. P.R.C. Sections 8750 through 8760.

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 because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: P.R.C. §21084 and 14 Cal. Code Regs. §15300.

2. The proposed regulatory amendments do not affect small businesses as defined in Gov. C. Section 11342.610, because all affected businesses are either petroleum refiners, as specified under Gov. C. Section 11342, sub. (b)(9), or transportation and warehousing businesses having annual gross receipts of more than \$1,500,000, as specified under Gov. C. Section 11342.610 sub. (c)(7).

Exhibit:

A. Proposed Amendments.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378
2. FIND THAT THE REGULATORY AMENDMENTS DO NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOV. C. SECTION 11342.610, BECAUSE ALL AFFECTED BUSINESSES ARE EITHER PETROLEUM REFINERS, AS SPECIFIED UNDER GOV. C. SECTION 11342.610(b)(9), OR TRANSPORTATION AND WAREHOUSING BUSINESSES HAVING ANNUAL GROSS RECEIPTS OF MORE THAN \$1,500,000, AS SPECIFIED UNDER GOV. C. SECTION 1342.610(c)(7).

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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 AS AND LESS BURDENSOME TO AFFECTED PRIVATE PERSONS THAN THE PROPOSED REGULATION.
5. ADOPT AMENDMENTS TO SECTIONS 2561, 2563, 2564, 2565, 2566 and 2567 IN TITLE 2, DIVISION 3, CHAPTER 1, ARTICLE 5.5 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.

Exhibit A

Title 2, Division 3, Chapter 1, Article 5.5. Marine Terminal Oil Pipelines

(Only modified text shown here.)

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§2561 Definitions.

- (o) "Standard Cathodic Protection System" or "SCPS" means an external corrosion control system used on underground or submerged metallic piping systems that is in conformance with and meets the criteria of the National Association of Corrosion Engineers (NACE) Standard RPO 169-92 2002, Item No. 53002 21001, revised April 1992- reaffirmed 2002-04-11; published by NACE, P.O. Box 218340, 1440 South Creek Drive, Houston, Texas 77218-8340-77084-4906.

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§2563 Design, and Construction and Maintenance.

- (a) Any repairs, alterations or modifications to existing transfer pipeline systems shall meet the design and construction criteria specified in Subparts C and D of Part 195 of Title 49 of the Code of Federal Regulations.
- (b) Every new transfer pipeline installed after these regulations become effective shall be designed and constructed in accordance with Subparts C and D of Part 195 of Title 49 of the Code of Federal Regulations.
- (c) Each component of a pipeline which is exposed to the atmosphere shall be coated with material suitable for protecting the component from atmospheric corrosion.
- (d) In addition to the requirements of subsections (a), (b) and (c) of this Section, the design, construction and maintenance of all marine terminal oil pipelines shall conform with the provisions of Divisions 9 and 10 of Title 24, Chapter 31F of the California Code of Regulations.

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§2564 Schedule for Static Liquid Pressure Testing.

- (a) (1) No operator may operate any pipeline or pipeline system governed by this Article unless it has successfully completed an SLPT as

specified in Section 2565, in accordance with the schedules prescribed in this section.

(2) All pipelines that do not have a valid certified SLPT certificate shall conform with and be marked in accordance with the provisions of subsections 12 and 13 of Section 3109F.2, Division 9 of Title 24, Chapter 31F of the California Code of Regulations.

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- (h) An operator may request that the Division Chief authorize the use of a test medium other than water or liquid hydrocarbon with a flash point greater than 140° Fahrenheit. Such request must be submitted in writing at least 10 working days prior to beginning the SLPT. Such an alternative may be authorized where the Division Chief deems that it would provide a reasonably equivalent or better means of testing and that there will be no detriment to the public health, safety and the environment.

In all cases where a liquid hydrocarbon is used as a test medium, the terminal operator shall provide the Division Chief with the liquid bulk modulus and coefficient of thermal expansion of the test medium at least three working days prior to the test.

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§2565 Static Liquid Pressure Testing.

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- (d) Test Temperature Data.
- (1) ~~Where circumstances permit, test~~ Test temperature data shall be recorded as prescribed in the following subsections (d)(1)(A), (B) and (C):
- (A) A temperature recording device shall continuously record the internal test medium temperature versus time during the test. The temperature recording device shall be calibrated prior to every test and have a resolution of plus or minus 0.1 degree Fahrenheit for a water test medium or plus or minus 0.01 degree Fahrenheit for any hydrocarbon test medium. The range of the recording device shall be suitable for anticipated temperatures.

- (B) The ambient air temperature, wind speed, precipitation and cloud cover shall be recorded at the same interval the deadweight pressure readings are taken.
- (C) The pipe wall temperature shall be recorded at the same interval the deadweight pressure readings are taken.
- (2) In circumstances where the test temperature data cannot be recorded as required by subsection (d)(1) of this section, temperature measuring devices shall be placed so as to provide representative sample temperatures of test medium, ambient air and pipe wall. Resolution of instruments to measure temperature of pipe wall or test medium shall be as specified in subsection (d)(1)(a) of this section. Pipe wall temperature measuring probes shall be appropriately located, be firmly attached to the pipe wall and insulated so as to minimize influence from ambient temperature and solar radiation.

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§2566 Notification Prior to Testing; Observation of Tests.

- (a) Notwithstanding any other statutory notification requirements, each operator shall notify the local area Division field office at least three working days prior to conducting any SLPT. The notification shall include all of the following information:
 - (1) The name, address, and telephone number of the operator.
 - (2) The specific location of the pipeline section to be tested and the location of the test equipment.
 - (3) The date and time the test is to be conducted; ~~and~~
 - (4) The name and telephone number of the person responsible for certification of the test results; ~~and~~ and
 - (5) The information regarding the physical properties of the liquid hydrocarbon test medium specified in subsection (i) of section 2564.

§2567 Static Liquid Pressure Testing; Witnessing of Tests and Certification of Results; Test Result Reports.

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- (c) Records of certified test results shall be maintained by the terminal operator for a period of at least ten (10) years following completion of testing. Each test record shall include at a minimum, all of the following information:
 - (1) The date of the test;
 - (2) A description of the pipeline or pipeline segment tested including, but not limited to, a map of suitable scale showing the route of the pipeline and the location of pressure monitoring instruments and temperature probes used during testing; and