

**CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES
TEXT OF REGULATIONS**

CALIFORNIA CODE OF REGULATIONS

TITLE 19. PUBLIC SAFETY

DIVISION 2. CALIFORNIA ~~EMERGENCY MANAGEMENT AGENCY~~ GOVERNOR'S
OFFICE OF EMERGENCY SERVICES

CHAPTER 4.5 CALIFORNIA ACCIDENTAL RELEASE PREVENTION (CalARP)
PROGRAM

Section 2735.1 Purpose.

The ~~California Accidental Release Prevention (CalARP)~~ Program includes the federal Chemical Accident Prevention Provisions [Title 40, Code of Federal Regulations (CFR) Part 68] with certain additions specific to the state pursuant to Article 2, Chapter 6.95, of the Health and Safety Code (HSC). The purpose of the CalARP Program is to prevent the accidental releases of regulated substances. The list of regulated substances is in Section 2770.5 of this chapter.

Stationary sources with more than a threshold quantity of a regulated substance shall be evaluated to determine the potential for and impacts of accidental releases from that covered process. Under conditions specified by this chapter, the owner or operator of a stationary source may be required to develop and submit a risk management plan (RMP). The RMP components and submission requirements are identified in Article 3 of this chapter.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531.2, 25533, 25535.1, and 25543, Health and Safety Code.

Section 2735.3 Definitions.

For the purposes of this chapter only:

- (a) ~~"AA" means Administering Agency, the local agency responsible to implement the CalARP Program. In most instances, the Certified Unified Program Agency (CUPA) has this responsibility. When there is no CUPA, the implementing agency is the agency designated by the Secretary for Environmental Protection pursuant to Section 25404.3(f) of HSC or the agency designated by Cal OES pursuant to 25533(f) of HSC.~~
- (~~b~~a) "Accidental release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.
- (~~e~~b) "Administrative controls" means written procedural mechanisms used for hazard control.

- (dc) “Administrator” means the administrator of the USEPA.
- (ed) “AIChE/CCPS” means the American Institute of Chemical Engineers/Center for Chemical Process Safety.
- (fe) “API” means the American Petroleum Institute.
- (gf) “Article” means a manufactured item, as defined under Section 5189 of Title 8 of the California Code of Regulations (CCR), that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.
- (hg) “ASME” means the American Society of Mechanical Engineers.
- (ih) “Cal OES” means the California Governor’s Office of Emergency Services.
- (ji) “Cal OSHA” means the California Occupational Safety and Health Administration.
- (kj) “CAS” means the Chemical Abstracts Service.
- (hk) “CFR” means the Code of Federal Regulations.
- (ml) “Catastrophic release” means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents an imminent and substantial endangerment to public health and the environment.
- (m) “Change” means any alteration in process chemicals, technology, procedures, equipment, facilities or organization that could affect a process. A change does not include replacement-in-kind.
- (n) “Classified information,” as defined in the Classified Information Procedures Act, Appendix 3 of Section 1(a) of Title 18 of the United States Code, means “any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security.”
- (o) “Condensate” means hydrocarbon liquid separated from natural gas that condenses due to changes in temperature, pressure, or both, and remains liquid at standard conditions.
- (p) “Covered process” means a process that has a regulated substance present in more than a threshold quantity as determined under Section 2770.2 of this chapter.
- (q) “Crude oil” means any naturally occurring, unrefined petroleum liquid.
- (r) “Damage mechanism” means the mechanical, chemical, physical, or other process that results in equipment or material degradation.

- (fs) “DOT” means the United States Department of Transportation.
- (t) “Employee representative” means a union representative, where a union exists, or an employee designated representative in the absence of a union that is on-site and qualified for the task. The term is to be construed broadly, and may include the local union, the international union, or an individual designated by these parties, such as the safety and health committee representative at the site.
- (su) “Environmental receptor” means natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the endpoints provided in Section 2750.2(a), as a result of an accidental release and that can be identified on local United States Geological Survey maps.
- (v) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time taking into account health, safety, economic, environmental, legal, social, and technological factors.
- (tw) “Field gas” means gas extracted from a production well before the gas enters a natural gas processing plant.
- (x) “Hierarchy of Hazard Control” means prevention and control measures, in priority order, to eliminate or minimize a hazard. Hazard prevention and control measures ranked from most effective to least effective are: First Order Inherent Safety, Second Order Inherent Safety, and passive, active and procedural protection layers.
- (xy) “Highly hazardous material” means a flammable liquid, flammable gas, toxic or reactive substance as those terms are defined: (1) flammable gas, as defined in California Code of Regulation (CCR) Title 8, §5194, Appendix B, (2) flammable liquid, as defined in CCR Title 8, §5194, Appendix B, (3) toxic substances as acute toxicity is defined in CCR Title 8, §5194, Appendix A, and (4) reactive substance as self-reactive chemical, as defined in CCR Title 8, §5194, Appendix B. Highly hazardous material includes all regulated substances listed in Tables 1, 2, and 3 of this Chapter.
- (yz) “Hot work” means work involving electric or gas welding, cutting, brazing, or similar heat, flame or spark-producing operations.
- (aa) “Human factor” means a discipline concerned with designing machines, operations, and work environments so that they match human capabilities, limitations, and needs. Human factors include environmental, organizational, and job factors, and human and individual characteristics, such as fatigue, that can affect job performance, process safety, and health and safety.

- (bb) “Independent Protection Layer (IPL)” means a safeguard that reduces the likelihood or consequences of a major incident through the application of devices, systems, or actions and is (1) independent of an initiating cause and (2) independent of other IPLs. Independence ensures that an initiating event does not affect the function of an IPL and that failure in any one layer does not affect the function of any other layer.
- (cc) “Inherent safety” means an approach to safety that focuses on eliminating or reducing the hazards associated with a set of conditions. A process is inherently safer if it reduces or eliminates the hazards associated with materials or operations used in the process, and this reduction or elimination is permanent and inseparable from the material or operation. A process with reduced hazards is described as inherently safer compared to a process with only passive, active, and procedural safeguards. The process of identifying and implementing inherent safety in a specific context is known as inherently safer design.
- (1) “First Order Inherent Safety measure” is a measure that eliminates a hazard. Changes in the chemistry of a process that eliminate the hazard(s) of the chemicals used or produced are usually considered First Order Inherent Safety measures; for example, by substituting a flammable chemical with an alternative chemical that can serve the same function but with lower vapor pressure and narrower flammable range.
- (2) “Second Order Inherent Safety measure” is a measure that reduces the severity of a hazard or the likelihood of a release without the use of add-on safety devices. Changes in process variables to minimize, moderate and simplify a process are usually considered Second Order Inherent Safety measures; for example, redesigning a high-pressure, high-volume, and high-temperature system to operate at lower temperatures, volumes, and pressures.
- (dd) “Initiating cause” means an operational error, mechanical failure, or other internal or external event that is the first event in an incident sequence and marks the transition from a normal situation to an abnormal situation.
- (~~ve~~) “Injury” means any effect on a human that results either from direct exposure to toxic concentrations; radiant heat; or overpressures from accidental releases or from the direct consequences of a vapor cloud explosion (such as flying glass, debris, and other projectiles) from an accidental release and that requires medical treatment or hospitalization.
- (~~wff~~) “Interested ~~persons~~ parties” means those residents, workers, students and others who would be potentially affected by an accidental or catastrophic release.
- (gg) “Isolate” means to cause equipment to be removed from service and completely protected against the inadvertent release or introduction of material or energy by such means as blanking or blinding; misaligning or removing sections of lines, pipes, or ducts; implementing a double block and bleed system; or blocking or disconnecting all mechanical linkages.

- ~~(xhh)~~ “Major change” means: (1) introduction of a new process, or (2) new process equipment, or new regulated substance that results in any operational change outside of established safe operating limits; or (3) any alteration in a process, process equipment, or process chemistry that introduces a new hazard or increases an existing hazard. ~~introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.~~
- ~~(ii)~~ “Major incident” means an event within or affecting a process that causes a fire, explosion or release of a highly hazardous material, and has the potential to result in death or serious physical harm (as defined in Labor Code Section 6432(e)), or results in an officially declared public shelter-in-place, or evacuation order.
- ~~(yjj)~~ “Mechanical integrity” means the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.
- ~~(zkk)~~ “Medical treatment” means treatment, other than first aid, administered by a physician or registered professional personnel under standing orders from a physician.
- ~~(aa ll)~~ “Mitigation or mitigation system” means specific activities, technologies, or equipment designed or deployed to capture or control substances upon loss of containment to minimize exposure of the public or the environment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input. Active mitigation means equipment, devices, or technologies that need human, mechanical, or other energy input to function.
- ~~(bbmm)~~ “Modified stationary source” means a stationary source which has undergone an addition or change which qualifies as a “major change” as defined in ~~(v)~~ (hh) of this section.
- ~~(eenn)~~ “NAICS” means the North American Industry Classification System.
- ~~(ddoo)~~ “NFPA” means the National Fire Protection Association.
- ~~(eepp)~~ “Natural gas processing plant” (gas plant) means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).
- ~~(ffqq)~~ “New stationary source” means a stationary source that now has a covered process that is not currently in the CalARP program.
- ~~(ggrr)~~ “Offsite” means areas beyond the property boundary of the stationary source, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

- (~~hhss~~) “OSHA” means the Occupational Safety and Health Administration.
- (~~hitt~~) “Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.
- (~~jjuu~~) “Part 68” means Part 68 of Subpart A of Chapter I of Title 40 of CFR.
- (~~kk~~)—“~~Petroleum refining process unit~~” means a process unit used in an establishment primarily engaged in petroleum refining as defined in NAICS code 32411 for petroleum refining (formerly SIC code 2911) and used for the following: (1) producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; (2) separating petroleum; or (3) ~~separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating, catalytic hydrorefining, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants.~~
- (~~vv~~) “Petroleum refinery” means a stationary source engaged in activities set forth in North American Industry Classification System (NAICS) code 324110.
- (~~Hww~~) “Population” means the public.
- (~~mmxx~~) “Process” means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process. This definition shall not apply to Article 6.5.
- (~~yy~~) “Process” for purposes of Article 6.5, means petroleum refining activities involving a highly hazardous material, including use, storage, manufacturing, handling, piping, or on-site movement. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that an incident in one vessel could affect any other vessel, shall be considered a single process. Utilities and safety related devices shall be considered part of the process if, in the event of an unmitigated failure or malfunction, they could potentially contribute to a major incident. This definition includes processes under partial or unplanned shutdowns. Ancillary administrative and support functions, including office buildings, laboratories, warehouses, maintenance shops, and change rooms are not considered processes under this definition.

- (zz) “Process equipment” for purposes of Article 6.5, means equipment, including but not limited to: pressure vessels, rotating equipment, piping, instrumentation, process control, safeguard, except procedural safeguards, or appurtenance related to a process.
- (aaa) “Process safety hazard” means a characteristic of a process that, if unmitigated, has the potential to cause a fire, explosion, or release of a highly hazardous material which could result in death or serious physical harm or a major incident.
- (bbb) “Process safety culture” means a combination of group values and behaviors that reflect whether there is a collective commitment by leaders and individuals to emphasize process safety over competing goals in order to ensure protection of people and the environment.
- (ccc) “Process safety performance indicators” means measurements of the facility’s activities and events that are used to evaluate the performance of process safety systems.
- (~~nn~~ddd) “Produced water” means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.
- (~~oo~~eee) “Public” means any person except employees or contractors at the stationary source.
- (~~pp~~fff) “Public receptor” means offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.
- (ggg) “Qualified operator” for the purposes of Article 6.5 means a person designated by the owner or operator, who by fulfilling the requirements of the training program defined in Section 2762.4, has demonstrated the ability to safely perform all assigned duties.
- (~~qq~~hhh) “Qualified person” means a person who is qualified to attest, at a minimum to: (1) the validity and appropriateness of the process hazard analyses (PHA) performed pursuant to Section 2760.2; (2) the completeness of a risk management plan; and (3) the relationship between the corrective steps taken by the owner or operator following the PHAs and those hazards which were identified in the analyses.
- (~~rr~~iii) “Qualified position” means a person occupying a position who is qualified to attest, at a minimum to: (1) the validity and appropriateness of the PHA performed pursuant to Section 2760.2; (2) the completeness of a risk management plan; and (3) the relationship between the corrective steps taken by the owner or operator following the PHAs and those hazards which were identified in the analyses.
- (jjj) “Recognized and Generally Accepted Good Engineering Practices (RAGAGEP)” for purposes of Article 6.5 means engineering, operation, or maintenance activities based on codes, standards, technical reports or recommended practices published by the

American National Standards Institute (ANSI), American Petroleum Institute (API), American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), American Society of Mechanical Engineers (ASME), American Society of Testing and Materials (ASTM), National Fire Protection Association (NFPA), Instrument Society of America (ISA), or other standard-setting organizations. RAGAGEP does not include standards or guidelines developed for internal use by the owner or operator.

- (~~sskkk~~) “Regulated substance” means any substance, unless otherwise indicated, listed in Section 2770.5 of this chapter.
- (~~lll~~) “Replacement in kind” means a replacement that satisfies the design specifications.
- (~~mmmm~~) “Retail facility” means a stationary source at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.
- (~~vnnn~~) “Revalidation” means a critical review of a hazard review or a process hazard analysis (PHA) with qualified team members of the most recent hazard review or PHA studies to verify that past studies remain valid and that changes made to the covered process are properly assessed. This critical review is to ensure that hazards are well understood, and existing safeguards are properly identified, past recommendations have been addressed, the overall risk ranking of each scenario is accurate, and relevant incidents and near misses at the stationary source and industry are evaluated. For situations when past studies cannot be readily revalidated, a new complete hazard review or PHA may be warranted.
- (~~www~~) “RMP” means the risk management plan as described by the component elements identified in Article 3 of this chapter.
- (~~ppp~~) “Safeguard” means a device, system, or action designed and maintained to interrupt the chain of events or mitigate the consequences following an initiating cause.
- (1) “Passive Safeguards” means minimizing the hazard through process and equipment design features that reduce either the frequency or consequence of the hazard without the active functioning of any device; for example, by providing a diked wall around a storage tank of flammable liquids.
- (2) “Active Safeguards” means using controls, alarms, safety instrumented systems, and mitigation systems to detect and respond to deviations from normal process operations; for example, by using a pump that is shut off by a high-level switch in the downstream tank when the tank is 90% full.
- (3) “Procedural Safeguards” means using policies, operating procedures, training, emergency response and other administrative approaches to prevent incidents or to

minimize the effects of an incident. Examples include hot work procedures and permits and emergency response procedures implemented by employees.

- (qqq) “Safety instrumented systems” means systems designed to achieve or maintain safe operation of a process in response to an unsafe process condition.
- (~~xxxx~~) “Stationary source” means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this chapter. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading or unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulations under Part 192, 193, or 195 of Title 49 of CFR, or a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under Section 60105 of Title 49 of USC. A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.
- (sss) “Temporary pipe or equipment repair” means a repair of an active or potential leak from process piping or equipment. This definition includes active or potential leaks in utility piping or utility equipment that could affect a process and that could result in a major incident.
- (~~yyyy~~) “Threshold quantity” means the quantity specified for a regulated substance pursuant to Section 2770.5 and determined to be present at a stationary source as specified in Section 2770.2 of this chapter.
- (~~zzuuu~~) “Trade secret” means trade secrets as defined in Section 6254.7 of Subdivision (d) of the Government Code and Section 1060 of the Evidence Code and includes information submitted to an ~~administering agency~~ Unified Program Agency which has been designated by the stationary source as trade secret and which shall not be released by the ~~AAUPA~~ except to authorized officers and employees of other governmental agencies, and only in connection with the official duties of that officer or employee pursuant to any law for the protection of health and safety. Trade secret information is to be handled pursuant to Section 25538 of HSC.
- (~~aaavvv~~) “Turnaround” means a planned process shutdown for the purpose of repair, maintenance, process modification, equipment upgrade or other significant process activity. This definition does not apply to Article 6.5.
- (www) “Turnaround” for purposes of Article 6.5 means planned total or partial shutdown of a petroleum refinery process unit or plant to perform maintenance, overhaul or repair of

a process and process equipment, and to inspect, test and replace process materials and equipment. Turnaround does not include unplanned shutdowns that occur due to emergencies or other unexpected maintenance matters in a process unit or plant. Turnaround also does not include routine maintenance, where routine maintenance consists of regular, periodic maintenance on one or more pieces of equipment at a refinery process unit or plant that may require shutdown of such equipment.

- (~~bbb~~xxx) “Typical meteorological conditions” means the temperature, wind speed, cloud cover, and atmospheric stability class, prevailing at the site based on data gathered at or near the site or from a local meteorological station.
- (yyy) “Unified Program Agency (UPA)” means the local agency, pursuant to HSC Section 25501, responsible to implement the CalARP Program.
- (zzz) “Utility” for purposes of Article 6.5, means a system that provides energy or other process-related services to enable the safe operation of a petroleum refinery process. This definition includes electrical power, fire water systems, steam, instrument power, instrument air, nitrogen, and carbon dioxide.
- (~~zzz~~aaaa) “Vessel” means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.
- (~~ddd~~bbbb) “Worst-case release” means the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in Section 2750.2(a) of this chapter.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Sections 25501 and 25532, Health and Safety Code; and Section 68.3, Part 68, Title 40, Code of Federal Regulations.

Section 2735.4 Applicability.

- (a) The requirements of this chapter apply to an owner or operator of a stationary source with more than a threshold quantity of a regulated substance in a process. Regulated substances are listed in three separate tables in Section 2770.5 of this chapter. An owner or operator of a stationary source shall comply with one of the following:
- (1) If a stationary source has a process with more than a threshold quantity of a regulated substance as listed in Table 1 or 2 of Section 2770.5, the owner or operator shall comply with the provisions of this chapter pursuant to the time frames identified in Section 2745.1(b);
 - (2) If a stationary source has a process with more than a threshold quantity of a regulated substance as listed in Table 3 of Section 2770.5, and the ~~AA~~UPA makes a determination pursuant to Section 25534 of HSC that an RMP is required, the owner or

operator shall comply with the appropriate provisions of this chapter pursuant to the time frame identified in Section 2745.1(d); or,

- (3) If a stationary source has a process with more than a threshold quantity of a regulated substance as listed in Tables 1 or 2 and Table 3 of Section 2770.5, the owner or operator shall comply with the provision of this chapter pursuant to the time frames identified in Section 2745.1(b).
- (b) The CalARP Program defines ~~three~~ four program levels with different levels of requirements depending upon the complexity, accident history, and potential impact of releases of regulated substances.
- (c) Program 1 eligibility requirements. A covered process is eligible for Program 1 requirements as provided in Section 2735.5(d) if it meets all of the following requirements:
- (1) For the five years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance has led to any of the following offsite consequences:
 - (A) Death;
 - (B) Injury; or,
 - (C) Response or restoration activities for an exposure of an environmental receptor or a public receptor;
 - (2) The distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Article 4 of Section 2750.3 is less than the distance to any public receptor, as defined in Section 2735.3 (~~pp~~) (fff) and Section 2750.5; and,
 - (3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.
- (d) Program 2 eligibility requirements. A covered process is subject to Program 2 requirements if it does not meet the eligibility requirements of ~~either~~ section (c), ~~or~~ (e) or (f).
- (e) Program 3 eligibility requirements. A covered process is subject to Program 3 if the process does not meet the requirements of section (c), and if any of the following conditions apply:
- (1) The process is in NAICS code 322110, ~~32411~~, 325110, 325180~~1~~, 325188, 325194~~2~~, 325199, 325211, 325311, or 325320.
 - (2) The process is subject to the ~~OSHA or~~ Cal OSHA process safety management standards of ~~Section 1910.119 of Title 29 of CFR or~~ Section 5189 of Title 8 of CCR.

(3) The ~~AAUPA~~ determines that the accident risk posed by the regulated substance in a process above the threshold quantity as listed in Table 3 of Section 2770.5, because of the nature and quantity of the regulated substance involved, requires the additional safety measures afforded by Program 3 requirements, pursuant to Section 25534 of HSC.

(f) Program 4 eligibility requirements. A stationary source is subject to Program 4 if it is engaged in activities set forth in NAICS code 324110.

~~(fg)~~ If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator shall comply with the requirements of the new Program level that applies to the process and update the RMP as provided in Section 2745.10.

~~(gh)~~ The provisions of this chapter shall not apply to an Outer Continental Shelf (“OCS”) source, as defined in Section 55.2 of Title 40 of CFR.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531, 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25534, 25535 (d), and 25536, Health and Safety Code; and Section 68.10, Part 68, Title 40, Code of Federal Regulations.

Section 2735.5 General Requirements.

(a) Coordination. The owner or operator of a stationary source shall closely coordinate with the ~~AAUPA~~ to implement the requirements of this chapter and to determine the appropriate level of documentation required for an RMP to comply with Sections 2745.3 through 2745.9 of this chapter. This requirement shall not preclude public access to RMP information. Classified information need not be included in the RMP but shall be made available to the ~~AAUPA~~ to the extent allowable by law. Trade secrets are protected pursuant to Section 25538 of HSC.

(b) General requirements for RMPs.

(1) The owner or operator of a stationary source that is subject to this chapter, pursuant to Section 2735.4, shall submit an RMP which includes all requirements described in Section 2745.3 through Section 2745.9.

(2) The RMP shall include a registration that reflects all covered processes.

(c) Model RMPs may be used by stationary sources if accepted for use by ~~AAUPAs~~, in consultation with Cal OES. Model RMPs for a process that has in excess of a threshold quantity of a regulated substance listed in Table 1 or 2 of Section 2770.5 must also be recognized by USEPA. Cal OES may limit the use, application, or scope of these models.

- (d) Program 1 requirements. In addition to meeting the requirements of section (b), the owner or operator of a stationary source with a process eligible for Program 1, as provided in Section 2735.4(c) shall:
- (1) Analyze the worst-case release scenario for the process(es), as provided in Section 2750.3; document that the nearest public receptor is beyond the distance to a toxic or flammable endpoint defined in Section 2750.2(a); and submit in the RMP the worst-case release scenario as provided in Section 2745.4;
 - (2) Complete the five-year accident history for the process as provided in Section 2750.9 of this chapter and submit it in the RMP as provided in Section 2745.5;
 - (3) Ensure that response actions have been coordinated with local emergency planning and response agencies (e.g. site visits by first responders); and,
 - (4) Certify in the RMP the following: "Based on the criteria in Section 2735.4 of Title 19 of CCR, the distance to the specified endpoint for the worst-case accidental release scenario for the following process(es) is less than the distance to the nearest public receptor: [list process(es)]. Within the past five years, the process(es) has (have) had no accidental release that caused offsite impacts provided in the risk management program Section 2735.4 (c)(1). No additional measures are necessary to prevent offsite impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the RMP. The undersigned certifies that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information submitted is true, accurate, and complete. (Signature, title, date signed)."
- (e) Program 2 requirements. In addition to meeting the requirements of section (b), the owner or operator of a stationary source with a process subject to Program 2, as provided in Section 2735.4(d), shall:
- (1) Develop and implement a management system as provided in Section 2735.6;
 - (2) Conduct a hazard assessment as provided in Sections 2750.1 through 2750.9;
 - (3) Implement the Program 2 prevention steps provided in Sections 2755.1 through 2755.7 or implement the Program 3 prevention steps provided Sections 2760.1 through 2760.12;
 - (4) Develop and implement an emergency response program as provided in Sections 2765.1 and 2765.2; and
 - (5) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in Section 2745.6.

- (f) Program 3 requirements. In addition to meeting the requirements of section (b), the owner or operator of a stationary source with a process subject to Program 3, as provided in Section 2735.4(e) shall:
- (1) Develop and implement a management system as provided in Section 2735.6;
 - (2) Conduct a hazard assessment as provided in Sections 2750.1 through 2750.9;
 - (3) Implement the prevention requirements of Sections 2760.1 through 2760.12;
 - (4) Develop and implement an emergency response program as provided in Sections 2765.1 and 2765.2; and,
 - (5) Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 2745.7.
- (g) Program 4 requirements. In addition to meeting the requirements of section (b), the owner or operator of a stationary source, as defined in Section 2735.4(f) shall:
- (1) Conduct a hazard assessment as provided in Sections 2750.1 through 2750.9;
 - (2) Implement the prevention and management system requirements of Sections 2762.1 through 2762.17; and submit as part of the RMP the data on prevention program elements for Program 4 processes as provided in Section 2745.7.5.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Sections 25533, 25534, 25534.05 and 25538, Health and Safety Code; and Section 68.12, Part 68, Title 40, Code of Federal Regulations.

Section 2735.6 CalARP Program Management System.

- (a) The owner or operator of a stationary source with processes subject to Program 2 or Program 3 shall develop a management system to oversee the implementation of the risk management program elements. The owner or operator of a stationary source with processes subject to Program 4 shall develop a management system as stated in Section 2762.16.
- (b) The owner or operator shall assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements.
- (c) When responsibility for implementing individual requirements of this chapter is assigned to persons other than the person identified under section (b), the names or positions of these

people shall be documented and the lines of authority defined through an organization chart or similar document.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25534.1, 25535.1, 25535 and 25536, Health and Safety Code; and Section 68.15, Part 68, Title 40, Code of Federal Regulations.

Section 2735.7 Emergency Information Access.

Upon request of a state or local emergency response agency the AAUPA shall provide immediate access to all components of the CalARP Program. If any of the components of the CalARP Program are designated as “trade secret” as defined in Section 6254.7(d) of the Government Code and Section 1060 of the Evidence Code, the emergency response agency or agencies shall be given notice that the information released shall be used only in connection with the official duties of the agency or agencies and shall not otherwise be released.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25538(c) and 25539, Health and Safety Code.

Section 2740.1 Registration.

- (a) If an RMP is required under Section 2735.4(a)(1) and (a)(3), the owner or operator of the stationary source shall complete the registration information required in (d) of this section and submit it with the RMP to USEPA, in accordance with 40 CFR §68.150, with a copy provided to the AAUPA.
- (b) If an RMP is required under Section 2735.4(a)(2), the owner or operator of the stationary source shall complete the registration information required in (d) of this section and submit it with the RMP to the AAUPA.
- (c) The AAUPA may request a registration from a stationary source covered by this chapter prior to submittal of the RMP. Registration submitted prior to an RMP submittal shall include a certification of accuracy.
- (d) The registration shall include the following data:
 - (1) Stationary source name, street, city, county, state, zip code, latitude, and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;
 - (2) The stationary source Dun and Bradstreet number;
 - (3) Name and Dun and Bradstreet number of the corporate parent company;
 - (4) The name, telephone number, and mailing address of the owner or operator;

- (5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;
- (6) The name, title, telephone number, and 24-hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;
- (7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process;
- (8) The stationary source USEPA identifier;
- (9) The number of full-time employees at the stationary source;
- (10) Whether the stationary source is subject to Section 5189 of Title 8 of CCR;
- (11) Whether the stationary source is subject to Part 355 of Title 40 of CFR;
- (12) If the stationary source has a CAA Title V operating permit, the permit number;
- (13) The date of the last safety inspection of the stationary source by a federal, state, or local government agency and the identity of the inspecting entity;
- (14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);
- (15) Source or parent company e-mail address (Optional);
- (16) Source homepage address (Optional);
- (17) Phone number at the source for public inquiries (Optional);
- (18) Local Emergency Planning Committee (Optional);
- (19) OSHA Voluntary Protection Program status (Optional); and,
- (20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:
 - (A) Updates and re-submissions required under Section 2745.10(a) or (b);

- (B) Corrections under Section 2745.10.5 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in Section 2745.10(a) or (b);
- (C) De-registrations required under Section 2745.10(c) or (d); and,
- (D) Withdrawals of an RMP for any facility that was erroneously considered subject to the CalARP Program.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25531, 25534.05(a)(1), and 25533(b), Health and Safety Code; and Section 68.160, Part 68, Title 40, Code of Federal Regulations.

Section 2745.1 Submission.

- (a) The owner or operator of a stationary source, which handles more than a threshold quantity of a regulated substance in a process, shall determine the applicability of this chapter as set forth in Section 2735.4(a) and shall submit a single RMP to the UPAAA. ~~The RMP shall include the information required by Sections 2745.3 through 2745.9.~~ The owner or operator of a Program 4 stationary source shall submit a revised RMP to address the changes stated in Article 6.5 Program 4 within twenty-four (24) months of the effective date of this Article.
- (b) The RMP information required by USEPA at Sections 68.155-68.185, Part 68, Title 40 of CFR shall be submitted to USEPA no later than the latest of the following dates:
 - (1) Three years after the date on which a regulated substance is first listed under Section 68.130, Part 68, Title 40 of CFR; or,
 - (2) The date on which a regulated substance is first present in a process, above the threshold quantity, as listed on Section 2770.5 Table 1 or 2.
- (c) The owner or operator of a stationary source shall submit a copy of USEPA required RMP information according to the time frame set forth in (b) of this section to the ~~AAUPA~~.
- (d) If a determination is made pursuant to section 2735.4(a)(2) that a new or modified stationary source must comply with this chapter, the owner or operator shall submit an RMP to the ~~AAUPA~~ prior to the date in which a regulated substance is first present in a process above the listed threshold quantity, as listed on Section 2770.5.
- (e) This chapter does not require the owner or operator to submit external event analysis or supplemental information, required by the ~~AAUPA~~, to USEPA unless that information is required by federal law.
- (f) If a pesticide, as defined in Section 12753 of the Food and Agricultural Code, is used on a farm or nursery and is determined by the ~~AAUPA~~ to pose a regulated substances accident

risk; the AAUPA shall first consult with the county agricultural commissioner or the Department of Food and Agriculture to evaluate whether the existing RMP is adequate in relation to the regulated substances accident risk. This paragraph does not prohibit, or limit the authority of an AAUPA to conduct its duties.

- (g) RMPs submitted under this Section shall be updated and corrected in accordance with Section 2745.10 and Section 2745.10.5.
- (h) Notwithstanding the provisions of Sections 2745.3 through 2745.9 the RMP shall exclude classified information. Subject to appropriate procedures to protect such information from public disclosure, classified data or information excluded from the RMP may be made available in a classified annex to the RMP for review by federal and state representatives who have received the appropriate security clearances required for the classified data or information being reviewed.
- (i) Upon request, the AAUPA shall submit to Cal OES copies of the RMP and the federal registration.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code, Sections 25533, 25534, 25535.1, and 25536, Health and Safety Code; and Section 68.150, Part 68, Title 40, Code of Federal Regulations.

Section 2745.2 RMP Review Process.

The RMP review process shall include:

- (a) Consultation and review. The RMP shall be certified complete by a qualified person and the stationary source owner or operator and shall be submitted to the AAUPA. Completeness shall be determined in accordance with Sections 2745.3 through 2745.9. The stationary source shall work closely with the AAUPA to determine that the RMP contains an appropriate level of detail.
- (b) Deficiency notice. The AAUPA shall review the RMP to determine if all the elements pursuant to Sections 2745.3 through 2745.9 are contained in the document and provide a written notice to the owner or operator of a stationary source of any deficiencies. The AAUPA may authorize the air pollution control district (APCD) or air quality management district (AQMD) to conduct a technical review of the RMP.
 - (1) The owner or operator of the stationary source shall have 60 calendar days from receipt of the notification of RMP deficiencies to make any corrections. An owner or operator of the stationary source may request, in writing, a one-time 30 calendar day extension to correct deficiencies. At the end of the 60 calendar days, and any extension period if applicable, the stationary source shall resubmit the corrected, revised RMP to the AAUPA. Failure to correct deficiencies during the

specified time frame shall subject the owner or operator of the stationary source to the penalties specified in Sections 25540 and 25541 of HSC.

- (2) If no deficiencies are identified, the AAUPA shall accept the RMP as complete and submit the RMP for formal public review.
- (c) Formal public review. Within 15 calendar days after the AAUPA determines that the RMP is complete, the AAUPA shall make the RMP available to the public for review and comment by publishing a notice in a local newspaper of general circulation, or on the AAUPA's website. The notice shall describe the RMP and state a location where it may be reviewed. The AAUPA shall directly notify individuals and organizations who have specifically requested to be notified. The public shall have 45 calendar days to comment following the publication date of the notice. The AAUPA shall review all public comments.
- (d) Evaluation review. The evaluation review shall be conducted by the AAUPA at the end of the formal public review period. The AAUPA shall take the public comments into consideration during the evaluation review. The AAUPA shall consider standard application of engineering and scientific principles, site specific characteristics, technical accuracy, severity of offsite consequences, and other information in the possession of or reviewed by the AAUPA. The evaluation review may include inspections and onsite document review of records and data which may not be in the possession of the AAUPA.
- (e) The evaluation review shall be completed by the AAUPA as follows:
 - (1) For an RMP which includes only Program 1 or Program 2 processes, the evaluation review shall be completed within 36 months.
 - (2) For an RMP which includes a Program 3 process, the evaluation review shall be completed within 24 months.
 - (3) For an RMP that is for a Program 4 stationary source, the evaluation review shall be completed within ~~(36 months)~~.
 - (34) The evaluation review does not include time for corrections of deficiencies pursuant to section (b)(1).
- (f) Inspection or audit authority. Nothing in this section shall preclude the authority of an AAUPA to inspect or audit a stationary source.
- (g) Public access. Subject to the requirements of section 2775.5(b), the public shall have access to the RMP, including any electronic data developed as part of the USEPA reporting requirements. Classified information need not be included. Trade secrets are protected pursuant to Section 25538 of HSC.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531.1, 25534.5, 25535, 25535.2 and 25538, Health and Safety Code.

Section 2745.4 RMP Offsite Consequence Analysis Component.

(a) The owner or operator shall submit the following information in the RMP:

- (1) Program 1 processes: One worst-case release scenario for each Program 1 process; and,
- (2) Program 2 and 3 processes and Program 4 stationary sources: One worst-case release scenario to represent all regulated toxic substances held above the threshold quantity and one worst-case release scenario to represent all regulated flammable substances held above the threshold quantity.
 - (A) If additional worst-case scenarios for toxics or flammables are required by Section 2750.3(a)(2)(C), the owner or operator shall submit the same information on the additional scenario(s).
 - (B) The owner or operator shall also submit information on one alternative release scenario for each regulated toxic substance held above the threshold quantity and one alternative release scenario to represent all regulated flammable substances held above the threshold quantity.

(b) The owner or operator shall submit the following data:

- (1) Chemical name;
- (2) Percentage weight of the chemical in a liquid mixture (toxics only);
- (3) Physical state (toxics only);
- (4) Basis of results (give model name if used);
- (5) Scenario (explosion, fire, toxic gas release, or liquid spill and vaporization);
- (6) Quantity released in pounds;
- (7) Release rate;
- (8) Release duration;
- (9) Wind speed and atmospheric stability class (toxics only);
- (10) Topography (toxics only);

- (11) Distance to endpoint;
- (12) Public and environmental receptors within the distance;
- (13) Passive mitigation considered; and,
- (14) Active mitigation considered (alternative releases only).

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531.1 and 25534.05, Health and Safety Code; and Section 68.165, Part 68, Title 40, Code of Federal Regulations.

Section 2745.6 RMP Program 2 Prevention Program Component.

- (a) For each Program 2 process, the owner or operator shall provide in the RMP the information indicated in sections (b) through (l). If the same information applies to more than one covered process, the owner or operator may provide the information only once, but shall indicate to which processes the information applies.
- (b) The five- or six-digit NAICS code that most closely corresponds to the process.
- (c) The name(s) of the chemical(s) covered.
- (d) The date of the most recent review or revision of the safety information and a list of federal or state regulations or industry-specific design codes and standards used to demonstrate compliance with the safety information requirement.
- (e) The date of completion of the most recent hazard review or update.
 - (1) The expected date of completion of any changes resulting from the hazard review;
 - (2) Major hazards identified;
 - (3) Process controls in use;
 - (4) Mitigation systems in use;
 - (5) Monitoring and detection systems in use; and,
 - (6) Changes since the last hazard review.
- (f) The date of the most recent review or revision of operating procedures.
- (g) The date of the most recent review or revision of training programs;

- (1) The type of training provided - classroom, classroom plus on the job, on the job; and,
 - (2) The type of competency testing used.
- (h) The date of the most recent review or revision of maintenance procedures and the date of the most recent equipment inspection or test and the equipment inspected or tested.
 - (i) The date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit.
 - (j) The date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation.
 - (k) The date of the most recent change that triggered a review or revision of safety information, the hazard review, operating or maintenance procedures, or training.
 - (l) The owner or operator shall submit the following external events analysis information:
 - (1) The types of natural and human caused external events considered in PHA Section 2760.2 or Hazard Review Section 2755.2.
 - (2) The estimated magnitude or scope of external events which were considered. If not known, the owner or operator of the stationary source shall work closely with the AAUPA to determine what is required. If seismic events are applicable, the parameters used in the consideration of the seismic analysis and which edition of the Building Code was used when the process was designed.
 - (3) For each external event, with a potential to create a release of a regulated substance that will reach an endpoint offsite, apply sections (e)(1) through (e)(6).
 - (4) The date of the most recent field verification that equipment is installed and maintained as designed.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25531, Health and Safety Code; and Section 68.170, Part 68, Title 40, Code of Federal Regulations.

Section 2745.7 RMP Program 3 Prevention Program Component.

- (a) For each Program 3 process, the owner or operator shall provide the information indicated in sections (b) through (q). If the same information applies to more than one covered process, the owner or operator may provide the information only once, but shall indicate to which processes the information applies.
- (b) The five- or six-digit NAICS code that most closely corresponds to the process.

- (c) The name(s) of the substance(s) covered.
- (d) The date on which the safety information was last reviewed or revised.
- (e) The date of completion of the most recent PHA or update and the technique used.
 - (1) The expected date of completion of any changes resulting from the PHA;
 - (2) Major hazards identified;
 - (3) Process controls in use;
 - (4) Mitigation systems in use;
 - (5) Monitoring and detection systems in use; and,
 - (6) Changes since the last PHA.
- (f) The date of the most recent review or revision of operating procedures.
- (g) The date of the most recent review or revision of training programs.
 - (1) The type of training provided--classroom, classroom plus on the job, on the job; and,
 - (2) The type of competency testing used.
- (h) The date of the most recent review or revision of maintenance procedures and the date of the most recent equipment inspection or test and the equipment inspected or tested.
- (i) The date of the most recent change that triggered management of change procedures and the date of the most recent review or revision of management of change procedures.
- (j) The date of the most recent pre-startup safety review.
- (k) The date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit.
- (l) The date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation.
- (m) The date of the most recent review or revision of employee participation plans.
- (n) The date of the most recent review or revision of hot work permit procedures.
- (o) The date of the most recent review or revision of contractor safety procedures.

- (p) The date of the most recent evaluation of contractor safety performance.
- (q) The owner or operator shall submit the following external events analysis information:
 - (1) The types of natural and human caused external events considered in PHA Section 2760.2;
 - (2) The magnitude or scope of external events which were considered. If not known, the owner or operator of the stationary source shall work closely with the AAUPA to determine what is required. If seismic events are applicable, the parameters used in the consideration of the seismic analysis and which edition of the Building Code was used when the process was designed;
 - (3) For each external event, with a potential to create a release of a regulated substance that will reach an endpoint offsite, apply Sections (e)(1) through (e)(6); and,
 - (4) The date of the most recent field verification that equipment is installed and maintained as designed.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25531, Health and Safety Code; and Section 68.175, Part 68, Title 40, Code of Federal Regulations.

Section 2745.7.5 RMP Program 4 Component.

- (a) For each Program 4 stationary source the owner or operator shall provide the information indicated in sections (b) through (t). If the same information applies to more than one Program 4 process, the owner or operator may provide the information only once, but shall indicate to which processes the information applies.
- (b) The five- or six-digit NAICS code that most closely corresponds to the stationary source.
- (c) The name(s) of the highly hazardous material(s) covered.
- (d) The date on which the safety information was last reviewed or revised.
- (e) The date of completion of the most recent PHA or PHA revalidation and the technique used.
 - (1) The expected date of completion of any changes resulting from the PHA;
 - (2) Major hazards identified;
 - (3) Process controls in use;
 - (4) Mitigation systems in use;

- (5) Monitoring and detection systems in use; and,
- (6) Changes since the last PHA.
- (f) The date of the most recent review or revision of management of change procedures.
- (g) The date of the most recent pre-startup safety review.
- (h) The date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit.
- (i) The date of the most recent major incident investigation and the expected date of completion of any changes resulting from the investigation.
- (j) The date of the most recent review or revision of employee participation plans.
- (k) The date of the most recent review or revision of hot work permit procedures.
- (l) The date of the most recent review or revision of contractor safety procedures.
- (m) The date of the most recent evaluation of contractor safety performance.
- (n) The date of the most recent Hierarchy of Hazard Control Analysis.
- (o) The date of the most recent Process Safety Culture Assessment.
- (p) The date of the most recent evaluation of the Accidental Release Prevention Program Management policies and procedures.
- (q) The date of the most recent evaluation of the Human Factors Program.
- (r) The date of the most recent Safeguard Protection Analysis.
- (s) The date of completion of the most recent Damage Mechanism Review or update.
 - (1) The expected date of completion of any changes resulting from the Damage Mechanism Review,
 - (2) Major damage mechanisms identified; and
 - (3) Changes since the last Damage Mechanism Review.
- (t) The owner or operator shall submit the following external events analysis information:

- (1) The types of natural and human caused external events considered in PHA Section 2762.2;
- (2) The magnitude or scope of external events which were considered. If not known, the owner or operator of the stationary source shall work closely with the UPA to determine what is required. If seismic events are applicable, the parameters used in the consideration of the seismic analysis and which edition of the Building Code was used when the process was designed;
- (3) For each external event, with a potential to create a release of a regulated substance that will reach an endpoint offsite, apply sections (e)(1) through (e)(6); and,
- (4) The date of the most recent field verification that equipment is installed and maintained as designed.

Note: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.175, Part 68, Title 40, Code of Federal Regulations.

Section 2745.8 RMP Emergency Response Program Component.

- (a) The owner or operator shall provide in the RMP the following information:
 - (1) Do you have a written emergency response plan?
 - (2) Does the plan include specific actions to be taken in response to an accidental release of a regulated substance?
 - (3) Does the plan include procedures for informing the public and local agencies responsible for responding to accidental releases?
 - (4) Does the plan include information on emergency health care?
 - (5) The date of the most recent review or update of the emergency response plan.
 - (6) The date of the most recent emergency response training for employees.
- (b) The owner or operator shall provide the name and telephone number of the primary local emergency response agency with which the plan is coordinated.
- (c) The owner or operator shall list other federal or state emergency plan requirements to which the stationary source is subject.
- (d) For Program 4 stationary sources, the last date that a drill was performed with the emergency response agencies that may respond to an incident at the stationary source and the local UPA.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.180, Part 68, Title 40, Code of Federal Regulations.

Section 2745.10 RMP Updates.

- (a) The owner or operator of a stationary source which has a regulated substance listed in Table 1 or Table 2 in Section 2770.5 in quantities greater than the corresponding thresholds listed in Table 1 or 2 shall review and update the RMP and submit it in a method and format to a central point specified by USEPA and to the AAUPA as of the date of submission. The owner or operator of a stationary source shall revise and update the RMP submitted under Section 2745.1 as follows:
- (1) At least once every five years from the date of its initial submission or most recent update required by sections (a)(2) through (a)(7), whichever is later. For purposes of determining the date of initial submissions, RMPs submitted before June 21, 1999 are considered to have been submitted on June 21, 1999;
 - (2) No later than three years after a newly regulated substance is first listed by USEPA;
 - (3) No later than the date on which a new regulated substance is first present in an already covered process above a threshold quantity;
 - (4) No later than the date on which a regulated substance is first present above a threshold quantity in a new process;
 - (5) Within six months of a change that requires a revised PHA or hazard review;
 - (6) Within six months of a change that requires a revised offsite consequence analysis as provided in section 2750.7; and,
 - (7) Within six months of a change that alters the Program level that applied to any covered process, except as provided in Section 2745.1(a).
- (b) The owner or operator of a stationary source which has regulated substances in a process listed in Section 2770.5 in quantities greater than Table 3 thresholds and less than thresholds in Table 1 shall revise and update the RMP submitted under Section 2745.1. The updated RMP shall be submitted to the AAUPA as follows:
- (1) At least once every five years from the date of its initial submission or most recent update required by sections (b)(2) through (b)(7),
 - (2) No later than three years after a newly regulated substance is first listed by Cal OES;

- (3) No later than the date on which a new regulated substance is first present in an already covered process above a threshold quantity;
 - (4) No later than the date on which a regulated substance is first present above a threshold quantity in a new process;
 - (5) Within six months of a change that requires a revised PHA or hazard review;
 - (6) Within six months of a change that requires a revised offsite consequence analysis as provided in Section 2750.7; and,
 - (7) Within six months of a change that alters the Program level that applied to any covered process.
- (c) If a stationary source is no longer subject to the applicability requirements of Section 2735.4(a)(1), the owner or operator shall submit a de-registration pursuant to Section 2740.1(a) to USEPA within six months indicating that the stationary source is no longer covered. A copy of the de-registration shall also be submitted to the AAUPA.
 - (d) If a stationary source is no longer subject to the applicability requirements of Section 2735.4(a)(2) the owner or operator shall submit a de-registration pursuant to Section 2740.1(b) to the AAUPA within six months indicating that the stationary source is no longer covered.
 - (e) Revised RMPs shall be subject to the public review process outlined in Section 2745.2.
 - (f) Within 30 days of a change in the owner or operator, the new owner or operator shall contact the AAUPA to update registration information. The new owner or operator shall determine if RMP changes are necessary.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.190, Part 68, Title 40, Code of Federal Regulations.

Section 2745.10.5 Required RMP Corrections.

The owner or operator of a stationary source for which a RMP was submitted shall correct the RMP as follows:

- (a) New accident history information – For any accidental release meeting the five-year accident history reporting criteria of Section 2750.9, the owner or operator shall submit the data required under Sections 2745.5, 2745.6(j), ~~and 2745.7(l)~~ and 2745.7.5(l) with respect to that accident within six months of the release or by the time the RMP is updated under Section 2745.10, whichever is earlier.

- (b) Emergency Contact information – Beginning June 21, 2004, within one month of any change in the emergency contact information required under Section 2740.1(d)(6), the owner or operator shall submit a correction of that information.

NOTE: Authority cited: Sections 25531, 25533, and 25534.05, Health and Safety Code. Reference: Section 25531, Health and Safety Code; and Section 68.195, Part 68, Title 40, Code of Federal Regulations.

Section 2745.11 Covered Process Modification.

- (a) When an owner or operator intends to make a modification to a stationary source relating to a covered process and the modification may result in a significant increase in either: the amount of regulated substances handled at the stationary source as compared to the amount of regulated substances identified in the stationary source's RMP, or the risk of handling a regulated substance as compared to the amount of risk identified in the stationary source's RMP, then the owner or operator shall do all of the following:
- (1) Where reasonably possible, notify the AAUPA in writing of the owner or operator's intent to modify the stationary source at least five calendar days before implementing any modifications. As part of the notification process, the owner or operator shall consult with the AAUPA when determining whether the RMP should be reviewed and revised. Where prenotification is not reasonably possible, the owner or operator shall provide written notice to the AAUPA no later than 48 hours following the modification.
 - (2) Establish procedures to manage the proposed modification, which shall be substantially similar to the procedures specified in Sections 2760.6 and 2760.7, and notify the AAUPA that the procedures have been established.
- (b) The owner or operator of the stationary source shall revise the appropriate documents, as required pursuant to section (a), expeditiously, but not later than 60 days from the date of the stationary source modification.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25543.2, Health and Safety Code.

Section 2750.1 Hazard Assessment Applicability.

The owner or operator of a stationary source subject to this chapter with a Program 1 process shall prepare a worst-case release scenario analysis as provided in Section 2750.3 and complete the five-year accident history as provided in Section 2750.9. The owner or operator of a Program 2 or 3 process or Program 4 stationary source shall comply with all sections in this article for these processes.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.20, Part 68, Title 40, Code of Federal Regulations.

Section 2750.3 Worst-Case Release Scenario Analysis.

- (a) The owner or operator shall analyze and report in the RMP:
 - (1) For Program 1 processes, one worst-case release scenario including an offsite consequence analysis, for each Program 1 process using the offsite consequence analysis parameters in Section 2750.2;
 - (2) For Program 2 and 3 processes and Program 4 stationary sources:
 - (A) One worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint as defined in Section 2750.2(a) resulting from an accidental release of regulated toxic substances from covered processes under worst-case conditions defined in Section 2750.2 (b) through (g);
 - (B) One worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint defined in Section 2750.2(a) resulting from an accidental release of regulated flammable substances from covered processes under worst-case conditions defined in Section 2750.2; and,
 - (C) Additional worst-case release scenarios for a hazard class if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case release scenario developed under sections (a)(2)(A) or (a)(2)(B).
- (b) Determination of worst-case release quantity. The worst-case release quantity shall be the greater of the following:
 - (1) For substances in a vessel, the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity; or
 - (2) For substances in pipes, the greatest amount in a pipe, taking into account administrative controls that limit the maximum quantity.
- (c) Worst-case release scenario - toxic gases.
 - (1) For regulated toxic substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under section (b), is released as a gas over 10 minutes. The release rate shall be assumed to be the total quantity divided by 10 unless passive mitigation systems are in place.
 - (2) For regulated toxic gases handled as refrigerated liquids at ambient pressure:

- (A) If the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of 1 centimeter or less, the owner or operator shall assume that the substance is released as a gas in 10 minutes;
 - (B) If the released substance is contained by passive mitigation systems in a pool with a depth greater than 1 centimeter, the owner or operator may assume that the quantity in the vessel or pipe, as determined under section (b), is spilled instantaneously to form a liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in section (d).
- (d) Worst-case release scenario - toxic liquids.
- (1) For regulated toxic substances that are normally liquids at ambient temperature, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under section (b), is spilled instantaneously to form a liquid pool.
 - (A) The surface area of the pool shall be determined by assuming that the liquid spreads to 1 centimeter deep unless passive mitigation systems are in place that serve to contain the spill and limit the surface area. Where passive mitigation is in place, the surface area of the contained liquid shall be used to calculate the volatilization rate.
 - (B) If the release would occur onto a surface that is not paved or smooth, the owner or operator may take into account the actual surface characteristics.
 - (2) The volatilization rate shall account for the highest daily maximum temperature occurring in the past three years, the temperature of the substance in the vessel, and the concentration of the substance if the liquid spilled is a mixture or solution.
 - (3) The rate of release to air shall be determined from the volatilization rate of the liquid pool. The owner or operator may use the methodology in the RMP Offsite Consequence Analysis Guidance or any other publicly available techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models to local emergency planners upon request.
- (e) Worst-case release scenario - flammable gases. The owner or operator shall assume that the quantity of the substance, as determined under section (b) and the provisions below, vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on TNT equivalent methods.

- (1) For regulated flammable substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under section (b), is released as a gas over 10 minutes. The total quantity shall be assumed to be involved in the vapor cloud explosion.
- (2) For flammable gases handled as refrigerated liquids at ambient pressure:
 - (A) If the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of one centimeter or less, the owner or operator shall assume that the total quantity of the substance is released as a gas in 10 minutes, and the total quantity will be involved in the vapor cloud explosion.
 - (B) If the released substance is contained by passive mitigation systems in a pool with a depth greater than 1 centimeter, the owner or operator may assume that the quantity in the vessel or pipe, as determined under section (b), is spilled instantaneously to form a liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in section (d). The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.
- (f) Worst-case release scenario - flammable liquids. The owner or operator shall assume that the quantity of the substance, as determined under section (b) and the provisions below, vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on TNT equivalent methods.
 - (1) For regulated flammable substances that are normally liquids at ambient temperature, the owner or operator shall assume that the entire quantity in the vessel or pipe, as determined under section (b), is spilled instantaneously to form a liquid pool. For liquids at temperatures below their atmospheric boiling point, the volatilization rate shall be calculated at the conditions specified in section (d).
 - (2) The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.
- (g) Parameters to be applied. The owner or operator shall use the parameters defined in Section 2750.2 to determine distance to the endpoints. The owner or operator may use either the methodology provided in the RMP Offsite Consequence Analysis Guidance or any commercially or publicly available air dispersion modeling techniques, provided the techniques account for the specified modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the AAUPA access to the model and describes model features and differences from publicly available models to local emergency planners upon request.

- (h) Consideration of passive mitigation. Passive mitigation systems may be considered for the analysis of worst case provided that the mitigation system is capable of withstanding the release event triggering the scenario and would still function as intended.
- (i) Factors in selecting a worst-case scenario. Notwithstanding the provisions of section (b), the owner or operator shall select as the worst case for flammable regulated substances or the worst case for regulated toxic substances, a scenario based on the following factors if such a scenario would result in a greater distance to an endpoint defined in Section 2750.2(a) beyond the stationary source boundary than the scenario provided under section (b):
 - (1) Smaller quantities handled at higher process temperature or pressure; and,
 - (2) Proximity to the boundary of the stationary source.
- (j) Solids. In performing an offsite consequence analysis for solids that are listed in Section 2770.5 Table 3, an owner or operator may use a USEPA, California Air Resources Board, or Cal OES approved model which appropriately considers the dispersion and settling of particles. For the worst case scenario, the owner or operator shall assume a one-hour release and pursuant to Section 2750.2(b), use a wind speed of 1.5 meters per second and F atmospheric stability class.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.25, Part 68, Title 40, Code of Federal Regulations.

Section 2750.4 Alternative Release Scenario Analysis.

- (a) The number of scenarios. The owner or operator shall identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process(es) and at least one alternative release scenario to represent all flammable substances held in covered processes.
- (b) Scenarios to consider.
 - (1) For each scenario required under section (a), the owner or operator shall select a scenario:
 - (A) That is more likely to occur than the worst-case release scenario under Section 2750.3;
 - (B) That will reach an endpoint offsite, unless no such scenario exists; and,
 - (C) That will reach a public receptor, unless no such scenario exists.

- (2) Release scenarios considered should include, but are not limited to, the following, where applicable:
 - (A) Transfer hose releases due to splits or sudden hose uncoupling;
 - (B) Process piping releases from failures at flanges, joints, welds, valves and valve seals, and drains or bleeds;
 - (C) Process vessel or pump releases due to cracks, seal failure, or drain, bleed, or plug failure;
 - (D) Vessel overfilling and spill, or over pressurization and venting through relief valves or rupture disks; and,
 - (E) Shipping container mishandling and breakage or puncturing leading to a spill.
- (c) Parameters to be applied. The owner or operator shall use the parameters defined in Section 2750.2 to determine distance to the endpoints. The owner or operator may use either the methodology provided in the RMP Offsite Consequence Analysis Guidance or any commercially or publicly available air dispersion modeling techniques, provided the techniques account for the specified modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the AAUPA access to the model and describes model features and differences from publicly available models to local emergency planners upon request.
- (d) Consideration of mitigation. Active and passive mitigation systems may be considered provided they are capable of withstanding the event that triggered the release and would still be functional.
- (e) Factors in selecting scenarios. The owner or operator shall consider the following in selecting alternative release scenarios:
 - (1) The five-year accident history provided in Section 2750.9;
 - (2) Accidents/incidents or events in related industries available through trade magazines, industry associations and other publicly available sources; either digital or print, and
 - (3) Failure scenarios identified under Section 2755.2 ~~or~~, 2760.2, or 2762.2.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.28, Part 68, Title 40, Code of Federal Regulations.

Section 2755.2 Hazard Review.

- (a) The owner or operator shall conduct a review of the hazards associated with the regulated substances, processes, and procedures. The review shall identify the following:
- (1) The hazards associated with the process and regulated substances;
 - (2) Opportunities for equipment malfunctions or human errors that could cause an accidental release;
 - (3) The safeguards used or needed to control the hazards or prevent equipment malfunction or human error; and,
 - (4) Any steps used or needed to detect or monitor releases.
- (b) The owner or operator of a stationary source shall consult with the AAUPA to decide which hazard review methodology is best suited to determine and evaluate the hazards of the process being analyzed.
- (c) The owner or operator may use checklists, if acceptable to the AAUPA, developed by persons or organizations knowledgeable about the process and equipment as a guide to conducting the review. The hazard review shall be performed by a team familiar with process operations and shall include at least one employee who has experience and knowledge specific to the process being reviewed. For processes designed to meet industry standards or federal or state design rules, the hazard review shall, by inspecting all equipment, determine whether the process is designed, fabricated, and operated in accordance with the applicable standards or rules.
- (d) The hazard review shall include the consideration of applicable external events, including seismic events.
- (e) The owner or operator shall document the results of the hazard review and ensure that problems identified are resolved. The owner or operator shall enter into an agreement with the AAUPA on a timetable for resolution of these problems. Otherwise these resolutions shall be completed within two and one half (2.5) years of performing the hazard review or the next planned turnaround for items requiring a turnaround. These timelines shall not apply to any hazard review completed prior to January 1, 2015. The final resolution taken to address the hazard review recommendation and the actual completion date shall be documented.
- (f) The hazard review shall be updated and revalidated at least once every five years. The owner or operator shall also conduct reviews whenever a major change in the process occurs. All issues identified in the hazard review shall be resolved before startup of the changed process.
- (g) A hazard review may be revalidated only once between full hazard reviews, unless the AAUPA agrees in writing that a full hazard review is unwarranted.

- (h) The owner or operator shall retain hazard reviews and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in (e) for the life of the process.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25531, Health and Safety Code; and Section 68.50, Part 68, Title 40, Code of Federal Regulations.

Section 2755.6 Compliance Audits.

- (a) The owner or operator shall certify that they have evaluated compliance with the provisions of this article at least every three years to verify that the procedures and practices developed under this chapter are adequate and are being followed.
- (b) The compliance audit shall be conducted by at least one person knowledgeable in the process.
- (c) The owner or operator shall develop a report of the audit findings.
- (d) The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit. The owner or operator shall enter into an agreement with the ~~AAUPA~~ on a timetable for resolution of these findings. Otherwise these responses will be completed within one and one half (1.5) years after performing the compliance audit, or the next planned turnaround for items requiring a turnaround. These timelines shall not apply to any compliance audit completed prior to January 1, 2015. The owner or operator shall document the actual completion dates when deficiencies were corrected.
- (e) The owner or operator shall retain the two most recent compliance audit reports

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25531, Health and Safety Code; and Section 68.58, Part 68, Title 40, Code of Federal Regulations.

Section 2760.8 Compliance Audits.

- (a) The owner or operator shall certify that they have evaluated compliance with the provisions of this article at least every three years to verify that the procedures and practices developed under the chapter are adequate and are being followed.
- (b) The compliance audit shall be conducted by at least one person knowledgeable in the process.
- (c) A report of the scope, methods used, results and findings of the audit shall be developed. This report, including results, shall be available for ~~AAUPA~~ review.

- (d) The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit. The owner or operator shall enter into an agreement with the AAUPA on a timetable for resolution of these findings. Otherwise these responses shall be completed one and one half (1.5) years after performing the compliance audit, or the next planned turnaround for items requiring a turnaround. These timelines shall not apply to any compliance audit completed prior to January 1, 2015. The owner or operator shall document the actual completion dates when deficiencies were corrected.
- (e) The owner or operator shall retain the two most recent compliance audit reports.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25531, Health and Safety Code; and Section 68.79, Part 68, Title 40, Code of Federal Regulations.

Section 2762.0.1 Applicability.

- (a) This Article shall apply to processes within petroleum refineries.
- (b) All processes of the petroleum refinery are covered except process plant laboratories or laboratories that are under the supervision of a technically qualified individual as defined in section 720.3(ee) of 40 CFR. This exemption does not apply to specialty chemical production; manufacture, processing or use of substances in pilot plant scale operations; and activities conducted outside the laboratory.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Sections 25531, 25531.2, 25534, Health and Safety Code.

Section 2762.0.2 Purpose.

The purpose of Program 4 is to prevent major incidents at petroleum refineries in order to protect the health and safety of communities and the environment.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Sections 25531, 25531.2, 25534, 25535, 25535.1 Health and Safety Code.

Section 2762.1 Process Safety Information.

- (a) The owner or operator shall develop and maintain a compilation of written process safety information before conducting any PHA, Hierarchy of Hazard Control Analysis, Safeguard Protection Analysis, or Damage Mechanism Review, as required by this Article. The compilation of written process safety information shall be sufficient to enable the owner or operator and the employees involved in operating or maintaining a process to identify and understand the hazards posed by the process. This process safety information shall include

information pertaining to (1) the hazards of any highly hazardous materials used or produced by the process; (2) the technology of the process; (3) process equipment used in the process; and (4) results of previous Damage Mechanism Reviews. The process safety information shall be made available to all employees and relevant process safety information shall be made available to affected employees of contractors. Information pertaining to the hazards of the process shall be effectively communicated to all affected employees.

(b) Information pertaining to hazards of substances used in, present in or produced by the process shall include at least the following:

(1) Toxicity information, including acute and chronic health hazards;

(2) California Permissible exposure limits (PELs);

(3) For regulated substances: American Conference of Governmental Industrial Hygienists (ACGIH) Emergency Response Planning Guideline values, U.S. EPA Acute Exposure Guideline Levels (AEGs), and the California Office of Environmental Health Hazard Assessment (OEHHA) acute and eight-hour Reference Exposure Levels (RELs);

(4) Physical data;

(5) Corrosion data;

(6) Thermal and chemical stability data;

(7) Reactivity data; and

(8) Hazardous effects of incompatible mixtures that could foreseeably occur.

(c) Information pertaining to the technology of the process shall include at least the items specified in paragraphs (c)(1) through (c)(5). Safety Data Sheets meeting the requirements of section 5194(g) of Title 8 of CCR may be used to comply with this requirement to the extent they contain the information required by this subsection.

(1) A block flow diagram or simplified process flow diagram;

(2) Process chemistry;

(3) Maximum intended inventory;

(4) Safe upper and lower limits for process variables such as temperatures, pressures, flows, levels, and compositions; and,

(5) The consequences of deviations, including chemical mixing or reactions that may affect the safety and health of employees or the public.

- (d) Information pertaining to the process equipment shall include at least the following:
- (1) Materials of construction;
 - (2) Piping and instrument diagrams (P&ID's);
 - (3) Electrical classification;
 - (4) Relief system design and design basis;
 - (5) Ventilation system design;
 - (6) Design codes and standards employed, including design conditions and operating limits;
 - (7) Material and energy balances for processes built after June 21, 1999 and previously covered under Program 3, and material and energy balances for all other processes as of the effective date of this Article;
 - (8) Safety systems, such as interlocks, detection and suppression systems; and
 - (9) Electrical supply and distribution systems.
- (e) The owner or operator shall document that process equipment complies with recognized and generally accepted good engineering practices (RAGAGEP), where RAGAGEP has been established for that process equipment, or with other more protective internal practices that ensure safe operation. If the owner or operator installs new process equipment for which no RAGAGEP exists, the owner or operator shall document that the equipment is designed, constructed, installed, maintained, inspected, tested and operated in a safe manner.
- (f) If existing process equipment was designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the owner or operator shall document that the process equipment is designed, installed, maintained, inspected, tested, and operating in a safe manner for its intended purpose.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.65, Part 68, Title 40, Code of Federal Regulations.

Section 2762.2 Process Hazard Analysis [PHA].

- (a) The owner or operator shall perform and document an effective PHA appropriate to the complexity of each process in order to identify, evaluate, and control hazards associated with each process. All initial PHAs for processes not previously covered under Article 6.0 shall be completed within three years of the effective date of this Article, in accordance with this section. PHAs performed in accordance with the requirements of Article 6.0 shall

satisfy the initial PHA requirements of this section. All modes of operation as set forth in subsection 2762.3(a)(1) shall be covered by the PHA. The owner or operator shall determine and document the priority order for conducting PHAs based on the extent of process hazards, the number of potentially affected people, the age of the process and the process operating history.

(b) The owner or operator shall work with the UPA in selecting and using at least one of the following methods:

(1) What-If;

(2) Checklist;

(3) What-If / Checklist;

(4) Hazard and Operability Study (HAZOP);

(5) Failure Mode and Effects Analysis (FMEA);

(6) Fault Tree Analysis;

(7) Other PHA methods recognized by engineering organizations or governmental agencies.

(c) The PHA shall address:

(1) The hazards of the process;

(2) Previous publicly documented incidents in the petroleum refinery and petrochemical industry sector that are relevant to the PHA;

(3) Damage Mechanism Review reports pursuant to subsection 2762.5(e) that are applicable to the process units;

(4) Hierarchy of Hazard Control Analysis reports pursuant to section 2762.13 that are applicable to the process units;

(5) A review of Management of Change documents completed since the last PHA that apply to the process unit.

(6) Potential consequences of failures of process equipment;

(7) Facility siting, including the placement of processes, equipment, buildings, employee occupancies and work stations in order to effectively protect employees and the public from process safety hazards;

- (8) Human factors as required under section 2762.15;
- (9) A qualitative evaluation of the types, severity, and likelihood of possible incidents that could result from a failure of a process or of process equipment;
- (10) The potential effects of external events, including seismic events, if applicable; and
- (11) The findings of incident investigations relevant to the process.
- (d) The PHA shall be performed by a team with expertise in engineering and process operations and shall include at least one operating employee who currently works or provides training in the unit, and has experience and knowledge specific to the process being evaluated. The team shall also include one member with expertise in the specific PHA method being used. As necessary, the team shall consult with individuals with expertise in damage mechanisms, process chemistry, and control systems. The owner or operator shall provide for employee participation in this process, pursuant to section 2762.10.
- (e) For each scenario in the PHA that identifies the potential for a major incident, the owner or operator shall perform a Safeguard Protection Analysis (SPA) pursuant to section 2762.2.1. Upon completion of the SPA, append SPA recommendations to PHA report.
- (f) For all recommendations made by the PHA team for each scenario that identifies the potential for a major incident, the owner or operator shall conduct in a timely manner a Hierarchy of Hazard Control Analysis pursuant to section 2762.13.
- (g) The team shall document its findings and recommendations in a report, which shall be available in the respective work area for review by any person working in that area.
- (h) The PHA report shall include: (1) the method, analyses and factors considered by the PHA team; (2) the findings of the PHA team; and (3) the PHA team's recommendations.
- (i) Except as required in (f), the owner or operator shall follow the corrective action work process documented in subsections 2762.16 (d) and (e) when resolving the PHA team's findings and recommendations, determining action items for implementation, tracking to completion, and documentation of closeout.
- (j) At least once every five (5) years, a written PHA shall be updated and revalidated in accordance with the requirements of this section, to ensure that the PHA is consistent with the current process.
- (k) The owner or operator shall retain for the life of the process all PHAs and PHA updates and revalidations for each process covered by this section. This information shall contain the documented resolution of recommendations as appendices described in subsections 2762.16 (d) and (e).

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.67, Part 68, Title 40, Code of Federal Regulations.

2762.2.1 Safeguard Protection Analysis.

- (a) For each scenario where a PHA identifies the potential for a major incident, the owner or operator shall have a SPA team perform a written SPA to determine (1) the effectiveness of existing individual safeguards; (2) the combined effectiveness of all existing safeguards for each failure scenario in the PHA; (3) the individual and combined effectiveness of safeguards recommended in the PHA; and (4) the individual and combined effectiveness of additional or alternative safeguards that may be needed.
- (b) All independent protection layers (IPLs) for each failure scenario shall be independent of each other and independent of initiating causes.
- (c) The SPA shall use a quantitative or semi-quantitative method, such as Layer of Protection Analysis (LOPA) or an equally effective method. The risk reduction obtainable by each IPL shall be based on site-specific failure rate data, or in the absence of such data, industry failure rate data for each device, system, or human factor.
- (d) The owner or operator shall complete all SPAs for the PHA within six (6) months of completion of the PHA.
- (e) The SPA shall be performed by a team with expertise in engineering and process operations and the team shall include at least one operating employee who has experience and knowledge specific to the process being evaluated. The team shall also include one member knowledgeable in the specific SPA methodology being used. As necessary, the team shall consult with individuals with expertise in damage mechanisms, process chemistry, or an engineer specializing in controls systems and instrumentation. The owner or operator shall provide for employee participation in this process, pursuant to section 2762.10. The PHA team may perform the SPA if the PHA team meets the requirements of this subsection.
- (f) The SPA team shall document the following: (1) potential initiating events and their likelihood and possible consequences, including equipment failures, human errors, loss of flow control, loss of pressure control, loss of temperature control, loss of level control, excess reaction or other conditions that may lead to a loss of containment; (2) the risk reduction achieved by each IPL for each initiating event; (3) necessary maintenance and testing to ensure that all IPLs function as designed; and (4) recommendations to address any deficiencies identified by the SPA.
- (g) The SPA findings and recommendations shall be appended to the PHA report.
- (h) The owner or operator shall follow the corrective action work process documented in subsections 2762.16 (d) and (e) when resolving the SPA team's findings and

recommendations, determining action items for implementation, tracking to completion, and documentation of closeout.

(i) All SPA documentation shall be retained for the life of the process.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531, 25531.2, 25534, 25535, 25535.1 Health and Safety Code.

Section 2762.3 Operating Procedures.

(a) The owner or operator shall develop and implement effective written operating procedures. The operating procedures shall provide clear instructions for safely conducting activities involved in each process. The operating procedures shall be consistent with the process safety information and shall address the following:

(1) Steps for each operating phase or mode of operation:

(A) Startup;

(B) Normal operations;

(C) Temporary operations as the need arises;

(D) Emergency shutdown, including the conditions under which emergency shutdown is required, provisions granting the authority of the qualified operator to shut down the operation or process, and the assignment of responsibilities to qualified operators in order to ensure that emergency shutdown is executed in a safe and timely manner;

(E) Normal shutdown; and,

(F) Startup following a turnaround, a planned or unplanned shutdown, or after an emergency shutdown.

(2) Operating limits:

(A) Consequences of deviation(s); and,

(B) Steps required to correct or avoid deviation(s).

(3) Safety and health considerations:

(A) Properties of, and hazards presented by, the chemicals used in the process;

(B) Precautions necessary to prevent exposure, including passive, active and procedural safeguards; and personal protective equipment;

(C) Protective measures to be taken if physical contact or inhalation exposure occurs;

(D) Safety procedures for opening process equipment;

(E) Verification of the composition and properties of raw materials and control of hazardous chemical inventory levels; and,

(F) Any special or unique hazards.

(4) Safety systems and their functions.

(b) The Operating Procedures shall include emergency operations for each process, including any response to the over-pressurizing or overheating of equipment or piping, and the handling of leaks, spills, releases and discharges. These procedures shall be consistent with the procedures developed as required by subsection (a)(1)(D) and shall provide that only qualified operators may initiate these operations and that prior to allowing employees in the vicinity of a leak, release or discharge, the owner or operator shall at a minimum do one of the following:

(1) Shutdown and depressurize all process operations where a leak, release or discharge is occurring; or

(2) Isolate any vessel, piping, and equipment where a leak, spill or discharge is occurring; or

(3) Follow established criteria for handling leaks, spills, or discharges that are designed to provide a level of protection that is functionally equivalent to, or safer than, shutting down or isolating the process.

(c) A copy of the operating procedures shall be readily accessible to employees who work in or near the process area and to any other person who works in or near the process area or who maintains a process.

(d) The operating procedures shall be reviewed and updated as often as necessary to ensure that they reflect current safe operating practices. The operating procedures shall include any changes that result from alterations in process chemicals, technology, personnel, process equipment, or other changes to the stationary source. Changes to operating procedures shall be managed in accordance with the MOC requirements in section 2762.6. The owner or operator shall certify annually that operating procedures are current and accurate.

(e) The owner or operator shall develop, implement, and maintain safe work practices to prevent or control hazards during specific activities, such as opening process equipment or piping; tasks requiring lock-out/tag-out procedures; confined space entry; handling,

controlling, and stopping leaks, spills, releases and discharges; and control over entry into hazardous work areas by maintenance, contractor, laboratory, or other support personnel. Safe work practices shall apply to employees and contractor employees.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.69, Part 68, Title 40, Code of Federal Regulations.

Section 2762.4 Training.

(a) Initial training.

(1) Each employee involved in operating a process, and each operating employee prior to working in a newly assigned process, shall be trained in an overview of the process and in the operating procedures as specified in section 2762.3. The training shall include material on the specific safety and health hazards applicable to the employee's job tasks, procedures, including emergency operations and shutdown, and safe work practices applicable to the employee's job tasks.

(2) The owner or operator shall train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.

(b) Refresher and supplemental training.

(1) At least once every three years, and more often if necessary, refresher and supplemental training shall be provided to each employee involved in operating a process in order to ensure the employee understands and adheres to the current operating procedures of the process. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency and content of refresher training.

(2) At least once every three years, and more often if necessary, the owner or operator shall provide effective refresher and supplemental training to each maintenance employee to ensure that each employee understands and adheres to current maintenance procedures.

(c) Training certification. The owner or operator shall ensure that each employee involved in operating a process has received, understood and successfully completed training as specified by this section. The owner or operator, after the initial or refresher training, shall prepare a certification record containing the identity of the employee, the date(s) of training, the means used to verify that the employee understood the training, and the signature(s) of the person administering the training.

(d) The owner or operator shall develop and implement an effective written program that includes (1) the requirements that an employee must meet in order to be designated as

qualified, and (2) employee testing procedures to verify understanding and to ensure competency in job skill levels and work practices that protect employee and public safety and health.

(e) The owner or operator shall develop and implement an effective training program to ensure that all affected employees are aware of and understand all Program 4 elements described in this Article. The owner or operator shall complete the initial training required in this section within twenty-four (24) months following the effective date of this section. Employees and employee representatives participating in a specialized team pursuant to this Article shall be trained in the Program elements relevant to that team.

(f) The owner or operator shall provide for employee participation in developing and implementing the training program, pursuant to section 2762.10.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.71, Part 68, Title 40, Code of Federal Regulations.

Section 2762.5 Mechanical Integrity.

(a) Written procedures. The owner or operator shall develop, implement, and maintain effective written procedures to ensure the ongoing integrity of process equipment.

(1) The procedures shall provide clear instructions for safely conducting maintenance activities on process equipment, consistent with the Process Safety Information.

(2) The procedures and inspection documents developed under this subsection shall be readily accessible to employees and employee representatives pursuant to section 2762.10.

(b) Inspection and testing.

(1) Inspections and tests shall be performed on process equipment, using procedures that meet or exceed recognized and generally accepted good engineering practices (RAGAGEP).

(2) The frequency of inspections and tests of process equipment shall be consistent with (1) the applicable manufacturers' recommendations, (2) RAGAGEP, or (3) internal practices that are more protective than (1) or (2). Inspections and tests shall be conducted more frequently if necessary, based on the operating experience with the process equipment.

- (3) The owner or operator shall retain a certification record to document that each inspection and test has been performed in accordance with this subsection. The certification record shall identify the date of the inspection; the name of the person who performed the inspection or test; a description of the inspection or test performed; the results of the inspection or test; and the serial number or other identifier of the equipment on which the inspection or test was performed.
- (c) Equipment deficiencies. The owner or operator shall correct deficiencies to ensure safe operation of process equipment. Repair methodologies shall be consistent with RAGAGEP or more protective internal practices.
- (d) Quality assurance.
- (1) The owner or operator shall ensure that all process equipment at a minimum complies with the criteria established in subsection 2762.1(d). In meeting this requirement, the owner or operator shall ensure that all process equipment is: (1) suitable for the process application for which it is or will be used; (2) fabricated from the proper materials of construction; (3) designed, constructed, installed, maintained, inspected, tested, operated and replaced in compliance with the manufacturer's and any other design specifications and all applicable codes and standards.
- (2) If the owner or operator installs new process equipment or has existing process equipment for which no RAGAGEP exists, the owner or operator shall ensure and document that these are designed, built, installed, maintained, inspected, tested and operated in a safe manner.
- (3) The owner or operator shall conduct regularly scheduled checks and inspections as necessary to ensure that the requirements of paragraph (1) are met.
- (4) The owner or operator shall ensure that maintenance materials, spare parts and equipment meet design specifications and applicable codes.
- (5) The owner or operator shall establish a process for evaluating new or updated equipment codes and standards and implementing changes as appropriate to ensure safe operation.
- (e) Damage Mechanism Review
- (1) The owner or operator shall complete a Damage Mechanism Review (DMR) for each process for which a damage mechanism exists. Where no DMR is performed, the owner or operator shall document the rationale for the determination that no damage mechanism exists. The owner or operator shall determine and document the priority order for conducting the DMR based on process operating history, PHA schedule and inspection records. No less than 50 percent of the initial DMRs shall be completed within three (3) years of the effective date of this Article, and the remainder within five (5) years of the effective date of this Article. If the owner or operator has conducted

and documented a DMR for a process unit within five (5) years prior to the effective date of this section, and that DMR includes the elements identified in paragraph (e)(8), that DMR may be used to satisfy the owner or operator's obligation to complete an initial DMR under this paragraph.

- (2) A DMR shall be updated at least once every five (5) years consistent with the requirements of this section.
- (3) A DMR shall be reviewed as part of a major change on a process for which a damage mechanism exists, prior to approval of the change. If a major change may introduce a damage mechanism, a DMR shall be conducted, prior to approval of the change. As part of an incident investigation pursuant to section 2762.9, where a damage mechanism is identified as a contributing factor, the owner or operator shall review the most recent DMR(s) that are relevant to the investigation. If a DMR has not been performed on the processes that are relevant to the investigation, the owner or operator shall conduct and complete a DMR prior to implementation of corrective actions pursuant to section 2762.16(d) and (e).
- (4) The DMR for a process unit shall be available to the team performing a PHA for that process unit.
- (5) The DMR shall be performed by a team with expertise in engineering, operation of the processes under review, equipment and pipe inspection, and damage and failure mechanisms. The team shall also include one member knowledgeable in the specific DMR method being used. The owner or operator shall provide for employee participation in this process, pursuant to section 2762.10.
- (6) The DMR for each process shall include:

 - (A) Assessment of Process Flow Diagrams (PFDs);
 - (B) Identification of all potential damage mechanisms pursuant to subsection (e)(7) below;
 - (C) Determination that the materials of construction are appropriate for their application and are resistant to potential damage mechanisms;
 - (D) A discussion of the conditions that cause the damage mechanism and how rapidly the damage may progress;
 - (E) Methods to prevent or mitigate damage;
 - (F) Review of operating parameters to identify operating conditions that could accelerate damage or that could minimize or eliminate damage;
- (7) For purposes of this section, damage mechanisms include, but are not limited to:

- (A) Mechanical loading failures, such as ductile fracture, brittle fracture, mechanical fatigue, and buckling;
 - (B) Erosion, such as abrasive wear, adhesive wear, and fretting;
 - (C) Corrosion, such as uniform corrosion, localized corrosion, and pitting;
 - (D) Thermal-related failures, such as creep, metallurgical transformation, and thermal fatigue;
 - (E) Cracking, such as stress-corrosion cracking; and
 - (F) Embrittlement, such as high-temperature hydrogen attack.
- (8) DMRs shall include an assessment of previous experience with the process including the inspection history and all damage mechanism data; a review of industry-wide experience with the process; and applicable standards, codes and practices.
- (9) At the conclusion of the analysis, the team shall prepare a written DMR report that includes:
- (A) The process unit(s) reviewed;
 - (B) Damage mechanisms analyzed;
 - (C) Results of the analyses conducted according to subsection (e)(7) above;
 - (D) Recommendations for temporary mitigation;
 - (E) Recommendations for prevention.
- (10) The report shall be provided to and, upon request, reviewed with all operating, maintenance, and other personnel, whose work assignments are within the process unit covered in the DMR.
- (11) The owner or operator shall follow the corrective action work process documented in subsections 2762.16 (d) and (e) when resolving the DMR team's findings and recommendations, determining corrective action for implementation, tracking to completion, and documentation of closeout.
- (12) DMR reports shall be retained for the life of the process unit.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.73, Part 68, Title 40, Code of Federal Regulations.

Section 2762.6 Management of Change.

- (a) The owner or operator shall develop, implement and maintain effective written Management of Change (MOC) procedures to manage changes in process chemicals, technology, procedures, process equipment, and facilities. The owner or operator shall also develop, implement and maintain written Management of Organizational Change (MOOC) procedures to manage changes in personnel or organizational issues. The MOC procedure shall include provisions for temporary repairs, including temporary piping or equipment repairs.
- (b) The MOC procedures shall ensure that the following items are addressed and documented prior to any change:
- (1) The technical basis for the proposed change;
 - (2) Potential process safety impacts of the change;
 - (3) Modifications to operating and maintenance procedures or development of new operating and maintenance procedures;
 - (4) The time period required for the change; and
 - (5) Authorization requirements for the proposed change.
- (c) Prior to implementation of a major change, the owner or operator shall review or conduct a DMR pursuant to subsection 2762.5(e), and perform a Hierarchy of Hazard Control Analysis (HCA) pursuant to section 2762.13. The findings of the DMR and recommendations of the HCA shall be included in the MOC documentation.
- (d) The owner or operator shall use qualified personnel and appropriate methods for MOCs based upon hazard, complexity and type of change.
- (e) The owner or operator shall provide for employee participation, pursuant to section 2762.10.
- (f) Employees involved in the process as well as maintenance workers whose job tasks will be affected by a change, shall be informed of, and effectively trained in the change in a timely manner, prior to implementation of the change. For contractors and employees of contractors who are operating the process and whose job tasks are affected by a change, the owner or operator shall make the MOC documentation available to and require effective training in the change prior to implementation of the change, pursuant to section 2762.12.
- (g) If a change covered by this section results in a change to the Process Safety Information required by section 2762.1, such information shall be updated as soon as possible.

- (h) If a change covered by this section results in a change to the Operating Procedures required by section 2762.3, or results in a change in the written procedures to maintain the ongoing integrity of process equipment required by section 2762.5 such procedures shall be updated prior to the start-up of the process.
- (i) Management of Organizational Change. The owner and operator shall develop, implement, and maintain effective written procedures to manage organizational change.
- (j) The owner or operator shall designate a team to conduct a Management of Organizational Change (MOOC) assessment prior to reducing staffing levels, reducing classification levels of employees, changing shift duration, or substantively increasing employee responsibilities at or above 15%. The MOOC assessment is required only for changes with a duration exceeding 90 calendar days, affecting operations, engineering, maintenance, health and safety and emergency response. This requirement shall also apply to stationary sources using contractors in permanent positions.
- (k) The MOOC shall be in writing and shall include a description of the change being proposed; the makeup of the team responsible for assessing the proposed change; the factors evaluated by the team; the rationale for the team's decision to implement or not implement the change; and the team's findings and recommendations.
- (1) Prior to conducting the MOOC, the owner or operator shall ensure that the job function descriptions are current and accurate for all positions potentially affected by the change.
- (2) The owner or operator shall provide for employee participation pursuant to section 2762.10.
- (3) All management of organizational change analyses shall include an assessment of human factors, pursuant to section 2762.15.
- (4) The stationary source manager, or his or her designee, shall certify based on information and belief formed after reasonable inquiry that the MOOC assessment is accurate and that the proposed organizational change(s) meets the requirements of this section.
- (l) Prior to implementing a change, the owner or operator shall inform all employees potentially affected by the change.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.75, Part 68, Title 40, Code of Federal Regulations.

Section 2762.7 Pre-Startup Safety Review.

- (a) The owner or operator shall perform a pre-startup safety review (PSSR) for new processes, for modified processes if the modification necessitates a change in the Process Safety

Information, and for partial and unplanned shutdowns. The owner or operator shall also conduct a PSSR for all turnaround work performed on a process.

- (b) The pre-startup safety review shall confirm, as a verification check, independent of the management of change process, that prior to the introduction of highly hazardous materials to a process:
- (1) Construction, maintenance, and repair work has been performed in accordance with design specifications;
 - (2) Process equipment has been maintained and is operable in accordance with design specifications;
 - (3) Effective safety, operating, maintenance, and emergency procedures are in place;
 - (4) For new process units, a Process Hazard Analysis, Hierarchy of Hazard Control Analysis, Damage Mechanism Review and Safeguard Protection Analysis have each been performed as applicable pursuant to this Article, and recommendations have been implemented or resolved before start-up. For new or modified processes, all changes have been implemented in accordance with the requirements contained in the Management of Change, section 2762.6; and,
 - (5) Training of each operating employee and maintenance employee affected by the change has been completed.
- (c) An operating employee who currently works in the unit and has expertise and experience in the process being started shall be designated as the employee representative pursuant to section 2762.10.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.77, Part 68, Title 40, Code of Federal Regulations.

Section 2762.8 Compliance Audits.

- (a) Every three (3) years, the owner or operator shall conduct an effective compliance audit and shall certify that the owner or operator has evaluated the procedures and practices developed under this Article to verify that the procedures and practices are in compliance with the provisions of this Article, and are being followed.
- (b) The compliance audit shall be conducted by at least one person knowledgeable in the requirements of the Article 6.5 section under review.
- (c) The owner or operator shall prepare a written report of the compliance audit that includes the scope, methods used, questions asked to assess each program element along with

findings and recommendations of the compliance audit. The written report shall also document the qualifications of those persons performing the compliance audit. The owner or operator shall make the report available to employees and employee representatives, in accordance with section 2762.10. The owner or operator shall respond in writing within 60 calendar days to any written employee or employee representative comments on the written audit report.

- (d) The owner or operator shall follow the corrective action work process documented in subsections 2762.16 (d) and (e) when developing the resolution and implementation of the compliance audit recommendations.
- (e) The owner or operator shall retain the three (3) most recent compliance audit reports.
- (f) As part of the compliance audit, the owner or operator shall consult with operators with expertise and experience in each process audited and shall document the findings and recommendations from these consultations in the audit report.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.79, Part 68, Title 40, Code of Federal Regulations.

Section 2762.9 Incident Investigation.

- (a) The owner or operator shall develop, implement, and maintain effective written procedures for promptly investigating and reporting any incident that results in or could reasonably have resulted in a major incident.
- (b) The written procedures shall include an effective method for conducting a thorough root cause analysis.
- (c) The owner or operator shall initiate the incident investigation as promptly as possible, but no later than 48 hours following an incident.
- (d) An incident investigation team shall be established and shall, at a minimum, consist of a person with expertise and experience in the process involved, a person with expertise in the owner or operator's root cause analysis method, and a person with expertise in overseeing the investigation and analysis. The owner or operator shall provide for employee participation in this process, pursuant to section 2762.10. If the incident involved the work of a contractor, an employee and employee representative of that contractor, if applicable, shall also be included on the investigation team.
- (e) The incident investigation team shall implement the owner or operator's root cause analysis method to determine the underlying causes of the incident. The analysis shall include identification of management system causes, including organizational and safety culture causes.

- (f) The team shall review the related DMRs that were performed pursuant to section 2762.5(e) and incorporate the applicable findings from these DMRs into the incident investigation.
- (g) The incident investigation team shall develop recommendations to address the findings of the investigation. Recommendations shall include interim actions that will reduce the risk of a recurrence or similar incident until final actions can be implemented. For recommendations that result from the investigation of a major incident, an HCA shall be performed pursuant to section 2762.13. The owner or operator shall append the HCA report to the final investigation report.
- (h) The owner or operator shall submit a written report for major incidents to the UPA within 90 calendar days of the incident, unless the owner or operator can demonstrate that additional time is needed due to the complexity of the investigation. In such cases the owner or operator shall prepare a status report within 90 calendar days of the incident and every 30 calendar days thereafter until the investigation is complete. The owner or operator shall submit a final report within five (5) months of the incident.
- (i) The investigation report shall include:
- (1) Date and time of the incident;
 - (2) Date and time the investigation began;
 - (3) A detailed description of the incident;
 - (4) The factors that caused or contributed to the incident, including direct causes, indirect causes and root causes, determined through the root cause analysis;
 - (5) A list of any DMR(s), PHA(s), HCA(s), and Safeguard Protection Analyses (SPA(s)) that were reviewed as part of the investigation;
 - (6) Interim recommendations to prevent a recurrence or similar incident;
 - (7) Recommendations for permanent corrective actions.
- (j) The UPA shall make reports from investigation of major incidents available to the public by posting the final report on the Unified Program Agency's website within 30 calendar days of receipt.
- (k) The report shall be provided to and, upon request, reviewed with employees whose job tasks are affected by the incident. Investigation reports shall also be made available to all operating, maintenance, and other personnel, including employees of contractors where applicable, whose work assignments are within the facility where the incident occurred or whose job tasks are relevant to the incident findings. Investigation reports shall be provided upon request to employee representatives, and where applicable, contractor employee representatives.

- (l) The owner or operator shall follow the corrective action work process documented in subsections 2762.16 (d) and (e), when resolving the investigation team’s findings and recommendations, determining action items for implementation, tracking to completion, and documentation of closeout. The corrective action plan shall include review, and revalidation as necessary, of the appropriate portions of all relevant PHAs and DMRs.
- (m) Incident investigation reports shall be retained for the life of the process unit.
- (n) If the UPA chooses to perform an independent Process Safety Culture Assessment (PSCA), Incident Investigation, evaluation of the ARP management system or Human Factors Analysis after a major incident pursuant to section 2775.2.5, the owner or operator shall assist the UPA in conducting the independent analysis.

Note: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.81, Part 68, Title 40, Code of Federal Regulations.

Section 2762.10 Employee Participation.

- (a) In consultation with employees and employee representatives, the owner or operator shall develop, implement and maintain a written plan to effectively provide for employee participation in Accidental Release Prevention elements, as required by this Article. The plan shall include provisions that provide for the following:
 - (1) Effective participation by affected operating and maintenance employees and employee representatives, throughout all phases, in performing PHAs, DMRs, HCAs, MOCs, MOOCs, Process Safety Culture Assessments (PSCAs), Incident Investigations, SPAs, and PSSRs;
 - (2) Effective participation by affected operating and maintenance employees and employee representatives, throughout all phases of in the development, training, implementation and maintenance of the Accidental Release Prevention elements required by this Article.
 - (3) Access by employees and employee representatives to all documents or information developed or collected by the owner or operator pursuant to this Article, including information that might be subject to protection as a trade secret;
- (b) An authorized collective bargaining agent may select employee(s) to participate in overall Accidental Release Prevention program development and implementation planning and for employee(s) to participate in each team-based activity pursuant to this Article.

- (c) Where employees are not represented by an authorized collective bargaining agent, the owner or operator shall establish effective procedures in consultation with employees for the selection of employee representatives.
- (d) Nothing in this subsection shall preclude the owner or operator from requiring an employee or employee representative to whom information is made available under subsection 2762.10(a)(3) to enter into a confidentiality agreement prohibiting him or her from disclosing such information.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.83, Part 68, Title 40, Code of Federal Regulations.

Section 2762.11 Hot Work Permit.

- (a) The owner or operator shall issue a hot work permit for hot work operations conducted on or near a covered process.
- (b) The permit shall document that the fire prevention and protection requirements in section 5189 of Title 8 of CCR have been implemented prior to beginning the hot work operations; it shall indicate the date(s) and time(s) authorized for hot work; and identify the equipment or process on which hot work is to be performed. The permit shall be kept on file for one year.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.85, Part 68, Title 40, Code of Federal Regulations.

Section 2762.12 Contractors.

- (a) Application. This section applies to contractors performing maintenance or repair, supply services, turnaround, major renovation, or specialty work on or adjacent to a covered process. It does not apply to contractors providing incidental services which do not influence process safety, such as janitorial work, food and drink services, laundry, delivery or other supply services.
- (b) Stationary source owner or operator responsibilities.
- (1) The owner or operator, when selecting a contractor, shall obtain and evaluate information regarding the contract owner or operator's safety performance and programs and shall require that its contractors and any subcontractors use a skilled and trained workforce pursuant to Health and Safety Code Section 25536.7.
- (2) The owner or operator shall inform the contract owner or operator and shall ensure that the contract owner or operator has informed each of its employees of the work practices necessary to safely perform his or her jobs, including but not limited to: the potential

hazards related to their jobs; applicable refinery safety rules; and in the applicable provisions of the stationary source's emergency action plan.

- (3) The owner or operator shall explain to the contract owner or operator the applicable provisions of Article 7.
- (4) The owner or operator shall develop and implement effective written procedures to ensure the safe entry, presence, and exit of the contract owner or operator and contract employees in process areas.
- (5) The owner or operator shall periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in subsection (c).
- (6) The owner or operator shall ensure and document that the requirements of this section are performed and completed by the contractor owner or operator.

(c) Contract owner or operator responsibilities.

- (1) The contract owner or operator shall ensure that each contract employee is trained in the work practices necessary to safely perform his or her jobs, including but not limited to: the potential hazards related to their jobs; applicable refinery safety rules; and in the applicable provisions of the stationary source's emergency action plan, and shall meet the requirements of Health and Safety Code Section 25536.7.
- (2) The contract owner or operator shall document that each contract employee has successfully completed the training required by this section by maintaining a record identifying:
 - (A) each employee who has received training;
 - (B) the date(s) and subject(s) of training each employee has received;
 - (C) and the means used to verify that the employee understood the training received.
- (3) The contract owner or operator shall ensure that each contract employee follows the safety and health procedures of the stationary source.
- (4) The contract owner or operator shall advise the owner or operator of any specific hazards presented by the contract owner or operator's work, or of any hazards found by the contract owner or operator while performing work for the stationary source.
- (5) Nothing in this subsection shall preclude the stationary source owner or operator from requiring a contractor or an employee of a contractor to whom information is made available under this section to enter into a confidentiality agreement prohibiting him or her from disclosing such information, as set forth in CCR Title 8, Section 5194(i).

NOTE: Authority cited: Section 8585, Government Code; Sections 25531, 25536.7, and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.87, Part 68, Title 40, Code of Federal Regulations.

Section 2762.13 Hierarchy of Hazard Control Analysis.

- (a) The owner or operator shall conduct an HCA for all existing processes. The HCA for existing processes shall be performed in accordance with the following schedule, and may be performed in conjunction with the PHA schedule:

 - (1) No less than 50% of existing processes within three (3) years of the effective date of this Article;
 - (2) Remaining processes within five (5) years of the effective date of this Article.
- (b) The owner or operator shall also conduct an HCA in a timely manner in the following instances:

 - (1) For all PHA recommendations for each scenario that identifies the potential for a major incident;
 - (2) Whenever a major change is proposed at a facility, the owner or operator shall conduct an HCA as part of a Management of Change review required by section 2762.6;
 - (3) When a major incident occurs, the owner or operator shall complete an HCA on the recommendations of the incident investigation report required by section 2762.9; and
 - (4) During the design and review of new processes, new process units, and new facilities, and their related process equipment. An HCA report prepared for this purpose shall be provided to the UPA. The UPA shall make these HCA reports available to the public by posting them on the UPA's website within 30 calendar days, with appropriate protections for trade secret information.
- (c) All HCAs shall be updated consistent with the requirements of this section at least once every five years, in conjunction with the PHA schedule.
- (d) An HCA shall be performed, updated, and documented by a team with expertise in engineering and process operations and the team shall include at least one operating employee who currently works on the process and has experience and knowledge specific to the process being evaluated. The team shall also include one member knowledgeable in the HCA method being used. The owner or operator shall provide for employee participation in this process, pursuant to section 2762.10. As necessary, the team shall consult with individuals with expertise in damage mechanisms, process chemistry, and control systems.
- (e) The HCA team shall:

 - (1) Include all risk-relevant data for each process or recommendation, including incident investigation reports pursuant to section 2762.9;

- (2) Identify, characterize and prioritize each process safety hazard.
- (3) Identify, analyze, and document all inherent safety measures and safeguards (or where appropriate, combinations of measures and safeguards) in an iterative manner to reduce each hazard to the greatest extent feasible. Identify, analyze, and document relevant, publicly available information on inherent safety measures and safeguards. This information shall include inherent safety measures and safeguards that have been: (A) achieved in practice by for the petroleum refining industry and related industrial sectors; or, (B) required or recommended for the petroleum refining industry, and related industrial sectors, by a federal or state agency, or local California agency, in a regulation or report.
- (f) For each process safety hazard identified using the analysis required by subdivision (e), the team shall develop written recommendations to eliminate hazards to the greatest extent feasible using first order inherent safety measures. The team shall develop written recommendations to reduce any remaining hazards to the greatest extent feasible using second order inherent safety measures. If necessary, the team shall also develop written recommendations to address any remaining risks in the following sequence and priority order:
- (1) Effectively reduce remaining risks using passive safeguards;
 - (2) Effectively reduce remaining risks using active safeguards;
 - (3) Effectively reduce remaining risks using procedural safeguards.
- (g) The HCA team shall complete an HCA report within 90 calendar days following development of the recommendations. The report shall include:
- (1) A description of the composition, experience, and expertise of the members of the team that performed the HCA;
 - (2) A description of the methodology used by the team;
 - (3) A description of each process safety hazard analyzed by the team, pursuant to subdivision (e)(2) above;
 - (4) A description of the inherent safety measure(s) and safeguards analyzed by the team, pursuant to subdivision (e)(3) above; and
 - (5) The rationale for the inherent safety measures and safeguards recommended by the team for each process safety hazard, pursuant to subsection (f).
- (h) The owner or operator shall follow the corrective action work process documented in subsections 2762.16 (d) and (e) when resolving the HCA team's finding and recommendations determining corrective action for implementation, tracking to completion, and documentation of closeout.

(i) The owner or operator shall retain all HCA reports for the life of each process.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531, 25531.2, 25534, 25535, 25535.1 Health and Safety Code.

Section 2762.14 Process Safety Culture Assessment.

(a) The owner or operator shall develop, implement and maintain an effective Process Safety Culture Assessment (PSCA) program.

(b) The owner or operator shall conduct an effective PSCA and produce a written report and action plan within eighteen (18) months following the effective date of this Article and at least once, every five (5) years thereafter. If the owner or operator has conducted and documented a PSCA up to eighteen (18) months prior to the effective date of this section, and that PSCA includes the elements identified in this subsection, that PSCA may be used to satisfy the owner or operator's obligation to complete an initial PSCA under this subsection. The PSCA shall include an evaluation of the effectiveness of the following elements of process safety leadership:

(1) The owner or operator's hazard reporting program;

(2) The owner or operator's response to reports of hazards;

(3) The owner or operator's procedures to ensure that incentive programs do not discourage reporting of hazards;

(4) The owner or operator's procedures to ensure that process safety is prioritized during upset or emergency conditions; and

(5) Management commitment and leadership.

(c) The PSCA shall be conducted or overseen by a team that includes at least one person knowledgeable in refinery operations and at least one employee representative. The owner or operator shall provide for employee participation in the development and implementation of the PSCA, report, and recommendations, pursuant to section 2762.10. The team shall consult with at least one employee or another individual with expertise in assessing process safety culture in the petroleum refining industry.

(d) The PSCA team shall develop a written report within 90 calendar days of completion of the assessment. The report shall include:

(1) The method(s) used to assess the process safety culture;

(2) The conclusions of the process safety culture assessment;

- (3) The rationale for the conclusions; and
- (4) The recommendations to address the findings from the PSCA.
- (e) The owner or operator in consultation with the PSCA team shall develop corrective actions based on the PSCA Team recommendations and implement the corrective actions within twenty-four (24) months of the completion of the report.
- (f) The PSCA team shall conduct a written interim assessment of the implementation and effectiveness of each PSCA corrective action within three (3) years following the completion of the PSCA report. If a corrective action is found to be ineffective, the owner or operator shall implement changes necessary to ensure effectiveness in a timely manner not to exceed six months.
- (g) The stationary source manager, or his or her designee, shall serve as signatory to all process safety culture assessment reports and corrective action plans.
- (h) The PSCA report and action plan and the three year interim assessment shall be communicated and made available to employees, their representatives and participating contractors within 60 calendar days of the completion of the report.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531, 25531.2, 25534, 25535, 25535.1 Health and Safety Code.

Section 2762.15 Human Factors Program.

- (a) The owner or operator shall develop, implement and maintain an effective written Human Factors Program within eighteen (18) months of the effective date of this Article.
- (b) The owner or operator shall include a written analysis of human factors where relevant in the design phase of a major change, incident investigations, PHAs, MOOCs, and HCAs. The analysis shall include a description of selected methodologies and criteria for their use.
- (c) The human factors analysis shall use an effective method of evaluating the following: staffing levels; the complexity of tasks; the length of time needed to complete tasks; the level of training, experience, and competency of employees; the human-machine and human-system interface; the physical challenges of the work environment in which the task is performed; employee fatigue, including contractor employees and other effects of shiftwork and overtime; communication systems; and the understandability and clarity of operating and maintenance procedures. The human factors analysis of process controls shall include the following areas:
 - (1) Error proof mechanisms;
 - (2) Automatic Alerts; and

(3) Automatic System Shutdowns.

- (d) The owner or operator shall include an analysis of human factors in new and revised operating and maintenance procedures.
- (e) The owner or operator shall develop a schedule for revising existing operating and maintenance procedures based on a human factors analysis. The owner or operator shall complete no less than fifty (50) percent of assessments and revisions within three (3) years following the effective date of this Article and one hundred (100) percent within five (5) years.
- (f) The owner or operator shall train all of their employees that have process and process equipment responsibilities on the Human Factors Program.
- (g) The owner or operator shall provide for employee participation in the development and implementation of the Human Factors Program, pursuant to section 2762.10.
- (h) The owner or operator shall make available and provide on request a copy of the written Human Factors Program to employees and their representatives, and to affected contractors, contractor employees, and contractor representatives.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531, 25531.2, 25534, 25535, 25535.1 Health and Safety Code.

Section 2762.16 Accidental Release Prevention Program Management System.

- (a) The owner or operator shall develop and implement an effective written Accidental Release Prevention Program (ARP) Management System, which shall be reviewed and updated every three (3) years. The owner or operator shall designate the stationary source manager as the person with authority and responsibility for compliance with this section, and shall maintain process safety goals that support continuous improvement.
- (b) As part of the ARP Management System, the owner or operator shall develop and maintain written ARP policies and procedures, as described below:
 - (1) Job descriptions of roles and responsibilities under each section of this Article;
 - (2) An organizational chart of management positions with responsibilities for each section of this Article;

- (3) Written procedures for ensuring the effective communication of safety, operations, and maintenance information among and across process and maintenance personnel, contractors, support personnel, supervisors and senior management;
- (4) Policies and procedures to ensure that the findings, recommendations and corrective action of all sections in this Article and the ARP Management System are communicated effectively to employees and employee representatives; and
- (5) Policies and procedures to effectively provide for employee participation in all applicable sections in this Article as specified in section 2762.10.
- (c) As part of the ARP Management System, the owner or operator shall track and document all changes to program elements under this Article.
- (d) As part of the ARP Management System, the owner or operator shall develop and document a corrective action work process to address findings and recommendations resulting from program elements. The corrective action work plan for PSCAs shall be governed by section 2762.14. The corrective action work process shall include the requirements in subsection (e).
- (e) The owner or operator shall comply with the following standards for findings and recommendations for the PHA, DMR, HCA, Incident Investigation, compliance audit and SPA:

 - (1) All findings and recommendations must be provided by the team to the owner or operator at the earliest opportunity, but no later than 14 calendar days after recommendation and findings are complete.
 - (2) The owner or operator may reject a team recommendation if the owner or operator can demonstrate in writing that one of the following applies:

 - (A) The analysis upon which the recommendation is based contains material factual errors;
 - (B) The recommendation is not relevant to process safety; or
 - (C) The recommendation is infeasible; however, a determination of infeasibility shall not be based solely on cost.
 - (3) The owner or operator may change a team recommendation if the owner or operator can demonstrate in writing that an alternative inherent safety measure would provide an

equivalent or higher order of inherent safety, or, for a safeguard recommendation, an alternative safeguard would provide an equally or more effective level of protection.

- (4) The owner or operator shall document where any of the conditions in subsection (e)(2) or (e)(3) is applied for the purpose of changing or rejecting a team recommendation. Each recommendation that is changed or rejected by the owner or operator shall be communicated to onsite team members for comment and made available to offsite team members for comment.
- (5) The owner or operator shall document any written comments from all team members on any rejected or changed findings and recommendations.
- (6) The owner or operator shall document a final decision for each recommendation and shall communicate it to onsite team members and make it available to offsite team members.
- (7) The owner or operator shall develop and document corrective actions to implement each accepted recommendation, including documentation of a completion date and assignment of responsibility for completion of each corrective action. All target dates shall be consistent with the requirements of subsections (10) through (13) below for completion of corrective actions.
- (8) If the owner or operator determines that a corrective action requires revalidation or update of any applicable PHA, HCA, DMR, or SPA, these revalidations or updates shall be subject to the corrective action requirements in subsections (9) and (11) through (12) below. The owner or operator shall promptly append any revalidated or updated PHA, DMR, HCA, or SPA, to the applicable report.
- (9) The owner or operator shall promptly complete all corrective actions and shall comply with the completion dates required by this subsection. The owner or operator shall conduct a MOC pursuant to section 2762.6 for any proposed change to a completion date. The owner or operator shall make all completion dates available, upon request, to all affected operation and maintenance employees and employee representatives.
- (10) Notwithstanding sections (11) through (13) below, corrective actions addressing process safety hazards shall be prioritized and promptly completed, either through permanent corrections or interim safeguards sufficient to prevent the potential for a major incident, pending permanent corrections.
- (11) Each corrective action except as specified under subsection (10) that does not require a process shutdown shall be completed within two and half years after the completion of

the analysis or review unless the owner or operator demonstrates in writing that it is not feasible to do so.

(12) Each corrective action from a compliance audit shall be completed within one and half years after the completion of the analysis or review unless the owner or operator demonstrates in writing that it is not feasible to do so. Each corrective action from an incident investigation shall be completed within one and half years after completion of the investigation unless the owner or operator demonstrates in writing that it is infeasible to do so.

(13) Each corrective action requiring a process shutdown shall be completed during the first regularly scheduled turnaround of the applicable process, subsequent to completion of the PHA, SPA, DMR, HCA, MOC, compliance audit or incident investigation, unless the owner or operator demonstrates in writing it is not feasible to do so.

(14) Where a corrective action cannot be implemented within the times described in (10) through (13) above, the owner or operator shall ensure that interim safeguards are sufficient to prevent the potential for a major incident, pending permanent corrections. The owner or operator shall document all corrective actions delayed beyond the timelines established in this subsection. The documentation shall include:

(A) The rationale for deferring the corrective action(s);

(B) The documentation required under the MOC process;

(C) A timeline describing when the corrective action(s) will be implemented; and

(D) An effective plan to make available the rationale and revised timeline to all affected employees and their representatives.

(15) The owner or operator shall track each corrective action item to completion and shall append the documentation of completion to the applicable PHA, DMR, HCA, SPA, compliance audit, or incident investigation report.

(f) Within 90 calendar days of the effective date of this Article, the owner or operator in consultation with employees and employee representatives, shall develop and implement the following:

(1) Effective Stop Work procedures that ensure:

- (A) The authority of all employees, including employees of contractors, to refuse to perform a task where doing so could reasonably result in death or serious physical harm;
 - (B) The authority of all employees, including employees of contractors, to recommend to the operator in charge of a unit that an operation or process be partially or completely shut-down, based on a process safety hazard; and,
 - (C) The authority of the qualified operator in charge of a unit to partially or completely shut-down an operation or process, based on a process safety hazard.
- (2) Effective procedures to ensure the right of all employees, including employees of contractors, to anonymously report hazards. The owner or operator shall respond in writing within 30 calendar days to written hazard reports submitted by employees, employee representatives, contractors, employees of contractors and contractor employee representatives. The owner or operator shall prioritize and promptly respond to and correct hazards that present the potential for death or serious physical harm.
- (g) Within 90 calendar days of the effective date of this section, the owner or operator shall develop a system to document and enable employees to report information pursuant to subsections (f)(1) and (f)(2).
- (h) Process Safety Performance Indicators
- (1) Common Process Safety Performance Indicators: Starting one calendar year after the effective date of this Article, the owner or operator shall report indicators listed in subdivision (A) through (E) below to Cal OES and the UPA every year on June 30 for the period from January 1 to December 31 of the prior year. Cal OES shall make these indicators public by posting them on their web site.
- (A) Past due inspections for piping and pressure vessels:
- i. Overdue inspection for piping and pressure vessels shall be reported. This information will not include relief devices, instrumentation, instrument air receivers, boilers, furnaces, atmospheric tanks, or rotating equipment.
 - ii. Pressure vessels include but are not limited to: heat exchangers, columns, spheres, bullets as defined by CA Safety Order and U-stamped (or treated as such). The scope of the inspections for this reporting include external visual, condition monitoring location (CML) and nondestructive examination (NDE).

and internal visual. Pressure vessel is defined by Title 8, Division 1, Chapter 4, Subchapter 1 Unfired Pressure vessel safety orders.

- iii. Process Piping and piping components excluding utility piping, the scope of the inspections shall include external visual, CML/NDE and internal visual as appropriate.
- iv. Past due is defined as overdue by the requirements listed in California Code of Regulations, Title 8, section 6857, API 510 and API 570. Deferral/extension when used shall follow the requirements contained within the above code and recommended practices.
- v. Inspections shall be defined by circuits rather than points. A circuit shall be defined by one of the following: isometrics, by process stream and piping class, or piece of equipment, such as a pressure vessel. When reporting past due inspections to Cal OES and the UPA, the owner or operator shall include the total number of circuits at the stationary source and the total number of annual planned circuit inspections for that year to provide context regarding the number of circuits/equipment defined by the inspection program at the facility.

(B) Past due PHA corrective actions and seismic corrective actions shall be reported. If a stationary source receives an extension approved by the UPA, the new approved due date shall apply.

(C) Past due Incident Investigation corrective actions shall be reported for major incidents. All major incidents that occur after the effective date of this Article are subject to this requirement.

(D) Major incidents: The number of major incidents that have occurred since the effective date of this Article.

(E) The number of temporary piping and equipment repairs that are installed on hydrocarbon and high energy utility systems that are past their date of replacement with a permanent repair and the total number of temporary piping and equipment repairs installed on hydrocarbon and high energy utility systems. The owner or operator shall document, but not report, the date the temporary piping repair was installed, and the date for the permanent repair is to be complete.

(F) Past due item is an item that is not completed by the end of the month during the month that is due. Each month an item that is past due shall be counted overdue. If the item is continued from the prior month then it is also counted as a repeat item. The repeat row is a subset of the overdue items. The table below shall be used for each of the indicators listed above.

<u>Month</u>	<u>Overdue</u>	<u>Repeat</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		
<u>Annual Total</u>		

(2) Individual Program 4 Process Safety Performance Indicators: No later than six months after the effective date of this Article, each stationary source shall develop a list of site-specific indicators, consisting of activities and other events that it shall measure in order to evaluate the performance of its process safety systems for the purpose of continuous improvement. The owner or operator shall prepare an annual written report by June 30 of each year containing a compilation of these site specific indicators for the previous calendar year. The stationary source manager or designee shall certify annually that the report is current and accurate.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531, 25531.2, 25534, 25535, 25535.1 Health and Safety Code.

Section 2762.17 Access to Documents and Information.

The owner or operator shall provide documents or information developed or collected pursuant to this Article to the UPA upon request.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531, 25531.2, 25534, 25534.5, 25535, 25535.1 Health and Safety Code.

Section 2765.1 Emergency Response Applicability.

- (a) Except as provided in section (b), the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of Section 2765.2. Owners or operators of Program 4 stationary sources shall comply with the requirements of section 2765.2.
- (b) The owner or operator of a stationary source whose employees will not respond to accidental releases of regulated substances need not comply with Section 2765.2 provided that they meet the following:
 - (1) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source is included in the community emergency response plan developed under Section 11003 of Title 42 of the United States Code (USC), is included in the city or county Hazardous Materials Area plans and/or is included in the business plan program, pursuant to Section 25507 of the Health & Safety Code. The owner or operator must document that response actions have been coordinated with the local fire department and hazardous materials response agencies;
 - (2) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the owner or operator must document that response actions have been coordinated with the local fire department and hazardous materials response agencies; and,
 - (3) Appropriate mechanisms and written procedures are in place to notify emergency responders when there is a need for a response.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Section 25531, Health and Safety Code; and Section 68.90, Part 68, Title 40, Code of Federal Regulations.

Section 2770.1 Purpose.

This article lists regulated substances pursuant to Section 2770.5 (Tables 1, 2, or 3), identifies specific threshold quantities, and establishes the requirements for petitioning to add, delete, or change the threshold for regulated substances.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25532(gi), (jl), and (lm), 25543.1, and 25543.3, Health and Safety Code; and Section 68.100, Part 68, Title 40, Code of Federal Regulations.

Section 2770.2 Threshold Determination.

- (a) A threshold quantity of a regulated substance is present at a stationary source if the total quantity of a regulated substance contained in a process exceeds the threshold listed in Section 2770.5.
- (b) For the purpose of determining whether more than a threshold quantity of a regulated substance is present at the stationary source, the following apply:
 - (1) Concentrations of a regulated toxic substance in a mixture:
 - (A) A mixture of less than one percent by weight of a regulated toxic substance need not be considered when determining whether more than a threshold quantity is present at the stationary source. A mixture containing a regulated toxic substance is regulated if the concentration of the toxic substance present in the mixture is one percent or greater by weight. The owner or operator of a stationary source shall only consider the weight of the regulated substance in the mixture, not the entire weight of the mixture.
 - (B) The owner or operator of a stationary source, when determining whether more than a threshold quantity of a regulated toxic substance in a mixture (one percent or greater by weight, pursuant to (A)) is present at the stationary source, need not consider portions of the process which can be demonstrated to have a partial pressure of the regulated substance in the mixture (solution), under the handling or storage conditions, which is less than 10 millimeters of mercury (mm Hg). The owner or operator of the stationary source shall document any exempted portions of processes where the partial pressure measurements or estimates are less than 10 mm Hg.
 - (C) The exemption regarding 10 mm Hg of partial pressure in (B) does not apply to:
 - (i) Regulated substances which are solids as noted in Section 2770.5, Table 3;
 - (ii) Those regulated substances that failed the evaluation pursuant to Section 25532(g)(2) of HSC as noted in Section 2770.5, Table 3; or,
 - (iii) Oleum, toluene 2,4-diisocyanate, toluene 2,6-diisocyanate and toluene diisocyanate (unspecified isomer) as noted in Section 2770.5.
 - (2) Concentrations of a regulated flammable substance in a mixture. A mixture of less than one percent by weight of a regulated flammable substance need not be considered when determining whether more than a threshold quantity is present at the stationary source. Except as provided in Sections (b)(2)(A) and (2)(B) of this section, if the concentration of the substance in the mixture is one percent or greater by weight of the mixture, then, for the purpose of determining whether a threshold quantity is present at the stationary source, the entire weight of the mixture shall be treated as the regulated substance

unless the owner or operator can demonstrate that the mixture itself does not have a NFPA flammability hazard rating of 4. The demonstration shall be in accordance with the definition of flammability hazard rating 4 in the NFPA 704, Standard System for the Identification of the Hazards of Materials for Emergency Response, NFPA, Quincy, MA, 1996. (Available from the NFPA, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552 (a) and 1 CFR part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-08, Waterside Mall, 401 M. St. SW., Washington D.C.; or at the Office of Federal Register at 800 North Capitol St., NW, Suite 700, Washington, D.C.) Boiling point and flash point shall be defined and determined in accordance with NFPA 30, Flammable and Combustible Liquids Code, NFPA, Quincy, MA, 1996. (Available from the NFPA, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552 (a) and 1 CFR part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-08, Waterside Mall, 401 M. St. SW., Washington D.C.; or at the Office of Federal Register at 800 North Capitol St., NW, Suite 700, Washington, D.C.) The owner or operator shall document the NFPA flammability hazard rating.

- (A) Gasoline. Regulated substances in gasoline, when in distribution or related storage for use as fuel for internal combustion engines, need not be considered when determining whether more than a threshold quantity is present at a stationary source.
 - (B) Naturally occurring hydrocarbon mixtures. Prior to entry into a natural gas processing plant, regulated substances in naturally occurring hydrocarbon mixtures need not be considered when determining whether more than a threshold quantity is present at a stationary source. Naturally occurring hydrocarbon mixtures include any combination of the following: condensate, crude oil, field gas, and produced water, each as defined in Section 2735.3.
- (3) Articles. Regulated substances contained in articles need not be considered when determining whether more than a threshold quantity is present at the stationary source.
- (4) Uses. Regulated substances, when in use for the following purposes, need not be included in determining whether more than a threshold quantity is present at the stationary source:
- (A) Use as a structural component of the stationary source;
 - (B) Use of products for routine janitorial maintenance;
 - (C) Use by employees of foods, drugs, cosmetics, or other personal items containing the regulated substance; and,

- (D) Use of regulated substances present in process water or non-contact cooling water as drawn from the environment or municipal sources, or use of regulated substances present in air used either as compressed air or as part of combustion.
- (5) Activities in laboratories. If a regulated substance is manufactured, processed, or used in a laboratory at a stationary source under the supervision of a technically qualified individual as defined in Section 720.3(ee) of Chapter 1 of Title 40 of CFR, the quantity of the substance need not be considered in determining whether a threshold quantity is present. This exemption does not apply to:
 - (A) Specialty chemical production;
 - (B) Manufacture, processing, or use of substances in pilot plant scale operations; and,
 - (C) Activities conducted outside the laboratory.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25532(j~~l~~) and (h~~n~~) and 25543.3, Health and Safety Code; and Section 68.115, Part 68, Title 40, Code of Federal Regulations.

Section 2770.5 List of Substances.

Regulated toxic and flammable substances under Section 112(r) of the federal CAA are the substances listed in Tables 1 and 2. Table 3 lists those regulated substances pursuant to Section 25532(i)(2) of HSC. Threshold quantities for listed toxic and flammable substances are specified in the tables.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25532(i)(2) and 25543.3, Health and Safety Code; and Section 68.130, Part 68, Title 40, Code of Federal Regulations.

Table 3. State Regulated Substances List and Threshold Quantities for Accidental Release Prevention

[No regulatory changes were made to the table.]

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- 1 This column identifies substances which may appear on Table 1. Table 1 may have concentration limitations.
 - 2 Substances that failed the evaluation pursuant to Section 25532(g)(2) of the HSC but remain listed pursuant to potential health impacts. The exemption in Section 2770.2(b)(1)(B) regarding portions of a process where these regulated substances are handled at partial pressures below 10 mm Hg does not apply to these substances.
 - 3 These extremely hazardous substances are solids. The lesser quantity listed applies only if in powdered form and with a particle size of less than 100 microns; or if handled in solution or in molten form; or the substance has an NFPA rating for reactivity of 2, 3, or 4. Otherwise, a 10,000 pound threshold applies. The exemption in Section 2770.2(b)(1)(B) regarding portions of a process where these regulated substances are handled at partial pressures below 10 mm Hg does not apply to these substances.
 - 4 These extremely hazardous substances are reactive solids. The exemption in Section 2770.2(b)(1)(B) regarding portions of a process where these regulated substances are handled at partial pressures below 10 mm Hg does not apply to these substances.
 - 5 Appropriate synonyms or mixtures of extremely hazardous substances with the same CAS number are also regulated, e.g., formalin. The listing of ammonia includes anhydrous and aqueous forms of ammonia pursuant to Section 25532(g)(2).
 - 6 Hydroquinone is exempt in crystalline form.
 - 7 Sulfuric acid fails the evaluation pursuant to Section 25532(i)(2) of the HSC but remains listed as a Regulated Substance only under the following conditions:
 - a. If concentrated with greater than 100 pounds of sulfur trioxide or the acid meets the definition of oleum. (The Table 3 threshold for sulfur trioxide is 100 pounds.) (The Table 1 threshold for oleum is 10,000 pounds.)
 - b. If in a container with flammable hydrocarbons (flash point < 73° F).
 - 8 The exemption in Section 2770.2(b)(1)(B) regarding portions of a process where these regulated substances are handled at partial pressures below 10 mm Hg does not apply to these substances.
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Section 2775.2 Audits.

- (a) In addition to inspections for the purpose of regulatory development and enforcement of the federal CAA, the ~~AA~~AUPA shall periodically audit RMPs submitted under Article 3 of this chapter to review the adequacy of such RMPs and require revisions to RMPs when necessary to ensure compliance with this chapter. To the extent possible, any audit shall be fully coordinated with the Unified Program elements at a stationary source.
- (b) The ~~AA~~AUPA shall select stationary sources for audits based on any of the following criteria:
 - (1) Accident history of the stationary source;
 - (2) Accident history of other stationary sources in the same industry;
 - (3) Quantity of regulated substances present at the stationary source;
 - (4) Location of the stationary source and its proximity to the public and environmental receptors;
 - (5) The presence of specific regulated substances;
 - (6) The hazards identified in the RMP; and,
 - (7) A plan providing for neutral, random oversight.
- (c) Exemption from audits. A stationary source with a Star or Merit ranking under OSHA's voluntary protection program shall be exempt from audits under sections (b)(2) and (b)(7).
- (d) In accordance with Section 25534.5 of HSC, the ~~AA~~AUPA shall have access to the stationary source, supporting documentation, and any area where an accidental release could occur.
- (e) Based on the audit, the ~~AA~~AUPA may issue the owner or operator of a stationary source a written preliminary determination of necessary revisions to the stationary source's RMP to ensure that the RMP complies with the requirements of this chapter. The preliminary determination shall include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE/CCPS guidelines and ASME and API standards) to the extent that such standards and guidelines are applicable, and shall include a timetable for their implementation.
- (f) Written response to a preliminary determination.
 - (1) The owner or operator shall respond in writing to a preliminary determination made in accordance with section (e). The response shall state that the owner or operator will implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner or operator rejects the revisions in whole or in part. For each rejected revision, the owner

or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

- (2) The written response under section (f)(1) shall be received by the ~~AAUPA~~ within 90 days of the issue of the preliminary determination or a shorter period of time as the ~~AAUPA~~ specifies in the preliminary determination as necessary to protect public health and the environment. Prior to the written response being due and upon written request from the owner or operator, the ~~AAUPA~~ may provide in writing additional time for the response to be received.
- (g) After providing the owner or operator an opportunity to respond under section (f), the ~~AAUPA~~ may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. A time-table for implementing these revisions shall be developed in consultation with the stationary source. Revisions must be completed as soon as practicable, but no later than one year after the final determination has been issued unless the ~~AAUPA~~ agrees, in writing, upon a timetable before the resolution becomes overdue. The final determination may adopt or modify the revisions contained in the preliminary determination under section (e) or may adopt or modify the substitute revisions provided in the response under section (f). A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that does not adopt a substitute revision provided under section (f) shall include an explanation of the basis for finding such substitute revision unreasonable.
- (h) Thirty days after completion of the actions detailed in the implementation schedule set in the final determination under section (g), the owner or operator shall be in violation this section unless the owner or operator corrects the deficiencies as outlined in the final determination.
- (i) The owner or operator shall document the actual completion dates when deficiencies were corrected. The public shall have access to the preliminary determinations, responses, and final determinations under this section in a manner consistent with Section 2775.5.
- (j) Nothing in this section shall preclude, limit, or interfere in any way with the authority of USEPA or the state to exercise its enforcement, investigatory, and information gathering authorities under the federal CAA or the HSC.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25534.05, 25534.5, and 25537, Health and Safety Code; and Section 68.220, Part 68, Title 40, Code of Federal Regulations.

Section 2775.2.5 Independent Assessments of Program 4 Facilities.

After a major incident, the UPA may perform an independent Process Safety Culture Assessment (PSCA), Incident Investigation, evaluation of the ARP management system required under Section 2762.16, or Human Factors Analysis on any Program 4 facility.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25531, 25531.2, 25534, 25535, 25535.1 Health and Safety Code.

Section 2775.3 Inspections.

The ~~AA~~UPA shall inspect every stationary source required to be registered pursuant to this chapter at least once every three years to determine whether the stationary source is in compliance with this chapter. The requirements of this section do not alter or affect the immunity provided a public entity pursuant to Section 818.6 of the Government Code. To the extent possible, any CalARP Program inspections shall be coordinated with the Unified Program.

NOTE: Authority cited: Section 8585, Government Code; Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; Sections 25534.5, 25537, 25540.5, and 25541.3, Health and Safety Code; and Sections 68.215 and 68.210, Part 68, Title 40, Code of Federal Regulations.

Section 2775.5 Availability of Information to the Public.

- (a) The RMP required under Article 3 of this chapter shall be available to the public pursuant to Section 25534.05(a)(4) of HSC, except for offsite consequence analysis data, pursuant to (b).
- (b) The ~~AA~~UPA shall ensure that any member of the public has access, by appointment, to a copy of the offsite consequence analysis data, pursuant to Section 2745.4. The member of the public may read, but not remove, reproduce, print, scan or image the documents. The ~~AA~~UPA may require personal photo identification issued by a Federal, State or local government agency to the person, and may require the person's signature on a sign-in sheet. The ~~AA~~UPA may limit a person's access to offsite consequence analysis data to 10 stationary sources in any calendar month.
- (c) The disclosure of classified information by the Department of Defense or other federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of classified information.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Sections 25534.05(a), 25535.2, and 25538, Health and Safety Code; and Sections 68.210, Part 68, and Section 1400.3, Part 1400, Title 40, Code of Federal Regulations.

Section 2775.6 Permit Content and Air Permitting Authority or Cal OES Requirements.

The requirements of this section apply to any stationary source subject to Section 2735.4(a)(1) of this chapter and Part 70 or 71 of Title 40 of CFR.

- (a) The Part 70 or 71 of Title 40 of CFR permit for the stationary source shall contain:

- (1) A statement listing Part 68 of Title 40 of CFR as an applicable requirement;
- (2) Conditions that require the source owner or operator to submit:
 - (A) A compliance schedule for meeting the requirements of this chapter by the date provided in Section 2735.4(a)(1), or,
 - (B) As part of the compliance certification submitted under Section 70.6(c)(5) of Title 40 of CFR, a certification statement that the source is in compliance with all requirements of this chapter, including the registration and submission of the RMP.
- (b) The owner or operator shall submit any additional relevant information requested by the ~~AAUPA~~, Cal OES or the appropriate APCD or AQMD.
- (c) For Part 70 or 71 of Title 40 of CFR permits issued prior to the deadline for registering and submitting the RMP and which do not contain permit conditions described in section (a), the owner or operator or the appropriate APCD or AQMD shall initiate permit revision or reopening according to the procedures of Part 70.7 or 71.7 of Title 40 of CFR to incorporate the terms and conditions consistent with section (a).
- (d) The appropriate APCD or AQMD shall, at a minimum:
 - (1) Verify from the ~~AAUPA~~ that the source owner or operator has registered and submitted an RMP or a revised plan when required by this chapter;
 - (2) Verify from the ~~AAUPA~~ that the source owner or operator has submitted a source certification or in its absence has submitted a compliance schedule consistent with section (a)(2); and,
 - (3) Initiate enforcement action based on sections (d)(1) and (d)(2) as appropriate. The AQMD or APCD shall notify the ~~AAUPA~~ and the ~~AAUPA~~ shall notify Cal OES of enforcement actions taken pursuant to this chapter.
- (e) The fact that an owner or operator of a stationary source is subject to this chapter due to applicability under Section 2734.4(a)(2) shall not in itself subject the stationary source to the requirements of Part 70 or 71 of Title 40 of CFR.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Sections 25533(b), 25535(a), and 25540.5, Health and Safety Code; and Section 68.215, Part 68, Title 40, Code of Federal Regulations.

Section 2780.1 Dispute Resolution.

- (a) Disputes arising between the owner or operator of a stationary source and an AAUPA under this chapter shall first be decided by the AAUPA pursuant to a dispute resolution process. Each AAUPA shall establish procedures necessary to implement this dispute resolution process. These procedures shall:
- (1) Provide that the owner or operator of a stationary source may initiate the dispute resolution process by serving the AAUPA with prompt, written notice of a dispute;
 - (2) Identify the official(s) or other employee(s) of the AAUPA who will resolve disputes arising under this Section;
 - (3) Set procedures and timetables for providing argument and supporting materials to the AAUPA;
 - (4) Require that the AAUPA render a written decision within 120 days after the owner or operator of a stationary source initiates the dispute resolution process; and,
 - (5) Use the CUPA dispute resolution process, if the AAUPA is also a CUPA, providing that such process is consistent with the criteria in (a)(1) through (4) above.
- (b) The owner or operator of a stationary source may appeal the decision of an AAUPA to the Director of Cal OES by serving the Director with written notice of appeal. The notice of appeal shall be accompanied by:
- (1) A copy of the decision of the AAUPA,
 - (2) A copy of any written material that the owner or operator submitted to the AAUPA during the dispute resolution process that the stationary source would want the Director to consider, and,
 - (3) A concise statement of the grounds upon which the owner or operator disputes the decision rendered by the AAUPA. The notice of appeal and accompanying materials shall be served on the Director and the AAUPA by certified mail, return receipt requested. Such service shall be effected no later than 30 days after the AAUPA renders its decision, or, if the AAUPA fails to render a timely decision, no later than 150 days after the owner or operator initiated the dispute resolution process with the AAUPA.
- (c) After receipt of the notice of appeal and accompanying materials, the Director shall provide a written acknowledgment of such receipt to the appealing party and the AAUPA. At the time that the Director sends this acknowledgment, or at any later time, the Director, in his or her discretion, may request further materials, information or briefing from the stationary source or the AAUPA, and the Director may set schedules for the submission of such materials, information or briefing. The Director shall also provide the opportunity for

public comment on the dispute, and shall allow the stationary source and the AAUPA the opportunity to respond to any comments submitted by the public.

- (d) Within 120 days after the service of the notice of appeal, or, if the Director requires additional time in order to deal with the submission of materials, information, briefing, public comments or responses to public comments, within such extended time as is set by the Director, the Director shall issue his or her decision. The dispute shall be resolved according to the discretion of the Director. The Director's decision shall be binding on all parties.
- (e) Exhaustion of this dispute resolution process shall not be a prerequisite to the initiation, prosecution or conclusion of any criminal or civil enforcement action brought by the AAUPA, the District Attorney or the State pursuant to Sections 25540, 25540.5, 25541, 25541.3, 25541.5 of HSC or any other provision of law.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Section 25534.05(a)(3), Health and Safety Code.

Section 2780.2 ~~Administering Agency~~Unified Program Agency Compliance.

Each AAUPA shall comply with the regulations adopted in this chapter, unless Cal OES assumes authority pursuant to Section 2780.6(c)(1)(D)(ii).

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Sections 25533(d) and 25534.05(e), Health and Safety Code.

Section 2780.3 ~~Maintenance of Administering Agency~~Unified Program Agency Authorization and Reporting.

In assessing the performance of an AAUPA, Cal OES shall consider the following:

- (a) Effectiveness of the AAUPA program to ensure stationary source participation.
- (b) Effectiveness of the procedures for records management.
- (c) Type and amount of technical assistance provided to stationary sources.
- (d) Stationary source inspections which are conducted to ensure compliance with this program.
- (e) The AAUPA process for public participation.
- (f) Other required program elements necessary to implement and manage this program.

- (g) Comments from interested parties regarding the effectiveness of the local program that raise public safety issues.
- (h) The impact of the CalARP in reducing/eliminating significant releases.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Section 25533(e), Health and Safety Code.

Section 2780.5 Performance Audit Submission.

- (a) Beginning in fiscal year 1998 (July 1, 1998 - June 30, 1999), the ~~AAUPA~~ shall annually conduct an audit of its activities to implement the CalARP Program. This audit is subject to the periodic review carried out pursuant to Section 25404.4(a)(1) of HSC.
- (b) An audit report shall be compiled annually based upon the previous fiscal year's activities and shall contain an executive summary and a brief description of how the ~~AAUPA~~ is meeting the requirements of the program as listed in Section 2780.3. The audit shall include but is not limited to the following information:
 - (1) a listing of stationary sources which have been audited.
 - (2) a listing of stationary sources which have been requested to develop RMPs.
 - (3) a listing of stationary sources which have been inspected.
 - (4) a listing of stationary sources which have received public comments on the RMP.
 - (5) a list of new or modified stationary sources.
 - (6) a summary of enforcement actions initiated by the ~~AAUPA~~ identifying each stationary source.
 - (7) a summary of the personnel and personnel years necessary to directly implement, administer, and operate the CalARP Program.
 - (8) a list of those stationary sources determined by the ~~AAUPA~~ to be exempt from the chapter pursuant to Section 25534(b)(2).

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25533(e), Health and Safety Code.

Section 2780.6 ~~Administering Agency~~ Unified Program Agency Performance Evaluations.

- (a) Cal OES shall periodically review the ~~AAUPA~~'s performance to ensure their ability to carry out the requirements of the CalARP Program pursuant to the requirements of Article 2,

Chapter 6.95, of HSC and these regulations. This review shall be closely coordinated with the Unified Program periodic review process, pursuant to Section 25404.4 of HSC.

- (b) ~~Administering Agencies~~ Unified Program Agencies shall be reviewed using the standards adopted in Sections 2780.3 and 2780.5 of these regulations.
- (c) If Cal OES determines that an ~~AAUPA~~ has failed to meet the performance requirements of subdivision (b), Cal OES shall, as appropriate, initiate one of the following two processes:
- (1) Process 1: Assumption of Authority by Cal OES. Cal OES shall serve the ~~AAUPA~~ with a written Notice of Intent to Exercise Specific Powers (NOIESP), which shall inform the ~~AAUPA~~ of the Director's intent to implement the CalARP Program in the local jurisdiction pursuant to Section 25533(e) of HSC. The NOIESP shall state (i) the powers of the ~~AAUPA~~ that Cal OES will exercise; (ii) the date on which the exercise of authority shall commence; and, (iii) the reasons it is necessary for Cal OES to assume this authority.
- (A) Response to the NOIESP. Within 60 days after receipt of the NOIESP, the ~~AAUPA~~ shall respond by: accepting the terms of the NOIESP; appealing the NOIESP; or submitting a proposed Program Improvement Agreement (PIA). If the ~~AAUPA~~ fails to respond fully to the NOIESP within 60 days, the ~~AAUPA~~ will be deemed to have accepted the terms of the NOIESP.
- (i) Acceptance of the NOIESP. The ~~AAUPA~~ may accept the assumption of authority described in the NOIESP by serving Cal OES with written notice of such acceptance. After the ~~AAUPA~~ accepts, or is deemed to have accepted, the terms of the NOIESP, Cal OES shall schedule a public hearing pursuant to the terms of section (c)(1)(C).
- (ii) Appeal. The ~~AAUPA~~ may appeal the NOIESP by serving Cal OES with: a written explanation of the factual or legal grounds for its appeal; any written supporting argument; and any relevant documentary evidence. After receipt of the appeal, Cal OES shall follow the procedures set forth in section (c)(1)(B).
- (iii) Submission of a PIA. The ~~AAUPA~~ may respond to the NOIESP by serving Cal-OES with a proposed PIA. After reviewing the proposed PIA, Cal OES shall either accept the PIA and follow the procedures set forth in section (c)(2) or reject the proposal and schedule a public hearing pursuant to the terms of section (c)(1)(C).
- (B) Appeal Procedures. If the ~~AAUPA~~ appeals the NOIESP, Cal OES shall review the appeal to determine whether the ~~AAUPA~~ has made a sufficient showing to warrant the reversal or modification of Cal OES' original decision. Upon completion of this review, Cal OES shall affirm, modify, or reverse its original decision. Cal OES shall make its resolution of the appeal available to the public.

- (i) Affirmance. If Cal OES affirms its original decision, it shall schedule a public hearing addressing its proposed exercise of the powers of the AAUPA. This hearing will be conducted pursuant to section (c)(1)(C).
 - (ii) Reversal. If Cal OES reverses its decision, Cal OES shall serve the AAUPA with written notice that the NOIESP has been withdrawn.
 - (iii) Modification. If, based on the appeal, Cal OES decides to modify its original decision, Cal OES shall (1) serve the AAUPA with an amended NOIESP, specifying the powers Cal OES intends to exercise; and (2) schedule a public hearing on this exercise of powers. This hearing will be conducted pursuant to section (c)(1)(C).
- (C) Public Hearing Procedures. In the event that a public hearing is required under this section, the following procedures shall be employed:
- (i) The hearing shall be conducted in the jurisdiction of the AAUPA that received the NOIESP.
 - (ii) A notice of public hearing shall be published in a local newspaper. Notice of the hearing shall be served on the AAUPA.
 - (iii) Within thirty days after the public hearing, the AAUPA shall review the public hearing comments and serve Cal OES with its responses, if any, to the comments presented at the public hearing.
- (D) Cal OES shall within 60 days review the comments presented at the public hearing and any responses submitted by the AAUPA. Based upon this review, and after consulting with the Secretary for Environmental Protection (Secretary), Cal-OES shall do one of the following:
- (i) Approve the continued implementation of the program by the AAUPA;
 - (ii) Assume authority to exercise the powers of the AAUPA; or,
 - (iii) Refer the matter to the Secretary as specified in section (c)(2), with the recommendation for an PIA or decertification of the AAUPA.
- (E) In the event that Cal OES assumes authority to exercise the powers of the AAUPA, the AAUPA shall, upon request, provide Cal OES with all relevant records and documents.
- (2) Process 2: Referral to the Secretary. As an alternative to the procedures set forth in subsection (c)(1), Cal OES may refer the matter to the Secretary with a written recommendation that the Secretary institute proceedings to either: require the AAUPA

to enter into an PIA, or, decertify the AAUPA pursuant to Section 25404.4(a), Chapter 6.11 of HSC.

- (A) After Cal OES issues this recommendation, the Secretary and Cal OES shall follow the procedures specified in Chapter 6.11 of HSC and any regulations adopted thereto applicable to PIAs or decertification.
 - (B) If Cal OES recommends an IPA, Cal OES shall work with the Secretary to develop an PIA for the AAUPA.
 - (C) If the AAUPA fails to sign an PIA within a time frame specified by Cal OES or the Secretary, Cal OES, in its discretion, may either: invoke Section 25533(e) of HSC and issue an NOIESP pursuant to subsection (c)(1), or, recommend that the Secretary decertify the AAUPA pursuant to Section 25404.4(a), Chapter 6.11, of HSC.
- (d) When this section requires the service of a notice or other document, service shall be made by certified mail, return receipt requested. A copy of any such notice or document shall be served on the Secretary.

NOTE: Authority cited: Section 8585, Government Code; and Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 8585, Government Code; and Sections 25533(e) and (f), Health and Safety Code.

Section 2785.1 Technical Assistance.

- (a) The owner or operator of a stationary source shall closely coordinate with the AAUPA to ensure that appropriate technical standards are applied to the implementation of this chapter.
- (b) The owner or operator of a stationary source shall request assistance from the AAUPA when necessary to address compliance with this chapter or safety issues regarding unfamiliar processes.

NOTE: Authority cited: Sections 25531 and 25534.05, Health and Safety Code. Reference: Section 25534.05(a)(5), 25534.5, and 25535(a), Health and Safety Code.

