

This Calendar Item No. C66
 was approved as Minute Item
 No. 66 by the State Lands
 Commission by a vote of 3
 to 0 at its 3/8/94
 meeting

CALENDAR ITEM

C66

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

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

03/08/94

W 9777.114

Meier

Gregory

PRC7749

**CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING
 BETWEEN THE STATE LANDS COMMISSION AND THE STATE FIRE MARSHAL
 REGARDING OIL SPILL PREVENTION**

PROPOSAL

The Commission Staff has negotiated a Memorandum of Understanding (MOU) with the State Fire Marshal regarding cooperation in oil spill prevention activities with respect to pipelines associated with marine terminals. A copy of the MOU is attached as Exhibit "A." This proposal, if adopted, would authorize the Executive Officer to execute an MOU substantially in the form of the attached and to take whatever action is appropriate for its implementation.

BACKGROUND

Under Public Resources Code §§8750 through 8760, the Commission is charged with establishing regulations governing marine terminals. Those regulations are to ensure the best achievable protection of public health and safety and of the environment.

Under the Pipeline Safety Act, Government Code §§51010 through 51020, the State Fire Marshal is given exclusive responsibility for ensuring the safety of certain specified pipelines. Included under its jurisdiction are pipelines delivering oil between marine terminals and onshore storage facilities.

Over the last several years, the Commission staff and the Pipeline Safety Division of the Office of the State Fire Marshal have been working together to ensure that every section of pipeline that is part of the marine oil transportation system is monitored, that there is no unnecessary overlap in their respective activities, and that inspection and monitoring efforts are consistent and coordinated.

To that end, the Commission staff and the Pipeline Safety Division have negotiated the attached MOU to clarify roles and establish an understanding as to each office's responsibilities and to ensure continued cooperation in the future.

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Nothing in the memorandum would alter in any way the respective statutory or regulatory authority of the Commission or State Fire Marshal, nor constitute a delegation of authority by either party to the other. The MOU may be terminated by either party at any time upon notice to the other.

STATUTORY REFERENCES:

- A. Government Code Sections 51010 through 51020
- B. Public Resources Code Sections 8750 through 8760

AB 884:
N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

EXHIBIT:

Copy of the Memorandum of Understanding

STAFF RECOMMENDS THAT THE COMMISSION TAKE THE FOLLOWING ACTION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE STATE FIRE MARSHAL SUBSTANTIALLY IN THE FORM OF THE COPY WHICH IS ATTACHED AS EXHIBIT "A."
3. AUTHORIZE STAFF TO TAKE WHATEVER ACTIONS ARE APPROPRIATE TO IMPLEMENT THE PROVISIONS OF THE MEMORANDUM OF UNDERSTANDING.

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MEMORANDUM OF UNDERSTANDING

California State Fire Marshal
and
California State Lands Commission

I. Purpose

The purpose of this memorandum is to set forth guidelines for coordination and cooperation between the California State Fire Marshal (CSFM) and California State Lands Commission (SLC) in carrying out the mandates of the laws and regulations designed to protect the public and environment with regard to marine terminals and associated pipelines.

Nothing in this memorandum shall alter in any way the respective statutory or regulatory authority of CSFM or SLC nor constitute a delegation by either party to the other.

II. Introduction

A. The goals and responsibilities of SLC and CSFM include the regulation of pipelines at marine terminals. The primary consideration is public safety and the prevention of oil spills and the resulting pollution associated with these occurrences at marine terminals. CSFM and SLC rules and regulations established under state and federal laws are intended to accomplish these goals.

B. CSFM has exclusive regulatory and enforcement authority concerning intrastate hazardous liquid pipelines under the provision of the California Pipeline Safety Act of 1981 (California Government Code Sections 51010.6 et seq). In addition, as authorized by the United States Department of Transportation, CSFM acts as agent for the federal Office of Pipeline Safety in implementing and enforcing the federal Hazardous Liquid Pipeline Safety Act and other federal pipeline safety standards relating to those portions of interstate pipelines located within California.

Using a risk-based priority system CSFM inspects jurisdictional pipelines to ensure that they are operated in accordance with minimum standards. In addition, CSFM investigates pipeline incidents such as fire, rupture, release, etc., as well as complaints regarding pipeline operations. In addition to physical on-site examination of pipeline, CSFM inspects operator records for conformance with various maintenance, damage prevention and drug testing standards.

C. Pursuant to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (California Government Code Sections 8670 et seq) and Public Resources Code Sections 8750 et seq), the SLC is required to adopt rules and

regulations for marine terminals necessary to maintain the best achievable protection of public health and safety and the environment. This includes the authority to adopt regulations relating to pipelines that are within or part of marine terminals except those that are subject to the jurisdiction of CSFM. In order to establish an effective regulatory program, SLC has created the Marine Facilities Inspection and Management Division to implement the inspection and monitoring program.

SLC inspectors oversee selected activities at onshore and offshore facilities in marine waters. Priority is given to high-risk activities but all facilities are monitored regularly. On a continuing basis, SLC monitors oil transfer operations at marine terminals. At least once each year, SLC inspects each marine terminal to determine whether all parts of the terminal are maintained and operated in an approved manner. At least once every three years, SLC thoroughly examines each marine terminal to determine the structural integrity of the terminal and that the oil transfer operations systems and safety equipment are designed and maintained in safe working condition.

III. Coordination/Implementation

CSFM and SLC will coordinate their respective inspection and monitoring activities at marine terminals to the extent practicable for maximum effective utilization of resources and to avoid duplication of regulatory enforcement. Representatives from CSFM and SLC may accompany the other during inspections and monitoring visits at marine terminals for the purpose of identifying areas of concern regarding pipelines. The intent of this coordination is to develop and implement an effective system which minimizes departmental overlap and identifies those pipelines that presently may be unregulated.

Both departments recognize that there may be areas where pipelines may fall within the jurisdiction of both CSFM and SLC and that CSFM and SLC have exclusive jurisdiction over some pipelines but that the boundary between these jurisdictions is not often clear.

Where there is uncertainty on the jurisdictional boundaries between SLC and CSFM with regard to marine terminals, each department is expected to consult the other on a case-by-case basis so that a determination acceptable to both parties may be reached.

IV. Training

Each department will provide the other with opportunities to participate in

training classes, seminars, and workshops sponsored by them. Funding for participation is the responsibility of the parent department.

V. Enforcement

Enforcement action by either CSFM or SLC may include civil and criminal penalties. Enforcement action undertaken by either agency must occur independently. However, to the extent practicable, each department will consult with the other regarding intended enforcement action concerning marine terminal pipelines.

VI. Legislation and Regulation Development

CSFM and SLC agree to closely consult with the other during preparation of legislation and regulations affecting marine terminal pipelines so that conflict, redundancy and inconsistency may be avoided. It is anticipated that the concerns of each department will be discussed and given due consideration prior to final regulations development.

VII. Effective date

This memorandum is effective upon acceptance by both parties as indicated by signatures below.

VIII. Amendment and Termination

This memorandum may be amended at such time as agreeable between the two departments. This memorandum may be terminated by either department after written notice to the other party.

IX. Signature of Acceptance

Ronny J. Coleman
California State Fire Marshal
date: _____

Charles Warren, Executive Officer
California State Lands Commission
date: _____

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