

MINUTE ITEM  
This Calendar Item No. 4  
was approved as Minute Item  
No. 4 by the State Lands  
Commission by a vote of 3  
to 0 of its 13 91  
meeting.

CALENDAR ITEM

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S ) Statewide

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01/03/91  
W 24399 PRC 7487  
Gregory  
Meier

CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING  
WITH THE U.S. COAST GUARD REGARDING  
INSPECTION AND REGULATION OF MARINE OIL TERMINALS

PARTY: State Lands Commission  
1807 - 13th Street  
Sacramento, California 95814

PROPOSAL

The Commission Staff has negotiated a Memorandum of Understanding (MOU) with the United States Coast Guard regarding marine oil terminals within California. The purpose of the MOU is to facilitate the exchange of information and coordination of terminal inspection and monitoring activities. A copy of the MOU is attached as Exhibit "A." This proposal, if adopted, would authorize the Executive Officer to execute the MOU and to take whatever action is appropriate for its implementation. It should be noted that the Coast Guard has not yet executed the document.

BACKGROUND

On September 24, 1990, the State of California enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, creating a comprehensive program for the prevention of and response to oil spills in California's marine waters. Among the provisions of the Act is Division 7.8 of the P.R.C. which requires the Commission to establish regulations and an inspection program applicable to all marine oil terminals in the State. The Commission has created the Marine Facilities Inspection and Management Division ("the Division") to carry out these provisions.

(REVISED 01/02/91)

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Insofar as both the U. S. Coast Guard and the Commission have responsibilities for ensuring the prevention of marine pollution, the proposed MOU would enable both agencies to integrate their respective duties with regard to marine oil terminals. The MOU sets forth, in general terms, the inspection procedures the Division will be following. It also provides for the interchange of information between the agencies regarding facility operations, tankers and barges, inspection scheduling, violation records and potential oil pollution risks. The Division and the Coast Guard would also coordinate their respective inspection and monitoring activities to utilize the resources of both agencies efficiently and effectively. To the extent practicable, the Coast Guard would also provide technical recommendations and expertise to help the Commission develop regulatory programs which meet the best achievable protection standards required under the Act.

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

**STATUTORY REFERENCES:**

- A. P.R.C. Sections 8750 through 8760.
- B. Title 33, United States Code Sections 1251 through 1367.

AB 884: N/A.

**OTHER PERTINENT INFORMATION:**

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

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

EXHIBIT: A. Copy of the Memorandum of Understanding

IT IS RECOMMENDED THAT THE COMMISSION:

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

EXHIBIT A

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE UNITED STATES COAST GUARD AND  
THE CALIFORNIA STATE LANDS COMMISSION  
REGARDING CALIFORNIA OIL TRANSFER FACILITIES  
INSPECTION AND REGULATION

I. PARTIES

- A. The United States Coast Guard (USCG) has statutory authority for the safety of life and property at sea, and protection of the marine environment under the provisions of Titles 14, 33 and 46, United States Code (U.S.C.).
- B. The California State Lands Commission (SLC) has statutory responsibility for oil transfer facilities and their operations in marine waters within the State of California under the provisions of the California Public Resources Code.

**II. BACKGROUND**

A. On September 24, 1990, the State of California enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (the Act) which established a comprehensive program for the prevention of and response to oil spills in California's marine waters.

B. Among the provisions of the Act is Division 7.8 of the Public Resources Code, which requires the SLC to establish regulation and inspection programs governing oil transfer facilities. Those responsibilities include regulation and inspection of oil transfer operations between facilities and tank vessels.

C. In order to establish an effective regulatory program and to identify areas of concern, the SLC has created the Marine Facilities Inspection and Management Division to implement the inspection and monitoring programs.

### III. PURPOSE

Among the goals and responsibilities of the USCG and the SLC, both agencies are required by statute to take action for the prevention of marine pollution and the maintenance and enhancement of public health and safety. The oil transfer facility regulatory and inspection programs established under state and federal law are intended to accomplish these objectives. The purpose of this memorandum is to set forth guidelines for coordination and cooperation between the USCG and the SLC in carrying out those responsibilities.

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

### IV. DEFINITIONS

- A. "Marine waters" means waters within the State of California subject to tidal influence, excluding waters within the Sacramento-San Joaquin Delta upstream from Point Sacramento.

- B. "Oil transfer facility" or "facility" means any facility used for transferring oil to or from a tank vessel. For purposes of this MOU, these terms are limited to facilities governed by the provisions of 33 CFR Parts 154, 155, and 156.
- C. "Responsible COTP" means the Captain of the Port, as defined in 33 CFR Part 3, in whose zone a facility is located.
- D. "Tank vessel" means any waterborne vessel constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

V. IMPLEMENTATION

A. SLC INSPECTION AND MONITORING ACTIVITIES

The SLC will deploy inspectors to oversee selected activities at onshore and offshore facilities in marine waters. Priority may be given to high risk activities and facilities, but activities at all facilities will be monitored on a regular basis.

The activities monitored may include any or all stages of approach, hook-up, steady state pumping, disconnect, and departure. The inspectors may board any tank vessel at any time while it is located at a facility to inspect and monitor transfer equipment or transfer operations. The inspectors may also board tank vessels approaching or departing from facilities, provided such actions do not interfere with the safe navigation of the vessel.

The SLC will carry out different levels of inspections of the facilities themselves. At least once every year, an intensive inspection will be performed to evaluate all aspects of the facility, to ensure continued structural integrity and viability and to determine whether the physical plant is maintained in the manner specified by the operations manual. At least once a month, the SLC inspectors will perform a cursory overview of each facility, to check for defects and failures in maintenance. The SLC may also carry out more intensive system safety audits or other levels of inspection, should it find such appropriate.

The SLC's inspectors will prepare written reports for all its inspection and monitoring activities. Those reports will be maintained for at least five years.

B. COAST GUARD PORT SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION PROGRAM

The USCG's primary objectives in port and waterway safety are as follows:

1. To minimize deaths, personal injuries, and property loss or damage associated with vessels and onshore and offshore facilities engaged in commercial, scientific, or exploratory activity in the marine environment.
2. To safeguard the nation's ports, waterways, port facilities, vessels, persons, and property in the vicinity of the port, from accidental or intentional destruction, damage, loss, or injury.
3. To protect the navigable waters and adjacent shore areas of the U.S. and adjacent resources from environmental harm.
4. To prevent pollution of the marine environment from accidental or intentional discharges of oil, hazardous substances, dredged spoils, sewage, and wastes from vessels.

**C. COMMUNICATION**

The SLC will provide to the responsible COTP copies of all its facility inspection and monitoring reports. The SLC will also notify the responsible COTP as soon as possible of any violations or potential violations of regulations contained in Title 33, Code of Federal Regulations. The SLC will also inform the responsible COTP as soon as possible of any situation or circumstance at any facility which may significantly increase the potential for an unauthorized discharge or create an unusual or unacceptable risk to public health and safety.

The USCG will provide to the SLC publicly available information from the Marine Safety Information System (MSIS) to aid the SLC in establishing priorities in its monitoring activities. To the extent practicable and in a manner to which the parties agree, this information will be provided on a regular basis. It is anticipated that the SLC office in Vallejo will communicate directly with Marine Safety Office (MSO) San Francisco Bay and Marine Safety Detachment (MSD) Concord, and the SLC office in Long Beach will communicate directly with MSO Los Angeles-Long Beach, MSO San Diego, and MSD Santa Barbara.

To the extent practicable, the USCG will also inform the SLC of any violations in California marine waters by facility operators of regulations contained in 33 CFR Parts 154 through 156 or of any situation or circumstance at any facility in California marine waters which may significantly increase the potential for an unauthorized discharge or create an unusual or unacceptable risk to public health and safety.

**D. TRAINING**

The USCG and the SLC will provide one another with opportunities to participate in training classes, seminars, exercises, and workshops sponsored by the agencies. Funding for individual participants will be the responsibility of the parent agency.

**E. COORDINATION**

The USCG and the SLC will coordinate their respective inspection and monitoring activities to the extent practicable to utilize the resources of both agencies efficiently and effectively. The USCG and SLC inspectors may carry out inspections and other activities jointly where appropriate in order to fulfill the objectives of this memorandum.

F. STATE REGULATIONS AND OPERATIONS MANUALS PROGRAM

The SLC will consult with the USCG at all stages in the development of the regulations required under Division 7.8 of the California Public Resources Code. The USCG will provide technical recommendations and expertise to the extent practicable with regard to the regulations.

The SLC will also consult with the USCG at all stages in the development of the state operations manual program required under Division 7.8 of the Public Resources Code. To the extent practicable, the USCG will provide recommendations and expertise regarding the regulations and review procedures governing the manuals.

The objective of this consultation is to ensure that regulations and programs developed by the SLC do not contradict federal law, regulations and programs and, together with federal actions, effectively promote marine pollution prevention.

It is understood that this memorandum may be amended at such time as either the SLC or the USCG has established new regulations and review programs.

**VI. EFFECTIVE DATE**

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

**VII. TERMINATION**

This memorandum may be terminated by either party after written notice to the other party.

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M. E. Gilbert  
Rear Admiral, U.S. Coast Guard  
Commander,  
Eleventh Coast Guard District.

DATE \_\_\_\_\_

\_\_\_\_\_  
Charles Warren  
Executive Officer  
California State  
Lands Commission.

DATE \_\_\_\_\_