

MINUTE ITEM

This Calendar Item No. C39 was approved as
Minute Item No. 39 by the California State Lands
Commission by a vote of 3 to 0 at its

CALENDAR ITEM 1-30-02 meeting.

C39

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01/30/02

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**CONSIDERATION OF EMERGENCY REGULATIONS TO IMPLEMENT A
MINIMUM PHYSICAL SECURITY PROGRAM AT MARINE OIL TERMINALS IN
THE STATE OF CALIFORNIA**

PROPOSAL:

The Commission's Staff proposes the adoption of emergency regulations that would implement a minimum physical security program at all marine oil terminals within the state. The proposed emergency regulations are an initial phase towards implementing more comprehensive security measures for deterring terrorist activity at these terminals in the near future. The proposed regulations, which are effective for 120 days, would initially establish a framework for addressing security at each terminal. Commission Staff is in the process of preparing more comprehensive permanent regulations that would further enhance security measures.

The proposed regulations require each terminal operator to designate a Marine Oil Terminal Security Officer who would be responsible for conducting a security survey at each facility and for implementing a security plan based on the survey. The security program required by these regulations provides for safety and security of people, property and equipment by deterring and preventing the carriage of weapons, incendiaries or explosives into the terminal. This is accomplished by controlling access of persons and vehicles onto terminal areas. Lastly, these regulations provide for training of terminal personnel in all aspects of the facility's security plan.

BACKGROUND

In light of the recent tragic terrorist events of September 11, 2001, future terrorist activity has the real potential for causing catastrophic damage to public health and safety and the environment. The people of this California must immediately prepare for and be ready to deter execution of such threats. The need for urgency of action in this direction is reflected in the Governor's Executive Order D-47-01, dated October 10, 2001. The order creates a State Strategic Committee on Terrorism and contains specific requirements for evaluating the potential threat of terrorist attack.

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for reviewing California's current state of readiness to prevent and respond to a potential attack, and for establishing and prioritizing recommendations for prevention and response.

The State of California has 80 marine oil terminals falling under the jurisdiction of the Commission. Each of these facilities stores and is capable of transferring oil and liquid hydrocarbon products to and from tank vessels and barges. On average, 1.8 million barrels of oil or product are transferred at California's marine oil terminals every day. These facilities are located along the coast of California from Eureka in the North to San Diego near the Mexican border. The majority of these terminals are located in the ports and harbors of the state, while a few are located in the Carquinez Strait in the San Francisco Bay area, in the Santa Barbara Channel and in Humboldt Bay.

The major hazards at a marine oil terminal include fire and explosion and the potential for large quantities of oil to be spilled into the waters of the State. These facilities and their associated refineries are at considerable risk from potential terrorist threats. Presently, it is fairly easy for unauthorized intruders to infiltrate surreptitiously into the confines of a terminal and cause inestimable damage either through fire and explosion or through the release of oil into the marine environment. Fires and explosions can be generated by the use of incendiaries, explosives or firearms. Releases of large quantities of oil into the marine environment can easily be accomplished by opening a few strategic valves and allowing quantity of oil to flow into the marine environment. All marine oil terminals have pipeline manifolds that terminate at the dock face. Manifolds are connected by pipelines to oil storage tanks. In some cases, the tank storage facilities (tank farms) are located several miles away from the dock. The flow of oil between the dock and the storage tanks is controlled and regulated by strategically situated valves. Any of these components is vulnerable to intentional acts with great destructive consequence.

Additional risks of fire, explosion and release of oil may be realized by encroachment from the waterfront side of the dock. A recent example of such terrorist act is the bombing of "USS COLE" from a small boat in the port of Aden, Yemen, on 12 October 2000. The attack on the "USS COLE" killed 17 sailors, wounded more than twice that number and occasioned considerable damage to the ship's structure. A similar attack on a tanker or barge carrying volatile hydrocarbon liquids can cause an immensely greater degree of devastation than the attack on the "USS COLE."

The consequences of an act of sabotage on a tanker or barge and the potential for causing immeasurable damage to public health and safety and the environment can best be illustrated by the fire and explosion

aboard the tanker SS "SANSINENA" in the Port of Los Angeles, California, on December 17, 1976. The "SANSINENA," a fairly small tanker by today's standards, had discharged most of its cargo of crude oil. Its empty tanks, though, were full of explosive vapors. A spark caused a tremendous explosion that broke the ship in two, virtually destroyed the marine oil terminal and did significant damage to the port. An explosion on a modern tanker more than twice the size of the "SANSINENA" with tanks full of volatile oil or hydrocarbon products could have greater consequences.

Apart from the physical and environmental damage that can be caused by the events described above, there is also the potential for an adverse economic impact. Any one of the incidents described above could cause the closure of a port and the shutdown all its facilities. The ports of California are international gateways to the US and they cater to a high volume of commerce and trade. This activity generates large revenues to the coastal cities and the state and also provides gainful employment to a large sector of the population. A terrorist act resulting in the closure of Californian ports or port facilities can have far reaching, national and international adverse economic impacts.

Recent events are compelling evidence that these threats require emergency response. While some terminal operators have taken action to enhance security, the proposed regulations would ensure that all such operator implement security programs immediately and effectively.

Given the above circumstances and considerations, Commission staff believes that urgent and immediate action is necessary to ensure that all marine oil terminals in California are in a state of organized readiness to deter terrorist activity.

STATUTORY AND OTHER REGULATIONS:

A: Public Resources Code §§8750 through 8758

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 CCR §10561), the Commission Staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA guidelines.

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Authority: P.R.C. §21084 and 14 CCR §15300.

2. The proposed emergency regulations do not affect small businesses as defined in Gov. Code §11342, sub.(h), because all affected businesses are transportation and warehousing businesses having annual gross receipts of more than \$1,500,000, as specified under Gov. Code §11342, sub.(h)(2)(l)(vii).

EXHIBITS:

- A: Text of the proposed emergency regulations.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, §15061, BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE §21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, §15378.
2. FIND THAT AN EMERGENCY EXISTS AND THAT THE REGULATIONS ARE NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT BY ENSURING THAT SECURITY PRECAUTIONS ARE TAKEN TO PREVENT TERRORIST ACTIVITIES AT MARINE OIL TERMINALS, WHERE SUCH ACTIVITIES COULD CAUSE OIL SPILLS, FIRES OR EXPLOSIONS AND RESULT IN DIRECT AND SUBSTANTIAL HARM THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT.
3. FIND THAT THE REGULATIONS WILL NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOVERNMENT CODE §11342(h), BECAUSE ALL AFFECTED BUSINESSES ARE TRANSPORTATION AND WAREHOUSING BUSINESSES HAVING ANNUAL GROSS RECEIPTS OF MORE THAT \$1,500,000, AS SPECIFIED UNDER GOVERNMENT CODE §(h)(2)(l)(vii).
4. FIND THAT THE REGULATIONS WILL NOT HAVE A SIGNIFICANT IMPACT ON THE CREATION OR ELIMINATION OF JOBS OF NEW OR EXISTING BUSINESSES WITHIN CALIFORNIA, NOR WILL THEY HAVE AN ADVERSE ECONOMIC IMPACT ON BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESS IN OTHER STATES.
5. FIND THAT NO ALTERNATIVE WOULD BE MORE EFFECTIVE IN CARRYING OUT THE PURPOSE FOR WHICH THE REGULATIONS

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ARE PROPOSED OR WOULD BE AS EFFECTIVE AND BURDENSOME TO AFFECTED PRIVATE PERSONS THAN THE PROPOSED REGULATIONS.

6. ADOPT THE PROPOSED REGULATIONS, WHICH WOULD ADD SECTION 2351, TO TITLE 2, DIVISION 3, CHAPTER 1, ARTICLE 5, OF THE CALIFORNIA CODE OF REGULATIONS, SUBSTANTIALLY IN THE FORM OF THOSE SET FORTH IN EXHIBIT "A".
7. AUTHORIZE THE COMMISSION STAFF TO MAKE MODIFICATIONS IN THE REGULATIONS IN RESPONSE TO RECOMMENDATIONS BY THE OFFICE OF ADMINISTRATIVE LAW.
8. DIRECT THE COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO COMPLY WITH PROVISIONS OF THE GOVERNMENT CODE REGARDING ADOPTION OF THE REGULATIONS AND AMENDMENTS AND TO ENSURE THAT THE REGULATIONS BECOME EFFECTIVE.
9. DIRECT COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO IMPLEMENT THE REGULATION AT SUCH TIME AS THEY BECOME EFFECTIVE.

EXHIBIT "A"

Section 2351. Marine Terminal Physical Security Program

- (a) In addition to the definitions in §2315 of this Article 5, the following definitions shall govern the construction of this section:
- (1) "Crisis Situations" means any occurrences that present unique and growing physical security problems such as bomb threats, terrorist acts, civil disorders, loss of electrical power, fires and natural catastrophes.
 - (2) "Marine Oil Terminal Security Officer" or "MOTSO" means a person appointed by the terminal operator to be responsible for terminal security.
 - (3) "Marine Oil Terminal Security Plan" means a written document describing the practices, procedures, responsibilities, equipment, and structures that provide for the security of the terminal.
- (b) Each terminal operator must implement a marine oil terminal security program that, at minimum:
- (1) Provides for the safety and security of persons, property and equipment on the terminal and along the dockside of vessels moored at the terminal;
 - (2) Prevents and deters the carriage of any weapon, incendiary, or explosive on or about any person inside the terminal, including within his or her personal articles;
 - (3) Prevents and deters the introduction of any weapon, incendiary, or explosive in stores or carried by persons onto the terminal or to the dockside of vessels moored at the terminal; and
 - (4) Prevents or deters unauthorized access to the terminal and to the dockside of vessels moored at the terminal.
- (c) Each MOTSO must, at a minimum, ensure that:
- (1) An initial comprehensive physical security survey has been conducted, documented and maintained at the terminal.

- (2) The comprehensive physical security survey has been used to formulate a security plan.
 - (3) The Marine Oil Terminal Security Plan is implemented and maintained.
 - (4) Personnel responsible for security are trained in all aspects of the Marine Oil Terminal Security Plan.
 - (5) Periodic security inspections of the terminal are conducted.
 - (6) Vigilance and security awareness by terminal employees is emphasized.
 - (7) All occurrences or suspected occurrences of unlawful acts and related activities are reported to National Response Center, telephone (800) 424-8802, and other local agencies having jurisdiction at the marine oil terminal. Records of such occurrences shall be maintained at the marine oil terminal for 10 years.
 - (8) Timely notifications regarding security incidents are provided to terminal and vessel personnel.
- (d) Each Marine Oil Terminal Operator shall develop and maintain, in writing, a Marine Oil Terminal Security Plan, the contents of which shall, at minimum, set forth all of the following:
- (1) Policies and procedures for reacting to crisis situations, which shall include:
 - (A) Establishment of restricted areas;
 - (B) Control of movement; and
 - (C) Investigation of security breaches.
 - (2) The designation of a MOTSO by name.
 - (3) The responsibilities of the MOTSO.
 - (4) Security measures for the terminal, which include:
 - (A) A communications system capable of being operated during electrical power failure.

- (B) Protective lighting that provides a minimum illumination standard of one foot candle at one meter above the ground and illuminates the following areas:
1. Access points to the terminal;
 2. The waterfront and dock area; and
 3. Any vessels moored alongside the terminal.
- (C) Terminal perimeter fencing or other barriers constructed so as to prevent the introduction of persons, dangerous substances or devices. Fencing shall not be less than eight feet high or of sufficient height and durability to deter unauthorized passage. Fencing shall have barbed or razor wire tops.
- (D) Marine oil terminal access control including:
1. Use of locking devices;
 2. Visitor photo identification/pass control;
 3. Marine oil terminal personnel identification cards;
 4. Escort procedures for visitors;
 5. Vehicle entry, parking, and exit; and
 6. Vehicle and stores inspections.
- (E) Marine oil terminal security organization including:
1. Employee assignments;
 2. Layout of the terminal with emphasis on means of access;
 3. Patrol routes and frequency;
 4. Fixed and mobile security posts;
 5. Procedures for prompt reporting of security breaches;
 6. Procedures for calling out additional security; and

7. Procedures for coordinating security measures with federal, state, and local authorities.
 - (F) A training program administered by the MOTSO that provides for competent security within the terminal. The training program shall include initial training with provisions for annual refresher training and shall, at a minimum, include the contents of the Marine Oil Terminal Security Plan. In addition, all contractor personnel shall undergo security awareness and emergency procedures indoctrination specific to the terminal, prior to commencing work at the terminal.
- (e) The MOTSO shall amend the Marine Oil Terminal Security Plan to address any known deficiencies and submit the amendment to the Division as prescribed in subsection (h) of this section.
- (f) The Marine Oil Terminal Security Officer must restrict the distribution, disclosure, and availability of information contained in the Marine Oil Terminal Security Plan to employees, contractors, and competent authorities who have a need to know the contents of the Plan.
- (g)
 - (1) The operator of the marine oil terminal must ensure completion of a Marine Oil Terminal Security Plan within 60 days of the effective date of these regulations and notify the Division, in writing, of its completion.
 - (2) The Division shall conduct a general on-site inspection of marine oil terminal security arrangements and approve any Marine Oil Terminal Security Plan that meets the requirements of these regulations.
 - (3) If Division finds that the Marine Oil Terminal Security Plan does not meet the requirements of these regulations, then it shall notify the terminal operator within 30 working days of the Division's on-site inspection.
- (h)
 - (1) Terminal operators shall amend their Marine Oil Terminal Security Plan when directed by the Division.
 - (2) Marine oil terminal operators shall notify the Division, in writing, of any proposed amendments to an approved Marine Oil Terminal Security Plan. Any such proposed amendments shall be submitted to the Division for approval at least 30 working days prior to the changes being adopted.

Authority: Sections 8755 and 8756, Public Resources Code.
Reference: Sections 8750, 8751, 8752, 8755 and 8756, Public Resources Code.

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