

**CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES
PROPOSED REGULATIONS
INITIAL STATEMENT OF REASONS**

**CALIFORNIA CODE OF REGULATIONS
TITLE 19
DIVISION 2
CHAPTER 4.5**

Statement of Reasons: General Information and Background

The California Accidental Release Prevention program was created for the prevention of accidental releases of specified airborne toxic and flammable substances, and to mitigate the effects of such releases, if they occurred. The program specifies the conditions for compliance with the program's requirements, the criteria for estimating offsite consequence of an accidental release, prevention programs intended to stop releases from happening, and response programs in case releases do occur. The program outlines state oversight of the program.

The purposes of this action are threefold. First, California Code of Regulations, Title 19, Division 2, Chapter 4.5, section 2750.2(a)(3) specifies that toxic endpoints for all toxic substances listed in Tables 1 and 3 of section 2770.5 shall be listed in Appendix A to Title 19, Division 2, Chapter 4.5. This has historically been true of Table 1 substances, but it is only now that the Office of Environmental Health Hazard Assessment has had the time and resources to complete the monumental task of compiling toxic endpoints for all of Table 3. This data will be merged into a revised Appendix A.

Secondly, the California Health & Safety Code, Chapter 6.95, Article 2, section 25543.1 requires that a person wishing to add or delete a material from the state list, or to revise a threshold quantity, may submit a petition to do so. A section was reserved in Title 19, Chapter 4.5 for a petition process, but this section was never added. This action adds a petition process similar to the petition process of section 68.120, Part 68, Title 40 of the Code of Federal Regulations.

Finally, Chapter 4.5 contains a number of grammatical errors, typographic errors, inconsistencies and awkward language in need of clarification. This action addresses such instances as have been detected.

The benefits anticipated from this regulatory action are as follows:

- Improved clarity and readability of the complex requirements of the CalARP program;
- Improved safety for workers at these large-scale, inherently dangerous processes;
- Improved safety for offsite human populations and the environment;

- A petition process to allow the program to adapt as chemical processes change over time; and
- Defined toxic endpoints to aid in the planning process and in emergency response.

The Office did not consider any alternatives to the proposed regulatory action.

No specific technologies or equipment are mandated by the proposed regulations.

Although the proposed regulations potentially affect every stationary source regulated under the CalARP program, it is not anticipated that the result will be an adverse economic effect on any business in California. The reason for this is that the proposed action imposes no new additional requirements, but rather clarifies and makes consistent the existing requirements. For example, the addition of a full set of toxic endpoints allows a more accurate estimation of the extent of a release plume, but the requirement for an offsite consequence analysis, including this release plume, already exists.

References and Authorities

Authority: Health and Safety Code, Division 20, Chapter 6.95, §25534.05

Government Code, Title 2, Division 1, Chapter 7, §8585(b)(1)

California Code of Regulations, Title 19, Division 2, Chapter 4.5, §2750(a)(3)

References: Health and Safety Code, Division 20, Chapter 6.95, Article 2

California Code of Regulations, Title 19, Division 2, Chapter 4.5, §§ 2735.1-2785.1 and Appendix A to Title 19, Division 2, Chapter 4.5

Title 40, Federal Code of Regulations, Part 1400, §1400.3

Title 40, Federal Code of Regulations, Part 68, §68.120

Documents Relied Upon:

Economic Impact Assessment – California Code of Regulations
Amendment of Chapter 4.5 of Title 19

“Revised List of Toxic Endpoints for the Table 3 Chemicals” - July 31,
2009 Memorandum from Office of Environmental Health Hazard
Assessment

Table of Contents

The following entries were amended.

2760.7 Pre-Startup Safety Review

2770.3 (~~Reserved~~) Petition Process

2775.6 Permit Content and Air Permitting Authority or Cal ~~EMA~~ OES Requirements

2780.7 Cal ~~EMA~~ OES Authority

Appendix A to Title 19, Division 2, Chapter 4.5, ~~Subchapter 4~~, Table of Toxic Endpoints

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – Table of Contents

1. Throughout the regulations, the “pre-startup safety review” is referred to as exactly that, except for the Table of Contents. This action corrects this oversight.
2. A petition process mandated by the California Health & Safety Code has been added to Chapter 4.5.
3. The agency name has been changed from the California Emergency Management Agency (Cal EMA) to the California Governor’s Office of Emergency Services (Cal OES).
4. The entry for Appendix A in the Table of Contents refers to the wrong chapter in the California Code of Regulations.

Specific Purpose of Regulation - Table of Contents

This is the table of contents for Chapter 4.5. The lines amended referenced a safety review process, a process to petition for a change in the listed regulated substances, and an incorrect citation.

Necessity – Table of Contents

For clarity, it is necessary for the Table of Contents to reflect the document’s actual contents. Also for the purpose of clarity, this change establishes the fact that the table of toxic endpoints applies to Chapter 4.5 of Division 2 of Title 19, California Code of Regulations, rather than a nonexistent subchapter to Chapter 4.

Article 1. General

Section 2735.1 is amended.

§2735.1 Purpose

The list of regulated substances ~~are~~ is in Section 2770.5 of this chapter.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.1

This is a grammar correction.

Specific Purpose of Regulation - §2735.1

This section provides a summary of the overall purpose of Chapter 4.5.

Necessity - §2735.1

This is a grammar correction, for the purpose of clarity.

Subsection (c) of Section 2735.3 is amended.

§2735.3. Definitions.

- (c) “Administrative controls” means written procedural mechanisms used for hazard control.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.3(c)

This is a grammar correction.

Specific Purpose of Regulation - §2735.3(c)

This section provides a definition useful for the administration of Chapter 4.5.

Necessity - §2735.3(c)

This is a grammar correction, for the purpose of clarity.

§2735.3. Definitions.

Subsections (tt) through (zz) are redesignated (ww) through (ccc).

Subsections (ee) through (ss) are redesignated (gg) through (uu).

Subsections (j) through (dd) are redesignated (k) through (ee).

Subsection (i) is amended.

- (i) “Cal ~~EMA OES~~” means the California ~~Emergency Management Agency~~ Governor’s Office of Emergency Services.

New subsection (j) is added.

(j) “Cal OSHA” means the California Occupational Safety and Health Administration.

New subsection (ee) is added.

(ee) “New stationary source” means a stationary source that now has a covered process that is not currently in the CalARP program.

New subsection (vv) is added.

(vv) “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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.3

These definitions are: for another California state agency with authority over stationary sources subject to the CalARP program; 2 terms used, but not defined, in Chapter 4.5, and to reflect the name change from the California Emergency Management Agency back to the California Governor’s Office of Emergency Services, effective July 1, 2013.

Specific Purpose of Regulation - §2735.3

This section provides definitions useful for the administration of Chapter 4.5.

Necessity - §2735.3

These definitions provide:

1. A distinction between federal Occupational Safety and Health Administration (OSHA) and its state counterpart, California Occupational Safety and Health Administration (Cal OSHA);
2. A definition for a new stationary source that clarifies that a new stationary source does not have to be new construction, but rather a new process not previously covered by CalARP;
3. A precise definition of a revalidation of a hazard review or process hazard analysis; and
4. Changes to definitions that acknowledge that the California Emergency Management Agency has been redesignated as the California Governor’s Office of Emergency Services by the Brown Administration, effective July 1, 2013.

Subsections (c)(1)(C), (c)(2), and (e)(2) of section 2735.4 are amended.

§2735.4. Applicability.

- (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 (~~and~~) and Section 2750.5; and,
- (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:
- (2) The process is subject to the ~~federal or state~~ 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.4(c)(1)(C)

The subsections of this section provide eligibility requirements for Program Level 1. Among those is (c)(2), which provides that the endpoint cannot be further than the distance to a public receptor. This ignores the fact that a release may cause response activities at a public receptor, regardless of the fact that the endpoint is short of the public receptor.

Specific Purpose of Regulation - §2735.4(c)(1)(C)

This section describes one of the criteria that disqualifies a stationary source from eligibility for Program level 1.

Necessity - §2735.4(c)(1)(C)

The amendment would include response activities at a public receptor during the five-year accident history as a factor excluding the stationary source from eligibility for Program Level 1.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.4(c)(2)

Amendments to section 2735.3 have resulted in renumbering, which rendered this citation incorrect.

Specific Purpose of Regulation - §2735.4(c)(2)

This section describes one of the criteria that a stationary source must meet to have eligibility for Program level 1.

Necessity - §2735.4(c)(2)

This is a citation correction.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.4(e)(2)

Current language doesn't clearly differentiate between the federal and state versions of the Occupational Safety and Health Administration.

Specific Purpose of Regulation - §2735.4(e)(2)

This section describes one of the criteria that force a stationary source into Program level 3.

Necessity - §2735.4(e)(2)

The amendment differentiates the federal and state programs. Taken in conjunction with the definition in new section 2735.3(j), it will be much clearer exactly what agencies are being referenced.

Subsections (d), (e) and (f) of Section 2735.5 are amended.

§2735.5. General Requirements.

- (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:
 - (3) Ensure that response actions have been coordinated with local emergency planning and response agencies (e.g. site visits by first responders); and,

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.5(d)(3)

No examples of coordination activities are supplied in the current regulation.

Specific Purpose of Regulation - §2735.5(d)(3)

This section describes one of the criteria for Program level 1 eligibility.

Necessity - §2735.5(d)(3)

The amendment supplies an example of coordination of response actions with local emergency planning and/or response agencies.

(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:

- (4) Develop and implement an emergency response program as provided in Sections 2765.1 ~~to~~ and 2765.2; and

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.5(e)(4)

This is a grammar correction. Only two subsections are cited.

Specific Purpose of Regulation - §2735.5(e)(4)

This section provides a definition useful for the administration of Chapter 4.5.

Necessity - §2735.5(e)(4)

This is a grammar correction, for the purpose of clarity.

(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:

- (4) Develop and implement an emergency response program as provided in Sections 2765.1 ~~to~~ and 2765.2; and,

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2735.5(f)(4)

This is a grammar correction. Only two subsections are cited.

Specific Purpose of Regulation - §2735.5(f)(4)

This section provides a definition useful for the administration of Chapter 4.5.

Necessity - §2735.5(f)(4)

This is a grammar correction, for the purpose of clarity.

Article 2. Registration.

Subsections (d)(15) and (d)(16) of Section 2740.1 are amended.

§2740.1. Registration.

(d) The registration shall include the following data:

- (15) Source or Pparent Ccompany Ee-Mmail Aaddress (Optional);
- (16) Source Hhomepage address (Optional);

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2740.1(d)(15) and (16)

These elements to the registration document were added with the 2004 regulation update, and there is no uniformity in the capitalization of the words. This minor change will not change the meaning of the regulation, but will enhance understanding.

Specific Purpose of Regulation - §2740.1(d)(15) and (16)

The regulation lists the data required for the registration document, as well as optional information that the administering agency might want on the document.

Necessity - §2740.1(d)(15) and (16)

These minor capitalization corrections are for uniformity within the Chapter.

Subsection (d)(17) of Section 2740.1 is amended.

§2740.1. Registration.

(d) The registration shall include the following data:

- (17) Phone number at the source for public inquiries (Optional);

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2740.1(d)(17)

During the 2004 regulation update, the word “inquiries” was inadvertently spelled “inquires”. This action corrects this oversight.

Specific Purpose of Regulation - §2740.1(d)(17)

The regulation lists the data required for the registration document, as well as optional information that the administering agency might want on the document.

Necessity - §2740.1(d)(17)

This minor spelling correction allows the subsection to be grammatically correct.

Article 3. Risk Management Plan Components and Submission Requirements.

Subsection (b)(1) of Section 2745.1 is deleted. Subsections (b)(2) and (b)(3) are renumbered.

§2745.1 Submission.

(b) The RMP information required by USEPA shall be submitted to USEPA no later than the latest of the following dates:

~~(1) June 21, 1999;~~

~~(2)~~ Three years after the date on which a regulated substance is first listed under Section 68.130, Part 68, Title 40 of CFR; or,

~~(3)~~ 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.1(b)(1)

The June 21, 1999 date is from the original regulations, and as of this action, is 14 years out of date.

Specific Purpose of Regulation - §2745.1(b)(1)

This regulation defines when a risk management plan is required to be submitted to USEPA.

Necessity - §2745.1(b)(1)

The date is removed as an obsolete artifact of the original regulations.

Subsection (d) of Section 2745.1 is deleted.

§2745.1 Submission.

~~(d) If a determination is made pursuant to section 2735.4 (a)(2) that an existing stationary source must comply with this chapter, the owner or operator shall submit an RMP to the AA after the owner or operator has received a notice from the AA~~

~~requesting submission of an RMP. The AA shall, in consultation with the owner or operator of a stationary source, establish an RMP submittal date. The AA shall not require submission of the RMP earlier than 12 months or later than 3 years after the notice has been issued to the owner or operator.~~

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.1(d)

This subsection is from the original rulemaking, from the beginning of the program. As of the date of this action, any stationary source that is out of compliance with this subsection, has been so for over 14 years.

Specific Purpose of Regulation - §2745.1(d)

This section describes the necessity of an existing stationary source that meets the criteria of a California-only stationary source to establish and submit a risk management plan to the administering agency.

Necessity - §2745.1(d)

The date is removed as an obsolete artifact of the original regulations.

Subsection (h) of Section 2745.1 is deleted.

§2745.1 Submission.

~~(h) The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include information required by Section 2740.1(d)(6) and (d)(14), by June 21, 2004 in the manner specified by USEPA prior to that date. Any such submission shall also include the information required by Section 2740.1(d)(20) (indicating that the submission is a correction to include the information required by Section 2740.1(d)(6) and (d)(14) or an update under Section 2745.10). RMP revisions shall be consistent with Section 2735.5(a).~~

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.1(h)

This subsection adds additional fields for the 2004 RMP update. The additional fields were added to the registration requirements, section 2740.1, at that time. There has been another 5-year update (2009) since that time.

Specific Purpose of Regulation - §2745.1(h)

This section described some of the additional information required for the 2004 revision of the risk management plans.

Necessity - §2745.1(h)

This section is being deleted as an obsolete artifact of the 2004 amendments.

Subsections (d) through (k) of Section 2745.1 are renumbered to reflect deleted subsections.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.1

This is a formatting correction, for clarity.

Specific Purpose of Regulation - §2745.1

This section describes the conditions and procedures for submission of the risk management plan to the administering agency.

Necessity - §2745.1

These corrections are necessary because several subsections were deleted. Renumbering is for clarity.

Section 2745.2 is amended.

§2745.2 RMP Review Process.

~~(a)~~—The RMP review process shall include:

- ~~(1a)~~ 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 AA. Completeness shall be determined in accordance with Sections 2745.3 through 2745.9. The stationary source shall work closely with the AA to determine that the RMP contains an appropriate level of detail.
- ~~(2)~~ ~~Initial public notice. The AA shall publish notice in a local newspaper of general circulation that the RMP has been submitted and the AA has initiated the process for government and public review.~~
- ~~(3b)~~ Deficiency notice. The AA 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 AA may authorize the air pollution control district (APCD) or air quality management district (AQMD) to conduct a technical review of the RMP.
- ~~(A1)~~ 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 AA. 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.

- (~~B~~2) If no deficiencies are identified, the AA shall accept the RMP as complete and submit the RMP for formal public review.
- (4~~c~~) Formal public review. Within 15 calendar days after the AA determines that the RMP is complete, the AA shall make the RMP available to the public for review and comment by publishing a notice in a local newspaper of general circulation, and optionally, on the AA's Website. The notice shall describe the RMP and state a location where it may be reviewed. The AA 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 AA shall review all public comments.
- (~~5~~d) Evaluation review. The evaluation review shall be conducted by the AA at the end of the formal public review period. The AA shall take the public comments into consideration during the evaluation review. The AA 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 AA. The evaluation review may include inspections and onsite document review of records and data which may not be in the possession of the AA.
- (~~6~~e) The evaluation review shall be completed by the AA as follows:
 - (~~A~~1) For an RMP which includes only Program 1 or Program 2 processes, the evaluation review shall be completed within 36 months.
 - (~~B~~2) For an RMP which includes a Program 3 process, the evaluation review shall be completed within 24 months.
 - (~~C~~3) The evaluation review does not include time for corrections of deficiencies pursuant to section (~~3~~b)(~~A~~1).
- (7~~g~~) Inspection or audit authority. Nothing in this section shall preclude the authority of an AA to inspect or audit a stationary source.
- (~~8~~g) Public access. Subject to the requirements of section 2775.5(b), t 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.2(a)(2)

The initial public notice is not mandated by Article 2 of Chapter 6.95 of the Health and Safety Code. It is unclear why it was included in the original rulemaking, since it serves no useful purpose. At the time of initial submission, the administering agency does not yet know whether all of the elements of an RMP are present, i.e. that it is a complete RMP. Through the issuance of a deficiency notice, and the response from the stationary source, it may be several months from the initial submittal before the administering agency has a complete RMP. At that time, the administering agency posts another public notice. It serves no useful public purpose to announce the submittal of document that may be incomplete.

Specific Purpose of Regulation - §2745.2(a)(2)

This section outlines a step in the review procedure for submitted risk management plans.

Necessity - §2745.2(a)(2)

This amendment is necessary to 1.) relieve the administering agency of the staff time and expense of preparing and publishing a public notice that serves no useful purpose, when that time and expense could more efficiently be applied to the completeness review, and 2.) save the concerned public the time and energy of a public inspection of a set of documents that may or may not be complete.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.2

This section had a subsection (a), but no other subsections.

Specific Purpose of Regulation - §2745.2

This section outlines the review procedure for submitted risk management plans.

Necessity - §2745.2

The subsections of this sections were renumbered (relettered) for clarity.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.2(c)

This subsection requires the public notice for formal public review to be published in a newspaper of general circulation. As time advances, print media are losing their major role in the public dissemination of information, in favor of electronic media.

Specific Purpose of Regulation - §2745.2(c)

This section outlines the review procedure for submitted risk management plans.

Necessity - §2745.2(c)

This amendment allows the administering agency to announce the formal public review of the risk management plan on the agency's Website, in addition to publication in a newspaper of general circulation. The requirement to publish in the print media is a requirement of Chapter 6.95, Article 2, section 25535.2.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.2(e)(3)

This is a correction of an internal citation, due to the subsections being renumbered.

Specific Purpose of Regulation - §2745.2(e)(3)

This section outlines the review procedure for submitted risk management plans.

Necessity - §2745.2(e)(3)

This is a correction of an internal citation, due to the subsections being renumbered.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.2(g)

Other subsections of this Chapter have imposed some minor restrictions on the public access to risk management plans.

Specific Purpose of Regulation - §2745.2(g)

This section outlines the review procedure for submitted risk management plans.

Necessity - §2745.2(g)

Since there have been some minor restrictions on access to the information contained in risk management plans, the citation for the section imposing these restrictions have been added, to clarify that access is not complete and unrestricted. This amendment brings the CalARP program more in line with the Federal RMP program, per Code of Federal Regulations, Title 40, Part 1400, section 1400.3.

Subsection 2745.3 is amended.

§2745.3 RMP Executive Summary Component.

The owner or operator shall provide in the RMP, for all Program levels, an executive summary that includes a brief description of the following elements:

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.3

The requirements of Program level 1 being so minimal, owners and/or operators of these stationary sources often need to be reminded that the executive summary is one of the requirements of all Program levels.

Specific Purpose of Regulation - §2745.3

This section outlines the requirement that an executive summary be included with the risk management plan.

Necessity - §2745.3

For clarity, this amendment is intended to remind those owner/operators submitting risk management plans for Program level 1 processes that an executive summary is required of all Program levels.

Subsection (l)(2) of section 2745.6 is amended.

§2745.6 RMP Program 2 Prevention Program Component.

- (1) The owner or operator shall submit the following external events analysis information:
- (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 AA 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 ~~Uniform~~ Building Code was used when the process was designed.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.6(l)(2)

The Uniform Building Code is no longer used.

Specific Purpose of Regulation - §2745.6(l)(2)

This section describes the seismic event portion of the external events analysis.

Necessity - §2745.6(l)(2)

This amendment is to generalize the requirement to require whatever Building Code is or was in effect at the time of process design, rather than the specific Uniform Building Code, which is no longer in service.

Subsection (b) of Section 2745.10 is amended.

§2745.10 RMP Updates.

- (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 Tables 1 ~~or 2~~ shall revise and update the RMP submitted under Section 2745.1. The updated RMP shall be submitted to the AA as follows:

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.10(b)(2)

Tables 1 and 3 of Section 2770.5 contain listings of toxic substances. Table 2 contains listings of flammable substances. While most of the listings on Table 1 are repeated on Table 3, with lower threshold values, there are no Table 2 listings that are also included on Tables 1 or 3.

Specific Purpose of Regulation - §2745.10(b)(2)

This regulation defines part of the timelines for risk management plan submission.

Necessity - §2745.10(b)(2)

Since there are no regulated substances on both Tables 2 and 3, the reference to Table 2 has been deleted. If a stationary source has a Table 2 listed substance in a quantity less than the Table 2 threshold value, an RMP is not required.

Section 2745.10.5 is amended.

§2745.10.5 Required RMP Corrections.

- (~~a~~) The owner or operator of a stationary source for which a RMP was submitted shall correct the RMP as follows:
- (~~1a~~) 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) 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.
- (~~2b~~) 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2745.10.5

This section had a subsection (a), but no other subsections.

Specific Purpose of Regulation - §2745.10.5

This section outlines criteria for forcing a risk management plan correction.

Necessity - §2745.10.5

The subsections of this sections were renumbered (relettered) for clarity.

Article 4. Hazard Assessment.

Subsection (a) of Section 2750.2 is amended.

§2750.2 Offsite Consequence Analysis Parameters.

- (a) Endpoints. The following endpoints shall be used for analyses of offsite consequences:
- (1) Toxic endpoints for Table 1 and Table 3 regulated substances (Section 2770.5), are provided in Appendix A of this chapter.
 - ~~(2) Use the toxic endpoints in Appendix A for regulated substances listed on both Table 1 and Table 3 (Section 2770.5).~~
 - ~~(3) Toxic endpoints for regulated substances listed only on Table 3 (Section 2770.5), shall be provided by OES as developed in consultation with the CalEPA, Office of Health Hazard Assessment.~~
 - (4) Flammables. For Table 2 regulated flammable substances (Section 2770.5), flammable endpoints vary according to the scenarios studied, based upon the following:

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2750.2(a)

Until this action, no toxic endpoints were available for Table 3 regulated substances, except for those substances that were also listed on Table 1. The Office of Environmental Health Hazard Assessment has provided Cal OES with a full set of toxic endpoints, and Appendix A will be updated through this action to include all toxic substances from both Tables 1 and 3.

Specific Purpose of Regulation - §2750.2(a)

This section provides definitions for endpoints, which delineate the extent of a toxic or flammable plume resulting from an accidental release of a regulated substance. This allows for an offsite consequence analysis, to estimate of the effect of this accidental release on human health and safety, as well as environmental impacts.

Necessity - §2750.2(a)

For clarity, this section has been amended to reflect that updated Appendix A now contains all toxic endpoints for both Tables 1 and 3. Deletion of subsections (2) and (3) creates the necessity for renumbering subsection (4) to (2).

Subsections (b)(1) and (e) of section 2750.4 are amended.

§2750.4 Alternative Release Scenario Analysis.

(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; ~~and,~~

(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.

(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; ~~and,~~

(2) Accidents/incidents or events in related industries available through trade magazines, industry associations and other publicly available sources; and

~~(23)~~ Failure scenarios identified under Section 2755.2 or 2760.2.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2750.4(b)(1)

The criteria listed in this subsection fail to take public receptors (if any) into account. Public receptors are arguably the most important aspect of offsite consequence analysis.

Specific Purpose of Regulation - §2750.4(b)(1)

This section describes selection of alternative release scenarios.

Necessity - §2750.4(b)(1)

This amendment adds another criterion for selection of an alternative release scenario.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2750.4(e)

This subsection does not take industry-wide safety into account when selecting an alternative release scenario.

Specific Purpose of Regulation - §2750.4(e)

This section describes things to consider when selecting alternative release scenarios.

Necessity - §2750.4(e)

This amendment would require the owner or operator of a stationary source to consider the overall safety record of the industry and related industries when selecting an alternative release scenario.

Section 2750.7(a) is amended.

§2750.7 Offsite Consequence Analysis Review and Update.

- (a) The owner or operator shall document the review and update of the offsite consequence analyses at least once every five years.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2750.7(a)

This very important review is required at 5 year intervals, but there is, at this time, no requirement to document what steps or methodology was used to review the analysis or what personnel were involved.

Specific Purpose of Regulation - §2750.7(a)

This section describes the minimum interval for performing a review and update of offsite consequence analysis.

Necessity - §2750.7(a)

This amendment requires the owner or operator to provide documentation concerning the 5-year review of the offsite consequence analysis.

Subsections (c), (e) and (f) of section 2755.2 are amended.

§2755.2 Hazard Review.

- (c) The owner or operator may use checklists, if acceptable to the AA, 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.
- (e) The owner or operator shall document the results of the hazard review and ensure that problems identified are resolved ~~in a timely manner~~. The owner or operator shall enter into an agreement with the AA on a timetable for resolution of these problems. Otherwise these resolutions shall be completed within five years of performing the hazard review. 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.2(c)

Under current regulation, there is no requirement that the hazard review be performed by personnel who are familiar with the specific processes involved.

Specific Purpose of Regulation - §2755.2(c)

This section describes how a hazard review will be performed.

Necessity - §2755.2(c)

The amendment requires that the hazard review team include personnel familiar with the processes involved.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.2(e)

The term “in a timely manner” is too vague to be of utility when applied to resolving problems identified by a hazard review. Additionally, current regulation does not require documentation about how these problems were resolved.

Specific Purpose of Regulation - §2755.2(e)

This section describes how the findings of a hazard review will be addressed.

Necessity - §2755.2(e)

The amendment would require the owner or operator of a stationary source to agree upon a timetable for resolution of the problems uncovered by a hazard review with the administering agency. If the owner or operator opts not to do this, then the resolutions must be completed in five years, which coincides with the time of the next hazard review. The owner or operator must document how these problems were resolved.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.2(f)

Current regulation has no requirement for revalidation of a hazard review, as defined in new section 2735.3(vv).

Specific Purpose of Regulation - §2755.2(f)

This section describes the minimum intervals to perform a hazard review.

Necessity - §2755.2(f)

For the purposes of quality control, the amended section would require revalidation of the hazard review methodology every five years (normal interval) or each time it is performed.

New subsections (g) and (h) are added to section 2755.2.

§2755.2 Hazard Review.

(g) A hazard review may be revalidated only once between full hazard reviews, unless the AA 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.2(g)

The hazard review required by section 2755.2(a) requires the owner or operator to identify all of 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.

This review is required every five years. It would not be prudent to assume that nothing has changed at the stationary source during that interval. If the administering agency agrees that there has been no substantial change, then more than one revalidation would be allowable between full hazard reviews.

Specific Purpose of Regulation - §2755.2(g)

This new section is intended to limit the automatic revalidation of a hazard review when, in fact, a full hazard review may be warranted.

Necessity - §2755.2(g)

This amendment would help ensure that process is adequately reviewed, with current information.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.2(h)

Current regulation has no provision for ensuring historical continuity of information concerning the safety of the process.

Specific Purpose of Regulation - §2755.2(h)

This new section is intended to address retention of hazard reviews and revalidations.

Necessity - §2755.2(h)

Existing regulation does not address retention of this information. The proposed amendment would require retention of hazard review information as long as the process is still being used.

Subsection (c) of section 2755.3 is amended.

§2755.3 Operating Procedures.

- (c) The owner or operator shall ensure that the operating procedures are developed and/or updated, if as necessary, whenever a major change occurs and prior to startup of the changed process, to reflect current practice, or whenever the tasks or steps to perform on the covered process are found to be inaccurate.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.3(c)

Current regulation requires operating procedures to be changed only when there is a major change in the process. This ignores incremental changes from minor modifications of the process or minor changes in industry practices or standards.

Specific Purpose of Regulation - §2755.3(c)

This section defines when written operating procedures must be updated or developed.

Necessity - §2755.3(c)

It is essential, for safe operation of a chemical facility, that the written operating procedures be absolutely accurate and up-to-date. The amendment will ensure that the owner or operator keeps operating procedures current, rather than updating them only when a major change is made.

Subsection (d) of section 2755.4 is amended.

§2755.4 Training.

- (d) The owner or operator shall ensure that operators are trained in any updated or new procedures prior to ~~startup of a process after a major change.~~ implementation of any change in the process.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.4(d)

Current regulation requires training in operating procedures only when there has been a major change in the process. This ignores incremental changes from minor modifications of the process or minor changes in industry practices or standards.

Specific Purpose of Regulation - §2755.4(d)

This section defines when training is necessary due to updated procedures.

Necessity - §2755.4(d)

It is essential, for safe operation of a chemical facility, that training in operating procedures be absolutely accurate and up-to-date. The amendment will ensure that the owner or operator keeps training current, rather than training only when a major change is made.

New subsection (e) is added to section 2755.4.

- (e) The owner or operator shall document initial and refresher training for each employee.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.4(e)

Section 2755.4 outlines the training program that an owner or operator must establish and maintain to ensure safe operation. Current language has no provision for documenting that this training has occurred.

Specific Purpose of Regulation - §2755.4(e)

This section is intended to ensure that training for employees is documented.

Necessity - §2755.4(e)

This new subsection is intended to ensure that training records for each employee are established and maintained.

Subsections (a) and (c) of section 2755.5 are amended.

§2755.5 Maintenance.

- (a) The owner or operator shall prepare and implement written procedures to maintain the on-going mechanical integrity of the process equipment. The owner or operator may use procedures or instructions provided by covered process equipment vendors or procedures in federal or state regulations or industry codes as the basis for stationary source maintenance procedures.
- (c) ~~The owner or operator shall ensure that each Any maintenance contractor shall ensure that each contract maintenance and their employees are~~ is trained to perform the maintenance and operation procedures developed under section (a).

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.5(a)

Existing language does not make it clear that the owner or operator must provide maintenance procedures in writing.

Specific Purpose of Regulation - §2755.5(a)

This section describes the preparation of maintenance procedures.

Necessity - §2755.5(a)

The amended language clarifies that maintenance procedures must be written procedures.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.5(c)

Existing language does not make it clear that the ultimate responsibility for the safety of all workers, including contractors, is on the owner or operator of the stationary source.

Specific Purpose of Regulation - §2755.5(c)

This section describes the obligation of the owner or operator of a stationary source to ensure that contractors working on the stationary source have the necessary training.

Necessity - §2755.5(c)

The amendment would clarify that the responsibility for the safety of ALL workers at the stationary source, including contract employees, is the owner or operator's, not the contractor's. This includes checking training status of these contract employees, as well as stationary source employees.

Subsection (e) of section 2755.6 is amended.

- (e) The owner or operator shall retain the two most recent compliance audit reports. ~~This requirement does not apply to any compliance audit report that is more than five years old.~~

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.6(e)

The compliance audit is required every three years. Under current regulation, the owner or operator is required to retain the two most recent compliance audit reports, unless the report is more than 5 years old. The result of this is that, in the last year before a compliance audit is to be performed, there is only one previous compliance audit on file. This requirement is only for Program Level 2. The Program Level 3 compliance audit requirement (section 2760.8(e)) is that the most recent two compliance audit reports be retained, with no age qualifier.

Specific Purpose of Regulation - §2755.6(e)

This section defines the retention requirement for compliance audit reports.

Necessity - §2755.6(e)

For consistency, and to ensure historical documentation, the amendment requires that the last two compliance audit reports be retained, regardless of the Program Level of the process.

Subsections (c) and (d) of section 2755.7 are amended.

§2755.7 Incident Investigation.

- (c) A summary shall be prepared at the conclusion of the investigation which includes at a minimum:

(1) ~~Date of incident;~~

- (21) Date and time the investigation began;
- (32) A description of the incident, including all of the data required under 2750.9(b); and,
- ~~(4) The factors that contributed to the incident; and,~~
- (53) Any recommendations resulting from the investigation.
- (d) The owner or operator shall promptly address and resolve the investigation findings and recommendations. The owner or operator shall enter into an agreement with the AA on a timetable for resolution of these findings and recommendations. Otherwise these resolutions shall be completed no later than three years after performing the investigation. Resolutions and corrective actions with actual completion dates shall be documented.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.7(c)

The data required for this subsection is similar, but not identical to, the data required by sections 2750.9(b) (five year accident history) and 2760.9(d) (incident investigation, Program Level 3). This is inconsistent.

Specific Purpose of Regulation - §2755.7(c)

This section describes the information that must be included in the regulated substance release or near-release incident report.

Necessity - §2755.7(c)

For the sake of consistency, the data elements required in preparing reports for incident investigations and five year accident history are made the same by reference. Subsections (1) and (4) are deleted, since they duplicate elements of section 2750.9(b). Subsections are renumbered for clarity.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2755.7(d)

The term “promptly” is too vague to be of utility when applied to resolving problems identified by an incident investigation report. The documentation requirement of current regulation is similarly vague.

Specific Purpose of Regulation - §2755.7(d)

This section describes how the owner or operator will resolve the findings of the incident report.

Necessity - §2755.7(d)

The amendment requires the owner or operator of a stationary source to agree upon a timetable for resolution of the problems uncovered by an incident investigation report with the administering agency. If the owner or operator opts not to do this, then the resolutions must be completed in three years. Documentation of these resolutions is clarified.

Article 6. Program 3 Prevention Program.

TOC of Article 6 is amended.

2760.7 Pre-Startup Safety Review.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – Article 6 TOC

The term used in headers and tables of contents is “pre-startup review”. In the body of the text, the term is “pre-startup safety review”.

Specific Purpose of Regulation - Article 6 TOC

This is the table of contents for Article 6 of Chapter 4.5

Necessity - Article 6 TOC

For consistency, the entry in the table of contents is changed to the term used in the text of the section.

Subsections (a) and (b)(4) of section 2760.1 are amended.

§2760.1 Process Safety Information.

- (a) In accordance with the schedule set forth in Section 2760.2, the owner or operator shall complete a compilation of written process safety information before conducting any PHA required by the chapter. The compilation of written process safety information ~~is~~ shall be maintained and kept up-to-date to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.
- (b) Information pertaining to the hazards of the regulated substances in the process. This information shall consist of at least the following:

- (4) Reactivity data and chemical compatibility data during handling, use and application at the stationary source;

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.1(a)

To ensure public safety, process safety information must be kept current and complete. Current regulation does not require this.

Specific Purpose of Regulation - §2760.1(a)

This section describes the compilation and maintenance of written process safety information documents.

Necessity - §2760.1(a)

Outdated and incomplete safety information constitute a risk to public safety, health and to the environment. The amendment will require that this safety information be kept current.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.1(b)(4)

To ensure public health, safety and to protect the environment, chemical reactivity must be considered during **all** phases of operation at the stationary source, including storage and handling. This is not required by current regulation.

Specific Purpose of Regulation - §2760.1(b)(4)

This section describes one of the elements that must be addressed in the written process safety information documentation.

Necessity - §2760.1(b)(4)

Chemical compatibilities must be considered at all times, not just during whatever process is considered to be the main purpose for the stationary source. Failure to address incompatibilities can create serious safety consequences to human health and safety and to the environment, even if the process is storage.

Subsections (a) and (e) of section 2760.2 are amended.

§2760.2 Process Hazard Analysis [PHA].

- (a) The owner or operator shall perform an initial PHA (hazard evaluation) on processes covered by this article. The PHA shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. ~~The owner or operator shall determine and document the priority order for conducting PHAs based on a rationale which includes such considerations as extent~~

~~of the process hazards, number of potentially affected employees, age of the process, and operating history of the process.~~ The PHA shall be conducted as soon as possible during the development of the CalARP Program, but not later than the date of submittal of the RMP. Notwithstanding section (c) below, PHAs completed to comply with Section 5189 of Title 8 of CCR are acceptable as initial PHAs. These PHAs shall be updated and revalidated, based on their completion date.

- (e) The owner or operator shall establish a system to ~~promptly~~ address the team's findings and recommendations; assure that the recommendations are resolved ~~in a timely manner and that the resolution is documented;~~ document what actions are to be taken; ~~complete actions as soon as possible;~~ develop a written schedule of when these actions are to be completed; complete these actions on a time table agreed upon with the AA, or within five years of performing the PHA; document the final resolution taken to address each recommendation and actual completion date; and communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.2(a)

The amended portion of this subsection is an artifact of the original rulemaking. As of this action, existing stationary sources should have long ago completed these actions, and they do not apply to new stationary sources.

Specific Purpose of Regulation - §2760.2(a)

This section describes the criteria for the initial process hazard analysis for an existing Program level 3 process.

Necessity - §2760.2(a)

For clarity, this part of the initial startup of the CalARP program, which should have been performed in 1999, is deleted as an obsolete artifact.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.2(e)

The terms “promptly” and “in a timely manner” as used in current regulation, are too vague to be of utility when applied to resolving problems identified by the findings of a process hazard analysis. The documentation requirement is similarly vague, with no completion dates.

Specific Purpose of Regulation - §2760.2(e)

This section describes how the findings of the initial process hazard analysis will be addressed.

Necessity - §2760.2(e)

The amendment requires the owner or operator of a stationary source to agree upon a timetable for resolution of the problems uncovered by a process hazard analysis with the administering agency. If the owner or operator opts not to do this, then the resolutions must be completed in five years, coincident with the next scheduled process hazard analysis. Documentation of these resolutions is clarified, with respect to what each resolution was and when it was completed.

Subsections (a)(2) and (a)(6) of section 2760.5 are amended.

§2760.5 Mechanical Integrity.

- (a) Application. Sections (b) through (f) of this section apply to the following process equipment:
 - (2) Piping systems (including ~~piping~~ ancillary components such as valves);
 - (6) Pumps, compressors and their drivers.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.5(a)(2) and (6)

Under existing regulation, the description of the system is vague with respect to the components it applies to.

Specific Purpose of Regulation - §2760.5(a)(2) and (6)

The section describes some of the equipment subject to the mechanical integrity standard.

Necessity - §2760.5(a)(2) and (6)

The amendment clarifies the type of components subject to the mechanical integrity standard.

Subsections (b)(3) and (e) of section 2760.6 are amended.

§2760.6 Management of Change.

- (b) The procedures shall assure that the following considerations are addressed prior to any change:
 - (3) Modifications to and/or development of new operating and maintenance procedures;

- (e) If a change covered by this section results in a change in the operating procedures or practices required by Section 2760.3, and/or results in a change in the written procedures to maintain the ongoing integrity of process equipment required by Section 2760.5, such procedures or practices shall be updated accordingly prior to start-up of the process.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.6(b)(3)

Existing language does not acknowledge the possibility that new operating procedures might be developed, nor are maintenance procedures addressed.

Specific Purpose of Regulation - §2760.6(b)(3)

This section describes one of the criteria for the management of change procedure.

Necessity - §2760.6(b)(3)

The amendment would add maintenance procedures and new operating procedures to the criteria for management of change procedures.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.6(e)

If a significant change to process equipment, requiring modification of operating or safety procedures, occurs, current regulation does not require these changes in procedure be implemented prior to startup of the process.

Specific Purpose of Regulation - §2760.6(e)

This section describes modification of the management of change procedure.

Necessity - §2760.6(e)

In the interest of employee safety and offsite health and safety and the environment, the operator must ensure that all procedures are up to date and complete prior to restarting the process.

The section header for section 2760.7 is amended.

Section 2760.7 Pre-Startup Safety Review.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.7 Header

The term used in headers and tables of contents is “pre-startup review”. In the body of the text, the term is “pre-startup safety review”.

Specific Purpose of Regulation - §2760.7 Header

This header describes the section of regulation underneath it.

Necessity - §2760.7 Header

For consistency, the header is changed to the term used in the text of the section.

Subsection (b) of section 2760.7 is amended.

§2760.7 Pre-Startup Safety Review.

- (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 regulated substances to a process:

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.7(b)

The existing section does not make clear that the pre-startup safety review is intended as a final, redundant verification of the safety of the proposed process, and is to be performed regardless of other checks, inspections or other procedures.

Specific Purpose of Regulation - §2760.7(b)

This section describes why the pre-startup safety review is performed.

Necessity - §2760.7(b)

The amendment is intended to clarify that this safety review will always be performed, regardless of what processes have been previously performed.

Subsections (c) and (d) of section 2760.8 are amended.

§2760.8 Compliance Audits.

- (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 AA 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 AA on a timetable for resolution of these findings. Otherwise these responses will be completed within three years after performing the compliance audit. ~~and document that~~ the actual completion dates when deficiencies have been ~~were~~ corrected.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.8(c)

Existing language gives no guidance as to the contents of the compliance audit report. Additionally, it is not clear that the AA has access to the report.

Specific Purpose of Regulation - §2760.8(c)

This section describes how the report of the stationary source's compliance audit will be prepared.

Necessity - §2760.8(c)

The amendment clarifies the required contents of the compliance audit report, and reinforces that the AA has the authority to review all elements of the report.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.8(d)

The term "promptly" by itself, is too vague to be of utility when applied to resolving problems identified by the findings of a compliance audit. The documentation requirement is similarly vague, with no completion dates.

Specific Purpose of Regulation - §2760.8(d)

This section describes how the owner or operator of the stationary source will address the findings of the performance audit.

Necessity - §2760.8(d)

The amendment requires the owner or operator of a stationary source to agree upon a timetable for resolution of the problems uncovered by a compliance audit report with the administering agency. If the owner or operator opts not to do this, then the resolutions must be completed in three years, coincident with the next scheduled performance audit. Documentation of these resolutions is clarified, with respect to what each resolution was and when it was completed.

Subsections (d) and (e) of section 2760.9 are amended.

§2760.9 Incident Investigation.

(d) A report shall be prepared at the conclusion of the investigation which includes at a minimum:

~~(1) Date of incident;~~

~~(2) Date and time the investigation began;~~

- (32) A description of the incident, including all of the data required under 2750.9(b); and,
- ~~(4) The factors that contributed to the incident; and,~~
- (53) Recommendations resulting from the investigation.
- (e) The owner or operator shall establish a system to promptly address and resolve the incident report findings and recommendations. The owner or operator shall enter into an agreement with the AA on a timetable for resolution of these findings and recommendations. Otherwise these resolutions shall be completed no later than three years after performing the investigation. Resolutions and corrective actions with actual completion dates shall be documented.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.9(d)

The data required for this subsection is similar, but not identical to, the data required by sections 2750.9(b) (five year accident history) and 2755.7(c) (incident investigation, Program Level 2). This is inconsistent.

Specific Purpose of Regulation - §2760.9(d)

This section describes the information that must be included in the regulated substance release or near-release incident report.

Necessity - §2760.9(d)

For the sake of consistency, the data elements required in preparing reports for incident investigations and five year accident history are made the same by reference. Subsections (1) and (4) are deleted, since they duplicate elements of section 2750.9(b). Subsections are renumbered for clarity.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.9(e)

The term “promptly”, as used in current language, is too vague to be of utility when applied to resolving problems identified by an incident investigation report. The documentation requirement is similarly vague.

Specific Purpose of Regulation - §2760.9(e)

This section describes how the owner or operator will resolve the findings of the incident report.

Necessity - §2760.9(e)

The amendment requires the owner or operator of a stationary source to agree upon a timetable for resolution of the problems uncovered by an incident investigation report with the administering agency. If the owner or operator opts

not to do this, then the resolutions must be completed in three years.
Documentation of these resolutions is clarified.

Subsection (b)(5) of section 2760.12 is amended.

§2760.12 Contractors.

(b) Owner or operator responsibilities.

- (5) The owner or operator shall periodically evaluate and document the evaluation of the performance of the contract owner or operator in fulfilling their obligations as specified in section (c).

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2760.12(b)(5)

It is not clear in current language that the evaluation of contractors is a formal process that requires documentation.

Specific Purpose of Regulation - §2760.12(b)(5)

This section obliges the owner or operator of a stationary source to evaluate contractors on a periodic basis.

Necessity - §2760.12(b)(5)

The amendment requires documentation of the performance evaluation of a contractor by the owner or operator.

Article 7. Emergency Response Program.

Subsections (b)(1), (2) and (3) of section 2765.1 are amended.

§2765.1 Emergency Response Applicability.

- (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 Chapter 6.95, Article 1 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 ~~has coordinated~~ 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2765.1(b)(1)

For a non-responding stationary source with toxic regulated substances, the responding emergency personnel must be familiar with the stationary source and properly trained in the on-site hazards at that stationary source. They must be trained in the process sufficiently to properly mitigate any ongoing accidental release. Existing language does not make this clear.

Specific Purpose of Regulation - §2765.1(b)(1)

This section describes one of the criteria for non-responding stationary sources.

Necessity - §2765.1(b)(1)

The amendment will clarify the necessity for stationary sources that will not respond to a release of regulated substances, but rather, depend upon external emergency responders, to closely coordinate and train with the personnel that will respond.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2765.1(b)(2)

For a non-responding stationary source with flammable regulated substances, the responding emergency personnel must be familiar with the stationary source and properly trained in the on-site hazards at that stationary source. They must be trained in the process sufficiently to properly mitigate any ongoing accidental release. Existing language does not make this clear.

Specific Purpose of Regulation - §2765.1(b)(2)

This section describes one of the criteria for non-responding stationary sources.

Necessity - §2765.1(b)(2)

The amendment will clarify the necessity for stationary sources that will not respond to a release of regulated substances, but rather, depend upon external emergency responders, to closely coordinate and train with the personnel that will respond.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2765.1(b)(3)

Existing language does not require written procedures for the owner or operator of a non-responding stationary source to notify response agencies in the case that there is a release of regulated substances. This is much too important an emergency for reliance on memory of who to notify.

Specific Purpose of Regulation - §2765.1(b)(3)

This section describes one of the criteria for non-responding stationary sources.

Necessity - §2765.1(b)(3)

Since the type of stationary source that this section applies to is “nonresponding”, meaning that instead of dealing with the accidental release with stationary source personnel, the owner or operator is going to call in an outside responding agency, the notification of said agency must be timely and correct. Written procedures, as required by the amendment, will help ensure this.

Article 8. Regulated Substances for Accidental Release Prevention.

TOC of Article 8 is amended.

2770.3 ~~(Reserved)~~ Petition Process.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – Article 8 TOC

The table of contents must be changed to reflect the fact that one of the headers has changed.

Specific Purpose of Regulation - Article 8 TOC

This is the table of contents for Article 8 of Chapter 4.5.

Necessity - Article 8 TOC

A new section has replaced a placeholder, and the table of contents is amended to reflect this.

Subsection (b)(1)(B) of Section 2770.2 is amended.

§2770.2 Threshold Determination.

- (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:

(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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2770.2(b)(1)(B)

At the time this section was originally written, the authors attempted to adapt 40 CFR Section 68.115 to fit the California Accidental Release Prevention Program. For the most part, they did a good job, but it was not made clear that the 1% test (19 CCR 2770.2(b)(1)(A)) must be applied first, and if the mixture fails that test, the test in subsection (b)(1)(B) does not apply. 40 CFR 68.115 makes it clear that the intent was to apply the tests serially, and not to do the second one if the mixture failed the first one.

Specific Purpose of Regulation - §2770.2(b)(1)(B)

This section is to define how to determine how much of a mixture is to be counted toward the threshold value.

Necessity - §2770.2(b)(1)(B)

This amendment will clarify that the mixture must pass the test in section 2770.2(b)(1)(A) in order to be subjected to the test in 2770.2(b)(1)(B).

New Section 2770.3 replaces 2770.3 as a placeholder.

§2770.3 (~~Reserved~~). Petition process.

(a) Any person may petition the Director of Cal OES to modify, by addition, deletion, or by amendment of the threshold value, the list of regulated substances identified in section 2770.5, Table 3. The Office of Environmental Health Hazard Assessment shall make a recommendation to the Director, based on a review of all available data, pursuant to HSC Section 25543.1(f).

(1) The Director may grant or deny the petition based on:

- (A) The information presented by the petitioner;
 - (B) The recommendation of the Office of Environmental Health Hazard Assessment;
 - (C) Comments and recommendations of the administering agencies, and;
 - (D) Comments on the petition received from the public.
- (2) A substance may be added to the list if, in the case of an accidental release, it is known to cause or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment.
- (3) A threshold value for a substance, listed in section 2770.5, Table 3, may be lowered if, based upon the best available scientific data, it can be shown that the risk to human health, safety or the environment is worse than previously believed.
- (4) A substance may be deleted from the list if adequate data on the health and environmental effects of the substance are available to determine that the substance, in the case of an accidental release, is not known to cause and may not be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment.
- (5) A threshold value for a substance, listed in section 2770.5, Table 3, may be raised if, based on the best available scientific data, it can be shown that the risk to human health, safety or the environment is not as great as previously believed.
- (6) The burden of proof is on the petitioner to demonstrate that the criteria for addition, deletion, or threshold modification are met. A petition will be denied if this demonstration is not made.
- (7) The Director will not accept additional petitions on the same substance following publication of a final notice of the decision to grant or deny a petition, unless new data becomes available that could significantly affect the basis for the decision.
- (8) Petitions to modify the list of regulated substances must contain the following:
- (A) Name and address of the petitioner and a brief description of the organization(s) that the petitioner represents, if applicable;
 - (B) Name, address, telephone number, and (optionally) e-mail address of a contact person for the petition;

- (C) If proposing to delete a substance or to raise or lower a threshold, the chemical name as listed in section 2770.5, Table 3. If proposing to add a substance, common chemical name(s), common synonym(s), Chemical Abstracts Service number, and chemical formula and structure;
- (D) Action requested (add or delete a substance, raise or lower a threshold);
- (E) Rationale supporting the petitioner's position; that is, how the substance meets the criteria for addition, deletion or threshold modification. A short summary of the rationale must be submitted along with a more detailed narrative; and
- (F) Supporting data; that is, the petition must include sufficient information to scientifically support the request to modify the list. Such information shall include, but not be limited to:
- (i) A list of all support documents;
 - (ii) Documentation of literature searches conducted, including, but not limited to, identification of the database(s) searched, the search strategy, dates covered, and printed results;
 - (iii) Effects data (animal, human, and environmental test data) indicating the potential for death, injury, or serious adverse human and environmental impacts from acute exposure following an accidental release; printed copies of the data sources, in English, should be provided; and
 - (iv) Exposure data or previous accident history data, indicating the potential for serious adverse human health or environmental effects from an accidental release. These data may include, but are not limited to, physical and chemical properties of the substance, such as vapor pressure; modeling results, including data and assumptions used and model documentation; and historical accident data, citing data sources.
- (9) Any petition submitted pursuant to this section shall be accompanied by a submission fee, to be established by Cal OES. The purpose of this fee is to defray the reasonable costs incurred by Cal OES and the Office of Environmental Health Hazard Assessment in carrying out the evaluation of the petition, as required by this section.
- (10) Upon receipt of any petition pursuant to this section, Cal OES shall notify the administering agencies of the petition and shall receive comments from the administering agencies. All such comments shall be retained and shall be responded to in writing.

(11) Upon receipt of any petition pursuant to this section, Cal OES shall notify the public of the petition and shall receive comments from the public. All such comments shall be retained and shall be responded to in writing.

(12) Within 18 months of receipt of a petition, the Director shall publish in the Cal OES website a notice either denying the petition or granting the petition and shall commence rulemaking to effect the change, if any.

(b) Any person wishing to effect a change in the list of regulated substances identified in section 2770.5, Tables 1 or 2, may petition the Administrator of USEPA, pursuant to section 68.120 of Title 40, Code of Federal Regulations, to modify, by addition or deletion, the list of regulated substances identified in section. 68.130 of Title 40, CFR. If the Administrator grants the petition, a notice of this grant and the proposed change in the listing will be published in the Federal Register. Within 12 months of the amended listing in 40 CFR 68.130, Cal OES shall commence rulemaking to make section 2770.5, Tables 1 or 2, conform to 40 CFR 68.130.

NOTE: Authority cited: Sections 25531, 25534.05 and 25543.1, Health and Safety Code. Reference: Sections 25531 and 25543.1, Health and Safety Code; and Section 68.120, Part 68, Title 40, Code of Federal Regulations.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2770.3

Health and Safety Code section 25543.1 requires the option for petitioning to add, delete, or change the threshold for regulated substances. This purpose was not fulfilled during the original rulemaking, nor during the 2004 revision. Section 2770.3 was established as a placeholder for the petition process.

Specific Purpose of Regulation - §2770. 3

This section establishes requirements for a person to modify the tables of regulated substances in section 2770.5, by addition or deletion of a substance, or by changing the threshold value.

Necessity - §2770. 3

This new section provides a petition process as mandated by HSC section 25543.1.

Table 3 of Section 2770.5 is amended.

§2770.5 List of Substances.

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

The listings for propylene oxide and propyleneimine are deleted.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address - §2770.5 Table 3

The listings for propylene oxide and propyleneimine in Table 3 are both 10,000 pounds. This is duplicative of the listings for the same chemicals in Table 1. Since both listings apply, these are redundant and unnecessary.

Specific Purpose of Regulation - §2770.5 Table 3

This section lists all of the chemical substances regulated under the California Accidental Release Prevention program, the Chemical Abstract Service numbers, and the threshold amount, in pounds, that can trigger regulation under this program.

Necessity - §2770.5 Table 3

This amendment removes two redundant listings from Table 3.

Article 9. Other Requirements.

Subsections (a), (e), (g), (h) and (i) of section 2775.2 are amended.

§2775.2 Audits.

- (a) In addition to inspections for the purpose of regulatory development and enforcement of the federal CAA, the AA shall periodically audit RMPs submitted under Article 3 of this chapter to review the adequacy of such RMPs and require revisions ~~of to~~ RMPs when necessary to ensure compliance with ~~Article 3 of~~ this chapter. To the extent possible, any audit shall be fully coordinated with the Unified Program elements at a stationary source.
- (e) Based on the audit, the AA 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 ~~meets~~ complies with the ~~criteria of Article 3~~ 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 NFPA, ISA, IIAR, ASME and API standards) to the extent that such standards and guidelines are applicable, and shall include a timetable for their implementation.
- (g) After providing the owner or operator an opportunity to respond under section (f), the AA may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. ~~The AA shall develop a~~ 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 AA 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 of ~~Article 3 of this chapter and~~ this section unless the owner or operator revises the RMP 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2775.2(a)

Existing language does not make clear that the risk management plan must be in compliance with all of Chapter 4.5, not just Article 3, which describes the components of the plan and the submittal and review process.

Specific Purpose of Regulation - §2775.2(a)

This section defines the requirement for the administering agency to periodically audit the stationary source's risk management plan.

Necessity - §2775.2(a)

The amendment would clarify that the intention of the audit is to determine RMP compliance with all of Chapter 4.5, not just Article 3, which basically would just determine that all of the components were present and have, at some point, been submitted and reviewed. Additionally, a grammatical clarification is made.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2775.2(e)

Existing language does not make clear that the risk management plan must be in compliance with all of Chapter 4.5, not just Article 3, which describes the components of the plan and the submittal and review process.

Specific Purpose of Regulation - §2775.2(e)

This section describes how the administering agency reports to the stationary source the deficiencies found during the audit.

Necessity - §2775.2(e)

The amendment would clarify that the intention of the audit is to determine RMP compliance with all of Chapter 4.5, not just Article 3, which basically would just determine that all of the components were present and have, at some point, been submitted and reviewed. Additional examples of industry associations are offered.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2775.2(g)

Existing language does not give an overall time frame for revising the RMP as required by the audit findings

Specific Purpose of Regulation - §2775.2(g)

This section describes how the stationary source will address or remediate the deficiencies discovered by the administering agency during the audit.

Necessity - §2775.2(g)

The amendment requires the RMP to be revised either on a timetable agreed to by the administering agency and the owner or operator of the stationary source, or, within one year, if such a timetable is not agreed to. Further, the amendment clarifies that the agreement on the timeline for revision is a cooperative one, not a timeline imposed by the administering agency.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2775.2(h)

Existing language does not make clear that the risk management plan must be in compliance with all of Chapter 4.5, not just Article 3, which describes the components of the plan and the submittal and review process. Further, existing language does not make clear that, in order to correct deficiencies per the final determination, actions other than simple RMP revisions may be necessary.

Specific Purpose of Regulation - §2775.2(h)

This section describes the authority of the administering agency to take enforcement action if the stationary source does not address the findings of the audit in a timely manner.

Necessity - §2775.2(h)

The amendment would clarify that the intention of the audit is to determine RMP compliance with all of Chapter 4.5, not just Article 3, which basically would just determine that all of the components were present and have, at some point, been submitted and reviewed. Also, the amendment clarifies that actions in addition to

RMP revisions may be required to address the deficiencies identified in the final determination.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2775.2(i)

Existing language does not require documentation of deficiency corrective actions.

Specific Purpose of Regulation - §2775.2(i)

This section ensures community-right-to-know for the audit and its findings.

Necessity - §2775.2(i)

The amendment would require the owner or operator of the stationary source to document the completion dates of corrective actions taken with respect to deficiencies identified in the final determination.

Section 2775.5 is amended.

§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 shall insure that any member of the public has access, by appointment, to a paper copy of the offsite consequence analysis data, pursuant to Section 2745.4. The member of the public may read, but not remove or mechanically reproduce, the paper documents. The AA 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 may limit a person's access to offsite consequence analysis data to 10 stationary sources in any calendar month.
- (~~b~~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~~
Section 68.210, Part 68, and Section 1400.3, Part 1400, Title 40, Code of Federal Regulations.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2775.5

In light of national security concerns, availability of offsite consequence analysis in the wrong hands is a liability. However, the community has the right to know what hazards exist in their neighborhood.

Specific Purpose of Regulation - §2775.5

This section ensures community-right-to-know for the entire risk management plan.

Necessity - §2775.5

Health & Safety Code, chapter 6.95, Article 2, section 25534.05(a)(4) provides for the public availability of risk management plans, consistent with subsection (c) of section 114 of the federal Clean Air Act (42 USC 7414(c)). This section references 40 CFR part 1400 for details. Allowing access to all of the risk management plan by appointment at the a site of the AA's choosing is equivalent to the Federal Reading Rooms where federal risk management plans may be perused, making Title 19 in line with 40 CFR part 68. This information control allows members of the community to know what hazards exist in their neighborhood, while providing security for this sensitive information by requiring identification of those accessing the information, and restricting the amalgamation of large data sets that could be used for calculating vulnerabilities.

Subsections (b) and (d)(3) of section 2775.6 are amended.

Section 2775.6 Permit Content and Air Permitting Authority or Cal ~~EMA~~ 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.

- (b) The owner or operator shall submit any additional relevant information requested by the AA, Cal ~~EMA~~ OES or the appropriate APCD or AQMD.
- (d) The appropriate APCD or AQMD shall, at a minimum:
 - (3) Initiate enforcement action based on sections (d)(1) and (d)(2) as appropriate. The AQMD or APCD shall notify the AA and the AA shall notify Cal ~~EMA~~ OES of enforcement actions taken pursuant to this chapter.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2775.6 header, subsections (b) and (d)(3)

The California Emergency Management Agency (Cal EMA) has been redesignated as the California Governor's Office of Emergency Services (Cal OES) by the Brown Administration, effective July 1, 2013.

Specific Purpose of Regulation - §2775.6 header, subsections (b) and (d)(3)

This section outlines the cooperative relationship between Cal OES, the administering agency and the local APCD or AQMD with respect to stationary sources.

Necessity - §2775.6 header, subsections (b) and (d)(3)

This amendment reflects the name change from California Emergency Management Agency (Cal EMA) to the California Governor's Office of Emergency Services (Cal OES).

Article 10. Local Program Evaluation.

Subsections (b)-(d) of section 2780.1 are amended.

Section 2780.1 Dispute Resolution.

- (b) The owner or operator of a stationary source may appeal the decision of an AA to the ~~Secretary~~ Director of Cal ~~EMA~~ OES by serving the ~~Secretary~~ Director with written notice of appeal. The notice of appeal shall be accompanied by:
- (1) A copy of the decision of the AA,
 - (2) A copy of any written material that the owner or operator submitted to the AA during the dispute resolution process that the stationary source would want the ~~Secretary~~ Director to consider, and,
 - (3) A concise statement of the grounds upon which the owner or operator disputes the decision rendered by the AA. The notice of appeal and accompanying materials shall be served on the ~~Secretary~~ Director and the AA by certified mail, return receipt requested. Such service shall be effected no later than 30 days after the AA renders its decision, or, if the AA fails to render a timely decision, no later than 150 days after the owner or operator initiated the dispute resolution process with the AA.
- (c) After receipt of the notice of appeal and accompanying materials, the ~~Secretary~~ Director shall provide a written acknowledgment of such receipt to the appealing party and the AA. At the time that the ~~Secretary~~ Director sends this

acknowledgment, or at any later time, the Secretary Director, in his or her discretion, may request further materials, information or briefing from the stationary source or the AA, and the Secretary Director may set schedules for the submission of such materials, information or briefing. The Secretary Director shall also provide the opportunity for public comment on the dispute, and shall allow the stationary source and the AA 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 Secretary 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 Secretary Director, the Secretary Director shall issue his or her decision. The dispute shall be resolved according to the discretion of the Secretary Director. The Secretary's Director's decision shall be binding on all parties.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2780.1(b)-(d)

The California Emergency Management Agency (Cal EMA) has been redesignated as the California Governor's Office of Emergency Services (Cal OES) by the Brown Administration, effective July 1, 2013. Further, the chief executive officer of Cal EMA was the "Secretary", which became the "Director" with the name change to Cal OES.

Specific Purpose of Regulation - §2780.1(b)-(d)

This section outlines the procedures for resolving disputes between the administering agency and the stationary source.

Necessity - §2780.1(b)-(d)

This amendment reflects the name change from California Emergency Management Agency (Cal EMA) to the California Governor's Office of Emergency Services (Cal OES).

Section 2780.2 is amended.

Section 2780.2 Administering Agency Compliance.

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

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2780.2

The California Emergency Management Agency (Cal EMA) has been redesignated as the California Governor's Office of Emergency Services (Cal OES) by the Brown Administration, effective July 1, 2013.

Specific Purpose of Regulation - §2780.2

This section requires the administering agency to administer the CalARP program, unless Cal EMA (Cal OES) takes the program over.

Necessity - §2780.2

This amendment reflects the name change from California Emergency Management Agency (Cal EMA) to the California Governor's Office of Emergency Services (Cal OES).

Section 2780.3 is amended.

Section 2780.3 Maintenance of Administering Agency Authorization and Reporting.

In assessing the performance of an AA, Cal ~~EMA~~ OES shall consider the following:

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2780.3

The California Emergency Management Agency (Cal EMA) has been redesignated as the California Governor's Office of Emergency Services (Cal OES) by the Brown Administration, effective July 1, 2013.

Specific Purpose of Regulation - §2780.3

This section outlines state oversight of the administering agencies.

Necessity - §2780.3

This amendment reflects the name change from California Emergency Management Agency (Cal EMA) to the California Governor's Office of Emergency Services (Cal OES).

Section 2780.4 is amended.

Section 2780.4 Coordination with the Unified Program.

- (a) Cal ~~EMA~~ OES shall consider the standards under Section 2780.3 to support Cal ~~EMA~~ OES recommendations to the Secretary for Environmental Protection regarding local agency certification for the Unified Program pursuant to Section 25404.3 of HSC.

- (b) As part of the periodic review requirement, Cal ~~EMA~~ OES shall consider the requirements of Section 2780.3 and Section 25404.4 of HSC.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2780.4

The California Emergency Management Agency (Cal EMA) has been redesignated as the California Governor’s Office of Emergency Services (Cal OES) by the Brown Administration, effective July 1, 2013.

Specific Purpose of Regulation - §2780.4

This section requires oversight of the CalARP program to be coordinated with oversight over the other Unified Program elements.

Necessity - §2780.4

This amendment reflects the name change from California Emergency Management Agency (Cal EMA) to the California Governor’s Office of Emergency Services (Cal OES).

Section 2780.6 is amended.

§2780.6 Administering Agency Performance Evaluations.

- (a) Cal ~~EMA~~ OES shall periodically review the AAs 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 shall be reviewed using the standards adopted in Sections 2780.3 and 2780.5 of these regulations.
- (c) If Cal ~~EMA~~ OES determines that an AA has failed to meet the performance requirements of subdivision (b), Cal ~~EMA~~ OES shall, as appropriate, initiate one of the following two processes:
- (1) Process 1: Assumption of Authority by Cal ~~EMA~~ OES. Cal ~~EMA~~ OES shall serve the AA with a written Notice of Intent to Exercise Specific Powers (NOIESP), which shall inform the AA of the ~~Secretary’s~~ 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 AA that Cal ~~EMA~~ OES will exercise; (ii) the date on which the exercise of authority shall

commence; and, (iii) the reasons it is necessary for Cal ~~EMA~~ OES to assume this authority.

- (A) Response to the NOIESP. Within 60 days after receipt of the NOIESP, the AA shall respond by: accepting the terms of the NOIESP; appealing the NOIESP; or submitting a proposed Program Improvement Agreement (PIA). If the AA fails to respond fully to the NOIESP within 60 days, the AA will be deemed to have accepted the terms of the NOIESP.
 - (i) Acceptance of the NOIESP. The AA may accept the assumption of authority described in the NOIESP by serving Cal ~~EMA~~ OES with written notice of such acceptance. After the AA accepts, or is deemed to have accepted, the terms of the NOIESP, Cal ~~EMA~~ OES shall schedule a public hearing pursuant to the terms of section (c)(1)(C).
 - (ii) Appeal. The AA may appeal the NOIESP by serving Cal ~~EMA~~ 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 ~~EMA~~ OES shall follow the procedures set forth in section (c)(1)(B).
 - (iii) Submission of an PIA. The AA may respond to the NOIESP by serving Cal ~~EMA~~ OES with a proposed PIA. After reviewing the proposed PIA, Cal ~~EMA~~ 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 AA appeals the NOIESP, Cal ~~EMA~~ OES shall review the appeal to determine whether the AA has made a sufficient showing to warrant the reversal or modification of Cal ~~EMA's~~ OES' original decision. Upon completion of this review, Cal ~~EMA~~ OES shall affirm, modify, or reverse its original decision. Cal ~~EMA~~ OES shall make its resolution of the appeal available to the public.
 - (i) Affirmance. If Cal ~~EMA~~ OES affirms its original decision, it shall schedule a public hearing addressing its proposed exercise of the powers of the AA. This hearing will be conducted pursuant to section (c)(1)(C).
 - (ii) Reversal. If Cal ~~EMA~~ OES reverses its decision, Cal ~~EMA~~ OES shall serve the AA with written notice that the NOIESP has been withdrawn.
 - (iii) Modification. If, based on the appeal, Cal ~~EMA~~ OES decides to modify its original decision, Cal ~~EMA~~ OES shall (1) serve the AA

with an amended NOIESP, specifying the powers Cal ~~EMA~~ 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 AA 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 AA.
 - (iii) Within thirty days after the public hearing, the AA shall review the public hearing comments and serve Cal ~~EMA~~ OES with its responses, if any, to the comments presented at the public hearing.
 - (D) Cal ~~EMA~~ OES shall within 60 days review the comments presented at the public hearing and any responses submitted by the AA. Based upon this review, and after consulting with the Secretary for Environmental Protection (Secretary), Cal ~~EMA~~ OES, shall do one of the following:
 - (i) Approve the continued implementation of the program by the AA;
 - (ii) Assume authority to exercise the powers of the AA; or,
 - (iii) Refer the matter to the Secretary as specified in section (c)(2), with the recommendation for an PIA or decertification of the AA.
 - (E) In the event that Cal ~~EMA~~ OES assumes authority to exercise the powers of the AA, the AA shall, upon request, provide Cal ~~EMA~~ 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 ~~EMA~~ OES may refer the matter to the Secretary with a written recommendation that the Secretary institute proceedings to either: require the AA to enter into an PIA, or, decertify the AA pursuant to Section 25404.4(a), Chapter 6.11 of HSC.
- (A) After Cal ~~EMA~~ OES issues this recommendation, the Secretary and Cal ~~EMA~~ 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 ~~EMA~~ OES recommends an IPA, Cal ~~EMA~~ OES shall work with the Secretary to develop an PIA for the AA.

- (C) If the AA fails to sign an PIA within a time frame specified by Cal ~~EMA~~ OES or the Secretary, Cal ~~EMA~~ 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 AA 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.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2780.6

The California Emergency Management Agency (Cal EMA) has been redesignated as the California Governor’s Office of Emergency Services (Cal OES) by the Brown Administration, effective July 1, 2013. Further, the chief executive officer of Cal EMA was the “Secretary”, which became the “Director” with the name change to Cal OES. The chief executive of the California Environmental Protection Agency will continue to be referred to as “Secretary”.

Specific Purpose of Regulation - §2780.6

This section outlines the procedures for evaluation of the administering agency’s performance in administering the CalARP program. It also outlines Cal OES’s responsibilities if the administering agency fails to properly administer the program.

Necessity – §2780.6

This amendment reflects the name change from California Emergency Management Agency (Cal EMA) to the California Governor’s Office of Emergency Services (Cal OES).

Section 2780.7 and its header are amended.

Section 2780.7 Cal ~~EMA~~ OES Authority.

Nothing in this Chapter shall limit the authority of Cal ~~EMA~~ OES pursuant to Section 25533(f) of HSC.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – §2780.7 and header

The California Emergency Management Agency (Cal EMA) has been redesignated as the California Governor's Office of Emergency Services (Cal OES) by the Brown Administration, effective July 1, 2013.

Specific Purpose of Regulation - §2780.7 and header

This section refers to the definition and general outline of the CalARP program in the Health & Safety Code, and states that the regulations cannot limit the authority outlined therein.

Necessity - §2780.7 and header

This amendment reflects the name change from California Emergency Management Agency (Cal EMA) to the California Governor's Office of Emergency Services (Cal OES).

Appendix A

Appendix A to Title 19, Division 2, Chapter 4.5 is amended.

Appendix A to Title 19, Division 2, Chapter 4.5, Subchapter 1

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – Header, Appendix A

The header on the Table of Toxic Endpoints refers to the wrong chapter in the California Code of Regulations.

Specific Purpose of Regulation – Header, Appendix A

This change corrects an inappropriate citation.

Necessity – Header, Appendix A

For the purpose of clarity, this change establishes the fact that the Table of Toxic Endpoints applies to Chapter 4.5 of Division 2 of Title 19, California Code of Regulations, rather than a nonexistent subchapter.

Table 3 toxic endpoints were added.

Public Problem, Administrative Requirement, or Other Condition or Other Circumstance that the Regulation is Intended to Address – Appendix A

A toxic endpoint delineates the extent of a toxic plume due to an accidental release of an airborne toxic substance. These values were to be placed into Appendix A by authority of Title 19, section 2750.2(a). This was done for regulated substances listed in 19 CCR section 2770.5, Table 1, but not for Table 3. Table 1 endpoints were taken from 40 CFR Part 68, Appendix A. This Appendix does not contain endpoints for Table 3 regulated substances, since the

Federal RMP program does not regulate these chemicals. This action corrects this oversight.

Specific Purpose of Regulation – Appendix A

This appendix lists toxic endpoints, using data collected by the Office of Environmental Health Hazard Assessment, which are essential to the calculation of an offsite consequence analysis, as required by Title 19, sections 2750.2 through 2750.6.

Necessity – Appendix A

The Table 3 endpoints were added in the interest of completeness and to comply with section 2750.2. Without endpoints it is not possible to map out a release plume, because one doesn't know where it ends.