ATTACHMENT A (FSOR)

Consideration of Public Comments

Proposed adoption of:
Requirements For New Or Replacement Pipeline Near Environmentally And Ecologically Sensitive Areas In the Coastal Zone; Plan To Retrofit Existing Pipelines; Notification To State Fire Marshal Of New Construction Or Retrofit Of Pipeline; Consultation With Office Of Spill Prevention And Response (19 CCR §§ 2100 – 2120)

The following reflects all comments received relating to the above identified rulemaking. A list is provided of the people or organizations making comments, both written and verbally. Each is assigned a two-digit identifier beginning with 'W' for written comments and 'O" for oral comments. The comment summaries and responses are organized by the subsection being addressed. At the end of each comment summary are one or more comment keys. The comment keys match the two-digit identifier followed by a number referring to the marked copies of written comments and transcribed verbal comments received at the public hearings, which are included in the rulemaking record. Where possible, duplicate or similarly related comments and irrelevant comments are aggregated in separate tables at the end of each comment period.

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45 DAY COMMENTERS & IDENTIFIER PERIOD ENDING APRIL 2, 2019	
W1	Environmental Defense Center, Linda Krop, Chief Counsel; letter dated 3/26/19
W2	Wickland Pipelines LLC, Daniel Hall; letter dated March 26, 2019
W3	Chevron, Henry Perea, Manager, State Government Affairs; letter dated March 28, 2019
W4	County of Santa Barbara, Lisa Plowman, Planning & Development Director; letter dated 4/2/2019
W5	Crimson Midstream, LLC Brendan Geraghty, Regulatory Compliance Specialist; letter dated March 28, 2019
W6	California State Lands Commission, Chris Beckwith, Division Chief Marine Environmental Protection Division; letter dated March 29, 2019
W7	Western States Petroleum Association, Bridget McCann, Manager, Technical and Regulatory Affairs; letter dated April1, 2019
W8	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer; letter dated April 1, 2019
W9	Santa Barbara Channel Keeper, Molly Troup, Science & Policy Associate; letter dated 4/2/2019
O1	Unidentified member of the public, Public Comment at 2/22/19 Hearing Huntington Beach – Pg. 124
O2	Brandon Geraghty, Crimson Midstream; Public Comment at 2/22/19 Hearing Huntington Beach – Pgs. 95, 123.
O3	Troy Valenzuela, Plains All American Pipeline; Public Comment at 2/22/19 Hearing Huntington Beach – Pgs. 91, 124.

Topic	Summary of 45 Day Comments	Agency Responses
§2100 – Definitions in General	The draft regulation includes several regulatory concepts and related definitions gathered from other State and Federal regulations. In many cases the document includes partial definitions and concepts from these other documents. Generally, these definitions and/or regulatory requirements have been developed over several years with input from highly qualified regulatory and industry personnel. The definitions from these other regulations are well suited for the purposes they were originally developed for and over time they have been well established as key benchmarks by both the regulatory groups and industry. WSPA recommends that, where possible, these well-established definitions and regulatory concepts be used in lieu of "reinventing the wheel" in the subject draft regulation. W7-64	See response to W7-73. The OSFM incorporated definitions and concepts from federal and State regulations where possible.
§2100 - Definitions in General	Operators are currently required to determine if additional EFRDs would mitigate loss of containment. Operators perform spill modeling to determine the best location for the EFRDs. AB 864 could incorporate the existing definitions for EFRDs, check valve and remote-control valve as found in §195.450 (these are already incorporated by reference in The Elder Act). W3-4	The definitions found in the proposed regulations for EFRDs, check valve, and remote control valve are based off the definitions found in 49 CFR §195.450. The OSFM elected to define them in the proposed regulations for clarity because the Elder Pipeline Safety Act, starting with government code section 51010 et. seq., does not statutorily define the terms provided here.
§2100(a)(1) - Definitions Automatic shutoff system	This issue is a highly sensitive issue with pipeline operators. The general concern is that, depending upon the nature of the specific pipeline, there are usually a set of complex "shut down procedures". Depending upon the diameter of the pipeline, operating flow rate and	See response to comment W7-73. There is no need to add language to account for reaction periods.The factors and concerns raised were evaluated in drafting the proposed regulations and operators should reflect this information in the risk analysis submitted to the OSFM. As noted by the commenter the complexity of pipeline systems is variable

	material being shipped in the pipeline, a sudden shutdown of the pipeline, due to the momentum of the system, could create a hydraulic surge which, in turn, can cause potential ruptures of the pipeline or pipeline valves along the system. The typical shutdown requires an operator to start shutting down the pumping systems along the pipeline one by one and then begin to slowly shut down the remotely controlled valves along the system. This procedure, depending on the complexity of the specific system, can take several minutes. As a result of this real issue, WSPA believes that while the regulation specifies that "an automated system not dependent on human interaction" is required, that the regulation be drafted to allow a reasonable reaction period to be included to allow the pipeline operator a period to react to alarms and engage the pipeline shutdown in a logical safe manner, prior to the point that the automated system engages and shuts the system down. W7-74	from pipeline to pipeline. The OSFM cannot determine a reasonable reaction time by regulation to cover the myriad pipelines in the State without understanding the nature of the specific pipeline at issue, hence the need for a pipeline specific risk analysis that considers Automatic Shutoff Systems.
§ 2100(a)(1) – Definitions Automatic Shutoff System	WSPA strongly suggests that any system that incorporates an automated shutoff system includes a human oversight. Modern control systems are designed to allow a control center operator or other operator who monitors the system a period of time to respond to feedback from the monitoring system. In addition, as pipeline systems start-up or shut down, there are many significant immediate changes that must be addressed and responded to in order to complete an orderly transition. Human intervention is important to ensure that the shutdown of the system does not cause other more serious problems	There is no need to change the definition. The OSFM agrees that pipeline systems are highly sophisticated and have complex operations. As such, proposed §2109 allows operators to consider combinations of technologies or alternatives, which may result in greater spill reduction volumes or work more effectively on the variability between pipeline designs encountered and constructed throughout California. This will allow the OSFM and the operators the flexibility needed for all pipelines to obtain regulatory compliance because no one technology may be BAT for every pipeline. The authorizing legislation require operators to consider automatic shutoff systems, however it does not say it is the sole means of achieving compliance. Where an automatic shutoff system is in place, the draft regulations do not dictate that there be no human oversight. See section

	elsewhere in the system. An automated system that shuts a system down without human oversight could create dangerous situations such as line surges, pipe ruptures, damage to pumps and valves and other pipeline facilities. W7-15	2115 for testing requirements to ensure proper operation. See also response to W7-5
§2100(a)(1) Definition Automatic Shutoff System	The language in the proposed regulation regarding Automatic Shutoff Systems remains a significant concern for WSPA member companies. Many of the pipeline systems operating today are highly sophisticated, complex operations with thousands of variables being monitored on a moment by moment basis. Today's systems are, for the most part, designed to detect meaningful changes in the pipeline operation and alert the operator who must then review the data and make decisions to slow or shut down the system in a timely safe manner. The concerns initially raised regarding how shutoff requirements can contribute to integrity issues in the July 19, 2016 WSPA comment letter remain valid and applicable to the current draft regulation. W7-5	See response to W7-15. There is no need to change the definition. The authorizing legislation directs operators to evaluate automatic shutoff systems, the OSFM cannot change that requirement through regulation. Also, the legislation does not say that compliance can only be achieved through installation of automatic shutoff systems. Notably, automatic shutoff systems are programmable and can handle highly sophisticated and complex operations with thousands of variables being monitored on a moment by moment basis. See section 2115 for testing requirements to ensure proper operation.
§ 2100(a)(2) – Definitions (a)(2) Best Available Technology	This statement is open to significant individual interpretation. The area of concern is the language "limiting the quantity of the release" and BAT that is "currently in use and could be purchased anywhere in the world". The "quantity of the release" should have more definition relative to the actual overlaying operating system and operating circumstances. For example, limiting the quantity of a release on a 24-inch, large, high capacity pipeline will be substantially different than limiting the quantity of a release on a small 2-inch low	The definition of Best Available Technology is set by the authorizing statute in section 51013.1(g)(1) and cannot be changed by the OSFM through regulation. However, the commenters BAT concerns are addressed in sections 2109-2112 of the draft regulations. The OSFM rejects the comment to change the definition. Section 2117 addresses Updating and Reviewing installed BAT systems. See also response to W7-79

	pressure gathering line. In order to measure the effectiveness of a system, a range of feasible release detection amounts should be defined by scientific analysis of what is meaningful in relation to the actual system operation. The requirement that protection should meet the criteria that it is "currently in use and could be purchased anywhere in the world" also needs to be evaluated. In this case, a feasibility assessment should be conducted to evaluate the technology being proposed by the operator. The assessment (i.e., model) will determine that the technology proposed meets certain, scientifically developed, criteria that determines if a proposed system meets the technical needs to monitor and control the subject pipeline system. W7-16a Also, any system that is approved and installed should be "grandfathered" for a certain period of time to allow the operator to amortize the cost of the system, or when a new technology is introduced that is cost effective. This matter is more specifically addressed in the July 19, 2016 WSPA comment letter. W7-16b	
§2100(a)(4) Definition – Coastal Zone	As was noted in WSPA's previous two comment letters, the definition of the specific area(s) where the regulation will apply is a complex issue. The proposed regulation attempts to define the applicable areas but much uncertainty remains. WSPA recommends that, rather than rely on definitions from various other agencies that may change their definitions over time, OSFM should develop its own GPS map that defines the exact areas of concern. Under such a system, each operator could	The OSFM rejects this suggestion. The two previous comment letters were submitted under different draft regulatory language not subject to the public comment period. The definitions found in the draft regulations at public comment here reference applicable statutory and regulatory definitions that operators can use to identify the Coastal Zone and EESAs. The OSFM does not control the creation of maps based on definitions of the Coastal Zone or EESAs because it is already defined by statute or that authority has been delegated to other agencies by the legislature. Confusion would arise should the OSFM follow the commenters advice

	overlay their own pipeline GPS data over the OSFM data to determine if their system is in a compliance area. WSPA believes this would simplify jurisdictional issues for all parties. Also, as the OSFM updates the map, all operators would be notified simultaneously of any information regarding changes to the compliance map information. W7-2	by creating multiple definitions for terms dictated by the authorizing statute or delegated to another agency. Interestingly, WSPA recognized the potential for confusion if the OSFM developed its own definitions for established principals as noted in prior WSPA submissions that are in direct conflict with the comment submitted here, for example see comment W7-65. It is the responsibility of operators to find the appropriate maps and utilize them for compliance with proposed regulations. Operators are already required to gather much of this information, including Coastal Zone and EESA data, for facility response plans provided to the Office of Spill Prevention and Response, therefore it should present no challenges to operators to do the same here. See similar responses in W7-17, W7-20, W7-21, W7-22, W7-23, W7-24, W7-25, W7-65 Instead of developing new definitions, the OSFM is developing a guidance document for incorporation by reference that will be subject to public comment titled: <u>CAL FIRE - OFFICE OF THE STATE FIRE MARSHAL, Download Ecologically and Environmentally Sensitive Sites in the Coastal Zone (January 1, 2020)</u>
§2100(a)(4) - Definitions Coastal Zone	WSPA believes that relying on specific information from other state and federal jurisdictional agencies can lead to misinterpretations and potential conflicts for both the OSFM and operators. WSPA recommends that that a series of specific OSFM geographical maps be developed that clearly defines the surface area and subsurface area of the state that applies to this Article. W7-17	See response to W7-2.
§2100(a)(4) - Definitions Coastal Zone	WSPA believes that the draft regulation needs to be clarified early in the document to indicate that the regulation applies only to California pipelines operating in the California Coastal	See response to W7-2. This comment was made in a letter dated July 19, 2016 and relates to prior draft of regulatory language that was not part

	Zone. We further feel the "Coastal Zone" definition of the State Lands Office of Oil Spill Prevention and Response (OSPR) is a well-established and understood concept and would be an appropriate definition to use in the new regulation. We note that the San Francisco Bay Area Conservation and Development Commission jurisdiction zone is specifically carved out of that definition and that area should not be considered as part of this new AB 864 regulation. W7-65	of the formal rule making process under the Administrative Procedure Act. However, the Coastal Zone is already defined by the California Coastal Act, which includes the jurisdiction of the San Francisco Bay Conservation and Development Commission, see Title 7.2 commencing with section 66600 of the Government Code.
§§2100(a)(4) and (a)(7) and §2102(a)(6)(A) Definitions of "coastal zone" and "environmentally and ecologically sensitive area"	It would create a greater level of certainty for compliance and enforcement purposes if the definitions of "coastal zone" and "environmentally and ecologically sensitive area" set forth in §§2100(a)(4) and (a)(7) of the Proposed Regulations are explicitly tied to specific maps, as they may be amended from time to time, which depict these areas. For example, the definition of EESA could reference the "Downloadable OFSM EESA Files" available in the OSPR section of the California Department of Fish and Wildlife website. W2-1 There are already various references in the Proposed Regulations and the "Initial Statement of Reasons" ("ISR") that imply that existing GIS maps govern these definitions. Note, for example, the reliance on EESAs represented by "points", "lines" and "polygons" contained in proposed §2102(a)(6)(A). W2-2 a direct statement in each definition identifying the appropriate published map or maps would eliminate confusion and ambiguity, thereby facilitating adherence to the Proposed Regulations. W2-3	See response to W7-2

§2100(a)(9) Definition of "Near"	Environmentally and ecologically sensitive areas must be defined broadly enough to ensure that the regulation comports with the mandate of the law, which is "to reduce the amount of oil released in an oil spill to protect state waters and wildlife." The proposed half-mile distance is inadequate to protect state waters and wildlife from an oil spill from a pipeline. W1-3a	See response to W9-1 and W1-4. There is no need to adjust the distance attached to the definition of "near."
§2100(a)(9) Definition of "Near"	Commenter recommends amending the definition of near to the following because a half mile may not be adequate to protect sensitive areas: "<u>Near" means a location from which a spill from a pipeline may impact an Environmentally and Ecologically Sensitive Area in the Coastal Zone.</u> W1-3b	See response to W9-, W1-3, W1-3a, and W1-4. There is no need to adjust the distance attached to the existing definition of "near."
§2100(a)(9) Definition of "Near"	The Plains All American Pipeline oil spill spread much further than that (1/2 mile), and there are many other examples of onshore oil spills that spread through various natural and man-made conveyances (e.g. streams, creeks, rivers, tributaries, culverts, irrigation channels, ditches, etc.). Any pipeline that is close to an environmentally and ecologically sensitive area, or a conveyance to such an area, must be subject to these regulations. During the agency's webinar presented on January 5, 2017, the public was advised that any pipeline that "may impact the coastal zone" will be regulated. W1-4	See response to W9-1. The OSFM recognizes the concern from the commenter but rejects the proposition to amend the definition of "near" because the concerns of conveyances are already addressed in the following Sections of the proposed regulations: 2102, 2103, 2104, 2105, 2106, 2107, 2111, 2112. Particular attention should be paid to Sections 2102 and 2111(c)(2) -(7). Statements made in January 5, 2017 related to prior versions of the draft regulations and are beyond the scope of the proposed regulations here. However, operators are required to evaluate pipelines that "may impact the coastal zone" throughout the sections noted above.
§2100(a)(9) Definition of "Near"	Commenter recommends that the definition of "near" is expanded to include any distance from the coastal zone that a pipeline spill has the capacity to reach Environmentally and Ecologically Sensitive Areas (EESAs) within the Coastal Zone. Hazardous liquid has the	See response to W1-4. The distance attached to this definition is based on analysis of historic releases in California and distances product traveled over terrestrial surfaces following a release from a pipeline. The OSFM is required by the authorizing statute to determine how "near" a pipeline is to an environmentally and ecologically sensitive area (EESA) to

	potential to travel distances further than half a mile depending on the specifics of the site. For example, oil from the 2015 Plains All American Oil Spill traveled up to 150 miles from the source of the corrosive pipe that it originated from. Thus, to minimize the amount of oil released in a spill, the definition of "near" should be expanded. W9-1	be subject to the requirements of the statute and the proposed regulations based on the likelihood of a pipeline release impacting those areas. The existing definition achieves the statutory goal of determining what "near" is while accounting for the likelihood of a release impacting an EESA. It is important to read the definition of "near" as a unit of distance applied to EESAs and the Coastal Zone separately. The definition is not limited to only cases where an EESA is located in the Coastal Zone and should not be read in a silo but should be read in context of the regulation as a whole. EESAs are not limited to the Coastal Zone and can extend inland beyond the Coastal Zone, the existing definition of "near" recognizes this. Section 2102 provides additional information on how to identify pipelines subject to the proposed regulations that also addresses the concerns raised.
§2100(a)(11) - Definitions New Pipeline	The definition of "New Pipeline" should be expanded to explain that this definition would not include any significant relocations of an existing pipeline system due to factors such as new real estate developments, Caltrans work, city projects, railroads, washouts, etc. where, while the pipeline system would continue to provide the same function but a relative large section of the pipeline may need to be relocated. W7-77	This comment was made in a letter dated July 21, 2017 and relates to prior draft of regulatory language that was not part of the formal rule making process under the Administrative Procedure Act. However, see section 2107 of the proposed regulations relating to relocations.
Definition of "Oil" §2100(a)(12)	CIPA recommends changing the definition of oil in the proposed regulations to exclude HVLs. The same definition could be used as provided by California's Office of Spill Prevention and Response (OSPR) 14 CCR § 790, as follows: (o)(4) "Oil" means any kind of petroleum, petroleum-based liquid hydrocarbons,	The definition of oil is provided by statute in 51013.1(h) and cannot be changed by OSFM regulation.

	petroleum products or any fraction or residues therefrom. This includes, but is not limited to: crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas. Oils are further classified within the OSPR regulations into groups as persistent and nonpersistent oil for oil spill response planning. W8-2	
§2100(a)(14) Definition of "Pipeline"	The proposed regulations should apply to all hazardous liquid pipelines, and should not exempt pipelines that operate at a stress level of twenty percent or less of the specified minimum yield strength of the pipe. W1-5	The OSFM disagrees with this comment and the definition was removed from the text of the regulation during the third 15-day comment. The proposed regulations apply to hazardous liquid pipelines both in and outside of the Coastal Zone that may impact an EESA in the Coastal Zone. However, the proposed regulations should not apply to hazardous liquid pipelines that operate at or below a stress level of twenty percent of the specified minimum yield strength of the pipe. The definition of pipeline is determined by statute to exclude these low pressure pipelines and can be found in Government Code section 51010.5(a)(3). Hence, pipelines in the Coastal Zone that operate at a stress level of twenty percent or less of the specified minimum yield strength of the pipe are not subject to the requirements of this regulation.
§2100(a)(14) - Definitions Pipeline	The language in the proposed AB 864 Regulation is not clear regarding the definition of an OSFM jurisdictional pipeline. "Pipeline" is not defined in AB 864 or the proposed California Government Code § 51013.1. Under California Government Code § 51010.5(a), excluded pipelines are typically crude oil production area gathering pipelines and flowlines, crude oil and natural gas production processing facilities, tank farms and marine terminals which are regulated by other	This comment was made in a letter dated July 21, 2017 and relates to prior draft of regulatory language that was not part of the formal rule making process under the Administrative Procedure Act. Though the OSFM is not required to respond to this comment, the term pipeline is defined in 51010.5(a)(3) and applicable here. See response to W1-5.

	State and Federal agencies (DOGGER, CSLC, Local Fire Departments, and USCG). Since draft California Government Code § 51013.1 was placed in Chapter 5.5, the definition of "pipeline" contained in California Government Code § 51010.5(a) should apply to the draft of any regulations relying on that section for authority. Without clarification in draft California Government Code § 51013.1, this section could be interpreted as significantly expanding the applicability of the proposed regulations beyond the legislative intent and regulatory history. WSPA recommends that OSFM add to the proposed California Code of Regulations Title 19, Division 1, Chapter 14, § 2004 (Definitions) the following definition: "Pipeline" means the same as defined in Section 51010.5(a) of the California Government Code. W7-76	
§2100(a)(14) - Definitions Pipeline	"Pipeline" should be expanded to explain that this definition would not include any significant relocations of an existing pipeline system due to factors such as new real estate developments, Caltrans work, city projects, railroads, washouts, etc. where, while the pipeline system would continue to provide the same function but a relative large section of the pipeline may need to be relocated. W7-73	Relocations are addressed in Section 2107 of the proposed regulations. Therefore, this suggestion is rejected.
§2100(a)(14) Definition of "Pipeline"	Currently, there is pending legislation that may have potential impacts on the proposed changes of this regulation. SB 169 will remove the existing subsection 51010.5(b)(3) of the that the reference to the California Government Code within California Government Code, and in doing so, the language within the AB 864 text	The OSFM rejects this comment. Pending legislation is outside the scope of the proposed regulation and potential changes to pipeline jurisdiction or changes in law are found in section 2106 of the proposed regulations. See response to W1-5 and W8-9.

	in section §2100(a)(14) will be in direct conflict with the pending revision to 51010.5(b)(3). CIPA believes § 2100(a)(14) needs to be modified to account for the potential approval of the revisions proposed by SB 169 so any cross references from AB 864 are not affected. If SB 169 is adopted, certain low stress and gravity crude oil pipeline exemptions from 51010.5(b)(3) will be deleted, no longer allowing exemptions for low stress crude oil pipelines (regardless of location) and for "gravity" crude oil pipelines in urban or rural areas (regardless of diameters), while the current version of AB 864 text within section §2100(a)(14) of AB 864 will continue to reference this deleted section. CIPA recommends that § 2100(a)(14) be edited as follows: "Pipeline means the same as defined in Section 51010.5 (a) of the California Government Code, but includes a pipeline for the transportation of crude oil that operates by gravity or operates at a stress level of 20 percent or less of the specified minimum yield strength of the pipe, when a pipeline is in the Coastal Zone." W8-9	
§2100(a)(14) Definition of "Pipeline"	Currently, there is pending legislation that may have potential impacts on the proposed changes of this regulation. SB 169 will remove the existing subsection 51010.5(b)(3) of the California Government Code, and in doing so, the language within AB 864 text in section § 2100(a)(14) will be in direct conflict with the pending revision to 51010.5(b)(3). WSPA recommends that the reference to the California Government Code within § 2100(a)(14) be	See response to W8-9

	modified to account for the potential approval of the revisions proposed by SB 169 so any potential exemptions from AB 864 are not affected. If SB 169 is adopted, certain low stress and gravity exemptions of AB 864 will be removed, no longer allow an exemption for “gravity” pipelines in urban areas and “gravity” non-gathering crude pipelines in rural areas (regardless of diameters). WSPA believes that § 2100(a)(14) Pipeline means the same as defined in Section 51010.5 (a) of the California Government Code, but includes a pipeline for the transportation of crude oil that operates by gravity or operates at a stress level of 20 percent or less of the specified minimum yield strength of the pipe, when a pipeline is in the Coastal Zone. W7-14	
§2100(a)(16) Definitions of "replacement pipeline"	The term "replacement pipeline" is defined in §2100(a)(16) of the Proposed Regulations. In addressing this definition, the ISR states that it "will assist pipeline operators by providing a clear understanding of what a 'Replacement Pipeline' is, thereby facilitating regulatory compliance." Such a clear understanding is essential, since compliance timing for a replacement pipeline is much different than compliance timing for an existing pipeline. W2-4 Use of the phrase "significant repair of an existing pipeline" is subjective and could result in differing viewpoints between OSFM and an operator as to what "significant" means. W2-5 What constitutes "significant" for one pipeline might not be so for another. Some sort of quantification of "significant" is required for the	The OSFM agrees that timing compliance between replacement pipeline and existing pipelines is different, however the effect is the same. Replacement pipelines, new pipelines, and existing pipelines all must comply with the proposed regulations eventually. The OSFM plans to change the definition of “Replacement Pipeline” to provide clarity through the removal of the term "significant." Removal of this term will clarify that all pipelines, regardless of significance of a replacement, are subject to proposed regulations. The new proposed definition will go to public comment and is the following: 2100(a)(16) Replacement Pipeline means ~~a significant repair of an existing pipeline or~~ the construction of a new pipeline to take the place of a previously existing pipeline. See also similar discussion related to “significant” under section 2107 of the regulations.

	definition of "replacement pipeline" to promote the clear understanding the term is meant to impart.W2-6	
§2100(a)(16) and §2107(a) Definitions of "replacement pipeline" and relocation of pipelines	A "replacement pipeline" is also defined as "construction of a new pipeline to take the place of a previously existing pipeline." However, §2107 specifies that the relocation of a pipeline is not considered a new or replacement pipeline and will be treated as an existing pipeline. W2-7 The ISR appears to indicate that the difference between "replacement" and "relocation" is based in large part upon the reason for the change, with the term "relocation" being reserved for moving pipeline sections in situations unrelated to the need for repairs or replacement necessitated by operational wear and tear. Stated examples included in the ISR are "construction projects, changes to or expiration of easement agreements, or other unanticipated reasons." This differentiation should be clearly expressed in the language of the Proposed Regulations, either in §2100(a)(l6), or §2107(a). W2-8	See response to W2-4, W2-5, W2-6. The commenter is correct that section 2107, addressing relocation, specifies that a relocation is not considered new or replacement pipeline. For a pipeline to be relocated it must already exist by being installed. For purposes of the regulatory scheme here, an operator cannot relocate a new pipeline that has not been constructed and cannot replace a pipeline that has not been constructed. One of the purposes of this section is to identify the impact of a relocation on compliance with the proposed regulations, it is not focused on the reason for a relocation (for example, based on wear and tear). The regulation language identifies changes to pipeline profile or operations and where a release could impact an EESA because of the relocation. This language is included because it will directly effect a previously submitted risk analysis or require a new risk analysis because the relocation could impact an EESA and protections put in place to reduce harm to those resources in the event of a release. The necessity discussion in the ISOR explains possible scenarios where a relocation is the more appropriate terminology over a “new or replacement pipeline.” There are many reasons for moving pipeline sections in situations unrelated to operational wear and tear and the ISOR is not exhaustive. If a pipeline is not new or replacement, it must be previously existing. The language in the draft regulation clearly identifies that relocations are treated as existing pipeline. Additionally, removal of the term "significant" will clarify that all relocations that involve pipeline that could impact an EESA in the Coastal Zone are required to comply with the proposed regulations. The language to be revised

		and sent to 15-day comment is below. Suggested Edit to §2107: § 2107 – Relocation of Pipelines (a) The relocation of a pipeline is not considered a new or replacement pipeline. (b) The relocation of a pipeline will be treated as an existing pipeline. If the relocation of a pipeline results in a ~~significant~~ change~~, as determined by the State Fire Marshal,~~ to the pipeline profile <u>or a change</u> ~~or operations~~ <u>to the pipeline operations that would increase the amount released in an environmentally and ecologically sensitive area in the coastal zone</u>, or where a release could impact an environmentally and ecologically sensitive area in the coastal zone because of the relocation, the pipeline will be required to comply with applicable parts of this Article, including but not limited to the following: Section 2117 (Risk Analysis Update And Review), and Section 2111 (Risk Analysis).
§2100(a)(16) - Definitions Replacement Pipeline	The definition of a replacement of a pipeline segment greater than a “10 foot” section of pipeline is a significant issue. As the draft is written, replacement of a section longer than 10 feet triggers the need for an immediate upgrade of the system to the use of BAT. WSPA believes that the arbitrary “10 foot” pipeline segment should be changed to reflect some significant percentage of the pipeline segment being replaced. In this case WSPA suggests that 40% of a “SFM defined pipeline segment” would be more appropriate. There are concerns that the “10 foot” criteria and the ramifications of the work necessary to upgrade the entire pipeline segment to the new leak detection technology, automatic shut off values, etc. would drive unintended consequences where, due to the cost and effort to proceed, pipeline	The OSFM rejects this comment because it was made in a letter dated July 21, 2017 and relates to prior draft of regulatory language that was not part of the formal rule making process under the Administrative Procedure Act. However, language was amended under timely comment submission and addressed above and sent out to 15-day comment period. See response to W2-4, W2-5, W2-6, W2-7, and W2-8. Operators should take appropriate investigative and maintenance related action required under the law. It would seem unwise to delay routine maintenance activities aimed at protecting health and safety until they were absolutely necessary. Updating BAT is addressed in section 2117 which provides for update and review every 5 years.

	operators may be encouraged to delay repairs and improvements until those actions are considered “absolutely necessary” before routine maintenance activities are undertaken. W7-70	
§2100(a)(16) - Definitions Replacement Pipeline	The language in the proposed AB 864 Regulation is not clear as to what level of pipeline replacement activity may trigger the need for an immediate upgrade of the system to the use of Best Available Technology. Removal and replacement of short segments of pipeline are a common investigative and maintenance practice within the pipeline industry. WSPA is concerned that without clarity and because of the ramifications of the work necessary to upgrade the entire pipeline segment to the new leak detection technology, automatic shut off valves, etc. would drive unintended consequences where, due to the cost and effort to proceed, pipeline operators may be encouraged to delay repairs and improvements until those actions are considered “absolutely necessary” before routine maintenance activities are undertaken. WSPA believes that this definition of replacement pipeline should include a threshold that triggers a need for an upgrade. WSPA suggests that a 40% of an “OSFM-defined pipeline segment” would be an appropriate threshold. W7-78	See response to W7-70.
§ 2101 Incorporated by Reference	WSPA also recommends that OSFM publishes a notice of change when any new edition of a recommended practice is completed by API, an approach that is currently used by Pipeline and Hazardous Materials Safety Administration (PHMSA). W7-7	Updates to API standards will not be incorporated by reference unless a regulatory change is made by the OSFM. Operators are required to follow the specific API editions incorporated by reference in the proposed regulations. The OSFM cannot incorporate by reference standards that are changed regularly by a third party as the changes to standards outside of OSFM control could directly impact the

		regulatory scheme adopted and result in unintended consequences.
§ 2101 – Incorporated by Reference (a)(1) "American Petroleum Institute Recommended Practice 1175, § 2115 Testing Requirements and Test Failures	The American Petroleum Institute (API) recommended practices are extensive documents that were developed over a period of many years with input from numerous expert personnel. The recommended practices are lengthy and complex and apply to a wide range of operating situations and types of operations. These documents should be clearly stated that they are to be used by both the OSFM and operators to identify systems that could be effective for operations that are reviewed by the OSFM, but they should not be considered as an enforceable part of the regulations. The Recommended Practices are for guidance only to lead to a system that meets the other requirements of the proposed regulations which will be specifically agreed to between the operator and the OSFM. W7-18	The OSFM and any other regulatory body may incorporate documents by reference as requirements. When those documents are incorporated by reference, even if they are recommended practices, they become requirements and are enforceable. The OSFM rejects the contention to use the incorporated standards only as guidance to be negotiated between the operator and OSFM. The fact that API developed these documents over many years and with input from expert personnel is exactly why these documents were relied upon and incorporated by reference. They provide essential tools and processes that all operators should and often do rely upon in daily operations.
§ 2101 – Incorporation by Reference (a) (2) "American Petroleum Institute Recommended Practice 1130, § 2115 Testing Requirements and Test Failures	The API recommended practices are extensive documents that were developed over a period of many years with input from numerous expert personnel. They are lengthy and complex and apply to a wide range of operating situations and types of operations. These documents should be clearly stated that they are to be used by both the OSFM and operators to identify systems that could be effective for operations that are reviewed by the OSFM, but they should not be considered as an enforceable part of the subject regulations. The Recommended Practices are for guidance only to lead to a system that meets the other requirements of the proposed regulations which	See response to W7-18.

	will be specifically agreed to between the operator and the OSFM. W7-19	
§2102(a) The words "connected", and "connection" are not defined	The words "connected", and "connection" as used in §2102(a) are not defined and can be subject to an interpretation inconsistent with the plain meaning and intent of the enabling statute (Government Code §5103.1). W2-9 Government Code §§5103(a) and (b) require that there be a pipeline located near an EESA "in the coastal zone". Given that the §§ 2102(a)(4), (5) and (6) of the Proposed Regulations already reference EESAs that are located partially in and partially out of the coastal zone, the use of the words "connect" and "connection" are either redundant, or could be wrongly interpreted to apply to EESAs no part of which are situated in the coastal zone. W2-10 It can be strongly argued that these terms are unnecessary and should be deleted altogether. W2-11 Alternatively, the terms should at the very least be defined in the Proposed Regulations to require an actual physical connection between the ESSA boundary and the coastal zone boundary. W2-12	See response to W7-2. The OSFM respectfully disagrees with the assertion by the commenter. The ISOR provides detail behind the connection between EESAs, the Coastal Zone, and how near a pipeline is to those resources for determining whether a pipeline is subject to the proposed regulations. It is the operator's responsibility to make this determination and OSFMs responsibility for confirming. The enabling legislation's goal of protecting EESAs in the Coastal Zone necessitates that a relationship or connection exist between an EESA and the Coastal Zone (among other requirements). The connection is key in determining where an EESA terminates outside of the Coastal Zone. For example, some rivers have been identified as EESAs and can extend inland beyond the Coastal Zone for significant distances. Should a spill from a pipeline enter a river outside the Coastal Zone, the impacts from the spill could still impact the Coastal Zone, as demonstrated by past releases. Similar interconnectedness exists for protected species and habitats. Additionally, not all of these resources are fixed and may be transient, such as migratory animals. The terms connect and connection are inherently necessary in the regulatory language and cannot be deleted. Likewise, the numerous manners in which the resources are connected to the Coastal Zone and an EESA or vice versa prevent the defining of the terms due to a physical connection. As noted above, species can migrate in a manner that is likely inconsistent with a fixed definition of physical connection even if one were drafted for the regulation. We recommend reviewing the Guidance Document from Department of Fish and Wildlife titled "Identification of Ecological Resources at Risk and Environmentally Sensitive Sites" for Title 14, CCR Section 817.04(I), which the OSFM relied upon in developing the draft

		regulations and available on the OSFM rulemaking website. Link: https://osfm.fire.ca.gov/media/9039/02_cafish_guidanceenvironmentalsensitivesites.pdf The OSFM is developing a guidance document for incorporation by reference that will be subject to public comment titled: CAL FIRE - OFFICE OF THE STATE FIRE MARSHAL, Download Ecologically and Environmentally Sensitive Sites in the Coastal Zone (January 1, 2020)
§ 2102 – Identifying Pipelines Subject to This Article	Identifying Pipelines Subject to This Article (1) – The coastal zone boundary" WSPA believes that relying on specific information from other state and federal jurisdictional agencies can lead to misinterpretations and potential conflicts for both the OSFM and operators. WSPA recommends that that a series of specific OSFM geographical maps be developed that clearly defines the surface area and subsurface area of the state that applies to this Article. W7-20	See response to W7-2
§ 2102 – Identifying Pipelines Subject to This Article	If an environmentally and ecologically sensitive area connected to or located in the coastal zone extends beyond the coastal zone, that portion of the environmentally and ecologically sensitive area that extend beyond the coastal zone is presumed to be subject to the requirements of this Article" WSPA believes that relying on specific information from other state and federal jurisdictional agencies can lead to misinterpretations and potential conflicts for both the OSFM and operators. WSPA recommends that that a series of specific OSFM geographical maps be developed that clearly defines the surface area and subsurface	See response to W7-2

	area of the state that applies to this Article. W7-21	
§ 2102 – Identifying Pipelines Subject to This Article	If a pipeline intersects an environmentally sensitive area in the coastal zone or intersects an environmentally and ecologically sensitive area with a connection to the coastal zone, it is presumptively subject to this Article” WSPA believes that relying on specific information from other state and federal jurisdictional agencies can lead to misinterpretations and potential conflicts for both the OSFM and operators. WSPA recommends that that a series of specific OSFM geographical maps be developed that clearly defines the surface area and subsurface area of the state that applies to this Article. W7-22	See response to W7-2
§ 2102 – Identifying Pipelines Subject to This Article	If a pipeline is near an environmentally and ecologically sensitive area in the coastal zone or near an environmentally and ecologically sensitive are with a connection to the coastal zone, it is presumptively subject to the requirements of this Article” WSPA believes that relying on specific information from other state and federal jurisdictional agencies can lead to misinterpretations and potential conflicts for both the OSFM and operators. WSPA recommends that that a series of specific OSFM geographical maps be developed that clearly defines the surface area and subsurface area of the state that applies to this Article. W7-23	See response to W7-2
§ 2102 – Identifying	§ 2102 – “Identifying Pipelines Subject to This Article (6)(A)(1) For environmentally and	See response to W7-2

Pipelines Subject to This Article	ecologically sensitive area data represented by points for protective purposes a ½ mile buffer is applied to the environmentally and ecologically sensitive area point data" WSPA believes that relying on specific information from other state and federal jurisdictional agencies can lead to misinterpretations and potential conflicts for both the OSFM and operators. WSPA recommends that that a series of specific OSFM geographical maps be developed that clearly defines the surface area and subsurface area of the state that applies to this Article. W7-24	
§ 2102 – Identifying Pipelines Subject to This Article	§ 2102 – "Identifying Pipelines Subject to This Article (6)(A)(2) For environmentally and ecologically sensitive area data represented by polygons for protective purposes a ½ mile buffer is applied to the environmentally and ecologically sensitive area data" WSPA believes that relying on specific information from other state and federal jurisdictional agencies can lead to misinterpretations and potential conflicts for both the OSFM and operators. WSPA recommends that that a series of specific OSFM geographical maps be developed that clearly defines the surface area and subsurface area of the state that applies to this Article. W7-25	See response to W7-2
§ 2102 – Identifying Pipelines Subject to This Article	§ 2102 – "Identifying Pipelines Subject to This Article (6)(A)(2)(b) The State Fire Marshal may identify pipelines subject to the requirements of this Article based on, but not limited to, any of	The Commenters interpretation of subsection is misdirected. As stated in subsection 2102(a), it is the responsibility of the operator to identify pipelines that are subject to or may be exempt from the requirements of this Article. The State Fire

	the information, data, factors, and considerations stated in this Article or contained in applicable law" More specific information should be provided regarding what events and/or other actions might trigger the implementation of this section, as well as the timeline for notification of operators. W7-26	Marshal may identify pipelines subject to the requirements of this Article using the information, data, factors, and considerations stated in this Article. This language is clear, any of the provisions found in the Article or applicable law may be used to identify a pipeline subject to the regulatory scheme. This may be used for inspection planning and verification of compliance with this Article, among other uses. The events and other actions that may trigger the OSFM identifying pipelines subject to this article are too numerous to specify, contemplate, or provide in regulatory language. However, this provision is needed to allow the OSFM flexibility in identifying pipelines subject to the proposed regulations lest it be limited to an itemized list. Numerous sections of the proposed regulations identify what events could rise to this provision being applied, hence the language calling out the "considerations stated in this Article or contained in applicable law."
§2102 - Identifying Pipelines Subject to This Article	Application of EESA and Coastal Zone W7-80	This comment was made dated on February 21, 2017 under the previous draft that was not part of the current comment period. However, similar timely submitted comments were received see response to W7-2.
§2103 Exemption for Pipelines Located Outside the Coastal Zone	The proposed regulations provide for an exemption for pipelines that are not near the coastal zone if an operator can demonstrate that a spill from a pipeline will not impact the coastal zone portion of an environmentally and ecologically sensitive area. As noted above, the proposed definition of "near" may pose unacceptable risks to environmentally and ecologically sensitive areas. W1-3	OSFM disagrees. See discussion of "Definition of Near" above. If an operator can demonstrate through the risk analysis required by Section 2111 that a release cannot impact the Coastal Zone portion of an environmentally and ecologically sensitive area, then there's no need for their pipeline to be subject to this regulation.
§2103 Exemption for Pipelines Located Outside the Coastal Zone	The proposed regulations provide for an exemption for pipelines that are not near the coastal zone if an operator can demonstrate that a spill from a pipeline will not impact the coastal zone portion of an environmentally and	See response to W1-3.

	ecologically sensitive area. As noted above, the proposed definition of “near” may pose unacceptable risks to environmentally and ecologically sensitive areas. W1-6	
Exemption for Pipelines Located Outside the Coastal Zone §2103	There should be a requirement for public notice and comment of any application to exempt a pipeline pursuant to this provision. W1-7	The OSFM acknowledges and appreciates the comment but believes public notice and comment are beyond the scope of the regulation. The OSFM is required to determine which pipelines are subject to, or exempt from, the proposed regulation by assessing risk analyses and proximity to EESAs.
§2103(a) Exemption for Pipelines Located Outside the Coastal Zone	§2103(a) of the Proposed Regulations states that "an operator may request an exemption from applicable requirements of this Article for pipelines that are not near the coastal zone." Taken literally, this provision can be interpreted to require best available technology for any pipeline located in the State of California unless a §2103(a) exemption is obtained. W2-13	The commenter misinterprets the application of section 2103. Operators should first look to definitions and then to Section 2102 to identify pipelines subject to the proposed regulations. Then operators may seek an exemption if they believe it is appropriate for a pipeline that falls within the scope of Section 2102. Best available technology may be required on pipelines identified under Section 2102 barring an exemption being granted. However, this provision does not state that any pipeline located in California is required to install best available technology. A risk analysis still must be conducted under section 2111. If the risk analysis shows a pipeline release will not impact the Coastal Zone portion of an EESA an exemption may be granted. The regulation should be read as a whole to be applied appropriately and operators should be cautious of reading the proposed regulation one section at a time. Clarifying language was added to this section and sent out to 15-day comment. See response to comment W2-19.
§2103(a) Exemption for Pipelines Located Outside the Coastal Zone	The commenter was apparently informally advised that the purpose of §2103(a) is limited to allowing a pipeline not near the coastal zone, but near an ESSA that extends beyond the coastal zone and is presumptively subject to Article 7 pursuant to §2102(a)(4), (5) or (6) to seek an exemption from the best available	See response to W2-13. Commenters should rely on only those documents provided by the OSFM during the formal rulemaking process and made available once that process commenced, not informal advisement. If a pipeline analysis under section 2102 brings a pipeline in to the program, and is not near the coastal zone,

	technology requirements contained in the Proposed Regulations W2-14	an operator can request an exemption through submitting a risk analysis under section 2111. The commenter misreads the language to infer that near, as defined in the proposed regulatory language, is tied to EESAs that could extend beyond the coastal zone. Clarifying language was added to this section and sent out to 15-day comment. See also the response to comments W2-19.
Exemption for Pipelines Located Outside the Coastal Zone §2103(a)	The Proposed Regulations are inapplicable to pipelines that are neither located near the coastal zone nor any Presumptive EESA. W2-15	See response to comment W2-14. If the pipeline analysis required under Section 2102 results in a determination that a pipeline is subject to the proposed regulations, then a pipeline is required to comply. If an exemption is sought by an operator the OSFM will review the request and make a determination based on the submitted risk analysis.
§2103(a) Exemption for Pipelines Located Outside the Coastal Zone	The Proposed Regulations should be clarified to explicitly reflect this interpretation. Operators need a plain, unambiguous statement in the Proposed Regulations describing those pipelines to which the Proposed Regulations are inapplicable. W2-16	See response to comment W2-14 and W2-15. Clarifying language was added to this section and sent out to 15-day comment. Additionally, a guidance document was created to assist operators in identifying areas that are EESAs and Coastal Zone. That document was incorporated by reference in section 2101. However it is still the operators duty to determine which pipelines must comply with the regulations based on a combination of this section and a risk analysis. See also sections 2105, 2106, and 2107.
§2103(a) Exemption for Pipelines Located Outside the Coastal Zone	A simple, straight forward process for confirming with OSFM whether the Proposed Regulations apply to a particular pipeline should also be considered for inclusion in the text. W2-17	The process for determining if a particular pipeline is subject to the proposed regulations is provided in Section 2102 – Identifying Pipelines Subject to This Article
§2103(a) Exemption for Pipelines Located Outside the Coastal Zone	If the §2103(a) exemption process is meant to apply to all pipelines, §2103 as currently worded does not accurately reflect the intent or limits of Government Code §51013.1. W2-18	See response to comment W2-13 and W2-19.

§2103(a) Exemption for Pipelines Located Outside the Coastal Zone	If a pipeline is not near the coastal zone or a Presumptive EESA, Government Code §51013.1 is clearly inapplicable, and the pipeline operator should not be required to prepare a lengthy, expensive risk analysis which for the most part would contain information unnecessary to making a "nearness" determination. W2-19	See response to comment W2-13. Operators must first evaluate a pipeline under Section 2102 to determine if a pipeline is subject to the proposed regulations. If the pipeline is subject to the proposed regulations based on section 2102, a risk analysis is required even where an exemption is sought. Government Code section 51013.1 clearly requires an operator to submit a risk analysis based on how near a pipeline is, as well as based on the likelihood of a pipeline impacting an EESA, see 51013.1(c)(4). This potential exemption was provided based on nearness to the Coastal Zone boundary and distances terrestrial spills traveled. A risk analysis considers more than nearness but also likelihood of impact. An exemption afforded for the coastal zone boundary is not the same as an exemption from a presumptive EESA, like a river. As the likelihood of impact from a river will spread further than 1/2 a mile compared to a terrestrial spill. However, the OSFM agrees that further clarification of exemption applicability is needed. The OSFM proposed changes to sections 2103 and 2104 language clarifying which pipelines may seek an exemption and noticed for 15-day comment. Proposed changes: § 2103 – Exemptions for Pipelines Located Outside the Coastal Zone (a) An operator <u>of a pipeline identified in Section 2102 (Identifying Pipelines Subject toThis Article) as being subject to this article,</u> may request an exemption from applicable requirements of this Article <u>if they can demonstrate, through the submission of a risk analysis, that a spill from a pipeline will not impact the coastal zone portion of an environmentally and ecologically sensitive area.</u>~~for pipelines that are not near the coastal zone.~~ <u>(b) The State Fire Marshal will assess the request for</u>

		exemption based on the considerations and requirements of this Article. (c)~~(b)~~ The request for an exemption from the provisions of this Article shall be submitted to the State Fire Marshal no later than February 1, 2020. (d)~~(c) The State Fire Marshal shall consider granting an exemption if the operator can demonstrate, through the submission of a risk anlaysis, that a spill from a pipeline will not impact the coastal zone portion of an environmentally and ecologically sensitive area.~~ The risk analysis submitted with the exemption request shall include, but not be limited to, the factors identified in Section 2111 (Risk Analysis). (e)~~(d)~~ Risk analysis submitted for exemption of a pipeline will be evaluated, processed, and communicated to the operator by the State Fire Marshal consistent with Section 2112 (Risk Analysis Assessment). § 2104 – Exemptions for Pipelines With Existing Best Available Technology (a) ~~If~~An operator ~~believes a pipelines is currently using the best available technology, they may request in writing an exemption from applicable requirements of this Article.~~of a pipeline identified in Section 2102 (Identifying Pipelines Subject toThis Article) as being subject to this article, may request an exemption from applicable requirements of this Article if they can demonstrate, through the submission of a risk analysis, that a pipeline is currently using the best available technology.~~The State Fire Marshal will assess the request for exemption based on the considerations and requirements of this Article.~~ (b) The State Fire Marshal will assess the request for exemption based on the considerations and requirements of this Article. (c)~~(b~~) The ~~written~~ request for an exemption from the provisions of this Article shall be submitted to the State Fire Marshal no later than February 1, 2020.

		(d)~~(c) The State Fire Marshal shall consider granting an exemption if the operator can demonstrate, through the submission of a risk analysis, that a spill from a pipeline will not impact the coastal zone portion of an environmentally and ecologically sensitive area.~~ The risk analysis submitted with the exemption request shall include, but not be limited to, the factors identified in Section 2111 (Risk Analysis). (e)~~(d~~) Risk analysis submitted for exemption of a pipeline will be evaluated, processed, and communicated to the operator by the State Fire Marshal consistent with Section 2112 (Risk Analysis Assessment).
§2103(a) Exemption for Pipelines Located Outside the Coastal Zone)	If the §2103 exemption process is meant to apply to all pipelines, then it should contain an simple initial step for the purpose of determining whether a pipeline is in fact near to either the coastal zone or a Presumptive EESA. If the pipeline is found not to be near either of these areas, an exemption should issue without the need for the preparation of a risk analysis. A risk analysis should only be required in those situations where "nearness" has been established. W2-20	See response to comment W2-19. The statute requires a risk analysis conducted by the operator of pipelines near an EESA. The OSFM does not have the authority to waive the requirement for a risk analysis through regulatory action because it is required in the statutory language. The solution to the operator's question is already present in section 2102 of the regulatory language. A risk analysis is only required by pipelines determined to be subject to the proposed regulations after conducting a review under section 2102. If an operator wishes to apply for an exemption they may under the proposed language in section 2103.
§2103 Exemption for Pipeline Located Outside the Coastal Zone §2104 Exemption for Pipelines with Existing Best Available Technology §2108 Timing For Compliance and	The compliance schedules contained in the draft regulation are unattainable and should be extended. We encourage the OSFM to extend the deadline under which companies can prepare and file applications for an exemption under Sections 2103 and 2104. The February 1, 2020 deadline will not give companies adequate time to prepare an application with the level of information required by OSFM in order to be given full consideration. We also encourage the OSFM to revise the January 1, 2022 deadline established in Section 2108 which, as drafted, fails to acknowledge that	The OSFM rejects the commenter's suggestion and sees no need to change the proposed language. Timeframes for compliance in the proposed regulations are controlled by the statutory language and cannot be extended by the OSFM. Those time frames will be adjusted depending on the adoption date of the regulations and remain consistent with the time frames provided by statute. Additionally, the proposed language includes provisions for delays for good cause in section 2113, implementation plans. To move back exemption submission timeframes is equally unworkable since review of an exemption risk analysis must logically occur before the review of a risk analysis that is statutorily required and may require installation of best available

Pipeline Prioritization	operators may be prevented from completing pipeline retrofit projects due to delays with environmental reviews and local land use authorities. W3-10	technology. Moving the exemption submission date back would likewise shorten the time frame an operator has to submit a risk analysis where an exemption is not granted. Importantly, the statute directing regulatory development and containing the provisions relevant to time frames and risk analysis submissions has been effective since January 1, 2016. The regulated industry has had ample time to prepare for the implementation of the proposed regulations and the statutorily defined compliance period. See also the response to W7-10.
§2103 Exemption for Pipelines Located Outside the coastal Zone	Do operators have to put in a request for exemption for every line not in the coastal zone? W5-7	See response to W2-13 and W2-19.
§ 2103 – Exemption for Pipelines Located Outside the Coastal Zone § 2104 – Exemption for Pipelines with Existing Best Available Technology § 2108 – Timing for Compliance and Pipeline Prioritization §2113 (c)(2) and (d)	The requirement to submit exemption requests by February 1, 2020 is entirely unrealistic and effectively prohibits any company from compiling a qualified request in the limited time available. Furthermore, it should be noted that some of the models required to compile the data layers detailed in the risk analysis do not currently exist. Requiring operators to develop the models and submit an analysis of this nature by July 1, 2020 is entirely infeasible. WSPA recommends that the compliance and implementation deadlines and the deadline for filing exemption requests be extended by a minimum of 1-2 years. W7-10	See response to W3-10. The statutory language requires operators to submit risk analysis and complete implementation plans by specified time frames. The OSFM does not have the authority to change time frames created by statutory language through regulatory action. The opportunity for an operator to file an exemption was provided consistent with the statutory requirement that a risk analysis be conducted and submitted to the OSFM within 1 year of regulatory adoption. The proposed solution of extending the filing time frame for an exemption is incongruent with time frames specified in statute and therefore rejected by the OSFM. If an exemption request were not required until a year (let alone 2 years) after the regulation took effect, pipeline operators would simultaneously be required to submit a risk analysis anticipating implementing best available technologies along with a risk analysis for exemption. Using the later suggestion of 2 years would place the exemption request after the statutorily required risk analysis submission. Effectively this would extend the

Implementation Timetable		statutorily required risk analysis beyond the time frame contemplated by the legislature through an impermissible regulatory change. Importantly, operators are required to implement changes to pipelines within a specified time frame by statute, regardless of the number of risk analyses an operator seeks. It is in an operator's best interest to submit an exemption as expeditiously as possible to avoid delay in implementation if the exemption is rejected by the OSFM. Similarly, the statute does not specify that an exemption provision be developed and therefore is not required. The OSFM considered removing the exemption request language but determined operators would prefer the option of pursuing an exemption for some pipelines based on a risk analysis over being required to submit a risk analysis for all pipelines subject to the proposed regulations. The commenter stated that some of the models required to compile data layers for the risk analysis do not currently exist but failed to note which data layers. The OSFM review and development of the proposed regulations did not reveal any data layers that are not currently available and therefore reject this comment.
§ 2104 (b)– "Exemption for Pipelines with Existing Best Available Technology	Commenter notes that the proposed deadline does not provide operators sufficient time to prepare a complete exemption request. We encourage the extension of this deadline by at least a year. W7-28	See response to W7-10.
§ 2103(a) – "Exemption for Pipelines Located Outside the Coastal Zone"	The commenter recommends this section be redrafted to read: "An operator may request an exemption from applicable requirements of this Article for pipelines that are not near the coastal zone, but <u>which are presumptively subject to the requirements of this Article as determined by Section 2102</u>. The State Fire Marshal will assess the request for exemption based on the	See response to W2-19. The proposed language by the commenter is resolved through the language proposed by the OSFM amendments. If a pipeline does not meet the section 2102 criteria it would not be subject to the proposed regulations and therefore no exemption would need to be sought.

	considerations and requirements of this Article." As currently drafted, it is possible that an operator may interpret the language to read as an exemption is necessary for all pipelines within California. The text in this section stating "pipelines that are not near the coastal zone" is simply too vague and could imply the exemption process was required for lines that do not screen into AB 864 coverage via the criteria found within § 2102. W7-27	
§ 2103 (a) Exemption for Pipelines Located Outside the Coastal Zone	The commenter recommends the language be edited as follows for clarification related to identifying pipelines subject to the proposed regulations and exemptions: § 2103 (a) An operator may request an exemption from applicable requirements of this Article for pipelines that are not near the coastal zone, but which are presumptively subject to the requirements of this Article as determined by Section 2102. The State Fire Marshal will assess the request for exemption based on the considerations and requirements of this Article. W8-7	See response to W2-19. The proposed language by the commenter is resolved through the language proposed by the OSFM amendments.
§ 2105 – "Future Releases from Jurisdictional Pipelines Impacting Environmentally and Ecologically Sensitive Areas in the Coastal Zone (a)(1)	There should be a specific size of release defined under which this regulation should not apply. W7-29	The OSFM rejects the contention that a specific size of release be defined under which the proposed regulations should not apply. The regulatory section identified by the commenter addresses releases from pipelines that were not subject to the proposed regulations (see section 2102) or received an exemption under section 2103 or 2104 because "a spill from a pipeline will not impact the coastal zone portion of an environmentally and ecologically sensitive area." See 2103(a)(1) of the proposed amendments which was included in the original proposed regulations. Applying section 2102, 2103, and 2104 the regulations clearly indicate that a pipeline was not subject to or received an exemption from the

		regulations because a spill would not reach the coastal zone portion of an EESA based on a risk analysis or section 2102 analysis. However, when a spill from a pipeline does reach the coastal zone portion of an EESA, regardless of size of the release, it is clear that the section 2102 analysis or the risk analysis submitted for exemption failed to meet the projections provided by the operator. Therefore, the focus is not on the size of the release but that an impact to the resources to be protected occurred. Importantly, the size of a release is less important than the location of the release and its impacts. Even a small release, can have significant impacts to environmental resources compared to the same release in a less environmentally sensitive area. Hence the reason the language does not specify a size of release. Notably, the commenter did not specify what they believe is an acceptable amount of oil to be released in an environmentally and ecologically sensitive area. For purposes of clarity the OSFM is proposing amendments to section 2105(a)(1) to identify the application of section 2102: 2105(a)(1) If the pipeline was not subject to the requirements of this Article <u>based on the considerations found in Section 2102 (Identifying Pipelines Subject To This Article)</u>, or if...
§ 2105 – "Future Releases from Jurisdictional Pipelines Impacting Environmentally and Ecologically Sensitive Areas in the Coastal Zone (a)(1)(A)3.	§ 2105(a)(1)(A)3. – the operator must review other pipelines that received an exemption and reevaluate those risk analyses based on lessons learned from the release. There should be a definitive limit to how many "other pipelines" need to be reevaluated, and only those pipelines that are similar to the pipeline in question be included. Also, due to confidentiality issues, pipeline operators of "other pipelines" may not allow the review of their risk analyses. The timeline of the review should also be adjusted for internal operator processes. W7-30	A definitive limit to how many other pipelines need to be reevaluated is provided in the proposed regulations, "the operator must review other pipelines that received an exemption." Similarity is an unworkable factor since all pipelines are unique, whereas pipelines that received exemptions will have likely been based off similar assumptions and analysis. Review of all pipelines that received an exemption will ensure errors or mistakes are revealed and evaluated to avoid releases due to inaccurate risk analyses. "Other pipelines" means the pipelines operated by the pipeline operator that experience the release, not different pipeline operators. Many of the component of the risk analysis would have already been completed with the submission of the exemption request. Additionally, the time

		frames to submit a new risk analysis and implementation plan are consistent with the time frames required for the initial risk analysis and implementation plan submittals set forth in statute.
§2107 Relocation of Pipelines	§2107 of the Proposed Regulations states that the relocation of a pipeline is not considered a new or replacement pipeline, but will instead be considered an existing pipeline. The ISR comment to §2107 indicates that this differentiation "is necessary for pipeline operators to clearly understand that construction of new pipelines or the replacement of large portions of pipelines will not be treated as a relocation, but instead will be treated as an existing pipeline." §2108 then proceeds to treat "new or replacement" pipelines differently than "existing" pipelines. The quoted ISR comment is likely erroneous, and could create confusion as to when new, replacement and relocation pipelines must comply with the Proposed Regulations. W2-21	See response to W2-7 and W2-8 and proposed amended language. The ISOR is not the regulation and is provided to attempt to explain why proposed regulation language is used. New or replacement pipelines are different from a relocation. A new pipeline does not exist so it cannot be relocated. Existing pipelines already exist therefore they can only be replaced or relocated. The language of the statute treats new or replacement pipelines similarly and the proposed regulations attempt to carry that forward with delineating language on relocations. Relocation language was added to provide additional clarity proposed during workshops. Regardless of whether a pipeline is new or replacement, or an existing pipeline that must be relocated, it must comply with the proposed regulations if subject to section 2102.
§ 2107 – Relocation of Pipelines	§ 2107 – Relocation of Pipelines WSPA recommends further clarity on the relocation of pipelines. The term “significant” should be clearly defined or removed from the proposal. W7-31	See response to W2-21, W2-7, and W2-8.
§ 2108 – Timing for Compliance and Pipeline Prioritization	The commenter believes the implementation and compliance dates cited throughout the regulation, including this section, are unrealistic and infeasible. WSPA suggests that the deadline associated with this section be extended. Furthermore, WSPA encourages the incorporation of language that prevents operators from being subject to violation if the required retrofits are being delayed by circumstances out of their control (i.e., delays in	See responses to W3-10, W5-8, W8-4, W7-11, W7-28, W7-32, W7-72, W7-81 The dates will be adjusted in the final regulations to be consistent with statutory timeframe for the deliverables. The OSFM does not have the ability to change statutory mandated timeframes. Those dates will be carried forward and modified dependent upon the final adoption date of the regulations. Without an enforcement tool for delay violations there would be no repercussion for operators who did not comply with the

	environmental reviews or land use permits). W7-32	regulations, see section 2113 which addresses delay for good cause.
§ 2108 – Timing for Compliance and Pipeline Prioritization (c)(1)(A)(1)	Pipelines posing a higher risk to environmentally and ecologically sensitive areas." An empirical definition of what determines "a higher risk" should be developed. It is unclear in the proposed regulation how higher risks to environmentally and ecologically sensitive areas are determined by the OSFM or the operator, or what criteria should be used for such a determination. W7-33	If multiple pipelines are required to comply with the proposed regulations, the pipelines posing a higher risk to environmentally and ecologically sensitive areas (e.g. with the greatest potential to adversely impact an EESA or the coastal zone) should be given priority, based on an operator's evaluation of: pipeline risk to EESA, pipelines in the coastal zone, and pipelines located outside the coastal zone that could result in greater harm to an EESA than those located within the coastal zone. There is no need for the OSFM to develop a definition as the operator is charged with making that determination and is clearly stated in subsection of 2108 cited by the commenter.
§2108 - Timing for Compliance and Pipeline Prioritization	WSPA is also concerned about the timing of implementation of regulatory requirements. In many cases pipeline operators are held up by other agencies that are slow in approving permits necessary to complete required work. WSPA feels that certain parts of the regulation should include waivers of time deadlines, in cases where an operator is held back from responding due to issues out of the operator's control. W7-72	This comment was made in a letter dated July 19, 2016 under the previous draft that was not part of the current comment period. See responses to similar comments that were timely submitted: W3-10, W5-8, W8-4, W7-11, W7-28, W7-32, W7-81.
§2108 - Timing for Compliance and Pipeline Prioritization	This section provides the operator only 18 months from the date of submission of the risk analysis for OSFM review, approval of the proposed retrofit, update of risk analysis and retrofit plan if needed, permit approvals and conduct retrofit. The timing is dependent on a 90-day review and acceptance by the OSFM of numerous risk analyses. This may not be realistic. Implementation may also be delayed if permits are required. CIPA recommends changing the wording for	OSFM disagrees and believes the existing language is appropriate. The timeframe for risk analysis submission is required by statue in section 51013.1(b) and (c). Operators are required to submit an implementation plan with their risk analysis. Therefore, the operator will have to consider and plan for anticipated delays when developing this implementation plan. The OSFM expects the operator to keep their proposed schedule in their implementation plan. Completion of retrofit is not required until 30 months after regulatory adoption, not 18 months. Operators can submit risk analysis and implementation plans at any time after regulatory adoption, but no later than 12 months after adoption or they

	compliance to: <u>complete plans and approved schedule for retrofit of existing pipelines with the best available technology</u>. W8-4	face enforcement action. If there is a deviation from the timetable submitted in the implementation plan, the operator must communicate to the OSFM in writing and should demonstrate good cause for delay, see §2113(c)(2)(B)). Similarly, the OSFM may extend its 90-day review of a risk analysis for good cause, which will be communicated to the operator, see 2112(a)(1). The 90-day review period was based on work load and staffing within OSFM related to risk analysis review and assessment.
§2109 Use of Best Available Technology Alternatives - Automatic shutoff valves and systems	The commenter notes that automatic shutoff valves were discussed as an alternative (“Alternative 1”) approach to achieving the goals of Government Code section 51013.1 in the Notice of Proposed Rulemaking Action at pages 13-14. They go on to state that “Currently automatic shutoff systems do provide the most effective means to meet the legal mandate to reduce the volume of hazardous liquid released in the event of an oil spill. W1-11	Alternative 1 considered requiring automatic shutoff valves on all pipelines to achieve best available technology requirements, but was ultimately rejected. Alternative 1 failed to achieve the requirements of Government Code §51013.1, to consider automatic shutoff systems, leak detection technology, or remote controlled sectionalized block valves, among other requirements such as risk analysis and review/assessment by the OSFM. This comment conflates automatic shutoff valves with automatic shutoff systems to mistakenly conclude that the two distinct technologies are actually the same and that automatic shutoff systems are the most effective means to achieving best available technology to the exclusion of other technologies that must be considered by the authorizing statute.
§2109 Use of Best Available Technology §2110 Best Available Technology Determination	All of the other major pipelines in Santa Barbara County are equipped with automatic shutoff systems, so they are clearly feasible. W1-12	The OSFM agrees that automatic shutoff systems are feasible, which is why feasibility is incorporated in to the proposed regulations at §2110 when evaluating BAT in a particular pipeline application. In some cases, automatic shutoff systems may not be feasible, while in other cases it may be feasible. The authorizing statue only requires that operators consider automatic shutoff systems among other technologies, when conducting risk analyses. The statue does not dictate that all pipelines be equipped with automatic shutoff systems, and the OSFM believes it would be beyond the scope of its regulatory authority to prescribe compliance through one specific technology when the legislature afforded multiple avenues for achieving BAT and spill volume

		reduction. Similarly, only requiring automatic shutoff systems would negate the need to consider alternative technologies that may achieve BAT. See response to W1-11
§2109 Use of Best Available Technology	The commenter states that according to Santa Barbara County "Pipeline systems which include automatic shut down systems minimize the potential impacts from oil spills, including biological, hazardous materials and risk, air quality, and recreational impacts, that would be projected to occur as a result of a spill." W1-13	The OSFM agrees that automatic shutdown systems, referred to here as automatic shutoff systems, are an important part of minimizing impacts from oil spills. Automatic shutoff systems are required to be considered by Government Code 51013.1 and are incorporated throughout the proposed regulations.
§2109 Use of Best Available Technology	We recognize that technology may evolve over time; however, the best available technology at this time should be required now, with adjustments made in the future as the technology advances. To not require the best available technology now would violate the clear mandate of the law. Govt. Code § 51013.1(a), (b). Accordingly, the regulations should require automatic shutoff systems unless an operator provides evidence, reviewed by OSFM, that such systems are infeasible or less effective than another technology for a pipeline. W1-14	The OSFM agrees with this comment in part and rejects it in part. The OSFM agrees that technology may evolve over time and best available technology available today should be required now with adjustments made in the future as technology advances. Therefore, operators are required to submit risk analysis upon implementation of the proposed regulations for the OSFM to determine if best available technology is present on a pipeline (see §2110 Best Available Technology Determination). Likewise, an updated risk analysis is required every 5 years going forward to ensure best available technology continues to be installed on the pipeline (see §2117 Risk Analysis Updates and Review). The contention that automatic shutoff systems should be required by OSFM by default, absent an operator providing evidence that such systems are infeasible or less effective than another technology for a pipeline, is inconsistent with the requirements of Government Code §51013.1. The statute requires operators to evaluate multiple forms of technologies that could all be considered best available technology. Best available technology is required on pipelines and can include, but not be limited to, automatic shutoff systems, leak detection technology, and remote controlled block valves or any combination of these technologies. By statute, there are multiple technologies, including those not listed, that could

		meet best available technology requirements based on a review of a risk analysis submitted to the OSFM including evidence, feasibility, and effectiveness (see §2109 Use of Best Available Technology and §2110 Best Available Technology Determination). At a minimum, operators must consider automatic shutoff systems and the other technologies listed or combinations of those technologies in their risk analysis submitted to the OSFM, which achieves the same goal as suggested by the commenter. This flexibility allows operators to consider combinations of technologies or alternatives not listed, which may result in greater spill reduction volumes or work more effectively on the variability between pipeline designs encountered and constructed throughout California beyond just using automatic shutoff systems. Best available technology on one pipeline may not be best available technology on another, hence the need for a risk analysis that considers multiple technologies.
§2109 - Use of Best Available Technology §2110 - Best Available Technology Determination	What is the acceptable amount of potential leak reduction through the application of BACT? W5-1	See sections 2109 and 2110 of the proposed regulations. The commenters concern with prescriptive application of an acceptable amount of leak reduction misinterpret the performance based nature of the statute and regulation. The OSFM need not identify an acceptable amount of potential leak reduction. The focus of the legislation and the proposed regulations is on reducing the amount released in a spill to protect state waters and wildlife using BAT (referred by the commenter as BACT). The BAT definition from statute informs that BAT is technology that provides the greatest degree of protection by limiting the quantity of release in the event of a spill. No amount is specified beyond greatest degree of protection. The contention that the OSFM must dictate or determine an acceptable amount of potential leak reduction through application of BAT is misplaced. It is the operator's responsibility to conduct a risk analysis and identify potential BAT that may meet the requirements of providing the greatest degree of protection for a specific pipeline. The OSFM will review and evaluate using the performance standards identified in section 2110, which includes greatest

		degree of protection among other factors in assessing BAT. The operator should clearly iterate, in their Risk Analysis, how the proposed BAT will meet the requirements of section 2110 with written justification. This would likely include an analysis of varying possible BAT applications and resultant potential leak reduction. The reason an amount is not specified is because all pipelines are different and will apply differing BAT that achieve variable leak reduction in application. If the OSFM set an amount in regulation it could potentially contradict the need to achieve the statutory requirement to provide the greatest degree of protection by determining an amount that is higher or lower than the greatest degree of protection achievable. Additionally, technology that represents BAT today may not represent BAT in the future when operators review their risk analyses for potential updating. As BAT evolves, prescriptive requirements may no longer be representative of BAT. Alternatively, if the OSFM were to set an amount of potential leak reduction for universal application to all pipelines subject to the proposed regulations, it is possible that pipelines could not achieve the set leak reduction amount because of operational limitations found in BAT when applied. This would lead to a pipeline being perpetually in non-compliance until a technology was developed to achieve the prescribed amount of potential leak reduction.
§2109 - Use of Best Available Technology §2110 - Best Available Technology Determination	Will we be required to keep adding shutdown valves until the potential leak size is reduced to a prescribed or acceptable amount? W5-2	See response to W5-1. There is no prescribed leak reduction amount. The number of shutdown valves required is variable depending on the risk analysis submitted by the operator and assessment by the OSFM. Valves may only function as a part of the overall goal of achieving spill volume reduction through BAT. This includes consideration of leak detection technologies, automatic shutoff systems, remote controlled sectionalized block valves, EFRDs, or any combination of those technologies. Simply adding more valves to a pipeline may not be sufficient to achieve the performance based goals of the statute and proposed regulations.

§2109 – Use of Best Available Technology	Will companies be allowed to not install Automated Shutdown Valves due to increased risk of pipeline transient over pressurization? W5-6	The approved Risk Assessment and Implementation Plan will specify what BAT you need to use to achieve compliance. An analysis of the requirements and evaluation of BAT found in section 2110 will guide this answer and result in different conclusions depending on each pipeline. The OSFM cannot anticipate whether an operator will or will not be allowed to install an automated shutdown valve absent a risk analysis and review.
§ 2109(a) – Use of Best Available Technology	The commenter recommends the following language change: "Best available technology <u>may</u> include, but is not limited to, the installation of leak detection technology, automatic shut off systems, remote controlled sectionalized block valves, Emergency Flow Restriction Devices (EFRDs), or any combination of these technologies." They also recommend that the section state that the final configuration of the overall system will be based on agreement between the OSFM and the operator defining the combination of systems and devices for the system in question. W7-34	The OSFM disagrees with the recommended changes to Subsection 2109(a) – Use of Best Available Technology. The drafted language is modeled after the statutory language specifying the type of BAT that shall be used found in government code sections 51013.1(a) & (b). This subsection already provides operators with flexibility by allowing operators to consider combinations of technologies or alternatives not listed, which may result in greater spill reduction volumes or work more effectively on the variability between pipeline designs encountered and constructed throughout California. The OSFM is the regulating entity directed by statute to determine what represents BAT considering the effectiveness and engineering feasibility of the technology, see 51013.1(g)(2). The OSFM cannot amend regulatory language to reflect BAT as an agreement between the OSFM and an operator, to do so would directly conflict with the legislative delegation of BAT determination to the OSFM by statute.
§ 2109(b) – Use of Best Available Technology	The commenter states that due to the subjectivity of the statement "taking into consideration whether the processes are currently in use and could be purchased anywhere in the world," recommends the following modification in language: "taking into consideration whether the processes are currently in <u>demonstrated, effective</u> use <u>(as defined by US Government and pipeline industry experts), used in modern pipeline</u>	The OSFM rejects the proposed amendments. This subsection is modeled off statutory language found in government code sections 51013.1(g)(1). The proposed language amendments for <u>demonstrated</u> and <u>effective</u> are similar to those found in section 2110 for evaluation of BAT by the OSFM. The OSFM, industry experts, governments, PHMSA, and other stakeholders discussed and developed the proposed regulations over several years as is the normal process for rulemakings. Our office incorporated terminology where needed and sees no need to amend the language

	<u>systems, complies with US PHMSA standards</u> and could be<u> cost-effectively </u>purchased anywhere in the world," and that "cost-effectively" be defined in the regulation. W7-35	proposed by the commenter. Furthermore, if the OSFM were to change the terminology in this subsection, it would fundamentally and inappropriately alter the statutory meaning of BAT as specified by the legislature.
§ 2109(c) – Use of Best Available Technology § 2108 – Timing for Compliance and Pipeline Prioritization	By July 1, 2020 each operator must submit a risk analysis for each jurisdictional pipeline to the OSFM to either (1) obtain exemption for a pipeline outside the Coastal Zone (CZ); (2) to get an exemption due to already existing BAT on the pipeline; or (3) to submit the plan to retrofit the pipeline with BAT. If this rule is published by the end of 2019 and all the data required is readily available, this would be a tremendous effort for operators to complete all requirements and OSFM to review all corresponding reports by the current proposed compliance date. As noted above, WSPA believes this expectation and time schedule is highly unrealistic. WSPA recommends the deadline be extended by several years. Alternatively, a phased-in schedule like PHMSA's Integrity Management program should be considered. W7-36a	See responses to W5-8, W8-4, W7-11, W7-28, W7-32, W7-72, W7-81 The dates will be adjusted in the final regulations to be consistent with statutory timeframe for the deliverables. The OSFM does not have the ability to change statutory mandated timeframes. Those dates will be carried forward and modified dependent upon the final adoption date of the regulations. The proposed alternative of a phased approach was considered and rejected though a similar provision currently exists in section 2108 regarding prioritization. Operators have had ample time to prepare for the proposed regulations as the statue has been effective since January 1, 2016.
§ 2109(c) – Use of Best Available Technology	Alternatively, a phased-in schedule like PHMSA's Integrity Management program should be considered. W7-36b	See response to W7-36a, W7-53.
§ 2109 – Use of Best Available Technology § 2111 – "Risk Analysis (a)	§ 2111 – In order to provide an effective risk analysis, the general language in Section 2109 needs to be addressed. W7-47	See responses to W7-34, W7-35, W7-36a.
§ 2109 – Use of Best Available	§ 2111 – Risk Analysis subsection (b). There are many undefined non-quantifiable	See responses to W7-34, W7-35, W7-36a.

Technology § 2111 – “Risk Analysis (b)	requirements in Section 2109 and other areas in the document that the development of an effective risk management document is not possible until the subjective guidelines are replaced with quantifiable objectives. W7-48	
§2109 Use of Best Available Technology	Best Available Leak Detection Technology -- WSPA believes the regulation should provide more detail regarding how “Best Technology Available” or “BAT” will be determined and applied. For example, the code notes that the BAT is required to be “the best available in the world”. We believe that, due to the complex nature of leak detection systems, this matter needs to be further clarified, that BAT needs to be more specifically quantified as; in use, appropriate to the pipeline system under consideration, and includes some measure of cost effectiveness to the application proposed. W7-68	This comment was made in a letter dated July 19, 2016 under the previous draft that was not part of the current comment period. See responses to section 2110 below and for cost issues in W7-35.
§2109 – Use of Best Available Technology	WSPA believes the regulation should provide more detail regarding how “Best Available Technology” or “BAT” will be determined and applied. For example, the referenced code (§ 51013.1) states that "when deciding on BAT, consideration should be given to whether the process can be “purchased anywhere in the world”. We believe that, due to the complex nature of leak detection systems, this matter needs to be further clarified, that BAT needs to be more specifically quantified as in use, appropriate to the pipeline system under consideration, and includes some measure of cost effectiveness to the application proposed. W7-79	This comment was made in a letter dated February 21, 2017 under the previous draft that was not part of the current comment period. See responses to section 2110 below and for cost issues in W7-35.
§ 2109 Use of Best	No guidance is provided in the selection of distances between automatic shutoff and	The OSFM disagrees that providing guidance in the selection of distances between automatic shutoff system is appropriate.

Available Technology	remote controlled sectionalized block valves. The largest drainage volume will depend on the land elevations, as well as distances between valves. CIPA requests the OSFM consider providing guidance on the selection of distances between isolation valves. W8-5	Operators must conduct a risk analysis to determine BAT applications that could include additional valves and valve placement locations. It is the operator's responsibility to determine drainage volumes and distances between valves. The statute and proposed regulation language is clear that a risk analysis must be done by the operator, not OSFM.
§ 2110 – Best Available Technology Determination § 2111 – Risk Analysis	WSPA believes that the length of a pipeline system be taken into consideration for purposes of achieving compliance under the proposed regulations. In some cases, operators may have a relatively large diameter system that only extends a short distance. In these types of scenarios, it seems impractical to require the operator to install the meters, valving systems for proving the meters, purchase of a computational system, etc., to monitor a short system. W7-8a	See response to W7-43b, and W7-43c. The OSFM agrees that pipeline length or diameter should be considered that is why it is part of the required information in the proposed regulations. For the OSFM to understand and evaluate the application of BAT on a pipeline, comprehensive background information must be gathered on the pipeline, including length and diameter. Subsection 2111(c)(2)(A) establishes the groundwork needed for evaluating existing pipeline profile, operating conditions, and identifying potential areas where applications of BAT will have the most significant impact. Requiring the risk analysis to include diagrams, maps, climatic conditions, and physical geographic features, among others, will ensure appropriate information is available to the OSFM to evaluate the effectiveness and feasibility of proposed BAT and the risk analysis. The OSFM sees no need to amend the proposed regulation language.
§ 2110 – "Best Available Technology Determination -- (a)	WSPA remains concerned regarding the term "best available technology" as previously stated in WSPA's July 19, 2016 letter to OSFM. Specifically, WSPA believes the regulation should provide more detail regarding how "Best Technology Available" or "BAT" will be determined and applied. Once installed any new BAT technology should be "grandfathered" for a specified period. The "grandfather period" could be defined by negotiation with OSFM and a reference to some "industry standard" based on PHMSA guidelines. At a minimum, short of	See response to W7-4, W7-16b, W7-69 Section 2110 specifies how BAT is determined by the OSFM. See also section 2112 on assessment of risk analysis. The OSFM disagrees with the commenters suggestion that additional detail on determination and application of BAT by the OSFM is necessary. The current draft provides significant changes and addressed the issues raised when compared to the version that commenter submitted a letter on from July 19, 2016 (which was not the subject of public comment for the draft proposed here). The OSFM also rejects the 10 year grandfather period and the request to negotiate the time

	some extraordinary development, WSPA suggests this period be at least 10 years. W7-37	frame based on industry standard or PHMSA guidance that is not cited. The statute identified OSFM as the party that determines what constitutes BAT, not that BAT was subject to negotiation. The California legislature directed the OSFM to develop a regulatory scheme that contemplates application of BAT. The office drafted the regulations utilizing industry standards and PHMSA guidance where applicable. New technologies may be developed over time that could be considered BAT because they represent significant improvements over existing technology, may be more effective, less costly, or surpass existing BAT so significantly to warrant review of currently installed BAT. Section 2117 addresses Risk Analysis Updates and Review of BAT. This does not mean that operators will be required to retrofit BAT on a rolling 5-year basis. However, section 2117 affords the opportunity to review BAT and potentially require retrofit where technologies yet to be developed supplant technology existing at the time the proposed regulations are adopted. Requiring operators to consider these factors on an ongoing basis and communicate their conclusions to the OSFM is necessary to achieve the goal of protecting existing and yet to be identified EESAs, and to ensure advancements in BAT are considered in future pipeline operations. Though BAT may not advance as quickly as the 5 year schedule contemplates, species, plants, animals, and other EESA resources are transient and may be added to protected lists on a regular basis. Ten years is too long of a time between reviews to account for this contingency. OSPR, who identifies and determines EESAs as part of the State Oil Spill Contingency Plan, requires operators to update contingency plans on a 5 year basis. Therefore, the time frame is appropriate for both BAT and EESA purposes.
§ 2110(a)(1) Best Available Technology Determination	Sensitivity, accuracy, reliability and robustness are subjective and the evaluation of each of the criteria can be quite different depending upon the nature of the pipeline system being evaluated. Similar systems should be judged on	The OSFM sees no need to amend the proposed language to include measurable standards. The commenter is correct that the sensitivity, accuracy, reliability and robustness of BAT and the evaluation of each criteria can be different depending upon the pipeline system. This is why each pipeline requires

	a similar basis and measurable standards set to allow operators the performance standards they will need to meet. W7-38	an individual Risk Analysis. Subsection 2110 – Best Available Technology Determination provides operators with the criteria the OSFM will use in evaluating technologies for meeting BAT performance standards. “Sensitivity, accuracy, reliability and robustness” is just one (1) of ten (10) criteria. Each of the criteria were carefully selected to solicit information from an operator relevant to evaluating a range of technology applications without knowing the specific technology to be evaluated. System similarities may be taken in to account when considering the 10 enumerated factors in this section of the draft regulations. Whether each technology is the best in use in other similar situations and is available for use by the operator is specifically called out in section (a)(3)(this citation was numbered incorrectly and will be amended in the current draft as (a)(5) along with the subsequent subsections that were numbered incorrectly). The statute and proposed regulations are performance driven, not prescriptive. Prescription requires measurement, which is not needed here. Operators should look to the definition of BAT at Government Code section 51013.1(g) along with the criteria in section 2110 to determine how to achieve compliance through technology that provides the greatest degree of protection.
§ 2110(a)(3) – Best Available Technology Determination	The statement needs to be qualified to include in the objective of the statement measurable goals so pipeline operators will have empirically defined targets to achieve. W7-39	See responses to W7-38, W7-50. The OSFM disagrees that subsection 2110(a)(3) needs to be qualified to included measurable goals. Again, the measure is performance driven, not prescriptive.
§ 2110(a)(4) – Best Available Technology Determination	Modern leak detection systems generally have two capabilities, one to identify an immediate rupture requiring an immediate shutdown response, and another capability designed to identify small pinhole leaks that may release several gallons over a longer period. Therefore, there should be two standards, one for major releases and one for more minor events. W7-40	The OSFM rejects the commenters suggestion to include two standards, one for major releases and one for minor events. The criteria in this section applies to all potential BAT, not just leak detection systems. Should an operator propose a leak detection system, all its capabilities will be considered, not just the ability to identify small leaks or larger leaks.

§ 2110(a)(5) – Best Available Technology Determination	This section needs further clarification. It is not clear whether the Article refers to technology that is "best in use" by the operator within its own operation, and if in "other similar situations" refers to operations within the state, the United States, or other parts of the world. The phrase "is available for use" is also unclear as to whether it refers to it being available for purchase or being commercially proven in practice. Many operating systems are developed by operators over time using various applicable technologies for their specific operation and are proprietary. W7-41	The OSFM disagrees that subsection 2110(a)(5) needs further clarification. Best Available Technology is defined as, "technology that provides the greatest degree of protection by limiting the quantity of release in the event of a spill, taking into consideration whether the processes are currently in use and could be purchased anywhere in the world." CGC 51013.1(g). This section speaks to the criteria that the OSFM will use in evaluating proposed BAT. It is the operator's responsibility to demonstrate that proposed BAT in the risk analysis will satisfy the criteria utilized by the OSFM in reaching its determination. This subsection provides operators with flexibility by allowing operators to consider combinations of technologies or alternatives, which may result in greater spill reduction volumes or work more effectively on the variability between pipeline designs encountered and constructed throughout California. Operators are not limited to technologies within its own operation or geographic location. The draft regulation mis-numbered this subsection and will address the issue in the upcoming proposed regulations.
§ 2110(a)(6) – Best Available Technology Determination	WSPA recommends that a measure of technical and economic feasibility be added to the Article. The determination for deciding whether a technology is transferable should include economic feasibility and a technical standard for systems to meet. W7-42	See response to W7-35, W7-68, W7-43a. The OSFM rejects the commenters recommendation to measure economics and identify a specific technical standard as part of the criteria for determining BAT. Operators must consider the engineering feasibility of each technology considering operational aspects of the pipeline, including transferability. However, the determination for deciding whether a technology is economical feasible is beyond the scope of this regulation and not a factor enumerated by the statute regarding BAT. A technical standard was neither proposed by the commenter, nor does the OSFM see a need for one in this subsection of the proposed regulations. The draft regulation mis-numbered this subsection and will address the issue in the upcoming proposed regulations.

§ 2110(a)(7) – Best Available Technology Determination]	Whether there is a reasonable expectation that each technology will provide increased spill prevention, spill volume reduction, or other environmental benefits" WSPA believes that the term "reasonable expectation" should be expanded to include technical and economic feasibility requirements. W7-43a	See response to W7-35, W7-68, W7-42. The OSFM rejects the commenters recommendation to measure economics as part of the criteria for determining BAT. Operators must consider the engineering feasibility of each technology considering operational aspects of the pipeline, including increased spill prevention, spill volume reduction, or other environmental benefits. The determination for deciding whether a technology is economical feasible is beyond the scope of this regulation. The draft regulation mis-numbered this subsection and will address the issue in the upcoming proposed regulations.
§ 2110(a)(7) – Best Available Technology Determination § 2111 – Risk Analysis	WSPA requests that the length of a pipeline system be taken into consideration. In some cases, operators may have a relatively large diameter system that only extends a short distance. It seems impractical to require the operator to install the meters, valving systems for proving the meters, purchase of a computational system, etc., to monitor a short system. W7-43b	See response to W7-8a and W7-43c. The OSFM disagrees that pipeline length or diameter is not considered and sees no need to amend the proposed regulations. For the OSFM to understand and evaluate the application of BAT on a pipeline, comprehensive background information must be gathered on the pipeline, including length and diameter. Subsection 2111(c)(2)(A) establishes the groundwork needed for evaluating existing pipeline profile, operating conditions, and identifying potential areas where applications of BAT will have the most significant impact. Requiring the risk analysis to include diagrams, maps, climatic conditions, and physical geographic features, among others, will ensure appropriate information is available to the OSFM to evaluate the effectiveness and feasibility of proposed BAT and the risk analysis. Importantly, the commenter misinterprets the purpose of the statute and proposed regulations as focusing on pipelines and pipeline systems. The intent of the legislation is to protect environmental resources through BAT on pipelines. The length of pipe is part of a consideration, but more important is the location. Using the commenters analogy, a large diameter system that extends a short distance but is located directly in an EESA, Coastal Zone, or other protected area could have devastating consequences in the event of failure. In this

		scenario, the length of a pipeline system is less relevant and amending the regulations to be entirely dependent on the length of a system could have the unintended consequence of eliminating pipelines that could impact these areas. See also section 2102 on Identifying Pipelines Subject to This Article. The draft regulation mis-numbered this subsection and will address the issue in the upcoming proposed regulations.
§ 2110(a)(8) – Best Available Technology Determination	The age of a technology should not be a consideration, but instead the overall effectiveness of the system in meeting quantifiable results. W7-44	The OSFM disagrees with the commenter's recommended modification to subsection 2110. The age and condition of a device or technology on the pipeline is an important criterion to consider on its own and in evaluating the overall effectiveness of BAT. Older technologies may be towards the end of their useful life, more likely to fail when needed most, or simply be out dated because newer technology may be available that more effectively meets the BAT requirements. The draft regulation mis-numbered this subsection and will address the issue in the upcoming proposed regulations.
§ 2110(b) – Best Available Technology Determination	Operators should be provided quantifiable objectives and criteria on which to base a written justification. Such criteria could increase clarity and consistency in information provided by written justifications. W7-45	The OSFM sees no need to amend the regulations to address the commenters concern. Operators may use quantifiable measures to justify the technology proposed along with the criteria in § 2110(a). Again, the proposed regulations are performance based, not prescriptive. The goal is spill volume reduction with BAT that provides the greatest degree of protection. Hence, the quantity is secondary, with greatest degree of protection being primary. One will naturally flow from the other given an operators risk analysis considers baseline and projected results following BAT implementation as required by the proposed regulations. Operators are not limited by factors or quantifiable objectives that could justify BAT applications because the world of technologies that could meet the criteria is boundless. If the OSFM provided quantifiable objectives that were un-quantifiable on certain technologies, the result would be an unworkable regulatory scheme.
§ 2110(c) – Best Available	WSPA recommends including options for alternative dispute resolution pathways if the	The proposed regulations already address the commenters concern in subsection 2112. Subsection 2112(a)(3) states,

Technology Determination	determination of the OSFM is not consistent with that of the operator. W7-46	"Upon notification of risk analysis deficiencies, the operator will have 30 days to submit a new or revised risk analysis. The resubmittal shall be treated as a new submittal and processed according to the provisions of this Article." This will allow the operator time to review the written explanations of deficiencies from OSFM and revise their risk analysis and implementation plan accordingly.
§2111(c)(4) Risk Analysis §2102(a)(6)(A) Identifying Pipeline Subject to this Article	Under §195.452 HCAs are identified, operators are required to evaluate the risk factors to the pipeline, evaluate and install equipment such as Emergency Flow Restricting Devices (EFRD) and leak detections to prevent and/or mitigate loss of containment, assess the integrity of the pipeline on a pre-described (5-year maximum) interval and repair specific defects found. Operator compliance with these federally mandated requirements are regularly audited by the OSFM. Despite the natural synergies between §195.452 and AB 864, OSFM's draft regulation imposes a series of requirements that are separate and apart from the existing federal compliance requirements. The draft regulation could be significantly improved by capitalizing on current requirements and building on these practices instead of establishing a new regulatory structure. The HCAs are GIS based polygon layers that are overlaid on spill model results to determine where along a pipeline segment the potential to impact to an HCA could result in the event of loss of containment at that point. The results are overlaid with aerial photography and validated given the limitations of the GIS layers to include all man-made features. The same analysis could be performed using the "coastal zone" GIS based polygon layer to determine	The OSFM agrees with the comment but does not need to amend the proposed regulations as the issue is already addressed in section 2111(c)(4). For reference, see Section 2102 as well. The federal HCA requirements are similar to California EESAs in that operators must evaluate pipelines that could affect EESAs through risk analysis and evaluate the quantity of release through implementation of best available technology on pipelines. The difference between HCAs and EESAs is the broader definition of EESAs, which includes State or federally listed rare, threatened or endangered species, shoreline, habitat, terrestrial plants and animals to name a few. Simply stated, AB 864's inclusion of EESAs is an expansion of what operators are currently required to do under federally required HCAs, but focused on the ecological and economic impacts of a pipeline release that are distinct and unique to California.

	which segments of a pipeline system "could affect" the Coastal Zone. W3-2	
§2111(c)(4)(C) Risk Analysis §2102(a)(6)(A) Identifying Pipeline Subject to this Article	Under existing requirements, once these segments are determined operators must evaluate the risks to the pipeline and determine if there are additional measures that could be taken to prevent or mitigate the impact of a spill. Specific criteria outlined in AB 864 could be incorporated into this existing risk evaluation process. W3-3	The OSFM agrees with the comment but does not need to amend the proposed regulations as the issue is already addressed in section 2111(c)(4). For reference, see Section 2102 as well. Pipeline operators use the elements found in subsection 2111(c)(4)(C) for compliance with other State and Federal regulatory requirements and can be modified by operators to achieve the required spill analysis in the proposed regulations.
§2111 Risk Analysis	As drafted, the risk analysis section of the proposed rule requires the submission of models and data layers that do not currently exist and are not easily developed. W3-8a	Operators are required by AB 864 to conduct a risk analysis and develop the data as needed. The legislature provided compliance timeframes for operators to develop the risk analysis, models, and data needed in AB 864. The commenter did not provide an example of models and data layers that do not currently exist. Furthermore, OSFM development and review of the proposed regulation did not identify models or data layers that could not achieve the proposed requirements.
§2111 Risk Analysis	The level of detail required would be nearly impossible for operators to procure and keep updated every five years. For example, the analysis requires operators to submit, under penalty of perjury, a summary of all physical geographic structures that could serve as a conduit to a sensitive area in the event of a spill. Since most pipelines are in easements on private lands, strict compliance with this provision would require each company to physically walk every inch of its system every five years to ensure a landowner had not made any improvements that could serve as a conduit. W3-8b	The OSFM disagrees with the commenters contention. This requirement is not new to industry and should be readily obtainable. For example, operators are required to develop spill contingency plans that account for the data described here and update that plan every 5 years. Similarly, operators are required to inspect their pipeline rights-of-way at intervals not exceeding 3 weeks, but at least 26 times a year in 49 CFR 195.412. Therefore, operators should already be conducting these inspections regularly and noting physical geographic structures that could serve as conduits to sensitive areas. Operators are already required to conduct similar activities for pipelines that could affect HCAs and it should not be difficult to achieve the requirement here. Most easements provide for the ability for operators to enter private lands where their pipelines are placed. Importantly an

		operator need not walk every inch of its system, but could achieve the same result via driving or flying as many operators already do under 195.412. Alternatively, 811 and one-call laws are also utilized to provide pipeline operators notice when excavation activities or improvements are made that could impact their pipeline. Operators may obtain this information by other means such as a GIS dataset. However, this provision is important and will remain unchanged because monitoring improvement activities or geographic features could impact their spill models or work as conduits much like the spill that gave rise to AB 864. The issue of perjury also does not need to be amended as this requirement is currently required for State and Federal laws related to spill response plans and imparts the level of importance accurate data is to spill modeling.
§2111 Risk Analysis	If an improvement had been constructed without the knowledge of the operator and discovered by OSFM during a site inspection however, the company would be potentially exposed to a violation and perjury related claims. This is an untenable position for the operator. While we do not believe it was OSFM's intention to structure the risk analysis in such a punitive manner, we believe significant additional stakeholder engagement is necessary before this section of the regulation is finalized. W3-9	One of the primary goals of AB 864 is to protect EESAs not to punish an operator unnecessarily. The pipeline that gave rise to AB 864 failed to note improvements that were constructed and acted as a conduit for a spill that resulted in significant impacts to an EESA, which was also an HCA under federal law. The OSFM appreciates the concern that operators have regarding the potential to be subject to violations and perjury claims, however the objectives of the statutory requirements may not be effectively achieved without an enforcement tool to encourage compliance. The OSFM is charged with enforcing pipeline safety laws in California and sees no need to amend the language to allow operators to escape repercussion for failure to properly evaluate pipelines and spill analyses required under the risk analysis. Also, see the response to W3-8b.
§2111(c)(2)(A) - Risk Analysis	Are we expected to determine every single storm drain or other mechanism that could drain into a river or the ocean in areas within or near (1/2 mile) of the Coastal Zone or ESSA? W5-4	See response to W7-36c, W3-8a, W3-8b, W3-9. Storm drains and ditches that may act as a conduit to EESAs should be identified in the operator's risk analysis as part of their best efforts to comply.

		Section 2111(2)(A)(4) requires risk analyses to include: physical geographic features, including type of soil and terrain; drainage systems such as small streams and other smaller waterways that could serves as a conduit to an environmentally and ecologically sensitive area; roadway crossings and ditches; potential natural forces inherent in the area; natural and manmade barriers; potential physical pathways between the pipeline and environmentally and ecologically sensitive areas; and any other physical feature or peculiarity of local geography that call for special precautionary measures that may affect environmentally and ecologically sensitive areas. Failure to include the above information would significantly diminish the value of critical information necessary in developing a thorough risk analysis and implementation plan.
§2111(c)(2) & (c)(4) - Risk Analysis	Trajectory modeling. Do we need to do this for both a dry event (No rain) and one with a rain event? W5-5	See section 2111(c)(2) & (c)(4). Operators must consider seasonal hydrographic and climatic conditions to determine the potential direction, rate of flow and time of travel of the reasonable worst case discharge from the pipeline to environmentally and ecologically sensitive areas that could be affected. This is necessary for the OSFM to properly evaluate proposed risk analyses to ensure operators have fully considered transport mechanisms that could exacerbate or lead to a pipeline release, such as flooding or scouring at river crossings, through hydrographic and climatic conditions. Operators are required to consider worst case discharge scenarios for trajectory modeling, which means if a discharge is worst case under dry or wet conditions, the operator should explore those options.
§2111 - Risk Analysis	We understand the proposed regulations will provide a layer of protection for EESAs in the coastal zone. It appears that the proposed regulation can be improved by incorporating by reference Title 14 CCR 817 (Marine Facility	Applicable portions of Title 14 CCR 817 (Marine Facility Contingency Plans) were used in developing the draft regulations and were listed in the Theoretical, Empirical, Studies and Reports relied upon in the ISOR. But OSFM does not believe incorporation by reference is necessary.

	Contingency Plans). W6-1	
§2111 Risk Analysis	A quantitative risk assessment was done to show the outflow of typical pipeline found in the regulation will improve the justification and tolerance criteria of how much flow of oil is acceptable to the OSFM after a spill in the Coastal Zone. W6-2	The risk analysis will provide the worst-case spill volumes before BAT installed and after the proposed BAT is installed. However, the application of BAT should not be considered as the OSFM making a determination on acceptable spill volumes.
§2111(c)(4) Risk Analysis - Definition of Size of Leaks	Definition of Size of Leaks Due to the wide range of types and sizes of pipeline systems operated in California, WSPA is concerned with trying to develop a "one size fits all" specific definition regarding the size of a hazardous materials leak, such as a leak from a one-inch or two-inch hole. OSFM would be better served by the pipeline operator working with OSFM staff to define the scope of the size of a significant leak in relation to the operation of the pipeline segment under consideration. This approach would take into consideration the many significant factors which impact the size of a pipeline segment leak including: pipeline diameter, length of the segment, maximum operating volume, operating pressure, physical location of the leak (hill top, bottom of a valley, midway up a slope, etc.), pipeline flow rate, characteristics of the material being transported and other such critical factors. This approach would also take into account the nature of the specific SCADA system and/or leak detection system being used to monitor the pipeline system for leaks. W7-3	The proposed regulations do not attempt to develop a "one size fits all" definition regarding the size of a hazardous materials leak. The suggestion that OSFM work with operators to define the scope and size of a significant leak is unnecessary because the factors identified by the commenter are already addressed in the risk analysis in section 2111 and throughout the proposed regulations. As the regulations are drafted there is no need to individually meet with every operator on every pipeline as the risk analysis will accomplish this. Relatedly, the proposed regulations are performance based not proscriptive, determining the size or significance of a leak on a pipeline per pipeline basis would be proscriptive in nature and logistically impractical to achieve statutorily defined compliance deadlines after regulatory adoption. See response to W8-3, W7-49.
§ 2111 – Risk Analysis	Implementation and Compliance Deadlines WSPA believes that the implementation and compliance deadlines contained in the proposed draft regulation are entirely unrealistic	See response to W8-4, W5-8. The timeframe is required by statute in Government Code section 51013.1 and cannot be changed through regulatory

	and infeasible to meet. Compliance with the proposed regulations will require a massive undertaking. W7-9a	action by the OSFM. The OSFM expects the operator to keep their proposed schedule in their implementation plan. If there is a deviation from the timetable submitted in the implementation plan, the operator must communicate to the State Fire Marshal in writing and should demonstrate good cause for delay (§2113(c)(2)(B)).
§2111(2)(A) -Risk Analysis	As drafted, operators will be required to physically walk the entire length of their regulated pipeline system in order to verify that no man-made improvements have been constructed that need to be documented. W7-9b	See response to W3-8b
§2111(2)(A) - Risk Analysis	The proposed regulation requires that operators include in risk analysis data sets information that does not exist such as ditches, storm drains, man-made barriers, and potential physical pathways. There is no GIS data layer that includes any of these types of data. Typically when a spill analysis is done, results are overlaid on aerial photography to verify consistency. The spill trajectories do not see infrastructure such as freeways or buildings. Furthermore, it should be noted that the landscape is constantly changing as property owners make improvements to their land that may be in proximity to an existing pipeline easement. It may be highly difficult for operators to incorporate this type of information and to update it on the scheduled required in the draft regulation, especially since operators are required to submit the information under penalty of perjury. W7-36c	See response to W3-8b, W3-9, W8-10, W5-4
§ 2111 – Risk Analysis	Many times, a short system is an integral part of another system owned by others. In such a case, it would make sense to have a leak detection system owned by one party that is	See response to W7-8a and W7-43b.

	providing partial coverage for the connected system. The regulation as proposed does not provide for the operation and monitoring of such a co-owned system. W7-43c	
§ 2111 – Risk Analysis (c)(4)	§ 2111 – Risk Analysis (c)(2)(A)(4)(4) – this section needs additional quantification. The terms "adverse environmental conditions" and "worst possible dispersion" need to be described and/or quantified in greater detail to provide meaningful input to a risk assessment. W7-49	See response to W7-45 regarding quantification. The commenter provided the incorrect subsection citation, see subsection 2111(c)(4). The OSFM sees no need to amend this section to further describe and/or quantify the terms adverse environmental conditions and worst possible dispersion as they are thoroughly described in the entire section 2111. Again, the proposed regulation is performance based not prescriptive. Therefore, quantification is ill suited to achieve the goal of AB 864. Importantly, pipeline operators must conduct similar spill analysis for HCAs under Federal Law, and for Contingency Plans required by OSPR. Operators are familiar with the terms and principals required in the proposed regulations.
§ 2111(c)(5) – Risk Analysis	See comments in above paragraphs regarding Section 2110 referring to "greatest degree of protection". W7-50	See responses to comments received by W7 regarding Section 2110.
§ 2111 – Risk Analysis (c)(7) [Note: numbering was wrong in the Comment] § 2117 – Risk Analysis Updates and Review	Specific review periods should be established and defined for each individual operator addressing each individual line segment under consideration. W7-51	The time periods to review the risk analysis are established under section 2117. The OSFM sees no need to amend the proposed regulatory language.
Risk Analysis - Definition of Size of Leaks §2111(c)(4)	Definition of "Sizes of Leaks" -- Due to the wide range of pipeline systems operated in California, WSPA members are concerned that trying to develop a "one size fits all" specific definition regarding the size of a hazardous materials leak, such as a leak from a one-inch	See response to W7-3. This comment was made dated on July 19, 2016 under the previous draft that was not part of the current comment period and is rejected as untimely.

	or two inch hole, SFM would be better served by the pipeline operator working with the SFM staff to define the scope of the size of a significant leak in relation to the operation of the pipeline segment under consideration. This approach would take into consideration the many significant factors which impact the size of a pipeline segment leak including; pipeline diameter, length of the segment, maximum operating volume, operating pressure, physical location of the leak (hill top, bottom of a valley, midway up a slope, etc.), pipeline flow rate, characteristics of the material being transported and other such critical factors. This approach would also take into account the nature of the specific SCADA system and/or leak detection system being used to monitor the pipeline system for leaks. W7-66	
§2111 Risk Analysis §2112 State Fire Marshal Risk Analysis Assessment	Pipeline Rupture Recognition -- An American Petroleum Institute /Association of Oil Pipeline OPL Whitepaper entitled "Liquid Pipeline Rupture Recognition and Response" published in April 2014 is an industry recognized document which discusses the many issues and difficulties related to the effective operation of a modern leak detection system. The document highlights the control room issues and alarm management. The document highlights the many variables that need to be taken into account to be able to distinguish between minor leak events and the more major events such as a full rupture of the subject pipeline system. WSPA believes that this document reflects the realities of leak detection with modern pipeline leak detection systems. The key concept discussed in the document is that "one size does not fit all" and each line	This comment was made dated on July 19, 2016 under the previous draft that was not part of the current comment period. Though the OSFM does not need to respond to this comment, flexibility was incorporated in to the proposed regulations because they are performance based not prescriptive.

	segment or system, due to the wide differences between various pipelines, is complex and accordingly, defining an effective leak detection system will require a dialog and agreement between the OSFM and the operator. We believe that an element of flexibility needs to be incorporated into the final regulation. W7-67	
§2111(c)(4)(B) – Risk Analysis Definition of "Size of Leaks"	Due to the wide range of types and sizes of pipeline systems operated in California, it is difficult to develop a "one size fits all" specific definition regarding the size of a hazardous materials leak, such as a leak from a one-inch or two-inch hole. The OSFM and the operator will need to work together to define the scope of the size of a significant leak in relation to the operation of the pipeline segment under consideration. This approach would take into consideration the many significant factors which impact the size of a pipeline segment leak including: pipeline diameter, length of the segment, maximum operating volume, operating pressure, physical location of the leak (hill top, bottom of a valley, midway up a slope, etc.), pipeline flow rate, characteristics of the material being transported and other such critical factors. This approach would also take into account the nature of the specific SCADA system and/or leak detection system being used to monitor the pipeline system for leaks. W8-3	See response to W7-3, W7-66, W7-64, and W7-49.
§2111 Risk Analysis	CIPA believes the use of the term "hazard" would be more accurate than "risk". Risk requires the application of both consequences and likelihood of failure. The American Institute of Chemical Engineers defines risk analysis as follows:	The OSFM rejects rewording the draft regulations to use the terms hazard analysis and consequence analysis. The submission of a risk analysis is required by the authorizing legislation and is one of the primary tools that the OSFM will use to assess and evaluate pipeline compliance with AB 864 and the proposed regulations. Similarly, the OSFM does not

	"Risk Analysis: The development of a quantitative estimate of risk based on the engineering evaluation and mathematical techniques for combining estimates of incident consequences and frequencies." The draft regulations require a worst-case spill analysis and application of best available technology to minimize the spill quantity. The calculation of risk would require quantification of the likelihood of a worst-case pipeline failure and potential impact on an EESA. This would also require the OSFM to establish levels of risk acceptability. CIPA requests the OSFM consider rewording the draft regulations to use the terms hazard analysis and consequence analysis instead of risk analysis. W8-6	need to engage in quantification or establish levels of risk acceptability. The statute and proposed regulations are performance based not prescriptive. It is the operator's responsibility to apply the required components of section 2111 and deliver a risk analysis based on those factors.
§2111 Risk Analysis	The proposed regulation requires that operators include in risk analysis data sets information that does not exist such as ditches, storm drains, man-made barriers, and potential physical pathways. There is no existing GIS data layer that includes any of these types of data and spill trajectory modeling may not include impacts of these types of infrastructure. It may be difficult for operators to incorporate this type of information and to update it on the scheduled required in the draft regulation, especially since operators are required to submit the information under penalty of perjury. W8-10	See response to W3-8b, W3-9, W7-36c, W5-4
§2111 – Risk Analysis	For pipelines that may be miles inland from the Coastal Zone that intersect an EESA and are presumptively subject to the regulations. To the extent that an operator does a risk analysis and perform spill trajectories, etc. and assume that	The comment seeks clarity on the scope of best available technology and application to protection of EESAs. The OSFM sees no need to modify existing language found in the draft regulation language as the risk analysis is directed to the protection of EESAs based on the likelihood of a release

	they had to install best available technology on that pipeline, would it only be incumbent upon you to install best available technology to protect that EESA that's impacted or is the requirement apply system wide to the entire pipeline? O3-2	impacting those areas. It is possible that a risk analysis would conclude that best available technology may only be needed on portions of a pipeline or that a system wide application is necessary. As drafted the proposed regulations understand that each pipeline is unique and that best available technology on one pipeline may not meet requirements on another pipeline.
§ 2112 – State Fire Marshal Risk Analysis Assessment (a)(3)	§ 2112 – State Fire Marshal Risk Analysis Assessment (a)(3) – "Upon notification of risk analysis deficiencies, the operator will have 30 days to submit a new or revised risk analysis. The resubmittal shall be treated as a new submittal and processed according to the provisions of this Article" If only minor changes or adjustments are required to bring the Risk Analysis Assessment into compliance, it does not seem reasonable to require a completely new submittal. There should be some allowances for minor changes. W7-52	§ 2112 (d) addresses this issue through conditions in the Letter of Acceptance. "The operator shall be notified when a risk analysis and plan is accepted as adequate. A Letter of Acceptance will be issued by the State Fire Marshal and will describe the conditions of acceptance, if any. The risk analysis will not be considered adequate until the operator is notified by a Letter of Acceptance from the State Fire Marshal." Minor changes or adjustments would be addressed here. Non-minor changes or deficiencies will likely need to comply with § 2112 (a)(3).
§ 2112(f) – State Fire Marshal Risk Analysis Assessment [Note: numbering was wrong in the Comment] § 2114 – Notice of Any New Construction or Retrofit Of Pipelines	§ 2112 – State Fire Marshal Risk Analysis Assessment (b)(3)(f) – "Operators must receive written Letter of Acceptance of the risk analysis to implement the use of best available technology prior to commencing construction consistent with the requirements of Section 2114 (Notice of Any New Construction or Retrofit)" WSPA is concerned that this restriction could delay the installation of final facilities due to analysis, review or any other requirements being held up due to conditions they cannot control. WSPA recommends a phased-in approval where an operator can begin installation of certain phases of facility	The OSFM disagree that a phased-in approach of BAT is necessary or appropriate. The OSFM is charged with determining what constitutes BAT prior to implementation, not after as the proposal provides here. Operators can make retrofits or undertake construction on their pipelines at any time. However, if an operator commences construction in anticipation of a risk analysis being approved and OSFM finds deficiencies in the proposed BAT, the operator will likely need to revise work it did on facilities. Operators who have installed BAT on their lines prior to the submittal due date may file for an exemption per subsection 2104. The OSFMs determination of BAT is reliant upon an accurate and representative risk analysis. Allowing operators to commence work prior to receiving approval from the OSFM is contrary to the intent of having the office review and then approve risk analysis. The suggested approach could result in further

	development, as along as those phases are to be included in the final approval. W7-53	delays in implementation as well as added cost to operators if the OSFM determined a risk analysis or proposed BAT was inadequate. Section 2112(d) provides allowance if the operator experiences delays in completing the implementation plan by the deadline.
§2112 – State Fire Marshal Risk Analysis Assessment §2113 – Implementation Plan	The proposed AB 864 Regulation states that by July 1, 2018, and operator of an existing pipeline located near an EESA in the Coastal Zone shall submit a plan to OSFM for approval to retrofit said pipeline with Best Available Technology and that by January 1, 2020, the operator shall complete the plan approved by OSFM. WSPA suggests that a waiver provision should be included in the regulation to address the consequences of the submitted plan not being reviewed and approved in a timely fashion through no fault of the operator or as a result of slow or delayed permitting by other agencies, which result in the pipeline operator not being able to complete the required work prior to the prescribed deadline. W7-81	This comment was made dated on February 21, 2017 under the previous draft that was not part of the current comment period. See section §2112(c)(2)(B) of the current draft text that addresses this issue.
§2112 – State Fire Marshal Risk Analysis Assessment	There are standard risk analysis programs that operators undertake. Is there any further definition as far as the risk analysis and the impact to the environment other than just putting the best available technology into effect it will slow down or reduce the amount of oil? O2-1	See discussion and responses to comments on draft regulation §§2111 and 2112 above. The OSFM saw no need to amend the regulatory language to include further detail and definition of information for inclusion in the risk analysis and OSFM assessment.
§2113(b)(2) Implementation Plan	Will there be a time waiver for the submission of a detailed supplemental implementation plan? 60 days seems very quick for a detailed plan. W5-8	A process currently exists in the draft language that accounts for delays for good cause. Additionally, when operators submit their Risk Analysis and initial Implementation Plan under section 2112 the OSFM has 90 days to review and approve the Risk Analysis under section 2113. The OSFM may take less time to approve. However, if an operator commences work on the detailed supplemental implementation plan while the Risk Analysis and initial

		Implementation Plan are under review, they have more than 60 days to develop and submit the required document. Operators may have up to 150 days to submit a detailed supplemental implementation plan if OSFM takes the entire 90 days to review the original Risk Analysis and Implementation Plan submission. Furthermore, the proposed regulations allow operators to submit and request deviations from the timetable submitted. See subsections 2113(c)(2) and 2113(d). Deviation from the timetable submitted in the plan must be communicated to the State Fire Marshal in writing and should demonstrate good cause for delay.
§2113 (c)(2) and (d) Implementation Timetable	It should made clear that it is not the operator's responsibility to justify a delay in implementation due to permitting delays caused solely by the permitting agency. Accordingly, the operator should not be subject to enforcement action in the event of a delay in implementation due to delays in permitting that are outside the control of the operator W7-11	See responses to W5-8, W8-4, W7-10. The statute dictates compliance by specified time frames. The OSFM does not have the authority to dictate permit issuance issues to agencies outside of its control. To ensure compliance with the statute is adhered to on the time frames specified it is imperative that the OSFM have the ability to enforce against an operator for delays in implementation. However, where an operator cannot control the delay they can avail themselves of provisions in section 2112 and 2113 allowing for delay with a showing of good cause.
§2113(c)(1)(C) – Certification statement	§2113(c)(1)(C) – Certification statement WSPA believes the requirement that "an executive" sign the certification statement under penalty of perjury is excessive, and not reflective of staffing realities in large companies. We propose that the statement should be signed by a "manager" which is more reflective of the role that will be tasked with implementing the plan. W7-54	See response to W3-8b, W3-9, W8-10, W5-4. The proposed language in this section already addresses the possibility of "a person within the operator's management structure" also signing the statement in addition to the executive therefore no change is necessary. The OSFM proposed the need for an executive signature due to the significant importance the office places on implementation, similar to the risk analysis certification.
§2113(c)(1)(D) – List of contacts	§2113(c)(1)(D) – List of contacts WSPA recommends deleting this requirement from the draft regulation on the basis it is not reflective of staffing realities in large companies that typically have global employee migration.	The OSFM disagrees with removing the listing contacts and contact information for persons within the operator's company, and any alternates, responsible for overseeing and implementing the plan. It is necessary to have this information in the plan for the OSFM to easily access contacts, key

	Furthermore, listing the names of individual employees and contact information in a document that will be subject to public review creates safety considerations given the heightened level of anti-pipeline activism that has evolved over recent years. W7-55	operator personnel, and contractors that may be implementing the plan should any questions arise during implementation or OSFM review and ensures that the implementation goals of AB 864 are achieved. The OSFM respects concerns for privacy. The operator may request confidential treatment of information submitted per subsection 2119.
§2115 Testing Requirements	Proper function of leak detection systems is critical to the function and potential shutdown of a pipeline and should be integrated with the automatic shutoff systems. W1-9	The OSFM sees no need to amend the proposed language. BAT is broadly defined by the authorizing legislation as technology currently in use or available for purchase anywhere in the world. This rather large category of possible BAT necessitates flexible testing requirements because not all technologies can be tested in the same manner. This subsection provides minimum requirements on a range of Leak Detection Systems (LDS) and other technologies that could be considered BAT, including LDS, Computational Pipeline Monitoring (CPM), Automatic Shutoff Systems (ASOS), and Emergency Flow Restriction Devices or any combination of these technologies. The commenter may be correct that testing may involve the interaction of the CPM systems and LDS systems tied to the operations of the ASOS where pipeline operations are designed to allow for such a scenario. Specific testing standards are not adopted under this subsection, as is seen in subsections 2115(a) and (b), because of the wide variety of ASOS available. However, in the absence of specific testing standards operators should consider ASOS manufacturing recommendations found in subsection 2115(e) of this section.
§2115 Testing Requirements	The proposed regulations require testing for leak detection systems only once every three years, while testing for automatic shutoff systems is required annually, but “at intervals not to exceed 15 months” (changed from annually in the draft regulations). SB 295	OSFM disagrees with the proposed language and setting the testing interval to an annual basis. Section 2115 directs the operator to conduct testing of leak detection systems and computational pipeline monitoring – leak detection systems at specified intervals that exceed established recommended practices and existing regulations. OSFM relied upon federal

	requires annual inspections of "all intrastate pipelines." Govt. Code § 51015.1(a). Accordingly, the proposed regulations must be revised to require annual testing of leak detection systems and automatic shutoff systems to ensure consistency with this statute. The commenter suggested the following language to require annual testing for Testing Requirements and Test Failures §2115 (a)(1), (b)(1), (c)(1), (d)(1): (a)(1) test the leak detection capability and leak limitation effectiveness every 3 years annually from the date of installation or initial operation, whichever is soonest… (b)(1) test the leak detection capability and leak limitation effectiveness every 3 years annually from the date of installation or initial operation, whichever is soonest… (c)(1) annually test and calibrate the components of the system and the overall effectiveness of the system at intervals not to exceed 15 months… (d)(1) EFRD's shall be tested annually at intervals not to exceed 15 months W1-8	statute and regulations, in particular 49 CFR 195.44 and sections of API RP 1175, API RP 1130, which are incorporated by reference in developing this language. Those sources recommend a 5-year testing interval. The proposed regulations require a 3-year testing interval instead of the 49 CFR 195.444 and API 5-year interval to address the goals of AB 864. This language is more conservative than existing regulatory testing requirements. Additionally, test failures could still lead to annual testing, see §2115(g). The draft regulations referred to by the commenter in parenthesis appear to be from April 17, 2017 and are not the part of the proposed regulations noticed here and are therefore likely outside the scope of comment but were discussed for inclusion. Additional discussion of the annual testing requirement (not to exceed 15 months) is provided in response to comment W1-2. SB 295 directed the OSFM to conduct annual inspections, not testing, of each pipeline and operator. This portion of the comment is outside of the scope of the proposed AB 864 regulations because it was part of a prior and separate rulemaking. The SB 295 rulemaking related to OSFM inspection frequency, not pipeline operator equipment testing intervals.
§2115(g) Test Failures	The proposed regulations also require a new risk analysis and review of best available technology if there are two test failures during the three-year annual testing period. Any test failure should require a new risk assessment and review of the technology. Accordingly, please modify this regulation as follows: Any test failures shall require a new risk analysis and review of best available	The OSFM rejects this suggestion. Multiple test failures were selected as the metric for requiring a new or revised risk analysis submission by an operator for review by the OSFM because testing pipeline technologies is complex and should be based on obtaining verifiable, repeatable, and consistent results. Relying on a single test failure would be counter intuitive to producing an effective baseline or making necessary adjustments to account for new best available technologies installed. Understanding why a test failed is as important as understanding why a test was successful when

	technology applicability for leak detection. W1-10	compared to anticipated results as specified in risk analysis submitted to the OSFM. Requiring a new risk analysis and review after two test failures provides additional insight in to patterns or causes of test failures that may otherwise not be identified for each test failure.
§2115 Testing Requirements and Test Failures	Operators are currently required to perform an evaluation of the leak detection system's capability and reliability. Again, if OSFM had specific system capabilities it wanted operators to explore, it could build on this currently conducted evaluation in the context of the draft regulation. W3-5	See response to W1-8. The OSFM sees no need to make changes to the proposed regulations because section 2115 addresses the testing frequency of CPM-LDS of every 3 years and requires operators to test consistent with the standards contained in Sections 6.2 through 6.2.6 of API 1130 (2007) and 49 CFR 195.444 of the Code of Federal Regulations, which were incorporated by reference and relied upon in developing the proposed regulations. The specified standards found in API 1130 and 49 CFR 195.444 are necessary to ensure installed BAT is performing as projected in risk analyses.
§2115(c) Testing Requirements and Test Failures	The commenter notes that the requirement for an annual test of the automatic shutoff system will create unnecessary operational interruptions and could potentially contribute to integrity issues and failures that would otherwise have been avoided. We encourage OSFM to revise the regulation to allow for alternative means of verifying that the shutoff system is functional and operational, as opposed to mandating an annual "test". W3-11	The OSFM sees no need to make changes to the proposed regulations. Operators are required to annually test and calibrate the components of the system and the overall effectiveness of the system at intervals not to exceed 15 months §2115(c)(1). Annual calibrations are required by 49 CFR, Part 195. Testing of the overall effectiveness of the Automatic Shut-off System may be conducted by simulating a release to verify all components are working as designed and expected. When testing best available technology, operators must consider the manufacturer recommendations and sound engineering practices for verification and testing of the best available technology component. The testing section of the proposed regulations does not specify that operators must test automatic shutoff systems while a pipeline is operational or full of product or that the pipeline be empty of product. See also W7-58.

§2115 Testing Requirements	Section 2115 entitled Testing Requirements and Test Failures of the proposed regulations requires testing for leak detection systems only once every three years while testing of automatic systems is required at annual intervals not to exceed 15 months. The proposed testing frequency for these systems does not align with the annual inspections of all intrastate pipelines required under SB 295. To ensure consistency with the pipeline inspection provisions of SB 295, we recommend revising Section 2115, subsections (a)(l) and (b)(l) to require annual testing of the leak detections systems and automatic shutoff systems. W4-1	See response to W1-8 and W1-5. OSFM disagrees with setting the testing interval to an annual basis. Section 2115 directs the operator to conduct testing of leak detection systems and computational pipeline monitoring – leak detection systems at specified intervals that exceed established recommended practices and existing regulations. Sections of API RP 1175, API RP 1130, and 49 CFR 195.444, which are incorporated by reference, recommend a 5-year testing interval. The proposed regulations require a 3-year testing interval instead of the 49 CFR 195.444 and API 5-year interval to address the goals of AB 864. This language is more conservative than existing regulatory testing requirements and test failures could still lead to annual testing, see §2115(g). SB 295 directed the OSFM to conduct annual inspections, not testing, of each pipeline and operator and is outside of the scope of the proposed regulations here because it was part of a prior rulemaking. SB 295 related to OSFM inspection frequency, not pipeline operator equipment testing intervals.
§2115(a) Testing Requirements and Test Failures	References to American Petroleum Institute (API) Recommended Practices WSPA recognizes the value of including API Recommended Practice 1130 “Computational Pipeline Monitoring for Liquids” (First Edition, September 2007, Reaffirmed April 2012) and API Recommended Practice 1175 “Pipeline Leak Detection – Program Management” (First Edition, December 2015) by reference into the regulation. These documents have been developed by numerous industry experts over several years and generations of new technology and reflect proven practices for a wide variety of pipelines and pipeline operating areas. WSPA strongly recommends that these Recommended Practices be considered as	See response to comment W7-18. API 1130 and 1175 are not entirely incorporated by reference. Section 2115(a) requires testing frequency for LDS at 3 year intervals and consistent with the standards contained in Sections 8 and 9 of API 1175 (2015). The specified testing standards found in API 1175 will ensure installed BAT is performing as projected in risk analyses. The additional detail provided in API 1175 emphasize the importance of following procedures and processes outlined in other API recommended practices, including API 1130 and API 1162.

	references and not viewed as statutory standards to be used to support enforcement actions. This matter was also highlighted in the February 21, 2017 WSPA comment letter. W7-6	
§2115(c)(1) – Testing Requirements and Test Failures	§2115(c)(1) – Testing Requirements As drafted, this section infers that operators will be required to fully shut in their pipelines on an annual basis to test their shut off systems. A requirement of this nature would create significant operational impacts and could potentially lead to integrity and failure issues that were otherwise avoidable. WSPA recommends the section should be amended to allow "alternative evaluation methods". W7-58	See response to W3-11.
§ 2115 – Testing Requirements and Test Failures (d)	WSPA recommends that EFRD valve testing results become part of the pipeline auditing process each year rather than being a separate submittal. W7-59	The OSFM disagrees that the EFRD valve testing result should become part of the pipeline auditing process rather than be submitted within 90-days of completion. The OSFM could request the testing results as part of a separate regulatory program. However, the purpose of having it here is to meet the distinct regulatory requirements of AB 864 regulations. See also § 2115(f) – Testing Requirements and Test Failures.
§2115 – Testing Requirements and Test Failures (g)(1)	WSPA recommends that more definition needs to be developed and added in this Article to define specific criteria for what passes and what fails to provide clarity for operators. W7-60	The OSFM sees no need to amend the proposed language. The statute and regulation is not prescriptive, but is performance driven. Specific criteria for what passes and fails would be prescriptive in nature and would have to be developed for each individual pipeline, in addition to conflicting with the scheme of performance driven regulation. The draft regulations were designed to give operators flexibility in achieving performance driven standard which are provided through out this section with references to API standards, federal code section citations, and manufacturer recommendations (to name a few).
§ 2115 – Testing Requirements and Test Failures (b)(2)	API RP 1130 and API RP 1175 – Currently, the proposed draft regulation includes several references to these documents, which, from	See response to comment W7-18. This comment was made in a letter dated July 19, 2016 and relates to prior draft of

	WSPA's point of view, imply that these documents could be viewed as a specific requirement as part of the new AB 864 regulation. WSPA believes these documents should be viewed as "Recommended Practices" references only, (as the title of the documents indicates) and that any incorporation of any of the practices into an operator's plan should be a matter negotiated between the SFM and the operator and specifically addressed in a separate written agreement between the parties. W7-75	regulatory language that was not part of the formal rule making process under the Administrative Procedure Act.
§ 2115 – Testing Requirements and Test Failures (b)(2)	The proposed AB 864 Regulation includes several references to API Recommended Practices 1130 and 1175. Without clarification, this implies that these documents could be viewed as specific requirements of the new AB 864 regulation. WSPA believes these documents should be viewed as "Recommended Practices" references only (as the title of the document indicates) and that any incorporation of any of the practices into an operator's plan should be a matter negotiated between the OSFM and the operator and specifically addressed in a separate written agreement between the parties. W7-82	See response to comment W7-18. This comment was made in a letter dated February 21, 2017 and relates to prior draft of regulatory language that was not part of the formal rule making process under the Administrative Procedure Act.
§2115 Testing Requirements	This section of the regulation requires "testing for leak detection systems only once every three years…." Commenter believes that this is inconsistent with SB 295, which requires annual inspections of all intrastate pipelines and makes the regulation unable to meet the objective of AB 864, which is to "reduce the amount of oil released in an oil spill to protect state waters and wildlife." Commenter recommends that annual inspections of pipelines and	See response to W1-5 and W4-1.

	implemented Best Available Technologies, including leak detection systems, must be required to meet the objectives of AB 864 and SB 295 and that the language in this section should be updated to reflect an annual frequency. W9-4	
§ 2115(a)(2) – Testing Requirements and Test Failures	§ 2115 – Testing Requirements and Test Failures (a)(2) – "Perform testing consistent with the minimum standards contained in API RP 1130 (2007) Sections 6.2 through 6.2.6, and 49 CFR 195.444" WSPA appreciates that the proposed regulation recognizes the value of API Recommended Practice 1130 "Computational Pipeline Monitoring for Liquids" (First Edition, September 2007, Reaffirmed April 2012) and API Recommended Practice 1175 "Pipeline Leak Detection – Program Management" (First Edition, December 2015) and have incorporated them by reference. However, these documents have been developed by many industry experts over several years and they reflect experiences and proven practices for a wide variety of pipelines and pipeline operating areas. WSPA strongly recommends that these Recommended Practices are to be considered as strictly references and are not viewed as statute standards to be used to support enforcement actions. W7-56	See response to W7-18.
§ 2115(b)(2) – Testing Requirements and Test Failures	§ 2115 – Testing Requirements and Test Failures (b)(2) – "Perform testing consistent with the minimum standards contained in API RP 1130 (2007) Sections 6.2 through 6.2.6, and 49 CFR 195.444" WSPA appreciates that the proposed regulation	See response to W7-18.

	recognizes the value of API Recommended Practice 1130 “Computational Pipeline Monitoring for Liquids” (First Edition, September 2007, Reaffirmed April 2012) and API Recommended Practice 1175 “Pipeline Leak Detection – Program Management” (First Edition, December 2015) and have “incorporated them by reference. However, these documents have been developed by many industry experts over several years and they reflect experiences and proven practices for a wide variety of pipelines and pipeline operating areas. WSPA strongly recommends that these Recommended Practices are to be considered as strictly references and are not viewed as statute standards to be used to support enforcement actions. W7-57	
§2117 Risk Analysis Updates and Review	Best Available Leak Detection Technology As stated in the July 19, 2016 WSPA comment letter, addressing the issue of best available leak detection can be complex and expensive. WSPA believes that once a system is approved, the operator should be granted a specified period of time before major modifications and or replacement are required. Further comments and recommendations on this item are provided in the July 19, 2016 WSPA comment letter. W7-4	See response to W7-37. Comment was made in a letter dated July 19, 2016 relates to prior draft of regulatory language that was not part of the formal rule making process under the Administrative Procedure Act.
§ 2117 – Risk Analysis Updates and Review (a) (2)	§ 2117 – Risk Analysis Updates and Review (a) (2) -- A new risk analysis shall be required if a pipeline is near a newly identified or previously unidentified environmentally and ecologically sensitive area in the coastal zone that could be affected by a pipeline release. Under this section the operator is required to	Refer to the definitions under §2100 for environmentally and ecologically sensitive area and section 2102 for identifying those resources. It is the operator’s responsibility to review the EESA once every five (5) years. Currently operators gather this information for their oil spill contingency plans required by OSPR and are aware of where to search for this data. It is not the OSFM's responsibility to provide notification to operators of EESA discovery or relocation. Operators will

	perform a new risk analysis if a newly identified or previously unidentified environmentally and ecologically sensitive area could be affected. WSPA recommends clarification regarding the responsible agencies or parties for identification of environmentally and ecologically sensitive areas, as well as how operators will be notified of such changes. W7-61	have already gathered this information as part of their original risk analysis submission and should be aware of where to gather this information in subsequent years.
Risk Analysis Updates and Review §2117	Once installed any new BAT technology should be "grandfathered" for a specified period. The "grandfathering" would be to reflect the fact that a new system has been installed and the protection period would be to protect operators from having to replace the system in a few months or years prior to the end of its effective life. The "grandfather period" could be defined by negotiation with OSFM and a reference to some "industry standard" based on PHMSA guidelines. At a minimum, short of some extraordinary development, WSPA suggests this period be at least 5 years. W7-69	See response to W7-37. This comment was made in a letter dated July 19, 2016 and relates to prior draft of regulatory language that was not part of the formal rule making process under the Administrative Procedure Act.
§2117 - Risk Analysis Updates and Review	There are also concerns that, if the pipeline operator already has a relatively new, modern and effective but not quite "state of the art" leak detection system in place, the operator may be required to undertake an expensive upgrade to the system but would not significantly upgrade the actual leak detection capability of the system from the current system. W7-71	See response to W7-37. Comment was made in a letter dated July 19, 2016 relates to prior draft of regulatory language that was not part of the formal rule making process under the Administrative Procedure Act. See the current §2117 - Risk Analysis Updates and Review.
§ 2117 Risk Analysis Updates and Review	Given the significant up-front costs associated with BAT, CIPA believes once installed, any new BAT technology should be "grandfathered" for a specified period, but should be no shorter than ten (10) years. W8-11	See response to W7-37.

§2117 Risk Analysis Updates and Review; §2103 Exemption For Pipelines Located Outside The Coastal Zone	Commenter recommends that section 2103 include language that require exemptions to be reviewed if a new potential pathway to the coastal zone is identified by the State Marshal or the public. For example, if new infrastructure (culverts, flood control channels, etc.) is constructed that may provide a pathway from a pipeline. W9-2	The OSFM sees no need to amend the proposed language because it is addressed under existing proposed language in §2117(a)(2): A new risk analysis shall be required if a pipeline is near a newly identified or previously unidentified environmentally and ecologically sensitive area in the coastal zone that could be affected by a pipeline release.
§2117 Risk Analysis Updates and Review	For section 2103 exemptions the commenter recommends that the operator should submit an addendum to their risk analysis (completed by an independent, OSFM-approved consultant) that demonstrates the continued lack of potential impact from a spill where new infrastructure is constructed that may provide a pathway from a pipeline. W9-3	The OSFM sees no need to amend the proposed language because it is addressed in existing draft language in section 2117. Section §2117 states that an operator must update their risk analysis every 5 years and that the State Fire Marshal may require earlier or more frequent resubmission or updates than required in Subparagraph (a) of this section. The operator shall be notified in writing if an earlier resubmission or update is required. The statute authorizing regulatory development directs the OSFM to conduct the review of the risk analysis, not a consultant.
§2118(a) – Record Retention	§2118(a) – Record Retention WSPA believes the requirement to maintain all supporting documentation over the life of the pipeline is unreasonable, unnecessary, and inconsistent with federal requirements. We recommend this section to be revised to focus on repair records and testing results. W7-62	These regulations are required under State Law and need not be consistent with Federal law to the extent they are not conflicting. In some cases, under federal regulations records are to be kept for the life of the pipeline. The focus of this regulatory scheme is not focused in the repair and testing results it is driven by risk analysis. A document retention schedule will assist operators and the OSFM in comparing and re-evaluation of risk analysis on a pipeline over time. Similarly, the record retention requirements will help the OSFM and operators track trends in best available technology, assumptions, and risk analysis that will assist in developing a more robust and effective implementation of AB 864 and the proposed regulations.
§2119 Confidential Treatment of Information	Chevron appreciates OSFM's recognition that certain information related to structural and operational integrity of the pipeline system should be withheld from public disclosure. As	The OSFM rejects the proposal. The statute directing regulations under AB 864 requires that the OSFM set up a process for an operator to request confidential treatment of information submitted or contained in the documentation

	drafted, however, the proposed regulation requires an operator to identify on a line by line basis the information in the risk analysis and supporting materials they believe should be withheld from disclosure. This type of approach can be a time-consuming exercise for the operator and agency alike. For efficiency purposes, Chevron encourages the OSFM to add language that would allow an operator to petition for the entire risk analysis and supporting materials to be kept confidential. W3-12	provided to the office at Government Code section 51013.1(c)(3). The statute does not afford the wholesale elimination of all materials submitted as confidential, nor does it specifically call out structural and operational integrity as the commenter mentions.
§2119 – Confidential Treatment of Information	§2119 – Confidential Treatment of Information WSPA encourages the OSFM to add language that would allow an operator to petition for the entire risk analysis and supporting materials to be kept confidential. W7-63	See response to W3-12
General	The draft regulations should consider incorporating methods to improve pipeline design as a means to reduce the likelihood of failure for new pipelines in high consequence areas. Regulations for the design of gas transmission pipelines are described in 49 CFR 192. These regulations require different design parameters depending on the location of the pipeline, and specify four location classes by population density. In higher consequence areas, the minimum pipeline design factor (percentage of specified minimum yield stress, % SMYS) is lower, which results in reduced likelihood of failure. The minimum distance between valve spacing is also lower in high consequence areas which reduces the potential release quantity. Current hazardous liquid pipeline design standards are described in ASME B31.4 and 49CFR 195. The minimum	Thank you for your comment and suggestion. The scope of the AB 864 regulations is to protect EESA's in the coastal zone, which encompass some HCAs. The proposed regulations address BAT for protecting EESAs similar to what the commenter proposes. However, adding design requirements at this time appear to be prescriptive in nature as opposed to performance driven as required by the authorizing statute (CGC 51013.1) but may be considered in future rulemakings.

	design factor is 0.72 (72% SMYS). There are no class location designations, although pipelines in higher hazard areas such as residential, industrial, commercial, agricultural areas, or water crossings require an additional 12 inches of soil cover over the nominal 36-inch depth. CIPA requests the OSFM consider developing design standards for hazardous liquid pipelines in high consequence areas, including lower pipeline design factors and minimum distance between valve spacing to reduce line drainage volume. W8-8	
General	Further modifications must be made to ensure compliance with both AB 864 and SB 295. These modifications include: (1) ensuring protection of all potentially affected environmentally and ecologically sensitive areas, (2) requiring annual inspections of all pipelines, and (3) requiring automatic shutoff systems unless deemed infeasible. W1-1	See response to W1-9b, W1-2, W1-15.
General	We are concerned, however, that the regulations as drafted do not ensure full compliance with AB 864 and SB 295, and that they expose environmentally and ecologically sensitive areas to potential harm from future oil spills by limiting the scope of regulated pipelines, failing to require annual inspections of leak detection systems, and failing to require automatic shutdown systems. W1-2	Regulations adopted pursuant to SB 295 are beyond the scope of the proposed regulations under AB 864 and were not the subject of public comment in the Notice. SB 295 directed the OSFM to conduct annual inspections, not testing, of each pipeline and operator and is outside of the scope of the proposed regulations here because it was part of a prior rulemaking and relates to OSFM inspections, not pipeline operator equipment testing intervals. See response to W1-9b, W1-15.
General	Further modifications must be made to ensure compliance with both AB 864 and SB 295. These modifications include: ensuring protection of all potentially affected environmentally and ecologically sensitive	The OSFM sees no need to make further modifications to the language of the text. SB 295 is not part of this rulemaking and therefore outside the scope. Broadly, the OSFM finds the regulations as drafted to ensure protection of environmentally and ecologically sensitive areas through submitted risk

	areas, requiring annual inspections of all pipelines, and requiring automatic shutoff systems unless deemed infeasible. W1-9a	analysis. All pipelines are inspected annually under the SB 295 regulations, which are not subject to this rule making. The statute does not state that automatic shutoff systems are the only way to comply with the mandates of AB 864, however they must be considered as part of a risk analysis. Therefore, automatic shutoff systems will be considered by operators, while the OSFM will evaluate for effectiveness.
General	We are concerned, however, that the regulations as drafted do not ensure full compliance with AB 864 and SB 295, and that they expose environmentally and ecologically sensitive areas to potential harm from future oil spills by limiting the scope of regulated pipelines, failing to require annual inspections of leak detection systems, and failing to require automatic shutdown systems. W1-9b	See response to W1-2 and W1-9a.
General	The proposal must be modified to protect all potentially affected environmentally and ecologically sensitive areas, require annual inspections of all pipelines, and require automatic shutoff systems unless deemed infeasible. W1-15	See response to W1-9b, W1-2, W1-15.
General	Pipeline segments that are determined to have the potential to affect HCAs are subject to integrity assessment (ILI or hydrotest) at a maximum of a 5-year interval (without additional studies performed). In the case of ILI integrity assessments, anomalies that meet specific criteria are re aired under a prescribed timeframe. W3-6	Section 2117 addresses the issue of timing between reassessment for the proposed regulations and is set at every 5 years.
General	We encourage OSFM to open a discussion as to whether the proposed regulation constitutes the "right approach" and evaluate whether a more streamlined system should be	Similar responses at W3-13, W7-1. The OSFM held multiple stakeholder meetings, formed a working group composed of industry, non-governmental

	established. Based on the rationale and policy recommendations outlined above, we believe the draft regulation should be withdrawn in favor of new stakeholder discussions focused around maximizing efficiencies by building on existing regulatory requirements. W3-7	agencies, and local government over several years, and held public hearings prior to the formal rule making process. The formal rule making process began with three public hearings and four open comment periods under which comments were submitted. During these extensive discussions, the right approach to implementation was covered extensively with significant input received from all parties. The public comment process affords stakeholders and other interested parties the opportunity to submit comments on draft regulations before they become final. Comments are considered and potentially addressed through changes to the draft regulations prior to becoming final and will receive a response from the promulgating agency for all interested parties and the public to review in the Final Statement of Reasons. The comments submitted by your organization have been noted and addressed as required. Where possible, the OSFM built on existing regulatory requirements to maximize efficiencies. However, since this is a new regulatory program some new requirements are inevitable and the OSFM sees no need to further discuss the "right approach" to the regulations.
General	The best approach at this juncture is for OSFM to withdraw the regulation as drafted and hold additional stakeholder workshops to explore the technical and timing concerns that have been highlighted. W3-13	See response to W3-7
General	WSPA requests that OSFM strongly consider withdrawing the current proposal in favor of continued stakeholder discussions focused around maximizing efficiencies by building on existing regulatory requirements. W7-1	See response to W3-7
General	Does the CSFM expect to the industry to recover this sizeable compliance cost through PUC rate increases? W5-3	Operators may recover increased compliance costs in the manner they see fit and in accordance with applicable law. It is possible that operators pursue rate increases to cover compliance costs. There is the possibility that operators may

		incur much lower compliance costs or none at all if they are already meeting the requirements in the proposed regulations. More broadly, the proposed regulations do not address how industry cover potential compliance costs. Therefore, the OSFM sees no need to add regulatory language directing industry on how to recover compliance costs.
General	It is important to highlight oil spill prevention and response as multi-jurisdictional oversight including State and regional water boards, the Department of Fish and Wildlife Office of Spill Prevention and Response (OSPR) and the Division of Oil, Gas and Geothermal Resources (DOGGR). CIPA's members respectfully request each agency be consulted on this regulation and on a regular basis during its implementation. W8-1	OSFM appreciates the comment. The OSFM consulted with the Office of Spill Prevention and Response (OSPR) about potential impacts to state waters and wildlife in developing the proposed environmentally and ecologically sensitive area regulations and was required to do so by the authorizing statute. DOGGR was also consulted in developing the proposed regulations. We also provide regular updates on AB 864 to stakeholders and governmental agencies during our annual pipeline safety seminars and through noticed changes to regulation language. These regulations are open to the public, including governmental agencies, and they are allowed to comment on them in the manner they see fit.
Standardized Regulatory Impact Analysis	The Standardized Regulatory Impact Assessment (SRIA) analysis of the fiscal impact of the AB 864 Regulation significantly underestimated the potential direct costs necessary for compliance with the proposed regulation as it failed to consider significant costs that industry would incur for such retrofits. Specifically, the SRIA underestimates design, construction and engineering costs. OSFM's use of a 12-inch valve for average cost estimating results in an estimate that is inadequate for larger sized valves and misrepresents the costs of retrofit for larger diameter pipeline systems. OSFM's conclusion that permitting costs are negligible and that CEQA would not apply is not accurate and misrepresents what operators will face in the	The OSFM rejects this statement. The SRIA specifically addresses direct costs for pipeline retrofit including design, construction and engineering costs. In December 2016, the OSFM attempted to solicit potential costs from all pipeline operators in the State (approximately 40) via an economic and fiscal impact survey mailed to each operator. The survey was designed to gather information related to the costs identified by the OSFM and through workshop discussions with interested parties aimed at building a thorough SRIA. Our office received 2 responses that provided no useable data. The industry was afforded an opportunity to provide cost estimates and elected not to provide information. In the absence of operator provided data our office undertook extensive efforts to gather existing research and data provided by operators for related cost estimation and other government studies (see the SRIA footnotes). The SRIA explains why a 12-inch valve was selected, because the vast

	real world. Additionally, the SRIA analysis completely ignores certain real costs to operators for such retrofits, including such costs as: • Acquisition of land or right of way • Building of access roads for remote locations • Legal costs (property owner negotiations or eminent domain actions) • Cost of bringing power to valve location • Programmable Logic Controller costs (including SCADA integration) • Communication/Satellite costs • UPS Battery back-up costs in event of power outage • Fencing and security costs • Nitrogen purge costs for tie-in of valve to pipeline • Hydrostatic Test and dewatering • Mitigation cost for environmental/cultural impacts related to valve installation • Escalation of installation costs due to landowner/permitting delays • Stakeholder and Community Engagement/Public Relations The SRIA also significantly underestimates the direct real costs to operators for such retrofits in the following categories: • Engineering (electrical and civil design and surveying) • Risk Analysis (Risk analysis, Emergency Flow Restriction Device analysis, Surge analysis) • Electrical (transformers, panels, conduit) • Construction (Survey, Civil/Electrical installation, site prep, inspection, etc.) • Welding	majority of pipelines subject to the proposed regulation are at or under 12 inches in diameter. Contrary to the commenters suggestion, a SRIA is not designed to figure out the exact cost impact to each individual pipeline but to assess the benefits and costs of the proposed regulation in monetary terms to the extent feasible (including nonmonetary benefits such as protection of public health and safety and the environment) to assist public agencies in specifying SRIA methodologies. The OSFM made assumptions based on available data where necessary and was over inclusive of costs, likely resulting in an overestimate. Actual costs may be lower. The SRIA represents a thorough analysis to the extent feasible. The commenters contention that pipeline diameter, CEQA, and other certain real costs will impact project costs on a per pipeline basis is correct, which is why the OSFM gathered this data and discussed the analysis of that data in the SRIA despite no useable data being provided by operators. This and other information is provided in the SRIA and the office sees no need to reevaluate reliable sources of cost data that sufficiently cover perceived cost issues of the commenter. Importantly, the commenter provided no additional cost data relevant to the issue to the OSFM beyond a list of costs that they believe should be accounted for without any supporting numbers or data to build out those costs. Moreover, the costs presumed to be absent from the SRIA by the commenter are captured in the assumptions used in the SRIA and through the RIMS II multipliers and NAICS codes as explained in the SRIA. Moreover, the California Department of Finance reviewed the economic analysis and generally concurred with the proposed methodology.

	• Other materials (elbows, tees, etc. to construct the entire valve site) • Permitting (CEQA and/or NEPA implications for larger projects) The incremental cost of valve installation is highly dependent on 1) the size of the pipeline, 2) the type of valve to be installed, 3) access to and availability of land, and 4) availability of power for valve operation and communication. The cost of the physical valve is highly variable and is dependent on size. The other supporting costs (i.e., engineering, land, labor, power, etc.) are not necessarily dictated by valve/pipe size but rather are typically consistent across all projects and can scale up or down slightly based on the number of valves being installed. W7-12	
Standardized Regulatory Impact Analysis	For these reasons, WSPA is also concerned regarding assumptions possibly made in the economic analysis due to pipeline size (valve per mile calculation, page 25, Standardized Regulatory Impact Assessment). The criteria for short length is not clear, or if any pipelines were excluded from the analysis due to size. W7-43d	See response to W7-12. In order to develop a SRIA all agencies must make some assumptions in an economic analysis and use their best judgement in doing so. Again, the OSFM was forced to identify costs that could impact the economic analysis on its own because operators elected not to share cost data. The valve per mile calculation is based on a real-world scenario for a pipeline replacement project for the failed pipeline that gave rise to AB 864. The operator and pipeline used in the real-world scenario claims the pipeline replacement will be AB 864 compliant (the OSFM has not made a determination on this claim because the regulations are not final). Hence it seemed a reasonable assumption to evaluate a pipeline claiming to meet AB 864 goals. Pipelines were not excluded from the analysis due to size or length. See discussion on page 24 of the SRIA for valve per mile calculation. The estimate of 1.08 valves per mile was assumed from the above-mentioned replacement project. If a pipeline is less

		than one mile the calculation is still valuable in determining number of valves.
Standardized Regulatory Impact Analysis	Costs to their company for compliance with the proposed regulations is way above what is in the analysis. O2-2	See responses to W7-12 and W7-43d.
General Process and Timeline for Regulations	What is the timeline and the process going forward before the draft regulations become final? O1-1	This comment was received during the first public hearing on January 22, 2019. Staff briefly explained the rulemaking process and timeframes stating that the proposed rulemaking commenced on February 15th 2019 and would be accepting comments on the rule in writing for the next 45 days. The public comment period was held for 46 days to accommodate a third public hearing in Sacramento. Staff explained that the office would review any comments received and if necessary amend regulatory language and provide notice to interested parties of any subsequent public comment periods.
Comment Responses	Commenter asked when a response to questions raised in the public hearing would be received, under the impression that an answer would not be received at the hearing but at a later date. O3-1	Staff informed the commenter that his impression was correct. The OSFM gathered the comments and questions and responded to them in the Final Statement of Reasons filed with the Office of Administrative Law pursuant to Government Code § 11346.9
CEQA	CEQA Considerations In OSFM's "Initial Statement of Reasons" document (Page 21 of 44), OSFM states that costs to install automatic shutoff valves and remote controlled ball valves are negligible because pipelines are unlikely to trigger CEQA review or are exempt from the CEQA process. This conclusion underestimates the significance of various permitting requirements and regional considerations. For pipelines in remote areas without easy access, installation of pipeline appurtenances can involve significant environmental implications. For example, valve installation may necessitate the installation of a new access road.	Revising the CEQA process is outside of the scope of the proposed regulation language but was broached in an attempt to be inclusive of potential costs discussed in the SRIA not in the ISOR as contended by the commenter. As part of the potential permitting process and developing cost estimates the OSFM spoke with local permitting agency personnel and conducted review of CEQA laws. The discussions and research revealed that because pipelines are existing projects, retrofits are largely unlikely to need or are exempt from CEQA review. Additional exemptions exist under CEQA for existing pipeline projects in the Public Resources Code at sections 21080.21 and 21080.23 and in 14 CCR 15284 (referencing "pipeline" as defined in Government Code section 51010.5 which is the Elder Pipeline Safety Act and falls under OSFM jurisdiction). Those CEQA exemptions specifically address inspection, maintenance, repair, or

	While some CEQA exemptions apply to certain categories of pipeline and maintenance projects, projects must meet various criteria to qualify for an exemption and these CEQA exemptions do not apply in all circumstances. As such, depending on the specific valve installations and various project details, it may be inappropriate to rely on CEQA exemptions for the pipeline projects. Furthermore, CEQA requires a project to be reviewed in its entirety. For example, if several new valves must be installed on a multi-mile pipeline, it is essential that those impacts are assessed cumulatively, as the associated impacts may involve the disturbance of numerous acres and / or necessitate take permits due to disturbance of state or federal listed endangered species. Moreover, even if California strives to streamline the CEQA process here, it would not necessarily relieve the operator from the federal permitting requirements set forth by the National Environmental Protection Act (NEPA). Depending on the jurisdiction, environmental impacts and public interest, permitting (whether state or federal) could take several years and be costly for a larger project. Therefore, AB 864 needs to recognize these potential implementation delays which are outside the operators' control. W7-13	replacement of a valve among others. However, this may not be an exhaustive list and an operator should conduct their own review for CEQA application to a potential project. Regional considerations are certainly a factor, however the OSFM cannot possibly survey every city and county permitting authority to determine potential permitting and CEQA costs on all pipelines absent a risk analysis for each pipeline. Hence, assumptions must be made to achieve some economic impact analysis and the assumptions used were at the higher end of estimated costs and hours of review. This process was challenging because industry did not provide any cost data to the OSFM. However, the potential permitting cost was still identified and included in the SRIA with an anticipated cost of $7,335,000, a relatively small amount in relation to the total anticipated costs of roughly $220,000,000 hence the determination that costs were negligable. The commenter is correct that CEQA exemption may not be the case for all possible projects depending on every conceivable consideration for all pipelines in California but the code of regulation and statutes cited above may certainly be helpful. This is why the SRIA notes that it was assumed that 50% of the valve retrofits on pipelines would require permits at 100 hours of review at $225 per hour based on discussion with permitting agencies this is a high estimate. Possible implementation delays are addressed in section 2113. Delay or objection from local city and county agencies that would need to approve a pipeline enhancement project installing BAT designed to further protect the environment and human health from the harms suffered in the event of a pipeline spill is up to their permit approval processes. Streamlining the CEQA process and cost assumptions utilized in the SRIA are beyond the scope of the text of the regulation and is therefore rejected. No changes to the regulatory language are needed.

FIRST 15-DAY COMMENTERS & IDENTIFIER. PERIOD ENDING OCTOBER 17, 2019	
W10	Environmental Defense Center, Linda Krop, Chief Counsel; letter dated 10/10/2019
W11	Crimson Midstream, LLC, David Blakeslee, Regulatory Compliance Manager, email dated 10/11/19
W12	Wickland Pipelines, LLC, Daniel Hall, letter dated 10/14/19
W13	Mary Ellen Brooks, Citizens Planning Association of Santa Barbara County, President, letter dated 10/14/19
W14	Chevron, Henry Perea, Manager, State Government Affairs; letter dated 10/16/2019
W15	County of Santa Barbara, Lisa Plowman, Planning & Development Director; letter dated 10/16/2019
W16	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter dated 10/16/19
W17	Climate First: Replacing Oil & Gas, Robin Gerber, Board President, letter dated 10/16/19
W18	Western States Petroleum Association, Bridget McCann, Manager Technical and Regulatory Affairs, letter dated 10/16/19
W19	Phillips 66, Gabriel Munoz, Region Manager, Western Region; letter dated 10/16/2019

Topic	Summary of First 15-Day Comments	Agency Responses
§2100(a)(14)	The definition of covered pipelines in Subsection 2100(a)(14) should include all hazardous liquid pipelines, and should not exempt pipelines that operate at a stress level of twenty percent or less of the specified minimum yield strength of the pipe. Such pipelines still pose a threat to the coastal environment. W10-16	Please see response to similar comment previously submitted under: W1-5, W7-76, W8-9, and W7-14.

§2100(a)(16)	We are concerned that the proposed deletion of the phrase “a significant repair of an existing pipeline or” will decrease the pipelines that are subject to the new regulations. By deleting these pipelines from the definition of a replacement Pipeline, they will be treated as existing pipelines and thus may not be subject to the more stringent requirements for best available technology. In addition, this change may encourage operators to mischaracterize their actions as “significant repairs” instead of true replacements in order to circumvent the stricter requirements. Accordingly, we oppose this modification and urge the Office of the State Fire Marshall (“OSFM”) to include a significant repair of an existing pipeline in the definition of replacement pipeline. W10-2	The OSFM disagrees with this comment and sees no need to amend the regulatory language. The removal of the term significant clarifies that a replacement pipeline is considered the construction of a new pipeline and will be regulated as if it were a new pipeline. New pipelines are subject to the proposed regulations, regardless of the commenters contention that the significance of “repair” of an existing pipeline could potentially remove a pipeline from the regulatory scheme. All new, replacement, and existing pipelines are required to comply and the same best available technology standards will apply to all pipelines. The commenters contention that an operator mischaracterizes a pipeline replacement as a “significant repair” to avoid compliance with the proposed regulations does not follow. There is no differentiation between the compliance requirements of a new, replacement, or existing pipeline. Changes to pipeline operations or pipeline profile that could amount to a significant repair are covered in §2117 – Risk Analysis Update and Review.
§2100 (a)(16) and §2100 (a)(17)	WSPA suggests that "replacement" or "retrofit" of a pipeline that requires new risk assessment plan be defined by criteria as specified in CFR 195.64 (c)(1)(i)(ii)(iii)(iv). W18-4	The OSFM rejects the suggestion to use the specified criteria to define a “replacement” or “retrofit” of a pipeline. No changes were made to section 2100(a)(17) and are likewise rejected as beyond the scope of the 15-day comment period. The suggested criteria found in 49 CFR 195.64 relate to notification within a specified period of time by operators to the Pipeline Hazardous Safety Materials Administration following certain events that include construction, among others. The criteria are not sufficient for use as a definition because they are meant for use as a notification tool under specified events that may only be related tangentially to the replacement of a pipeline. If the issue of notification is ignored, the proposed criteria could act to limit the terms replacement or retrofit pipeline to only construction projects that cost $10 million or more, or construction of 10 or more miles of pipeline, reversal of flow direction, a pipeline converted for service, or a change in commodity. The definition of “replacement pipeline” proposed in the draft regulations “means construction of a new

		pipeline to take the place of a previously existing pipeline." The definition "retrofit" "means adding the best available technology to an existing pipeline." The definitional change posed by the commenter would combine two defined terms resulting in unworkable confusion and conflation of separate important concepts, absent wide scale amendments that are unnecessary because the current proposed definitions of "replacement" and "retrofit" fit the intended definitional scope when applied to the proposed regulations on a whole. Importantly, the definitions as used in the proposed regulations are not limited by construction costs or length of pipe. The intent of AB 864 is the protection of environmental resources, not cost of construction or length of pipe. The existing definitions meet this intent.
§2100(a)(16)	WSPA believes the definition of a replacement pipeline in section§ 2100 (a) (16) is unclear and requires defining parameters for both distance and proposed use. Since the introduction of a replacement pipeline triggers the need for a new risk assessment plan, WSPA believes that a definition of a replacement pipeline should refer to a "significant project" that introduces substantial changes to the risk profile of the replacement pipeline. WSPA also suggests that "replacement" of a pipeline that requires a new risk assessment plan be defined by criteria as specified in CFR 195.64 (c)(1)(i)(ii)(iii)(iv). W18-15	See response to W18-4, W2-4, W2-5, W2-6, W2-7, W2-8, W7-70, W7-78. The OSFM rejects this comment. The terms is used in the regulations in the context of categorizing new, replacement, and existing pipeline. The suggested revisions would change the scope of the term beyond its present use in the regulations by limiting their application to replacement pipeline through distance and proposed use of the replacement pipeline. Importantly, the commenters suggestion to include the language "significant project" in the definition would raise the same clarity issues identified in comments W2-4 through W2-6 in the original 45-day comment period, which contributed to removing the term "significant" from the definition as recommended in other comments received. Furthermore, the removal of the term "significant" brings the definition in line with the statutory language that makes no differentiation between replacement or significant repair.
§2100(a)(16)	2100(a)(16) - Definition of "Replacement Pipeline", edited to remove the language "a significant repair of an existing pipeline or" to provide clarity and consistency throughout the proposed regulation.	The OSFM rejects these comments because they are broad statements regarding issues raised in previously submitted comments unrelated to changes to the text of subsection 2100(a)(16) in the 15-day comment period. In general terms, the comment suggests that the complexity and reality of

	This section remains an issue that WSPA previously commented on. The "Necessity" supporting this section is not realistic. WSPA continues to disagree with the scope of this section and as reflected in other locations throughout the whole Article. The regulations are being developed with risk related issues reduced to simplistic choices that do not reflect the complexity and reality of pipeline operations. The complexity of every day pipeline operations should be reflected in the proposed regulations to reflect the different levels of risk that exist with various types of physical facilities, different changes to their operation, and distinct control of operations. In addition, some changes to physical pipelines involve considerably less risk than others and do not warrant a completely new risk analysis to reflect a minor change in the operation and/or the physical pipeline system. W18-35	pipeline operations is not accurately reflected in the risk related field of managing complex pipeline systems, a topic not well suited for addressing in a single definition. This subsection serves to address the scope of "replacement pipeline" and adds clarity in the context of the overall regulation scheme proposed through a narrow definition. The challenges the commenter raises with respect to the overall Article, and an emphasis on risk, as proposed are likewise unable to be reconciled in the limited context of a definition. The issues of risk and unique pipeline scenarios as posed by the commenter are addressed in risk analyses, developed by each operator, for each pipeline, and under the review of the OSFM based on the requirements of the proposed regulations in sections other than the proposed definition at issue here. Changes to the subsection based on the comment received cannot be reconciled as no alternative language was provided in the comment, nor does the subsection address risk as contended by the commenter. See also response to W18-4, W2-4, W2-5, W2-6, W2-7, W2-8, W7-70, W7-78.
§§2103, 2104	Some of the modifications strengthen and clarify the prior requirements, such as the provisions pertaining to requests for exemptions and deferrals. W10-1	Thank you for your comment.
§2104	We support the requirement for a risk analysis that demonstrates that a pipeline is currently using the best available technology, and the clarification that a deferral does not permanently remove a pipeline from potentially upgrading technologies in the future. W10-7	Thank you for your comment.
§2107 (b)	The relocation of a pipeline will be treated as an existing pipeline. WSPA believes the term "Significant" should remain in this section and that some quantification of "significant" should be provided for relevant direction regarding this	It appears that the commenter meant to cite §2107(b) relating to relocation of pipelines. The OSFM rejects the suggestion to reinsert the term "significant" and providing further direction regarding the term (such as size, volume, etc.). The removal of the term adds clarity by removing the unknown components

	issue, i.e., a threshold (size of release, volume, potential cost, etc.) should be defined before requirements for additional risk analysis are required. WSPA also believes that if a relocation reduces the risk or size of a potential spill or release, a Risk Analysis Update and Review should not be required. W18-31	that each individual relocation could encounter that may rise to the level of significant. The section as drafted provides the threshold for further risk analysis considerations through the exclusion of the term significant and inclusion of the following new language: "…a change to the pipeline profile or a change to the pipeline operations that would impact the amount released in an environmentally and ecologically sensitive area in the coastal zone…" The trigger is a change in the profile or operations of a pipeline that would impact the amount released. However, if an operator relocates a pipeline that does not impact the profile or operations of a pipeline then no further action may be warranted. This section should be read as a whole because other portions of §2107(b) may require a risk analysis update and review. Commenter suggests that if a relocation reduces the risk or size of a potential spill or release, an updated risk analysis should not be required. The OSFM also rejects this suggestion. It is the OSFM's responsibility to review and assess risk analysis. If the OSFM is not privy to the operator's risk analysis and contended risk reduction because of a relocation, it is impossible for the OSFM to have confirmed that a risk reduction has taken place. Likewise, if an updated risk analysis was not submitted, the OSFM would have inaccurate information as it relates to pipeline profile and operations which are fundamental components of the required risk analysis.
§2107	2107 - Relocation of Pipelines This section simply states that the word "significant" was removed before the word "change" for clarity. WSPA believes that additional definition should be included to reflect the relative changes that are made during a relocation. In some cases, the relocation can be a relative minor change involving only a very short section of a pipeline that introduces no new material change to the system or which has no material impact on the risk profile of the	Page 8 of the updated ISOR for the second 15-day comment period provided additional background information beyond simply stating the word "significant" was removed before the word "change" for clarity as correctly identified by the commenter. Operators need not develop an entirely new risk analysis for minor/major changes as contended by the commenter. The proposed language addresses commenters concern that changes need not submit a new risk analysis, if the change does not impact operations or profile of the pipeline. The OSFM sees no need to change the regulatory text because it captures both minor and major changes as

	pipeline system. In other cases, a relocation may be more significant and may introduce new risks related to the system. Provisions need to be added that provide the pipeline operator relief from the development of a new risk plan for minor changes. W18-34	contemplated by the commenter. See also response to W18-31.
§2107(b)	Phillips 66 recommends the term "Significant" should remain in section § 2107 (b) and that the term "significant" should be defined in order to provide relevant direction regarding this issue, i.e., a threshold (size of release, volume, potential cost, etc.) should be defined before requirements for additional risk analysis are required. W19-4	See Response to W18-31.
§2107	The regulations state that the relocation of a pipeline will be treated as an existing pipeline rather than as a new or replacement pipeline. This distinction is critical because pipeline relocations will be subject to less stringent requirements than new or replacement pipelines. And yet there is no definition of a relocated pipeline (something we have been asking for throughout this regulatory process). Accordingly, operators could very easily attempt to avoid stricter regulations by characterizing their activities as relocations rather than replacement or new pipelines. The proposed regulation leaves it to the operator to determine whether the change in the pipeline may increase the risk or impact of a spill. There is no requirement for the operator to submit a risk analysis, similar to a request for exemption or deferral. W10-9	See response to W18-31. The OSFM rejects this comment and sees no need to amend the regulatory language. New, replacement, and existing pipelines will be subject to the same regulatory requirements. It is unclear how the commenter reached the conclusion that a relocated pipeline would not need to comply or be subject to some lesser regulatory standard. Likewise, there is no need to define a relocated pipeline because by necessity it must already exist before it can be relocated. Hence, it would be treated as an existing pipeline. The amended language directly addresses commenter's concern about requiring an operator to submit a risk analysis if a relocation results in a "change to the pipeline profile or a change to the pipeline operations that would impact the amount released in an environmentally and ecologically sensitive area in the coastal zone…" Such a result from a relocation, among others, triggers the operator to submit an updated risk analysis under §2117 or a new risk analysis under §2111.
§2107	The regulations should include a definition of "relocated pipeline," and all proposed relocations should be reported to the OSFM, along with a	See response to W10-9.

	risk analysis, to determine whether the activity should be treated similar to a new or replacement pipeline. W10-10	
§2110(a)	The draft regulation stipulates the State Fire Marshal shall review risk analyses, plans, and other associated materials required by this Article and make a best available technology determination based on, but not limited to specific criteria. The Section further states these criteria are subject to a field performance evaluation to substantiate operator claims. CIPA requests clarity on the frequency of field performance evaluations and requests language be added to specify the frequency of such evaluations. W16-6	No changes were made to the text of the proposed regulations in this section beyond correcting numbering to reflect a typographical error. Hence this comment is outside the scope of the comment period and rejected.
§2110(a)(5)-(10)	CIPA requests additional language be added to define the parameters for the comparisons posed in this Section. Specifically, is the BAT being evaluated against other operators, other pipelines for the same operator, or based on a different evaluation? W16-7	No changes were made to the text of the proposed regulations in this section beyond correcting numbering to reflect a typographical error. Hence this comment is outside the scope of the comment period and rejected.
§2111(c)(4)(C)(9)	We support the requirement that a product's behavior in the event of air dispersion is a critical component of the risk analysis. W10-11	Thank you for your comment.
§2115(a)-(i)	CPA also believes the regulations are inconsistent with state law, which requires that all pipelines must be inspected every year. (Govt. Code§ 51015.l(a)). Contrary to this requirement, Subsection 2115 requires testing of leak detection systems only every three years (see Subsection 2115(b)(1) and (c)(1)), and testing of automatic shutoff systems and emergency flow reduction device valves every fifteen months (see Subsection 2115(d)(1) and (e)(1)). These provisions clearly violate state law and must be revised. W13-2	No substantive changes were made to this section except to renumber the subparagraphs appropriately. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period above.

§2115(a)-(i) §2102	We remain concerned that the regulations violate state law by not requiring annual testing; by artificially constraining the geographic scope of regulated pipelines; by allowing multiple test failures before requiring a new risk analysis; and by exempting certain pipelines from testing requirements. W10-3	No substantive changes were made to §2115 except to renumber the subparagraphs appropriately. The proposed regulations at issue in this section relate to testing, not inspection. However, all operators are inspected annually as required under separate legislation and regulations not at public comment here. Additionally, the proposed regulations do require annual testing at §2115(d), (e), and (h). The commenter has not directed OSFM to a state law requiring annual testing. See response to W10-13 for discussion of annual inspection laws. Likewise, the authorizing statute does not dictate test failure parameters for the submission of a new risk analysis, nor does this section exempt certain pipelines from testing requirements as far as the OSFM can surmise from the broad statements made by the commenter. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period above. The OSFM rejects the contention that the proposed regulations artificially constrain the geographic scope of regulated pipelines as further clarified in section 2102 of the proposed regulations. Section 51013.1(c)(4) of the authorizing statute directed the OSFM to determine how near to an environmentally and ecologically sensitive area a pipeline must be to be subject to the regulations based on the likelihood of a pipeline impacting those areas. The OSFM used the definition of an EESA as required by the statute in section 51013.1(f) and consulted with the Office of Spill Prevention and response on the potential impacts to state water and wildlife as required by section 51013.1(e). Studies of past pipeline spills were also consulted in developing the geographic scope of the regulations terminology of near. Likewise, the statutory reference to the coastal zone must be given weight in determining a pipeline's proximity to identified EESAs. The application of this determination was not made artificially but was based off existing laws and past spills that are referenced in the Initial Statement of Reasons. The focus of the legislation is on environmental protection of EESAs in the coastal zone by

		regulation of pipelines that are located in or could impact the coastal zone portion of an EESA. The OSFM rejects the contention that the geographic scope of the regulation artificially constrains the regulated pipelines. Importantly, the commenter does not provide an explanation as to how the regulations are artificially constrained nor analysis of how the regulation should be applied beyond the current construct to address the alleged constraint while remaining within the authority conferred by statute. See similar response to scope under comments: W1-5, W7-76, W8-0, W7-14, and W10-16
§2115(a-i)	We reiterate our previous comment (April 2, 2019 letter to Office of the Sate Fire Marshall) that the proposed regulations could be better aligned with state law, which requires that all pipelines must be inspected every year (Government Code Section 51015.l(a)). Contrary to this annual inspection requirement, Subsection 2115 of the proposed regulations requires testing for leak detection systems only once every three years while testing of automatic shutoff systems and emergency flow restriction device valves are required at intervals not to exceed 15 months. The frequency testing of these systems are not entirely aligned with Government Code Section 51015.1(a) which requires annual inspections of all intrastate pipelines. We recommend revising subsection 2115(b)(1) and (c)(1) to require annual testing of the leak detection systems and automatic shutoff systems to ensure consistency with the pipeline inspection provisions of Government Code Section 51015.1(a). W15-1	The OSFM rejects this comment. No substantive changes were made to this section except to renumber the subparagraphs appropriately. Similar comment was submitted and answered under related matters during the 45-day comment period above and in response to comment W10-3.

§§2115(b)(1), (c)(1), (d)(1), and (e)(1)	The regulations are inconsistent with state law, which requires that all pipelines must be inspected every year. (Govt. Code § 51015.1(a)). Contrary to this requirement, Subsection 2115 requires testing of leak detection systems only every three years (see Subsection 2115(b)(1) and (c)(1)), and testing of automatic shutoff systems and emergency flow reduction device valves every fifteen months (see Subsection 2115(d)(1) and (e)(1)). These provisions clearly violate state law and must be revised. W10-13	The OSFM rejects this comment. No substantive changes were made to this section except to renumber the subparagraphs appropriately. Similar comment was submitted and answered under related matters during the 45-day comment period and above in response to comment W10-3. Government Code §51015.1(a) states: "Commencing January 1, 2017, the State Fire Marshal, or an officer or employee authorized by the State Fire Marshal, shall annually **inspect** all intrastate pipelines and operators of intrastate pipelines under the jurisdiction of the State Fire Marshal to ensure **compliance with applicable laws and regulations**. By January 1, 2017, the State Fire Marshal shall adopt regulations implementing this subdivision." (**Emphasis added**) Testing is different from inspection, which as emphasized above, requires only inspection for compliance with applicable laws and regulations and does not require annual testing. The Government Code section cited by commenter and regulations promulgated thereunder were conducted in a separate unrelated rulemaking outside of the scope of the current rulemaking. Moreover, the statute and regulations adopted consistent with that statute merely specified that the OSFM inspect pipelines and operators annually, it did not impose annual testing requirements on operators beyond that which other applicable laws and regulations impose. Therefore no changes to the regulation text are needed.
§2117(a)	We support the requirement for operators to update their risk analyses every five years to address any changes in environmentally and ecologically sensitive areas and/or technological advances. W10-12	Thank you for your comment.

The following comments are not germane to the proposed regulations; as

such, OSFM rejects these comments.		
Comments outside of scope	Summary of Comments	Agency Responses
General	We are concerned that the regulations do not put the burden on operators to demonstrate that automatic shutoff systems are infeasible. Such systems often provide the most effective tool to minimize the size of a spill and hence the environmental and economic harm that ensues. W10-4	No changes were made to the proposed regulations during this comment period relating to automatic shutoff systems. See agency response in 45-day comment period above on related subject.
§2102(b)	We support the requirement that a pipeline may become subject to the requirements of these regulations based on a future release that affects an environmentally and ecologically sensitive area. W10-5	Thank you for your comment.
§2103	We support the requirement that a risk analysis must be provided that demonstrates that a spill from a pipeline proposed for exemption will not impact the coastal zone portion of an environmentally and ecologically sensitive area, and the requirement that the OSFM must assess the request for the exemption based on a complete risk analysis. W10-6	Thank you for your comment.
§2105	We support the requirement that a pipeline may become subject to the requirements of these regulations based on a future release that affects an environmentally and ecologically sensitive area. W10-8	Thank you for your comment.
§2100(a)(9)	The definition of “near” in Subsection 2100(a)(9) should be broad enough to ensure compliance with the mandate of AB 864, which is “to reduce the amount of oil released in an oil spill to protect state waters and wildlife.” A half-mile is arbitrary and may be ineffective at protecting	The OSFM rejects the suggestion to edit the regulatory language as untimely because no changes were made to §2100(a)(9) during this comment period except to correct a citation. See agency response in 45-day comment period above on related subject. See also response to comment W10-3 relating to §2102 geographic scope of proposed

	environmentally and ecologically areas from harm from an oil spill. We continue to recommend the following changes to the proposed definition: "Near" means ~~within half a mile or less~~ a location from which a spill from a pipeline may impact an Environmentally and Ecologically Sensitive Area in the Coastal Zone. W10-14	regulations based on historic releases and studies relied upon in the Initial Statement of Reasons. The definition of near is not arbitrary but based on extensive research and grounded in reason.
§2115(h)(2)	The proposed regulations require a new risk analysis and review of best available technology if there are two test failures during the three-year annual testing period. (Subsection 2115(h)(2). Any test failure should require a new risk assessment and review of the technology. W10-15	The OSFM rejects the suggestion to edit the regulatory language as untimely because no changes were made to §2115(h) during this comment period except to correct numbering. See agency response in 45-day comment period above on related subject.
General	Automatic shutoff systems should be required technology unless proven to be infeasible. W10-17	No changes were made to the proposed regulations during this comment period relating to automatic shutoff systems. See agency response in 45-day comment period above on related subject.
General	We appreciate all the work that the OSFM has conducted to date and urge the foregoing revisions to ensure compliance with the purpose, intent, and requirements of AB 864 and SB 295. W10-18	Thank you for your comment.
General	The issuance of the final regulation continues to delayed but the due dates for compliance by the industry have not been adjusted accordingly. W11-1	See response to W18-3.
General	The due date for filing is 02-01-2020 for those pipelines that can demonstrate are exempt from the regulation this is not enough time. W11-2	See response to W18-3.
General	The effective date for the link to the Ecological and Environmentally Sensitive sites is January 1, 2020, this is also not enough time. W11-3	See response to W18-3.

§2102(a)(4)	Use of the words "connect" and "connection" are either redundant, or could be wrongly interpreted to apply to EESAs no part of which are situated in the coastal zone. Commenter proposes that the following additional modifications be made to the proposed regulations: If an environmentally and ecologically sensitive area ~~connected to or~~ located in the coastal zone extends beyond the coastal zone, that portion of the environmentally and ecologically sensitive area that extends beyond the coastal zone is presumed to be subject to the requirements of this Article. W12-1	No changes to §2102(a) were made in the text under the comment period applicable here, hence this comment is outside the scope. However, see responses to W7-2 and W2-12.
§2102(a)(5)	If a pipeline intersects an environmentally and ecologically sensitive area in the coastal zone or intersects an environmentally and ecologically sensitive area ~~with a connection to the coastal zone~~ as described in Subsection (a)(4) of this Section 2102, it is presumptively subject to the requirements of this Article. W12-2	No changes to §2102(a) were made in the text under the comment period applicable here, hence this comment is outside the scope. However, see responses to W7-2 and W2-12.
§2102(a)(6)	If a pipeline is near an environmentally and ecologically sensitive area in the coastal zone or near an environmentally and ecologically sensitive area ~~with a connection to the coastal zone~~ as described in Subsection (a)(4) of this Section 2101, it is presumptively subject to the requirements of this Article. W12-3	No changes to §2102(a) were made in the text under the comment period applicable here, hence this comment is outside the scope. However, see responses to W7-2 and W2-12.
General	Over the years, CPA has agreed with the Environmental Defense Center on many issues. We have reviewed the EDC letter regarding proposed regulations regarding pipelines and our board has voted to support their positions. CPA agrees with the EDC requests that the regulations be revised to ensure adequate	Thank you for your comment.

	protection from potential pipeline oil spills. W13-1	
General	CPA agrees that automatic shutoff systems should be required technology unless proven to be infeasible. Had the Plains All American pipeline been equipped with an automatic shutoff system, the oil spill would have been much smaller, and many miles of the coast would have been spared the devastating impacts of the spill. W13-3	Thank you for your comment.
General	Chevron would like to acknowledge and commend OSFM for incorporating new language in Sec. 2102(b) that provides operators enhanced certainty in identifying which pipelines and facilities will be subject to the new requirements. The new language responds to concerns that the previous draft would have impacted areas that are clearly outside of the Coastal Zone. W14-Addition	OSFM accepts and thanks you for the comment.
General	Despite this improvement, Chevron continues to have significant concerns with major elements of the revised draft regulatory proposal. In particular, we remain concerned that issues related to the data requirements for the risk analysis, compliance deadlines, and operational upsets attributable to mandated testing requirements have not been addressed. For example, Sec. 2111 of the proposed regulation continues to require operators to submit models and data layers that do not currently exist and are not easily developed. While we appreciate the aspirational intentions associated with the Risk Analysis requirements of the proposed draft, we believe the rule must be designed in a way that allows operators to feasibly comply. W14-1	No changes were made to proposed regulation language at public comment relating to the issues raised by the commenter therefore this comment is outside the scope and rejected.

General	Based on these concerns we are resubmitting our previous comment letter dated March 28, 2019 for consideration and would call OSFM's attention to the concerns identified on pages 2 and 3 of that letter respectively. W14-2	Comments related to the March 28, 2019 letter from the commenter are outside the scope of the current public comment period.
General	Accordingly, we encourage the OSFM to withdraw the proposed regulation in favor of initiating additional stakeholder workshops focused on addressing the deficiencies identified in our previous comment letter. W14-3	The request to withdraw from the proposed regulations is unrelated to changes in the proposed regulations.
General	CIPA would like to again highlight the importance of clear and concise regulatory language as well as reasonable and realistic compliance timeframes for operators. W16-Addition	Thank you for the comment.
General	The timelines outlined in the current draft regulations are unreasonable. It was expected that operators would have twelve months from the publication date of the regulation before the deadline of the Risk Analysis submittals for the impacted pipelines. Based on current timeframes and a regulatory publication date of November I, 2019, impacted operators will have no more than eight months to develop and submit necessary pipeline risk analyses. If the regulatory publication date is later than November l, 2019, the time allowed to develop and submit the required risk analyses is even less. W16-1	No changes were made to proposed regulation language at public comment relating to the issues raised by the commenter therefore this comment is outside the scope and rejected.
General	As has been noted in previous comments, more time is needed to ensure operators are able to collect all required information. CIPA requests the timeline for Risk Analysis submittals be extended to allow for at two years from the effective date of the regulation to submission deadline. W16-Addition	Comments related to the April 1, 2019 letter from the commenter are outside the scope of the current public comment period.

General	The current definition of a "pipeline" disregards exemptions present within the Elder Pipeline Safety Act. Regulatory certainty and consistency is critical for operator compliance across all rules regulating California's oil and gas industry. CIPA requests the OSFM provide the statutory authority for redefining a "pipeline" in this regulation and address inconsistencies associated with the current definition. W16-2	No changes were made to proposed regulation language at public comment relating to the issues raised by the commenter therefore this comment is outside the scope and rejected.
§2117(b)(2)	The language in this section potentially allows for unnecessary and burdensome requirements on operators who are already working to deploy best available technology in their operations. As the section reads, the OSFM could require operators to consider "new/emerging" technology and resubmit Risk Analyses with no recognition of operator efforts and resources expended to submit previous Risk Analyses. California's oil and gas operators require predictability and certainty when complying with regulations and deploying valuable resources and capital. The potential to erase or ignore efforts already underway as required by the regulation is problematic and should be addressed by recognizing minimum time intervals between Risk Analyses submissions, new technologies and Risk Analyses resubmissions. W16-3	Thank you for the comment. No changes were made to proposed regulation language at public comment relating to the issues raised by the commenter therefore this comment is outside the scope and rejected.
§2101(a)(5)	The draft regulatory language should not supersede API RP 1175 and/or API RP 1130, which are industry and agency recognized consensus standards for "Computational Pipeline Monitoring" and "Leak Detection". CIP A requests the OSFM ensure regulatory consistency is achieved in the adopted	This request is unrelated to changes in proposed regulations.

	regulation and remove the potential for conflicts with the recognized standards. W16-4	
§2109(d)	The draft regulation currently allows the State Fire Marshal to determine what is the best available technology and to consider the effectiveness and engineering feasibility of the technology consistent with the criteria listed in Section 2110 (Best Available Technology Determination). CIPA requests additional language be added to include the consideration of secondary effects from any proposed BAT (i.e. - the installation of EFRDs may make the line less safe to operate and result in a higher risk of failure due to fluid dynamics in the event an EFRD is activated). W16-5	This request is unrelated to changes in proposed regulations.
§21111(b)	As has been noted in previously submitted comments, permitting delays and information gathering may create delays. CIPA requests additional language be added to define actions or waivers that may be necessary if materials or other long lead items or permitting delays result in changes to the submitted implementation plan or will push field implementation past the published compliance date. W16-8	Comments related to the April 1, 2019 letter from the commenter are outside the scope of the current public comment period. This request is unrelated to changes in proposed regulations.
§2111(c)(4)(B)(1.)(a.)	CIPA requests additional language be added to allow an operator to further define the "reasonable worst case discharge" by capabilities that may exist such as pigging the pipeline with fresh water to displace the hazardous liquid, pulling a vacuum on the pipeline, containment capabilities, physical considerations such as the head pressure of water effectively stopping a leak after the line is depressured, etc. W16-9	This request is unrelated to changes in proposed regulations.
§2112(a)(1)	As the Section currently reads, the OSFM effectively has unlimited time to review the Risk	This request is unrelated to changes in proposed regulations.

	Analyses if extensions are made. CIPA requests additional language be added to allow the implementation date for the operator to be extended accordingly if the OSFM takes more than the stipulated 90 days to accept/deny a Risk Analyses submittal. W16-10	
§2113(b)	The Section currently states that within 60 days of acceptance of the Risk Analysis pursuant to Section 2112 (State Fire Marshal Risk Analysis Assessment), a detailed supplemental implementation plan must be submitted to State Fire Marshal. CIPA requests additional language to clarify what happens if a detailed supplemental implementation plan is not submitted within the 60-day period. Specifically, CIPA requests the OSFM consider language allowing an operator to request an extension if circumstances warrant it. W16-11	This request is unrelated to changes in proposed regulations.
General	We are writing in support of the comments submitted by the environmental Defense Center, in particular the issues related to: 1) a requirement for automatic shutoff systems; 2) annual inspections of all pipeline technologies; 3] the regulation of relocated pipelines in the same way as new or replacement pipelines. W17-1	Thank you for your comment.
General	There remain several significant concerns with the regulation as written that require thoughtful, in-depth discussion between staff and stakeholders. Weighing these concerns and the need for further input, WSPA requests that OSFM strongly consider withdrawing the current proposal in favor of continued stakeholder discussions focused around maximizing	The formal rulemaking process is the appropriate public venue for raising concerns with proposed regulations as it allows all interested parties to participate in an open discussion on the potential rules. Where possible existing regulatory requirements were consulted in developing the proposed regulations. WSPA's comments have been noted. See also response to W3-7.

	efficiencies by building on existing regulatory requirements. W18-1	
General	Notwithstanding our request for withdrawal of the OSFM proposal, we offer the following to address our continuing significant concerns with the proposal as currently drafted, in addition to our previous concerns, as stated in our April 1, 2019 comments (attached). W18-2	Comments related to the April 1, 2019 letter from the commenter are outside the scope of the current public comment period.
General	The implementation and compliance deadlines contained in the proposed draft regulation are entirely unrealistic and infeasible to meet. No adjustment has been made to the timeline of the compliance deadlines or the proposed regulations, despite comments submitted regarding the complexity and time-intensive steps required by operators to comply. For example, as currently drafted, Section §2111 contains requirements despite no Overland Flow and Hydrographic Transport (OFHT) models being commercially available that can track all the parameters specified in the section, which may result in operators needing to develop custom detailed models for each individual pipeline that are time consuming and complicates overall risk analysis. The requirement to submit exemption requests by February 1, 2020 is unrealistic and effectively limits any company from compiling a qualified request in the limited time available. Requiring operators to develop the models and submit an analysis of this nature by July 1, 2020 is, consequently, not possible until the necessary models are available for use. WSPA recommends that the compliance and implementation deadlines and the deadline for filing exemption requests be extended for the	Implementation and compliance deadlines as well as timeframes for exemption requests contained in the draft regulation are addressed in the proposed changes noticed in the Second 15-day comment period that began October 24, 2019 and closed November 7, 2019. No changes to §2111 were made in the text under the comment period applicable here, hence this comment is outside the scope. However, see responses to W3-2, W3-4, W3-8a, W3-8b, W5-5, and W7-10.

	following time frames following regulatory effective date: 4 months for exemption or deferral for §2103 and 2104; 12 months for new, replacement, and existing pipeline for §2108(a) and (b), and 48 or 36 months from final approval of implementation plan by OSFM for existing pipeline retrofit for §2108(c). WSPA is concerned that the current compliance and related timelines noted in the proposed regulations leave insufficient time for an operator with a new or replacement pipeline to comply with the January 1, 2020 date. Additionally, risk analyses associated with both new and replacement pipelines and existing pipelines are complex and will take considerable time to complete, particularly on longer pipelines with several pipeline segments, each of which will require individual risk analyses. WSPA believes that a more effective approach to address the various compliance dates would be to establish specific timelines tied to the final implementation date as proposed by WSPA. W18-3	
General	WSPA believes that language should be added to §§ 2103, 2104, and 2108 to the respective implementation schedules (see comment W18-3) noting that operators should not be subject to enforcement action in the event of delays in implementation caused by permitting agencies or other extenuating circumstances outside of the control of the operator. W18-5	See response to W18-3. No changes were made to proposed regulation language at public comment relating to enforcement during the first 15-day comment period ending October 17, 2019 and therefore this comment is outside the scope and rejected.
General	Also, the dates noted in the "Download Ecologically and Environmentally Sensitive Sites in the Coastal Zone" document should also be modified to reflect the timelines noted in W18-3. W18-6	See response to W18-3. The document will be updated to reflect dates found in the final adopted regulations.

General	For example, if the OSFM determines that a remotely controlled block valve is required in a new location in metropolitan and some rural areas, several months can be required to obtain rights of way and related permits to complete the installation. In other cases, if an operator is being required to complete a significant relocation of a pipeline or add additional appurtenances to a pipeline, a California Environmental Quality Act (CEQA) or Federal National Environmental Policy Act (NEPA) review and documentation may be required. Depending upon the jurisdiction and specific physical location, approval of such review and documents can take many months and sometimes years to obtain final approval. If OSFM determines that an operator's leak detection is inadequate, development and installation of a new leak detection can take many months to conform the specific supervisory control and data acquisition (SCADA) software and install the related field equipment to complete the installation of the new system. The prescriptive deadline for submitting and completing work required by each operator's Detailed Supplemental Implementation Plan should be based on each operator's defined scope. For example, one segment may require very little augmentation and therefore the schedule to complete an implementation plan may be short, while a large pipeline system that may require a significant amount of work may require more time than currently allotted in the draft regulation timeline. Deadlines for each pipeline system should be approved by the OSFM independently per the statement of work (SOW). W18-7	See response to W18-3. No changes were made to proposed regulation language at public comment relating to the issues raised by the commenter therefore this comment is outside the scope and rejected.

§2104(c)	2104(c): informs the operators that deferral requests must be submitted by February 1, 2020. The amount of time allotted for an operator to request a deferral and complete the risk assessment is not realistic and the language in the subsection should be consistent with WSPA's timelines reflected in Table 1 above. W18-36	See response to W18-3. No changes were made to proposed regulation language at public comment relating to the issues raised by the commenter therefore this comment is outside the scope and rejected.
General	WSPA believes that OSFM lacks the authority to change the definition of "pipeline", as explicitly set forth in the Elder California Pipeline Safety Act (PSA) (California Government Code§ 51010.5(a)). The PSA clearly states that certain lines are not included in the definition of "pipeline" and these are exempt from proposed rules and regulations. California Government Code Section 51010.5(a) specifically states: "Pipeline" includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five such facilities in the state. "Pipeline" does not include the following: Section (3) A pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe ... Section (4) Transportation of petroleum in onshore gathering lines located in rural areas ... Section	There were no changes to the definition of pipeline during this public comment period beyond correcting a minor citation error that did not impact the substance of the definition. Therefore, the OSFM rejects this comment as untimely. However, additional revisions were made to the definition of Pipeline in the final public comment period below.

	(6) Transportation of a hazardous liquid by a flow line. In absence of specific legislative authorization, OSFM cannot by regulation expand the definition of "pipeline" from the PSA. However, OSFM also attempts to rely on Assembly Bill 864 (AB 864) but the bill lacks any specific authorization giving OSFM the authority to change the definition. The general purpose of AB 864 is coastal zone protection but does not include any legislative authorization to expand the definition of pipeline under the PSA. Furthermore, an Assembly floor analysis of the bill explicitly states that the pipeline definition from the PSA applies to the bill - nothing purports to change it. (Assembly Floor Analysis of AB 864, September 10, 2015.) Finally, the Legislature has already recognized where the original AB 864 language has fallen short of its intent and made further statutory changes accordingly (In 2016 SB 940 added a definition of "oil" specifically to apply only to AB 864). At that time, the Legislature had the opportunity to amend the definition of "pipeline" if there was intent to do so but no changes were made. Due to the PSA, as well as AB 864's lack of authorization, OSFM does not have the authority to change the well-established statutory definition of pipeline as set forth in California Government Code. W18-8	
General	Several additional definitions should be added to § 2100 (a) to provide additional clarification to the Article. These include: • Exemption of a Pipeline • Deferral of a Pipeline • Risk Analysis	The commenter asks for the inclusion of new definitions unrelated to changes in proposed regulations. The appropriate time for the submission of these comments was during the initial 45-day comment period or in relation to proposed changes in the current comment period. Furthermore, the commenter provides no reason for the needed definitions

	• Implementation Plan • Retrofit a Pipeline • Effectiveness of a technology • Engineering Feasibility of a Technology • Initial Implementation Plan • Seasonal Hydrographic Conditions • Climatic Conditions • Reasonable Worst-Case Discharge • Largest Foreseeable Discharge • Abnormal Stream Conditions • OSFM Risk Analysis Assessment • Determination of Adequacy • Letter of Acceptance • Detailed Supplemental Implementation Plan • Certification Statement • Timetable for Implementation and Completion • Testing Program • Test Failure W18-9	beyond a general statement that it will provide additional clarification, nor are proposed definitions provided. Therefore, the OSFM rejects this comment as untimely.
General	Definition of size of leaks. W18-10	This comment was submitted and answered under the 45-day comment period. No changes were made in relation to definition of the size of a leak during this comment period. Therefore, the OSFM rejects this comment as untimely.
General	WSPA is concerned about the language in §2117 (b) (2): the development of new best available technologies as determined by the State Fire Marshal during any of the risk analysis. This section provides the OSFM unilateral authority to require the development of an entirely new risk analysis which may be expensive and time consuming without being more effective. WSPA believes this decision should be considered on a case by case basis and should be technology neutral. W18-11	This comment was submitted and answered under the 45-day comment period. No changes were made in relation to §2117(b). Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.

General	Once a system is approved, the operator should be granted a specified period before major modifications and/or a replacement are required. Further comments and recommendations on this item were provided in the July 19, 2016 WSPA comment letter (attached). W18-12	This comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to time frames for modification or replacement or “grandfathering” as referenced in 45-day comments. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
§2100(a)(9)	Clarification is needed regarding the use of the term "near". §2100 (a) (9) states that "near" is within half a mile. §2102 (a) (6) states that if a pipeline is "near" an environmentally or ecologically sensitive area, and then later section § 2102 defines a "buffer" as a half-mile so those two definitions when reviewed together make the intersection of a pipeline within one (1) mile of a Habitat Conservation Area (HCA) or Environmentally Sensitive Area (ESA) in the program. WSPA believes this is overreaching and extends the area of inclusion for pipeline operators or may cause confusion as some operators may assume only one-half mile while others might decide 1 mile. W18-13	This comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to the sections cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
General	WSPA believes that the length of a pipeline system be taken into consideration for purposes of achieving compliance under the proposed regulations. In some cases, operators may have a relatively large diameter system that only extends a short distance (e.g., from a dock to a tank farm a short distance way). In these types of scenarios, it seems impractical to require the operator to install meters, valving systems for proving meters, purchase of a computational system, etc., to monitor a short system. In addition, a system may be an integral part of a system owned and, in some cases, controlled by another operator. In such a case, it would make sense to have a leak detection system owned by	This comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to the pipeline length cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.

	one party that is providing partial coverage for the connected system. The regulation as proposed does not provide for the operation and monitoring of such a co-owned system. W18-14	
§2101(a)(5)	OSFM and AB 864 should not be allowed to supersede API RP 1175 and/or API RP 1130, which are industry and agency recognized standards for "Computational Pipeline Monitoring" and "Leak Detection." W18-16	This comment was submitted and answered under related matters during the 45-day comment period. No substantive changes were made to this subsection except to renumber the subparagraph to coincide with the insertion of a new document incorporated by reference. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
§2110(a)	In some cases, field testing may not be technically feasible or may pose an unacceptable risk to public safety. Also, for leak detection systems this requirement conflicts with API RP 1130 and section § 2115, which defines testing requirements. Field verification is not the only acceptable testing method. WSPA suggests alternate language stating (a) ... "These criteria are subject to performance evaluations to substantiate operator claims according to Section § 2115 Testing Requirements and Test Failures:" This recommendation is supported by API RP 1130 Section 6.2.1 Testing Methods: "Possible methods of testing include but are not limited to: -Removal of test quantities of commodity from the line. -Editing of CPM configuration parameters or SCADA inputs to simulate commodity loss (software simulations) or a desired hydraulic condition. - Altering an instrument output that is critical to the CPM: e.g. altering a meter factor to simulate a volume imbalance, or a pressure output to simulate a hydraulic anomaly." W18-17	No substantive changes were made to this subsection except to renumber the subparagraphs appropriately. Therefore, the OSFM rejects this comment as untimely. This comment was submitted and answered under related matters during the 45-day comment period.

§2109(d)	§ 2109 (d) The State Fire Marshal shall determine what is the best available technology and shall consider the effectiveness and engineering feasibility of the technology consistent with the criteria listed in§ 2110 (Best Available Technology Determination). Additional language should be added to include the consideration of secondary effects from any proposed best available technology (BAT) (i.e., the installation of emergency flow restricting devices (EFRDs) may make the line less safe to operate and increase risk of failure due to fluid dynamics in the event an EFRD is activated). W18-18	Similar comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to the sections cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
§2110(a)	The State Fire Marshal shall review risk analyses, plans, and other associated materials required by this Article and make a best available technology determination based on, but not limited to, the following criteria. These criteria are subject to a field performance evaluation to substantiate operator claims. Additional language should be added to define the frequency for referenced field performance evaluations. W18-19	No changes were made in relation to the sections cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely.
§2111(b)	Operators must also submit an initial Implementation Plan that outlines the time frame to implement the proposed best available technologies with the risk analysis. Additional language should be added to define actions or waivers that may be necessary if materials, other long-lead items, or permitting delays result in changes to the submitted implementation plan or will push field implementation past the published compliance date. W18-20	Similar comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to concerns cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.

§2111(c)(4)(B)(1)(a)	The pipeline's maximum release time in hours (i.e. the time between pipeline rupture and discovery), plus the maximum shut-down response time in hours (based on historic discharge data or in the absence of such historic data, the operator's best estimate), multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum daily capacity of the pipeline), plus the largest line drainage volume after shutdown of the line section(s) near environmentally and ecologically sensitive areas; or Additional language should be added to allow an operator to further define the "reasonable worstcase discharge" by capabilities that may exist such as pigging the pipeline with fresh water to displace the hazardous liquid, pulling a vacuum on the pipeline, containment capabilities, and physical considerations such as the head pressure of water effectively stopping a leak after a line is depressured. W18-21	No changes were made in relation to the sections cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely.
§2112(a)(1)	Each Risk Analysis shall be accepted or denied within 90 days after receipt by the State Fire Marshal. The State Fire Marshal may extend the assessment period beyond 90 days for good cause and shall notify the operator in writing of the extension. This section effectively allows the OSFM unlimited time to review Risk Analyses. Additional language should be added to allow the implementation date for the operator to be extended accordingly if OSFM takes more than the targeted 90 days for their review and approval/disapproval. W18-22	Similar comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to the section cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
§2113(a)(1)(A)	Section § 2113 (a)(1)(A) implies that a separate plan will be required for each OSFM pipeline ID number. Many pipeline owners have extended	The section cited by the commenter does not exist in the proposed regulations. They may be referencing §2113(a) generally but it is unclear. Even so, similar comment was

	pipelines that are relatively long and include several OSFM ID numbers. In many cases, these pipelines have the same risk factors and are managed by the same personnel and are controlled and monitored by the same SCADA and related leak detection systems. The development of a separate plan for each OSFM ID pipeline segment is time consuming and costly. Provisions should be made in the Article to allow operators, with approval from OSFM, to develop risk plans that address multiple OSFM ID pipeline sections in the same plan. This change will minimize the preparation and management of implementation plans for- both the operators and the OSFM staff. W18-23	submitted and answered under related matters during the 45-day comment period. No changes were made in relation to the concerns cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
§2113(b)	Within 60 days of acceptance of the Risk Analysis pursuant to Section 2112 (State Fire Marshal Risk Analysis Assessment) a detailed supplemental implementation plan must be submitted to State Fire Marshal. The supplemental implementation plan shall describe the steps in detail necessary to complete the retrofit of existing pipelines no later than January 1, 2022. Each plan will be effective upon acceptance. Additional language should be added to describe the consequences if the detailed supplemental implementation plan is not submitted within the 60-day period. Currently this section simply indicates "must", but there is no description of options for extension or consequences of submittal beyond 60 days. W18-24	Similar comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to the section cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
§2114 (a)	An operator shall notify the State Fire Marshal of any new construction or retrofit of a pipeline	Similar comment was submitted and answered under related matters during the 45-day comment period. No changes were

	subject to this Article by filing Form PSD-103 with the State Fire Marshal Pipeline Safety Division at least 60 days before construction begins. The term "Retrofit" requires better definition. If the use of "retrofit" is intended to describe changes to the pipeline, e.g., replacing or relocating sections of the pipe, then the use of "retrofit" is inconsistent with how it is defined in the Article. The Article defines retrofit as" ... adding the best available technology to an existing pipeline." WSPA also suggests that "retrofit" of a pipeline that requires a new risk assessment plan be defined by criteria as specified in CFR 195.64 (c)(1)(i)(ii)(iii)(iv). W18-25	made in relation to the section or related concerns cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period. For discussion of replacement and “retrofit” see response in comment W18-4.
§2115(b)(2)	2115 (b)(2) Perform testing consistent with the minimum standards contained in API RP 1175 (2015) Sections 8 and 9. API RP 1175 Section 9 does not contain standards or requirements for testing. This section outlines best practices for Control Center Procedures for Recognition and Response. API RP 1175 does not outline "minimum standards." Minimum standards need to be further specified. WSPA proposes the following alternative language: (b)(2) perform testing consistent with the minimum standards contained in AP/ RP 1175 (2015) Sections 8. W18-26	No substantive changes were made to this section except to renumber the subparagraphs appropriately. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.
§2115(c)(2)	2115 (c)(2) perform testing consistent with the minimum standards contained in API RP 1130 (2007) Sections 6.2 through 6.2.6, and 49 CFR 195.444. API RP 1130 does not outline "minimum standards." "Minimum standards" should be	No substantive changes were made to this section except to renumber the subparagraphs appropriately. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.

	further specified to provide direction for operators. W18-27	
§2115(h)(2)	2115 (h)(2) If the operator experiences two test failures during the 3-year annual testing period, as required in subsection (g)(1) of this section, the operator shall submit a new or revised risk analysis for State Fire Marshal review in accordance with the provisions of this Article. Incorrect reference, (g)(1) should be changed to (h)(1). W18-28	Thank you for the comment.
§2115(b)(1)	Section §2115 (b)(1) requires the operator to test leak detection capabilities every 3 years. This is inconsistent with API RP1130 which requires an operator to test their leak detection system every 5 years. API RP 1130 is incorporated by reference in Article in § 2101 (a)(2). Beyond being an expensive process, testing can add risk to the operation of a pipeline, which is why API selected the 5-year time interval for the standard. The Article should be consistent with references outlined in 49 CFR §195.3 which references RP 1130. W18-29	No substantive changes were made to this section except to renumber the subparagraphs appropriately. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.
§2115(h)(1)	Section § 2115 (h) (1) is vague in defining failure of a specific test. More definition is required to clarify whether an operator has passed or failed a specific test. In addition, if only one component of the system clearly failed, WSPA suggests that language be added to allow the specific component to be retested instead of the entire system being required to be retested. W18-30	No substantive changes were made to this section except to renumber the subparagraphs appropriately. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.
§2117 (b) (2)	WSPA believes that Section § 2117 (b) (2) should be removed or substantially modified to give the operators more input on when a new technology should be adopted. WSPA members are concerned about the OSFM's unilateral authority as outlined in Section§ 2117 (b) (2)	No substantive changes were made to this section during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.

	where the OSFM "may require earlier or more frequent resubmission of updates than required in Subparagraph (a) of this Section § 2117 (a)." As currently written, the section states that the OSFM may determine that there are "new best available technologies" available. This section implies that the OSFM may make this determination upon the review of any risk analysis. In view of the wide range of different types, sizes, and operating characteristics among the pipelines covered by this Article, a new technology may not be applicable to all types of pipelines. WSPA feels that the pipeline operator should have significant input as to what is the best technology for their specific pipeline system and the decision should not be a unilateral decision on the part of the OSFM, which as an agency should remain technology neutral, as long technologies being considered are BAT. In addition, depending on the specific pipeline system and the nature of the proposed new technology, the introduction of a new technology can be very time consuming and expensive to implement. WSPA suggests that once a risk management technology is signed off and approved by OSFM, that approved technology should be an approved system for at least the next five years and until the next risk management assessment is completed. W18-32	
§2119 – Confidential Treatment of Information	Encourages the OSFM to add language that would allow an operator to petition for the entire risk analysis and/or supporting materials to be kept confidential. W18-33	No substantive changes were made to this section during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.
§2108 – Timing for Compliance and	Commenter is concerned that the proposed regulations set forth requirements that are	Similar comment was submitted and answered under related matters during the 45-day comment period. No changes were

Pipeline Prioritization	unrealistic or technically impossible to achieve given industry resources and timelines for compliance. For example, obtaining environmental permits can range from six months to greater than eighteen months depending on the area, governing body work load, and permit type. W19-1	made in relation to the section or related concerns cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period under: W1-5, W7-76, W8-9, W7-14, W10-16, W10-3, and W18-8. See also response to W7-32.
General	In addition, the definition of "best available technology" is ambiguous and the current description does not provide clear guidance on what is considered to be best available technology. Phillips 66 is concerned that this creates confusion regarding interpretation and uncertainty during implementation. W19-2	No substantive changes were made to this section during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.
General	The proposed regulation is unclear as written and could lead to broad interpretation. Regulatory certainty is critical for operations and, therefore, we request that this proposed regulation be revised to provide clearer definitions and guidance for all areas impacted by these proposed regulations. W19-3	The OSFM rejects this statement. The statement identifies wide ranging issues with the definitions and guidance for all areas impacted by the proposed regulations, which the commenter does not identify. Because no specific definition or guidance is identified as needing clarity beyond “all areas impacted” nor is any suggested language provided the OSFM cannot address the concern raised.
§2108	In addition, Phillips 66 recommends that depending on when the proposed regulation is finalized, the compliance dates are revised to allow enough time for operators to provide a complete response. Additional Proposed Regulation Concerns Timelines and Compliance Dates; Implementation and Compliance Deadlines Phillips 66 recommends revising compliance dates listed in section § 2108 in order to allow operators sufficient time to provide complete and accurate risk assessments submittals, retrofit plans, and implement approved plans required by this proposed regulation. As previously mentioned, obtaining environmental permits can	Implementation and compliance deadlines as well as timeframes for exemption requests contained in the draft regulation are addressed in the proposed changes noticed in the Second 15-day comment period that began October 24, 2019 and closed November 7, 2019. See responses above in the 45-day comment period under: W1-5, W7-76, W8-9, W7-14, W10-16, W10-3, and W18-8.

	range from six months to greater than eighteen months depending on the area, governing body work load, and permit type. By way of recent example, we submitted a permit application to federal and state agencies for a pipeline relocation in February 2016 but did not receive the permits until July 2017. There are numerous other examples showing that the timelines in the proposed regulation are unrealistic based on actual practice. W19-6	
§2117(b)	Phillips 66 recommends revising §2117 (b) to remove the requirement to require earlier or more frequent resubmission or updates since a risk analysis is already proposed to be reviewed on a 5-year cycle. Once a risk analysis is approved, the operator should be granted the 5-year period to operate under the approved plan, except in cases specified under §2117 (b)(l), (4), (5) and (6). Requiring earlier submission per §2117 (b)(2) may give the appearance the OSFM of being prescriptive with new and potentially non-vetted. W19-7	No changes to §2117(b) were made in the text under the comment period applicable here, hence this comment is outside the scope.
General	Phillips 66 believes that the length of a pipeline system be taken into consideration for purposes of achieving compliance under the proposed regulations. In some cases, operators may have a relatively large diameter system that only extends a short distance (e.g., from a dock to a tank farm a short distance way). In these types of scenarios, it seems impractical to require the operator to install meters, valving systems for proving meters, purchase of a computational system, etc., to monitor a short system. In addition, a pipeline may be an integral part of a system owned and, in some cases, controlled by another operator. In such a case, it would not	This comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to the pipeline length cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.

	make sense to have a leak detection system owned by one party that is providing partial coverage for the connected system. The regulation as proposed does not provide for the operation and monitoring of such a co-owned system. W19-8	
§2112	Phillips 66 recommends including language in § 2112 to allow the operator implementation date to be extended if the review process exceeds the specified 90 days. W19-9	This comment was submitted and answered under related matters during the 45-day comment period. No changes were made in relation to this section cited by the commenter under the 15-day comment period here. Therefore, the OSFM rejects this comment as untimely. See responses above in the 45-day comment period.
§2115	Phillips 66 recommends revising Section §2115 (b)(l) to be consistent with API RP1130 which requires an operator to test their leak detection system every 5 years. API RP 1130 is incorporated by reference in Article in § 2101 (a)(2). The Article should be consistent with references outlined in 49 CFR §195.3 which references RP 1130. W19-10	No substantive changes were made to this section except to renumber the subparagraphs appropriately. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period.

SECOND 15-DAY COMMENTERS & IDENTIFIER. PERIOD ENDING NOVEMBER 7, 2019	
W20	Environmental Defense Center, Linda Krop, Chief Counsel; letter dated 11/04/2019
W21	Chevron, Henry Perea, Manager, State Government Affairs; letter dated 11/07/2019
W22	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter dated 11/04/19
W23	Western States Petroleum Association, Bridget McCann, Manager Technical and Regulatory Affairs, letter dated 11/07/19

W24	Phillips 66, Gabriel Munoz, Region Manager, Western Region; letter dated 11/06/2019
W25	California Legislature, Senator Hannah-Beth Jackson and Assemblymember Monique Limón, letter dated 11/07/09

Topic	Summary of Second 15-Day Comments	Agency Responses
§2103	Given the robust requirements of the proposed risk analysis, it is unlikely that the 7-month timeframe will allow operators sufficient time to prepare a satisfactory request for exemption as allowed for under Sec. 2103. We recommend deleting the requirement that a risk analysis must be included as part of a waiver request or, alternatively, extending the deadline to allow operators between 12-18 months to file for an exemption. W21-3	The OSFM rejects this comment as the timelines are required by statute and cannot be changed through regulations. See response to W3-10.
§2108(c)	As revised, Sec. 2108(c) requires operators to complete retrofit of existing facilities within 30 months of the effective date of the regulation. We continue to have concern that this timeline may not be sufficient in instances where local agency permitting delays impact an operator's ability to install the required equipment. W21-4	The OSFM rejects this comment as the timelines are required by statute and cannot be changed through regulations. See response to W3-10.
§2108	WSPA appreciates that OSFM has made several changes to the compliance dates in the Second 15-day Text of Regulations and provided an explanation of why and how the compliance date changes were made. WSPA also appreciates that the compliance dates were tied to the actual initial effective date of the regulations. However, WSPA believes that the implementation and compliance deadlines contained in the proposed draft regulation are unrealistic and infeasible to achieve. While	The OSFM rejects this comment because the legislature determined implementation and compliance deadlines. The OSFM cannot rewrite timelines deemed appropriate by the legislature through administrative rulemaking. This comment is largely identical to the prior comments received except that the commenter now seeks a 12-month time frame for submitting an exemption or deferral risk analysis instead of the 4-month time frame originally argued for in prior comments submitted. The change in time frame does not impact the OSFM's original assessment of rejecting

	OSFM noted in the ISOR that the revised dates in the Second 15-day Text of Regulations were tied back to the underlying original legislation, WSPA believes the dates in the original legislation are unrealistic to begin with. WSPA recommends that changes be made to the proposed regulations to provide adequate and realistic timelines to allow operators to achieve compliance with the key provisions of the regulations. WSPA recommends that the compliance and implementation deadlines and the deadline for filing exemption requests be extended for the following time frames following regulatory effective date: 12 months for exemption or deferral for §2103 and 2104; 12 months for new, replacement, and existing pipeline for §2108(a) and (b), and 48 or 36 months from final approval of implementation plan by OSFM for existing pipeline retrofit for §2108(c). WSPA believes that language should be added noting that operators should not be subject to enforcement action in the event of delays in implementation caused by permitting agencies or other extenuating circumstances outside of the control of the operator. Also, the dates noted in the *“Download Ecologically and Environmentally Sensitive Sites in the Coastal Zone”* document should also be modified to reflect the timelines noted in Table 1. W23-7	proposed changes. See responses to W18-3, W18-5, and W18-6. No changes to language related to enforcement actions was made therefore this portion of the comment is outside of the scope and rejected.
§2108	The dates in the proposed regulation appear to conflict with Government Code §51013.1.	Refer to response above to Comment W23-7

	For example, on page 1 of 25 of TITLE 19. PUBLIC SAFETY DIVISION 1. STATE FIRE MARSHAL CHAPTER 14. HAZARDOUS LIQUID PIPELINE SAFETY ARTICLE 7, the proposed regulation states: "By [insert date certain 12 months after regulation effective date], an operator of an existing pipeline near environmentally and ecologically sensitive areas in the coastal zone shall submit a plan to retrofit, by [insert date certain 30 months after regulation effective date] existing pipelines near environmentally and ecologically sensitive areas in the coastal zone with the best available technology ... " California Government code section 51013.1 (b)(l) states: "By July 1, 2018, an operator of an existing pipeline near environmentally and ecologically sensitive areas in the coastal zone shall submit a plan to retrofit, by January 1, 2020, existing pipelines near environmentally and ecologically sensitive areas in the coastal zone with the best available technology..." Amendment to the California Government code or removal of its reference in the proposed regulation is recommended for both regulations to be consistent. W24-4	

SECOND 15-DAY COMMENTS PERIOD ENDING NOVEMBER 7, 2019. The following comments are not germane to the proposed regulations; as such, OSFM rejects these comments		
Comments outside of scope	Summary of Second 15-Day Comments	Agency Responses
General	Support for AB 864 because the purpose of the bill was to "reduce the amount of oil released in an oil spill to protect state waters and wildlife." To accomplish this goal the bill required best available technology for oil pipelines along the California coast. (Govt.Code § 51031.1.) W20-1	The OSFM agrees with this statement but sees no need to change the draft language because the commenters concerns are already addressed in the text.
General and §2115	We remain concerned that the regulation does not also address Government Code section 51015.1, which is directly relevant to the testing requirements set forth in proposed section 2115. Government Code section 51015.1(a) requires that all intrastate pipelines much be inspected every year. Subsection 2115, however, requires testing of leak detection systems every three years (see Subsection 2115(b)(1) and (c)(1)), and testing of automatic shutoff systems and emergency flow reduction device valves every fifteen months (see Subsection 2115(d)(1) and (e)(1)). Section 2115 is thus	The OSFM made no changes to section 2115 during this comment period therefore these comments are untimely and rejected. See responses to comments above relating to inspection and testing.

	inconsistent with state law and must be revised accordingly. W20-2	
§2115	The proposed regulations would require the testing of leak detection systems only once every three years, and require the testing of automatic shutoff systems and emergency flow reduction valves every fifteen months. However, under SB 295 (2015), current law clearly states the Office of State Fire Marshal "shall annually inspect all intrastate pipelines and operators of intrastate pipelines…to ensure compliance with applicable laws and regulations." W25-1	The OSFM disagrees with this statement sees no need to change the draft language because the commenters concerns are already addressed in the text and prior public comment responses to this section.
§2115	"…we must stress the importance of annual inspections of our intrastate pipelines, including for compliance with newly applicable laws and regulations. Components of intrastate pipelines such as automatic shutoff systems and emergency flow reduction valves are critical to pipeline safety, and help ensure that sensitive coastal and marine habitat are not impacted by preventable pipeline spills. As AB 864 requires usage of these safety components for relevant intrastate pipelines, we expect they would be subject to the same inspection requirements as any other part of an intrastate pipeline. W25-2	The OSFM disagrees with this statement sees no need to change the draft language because the commenters concerns are already addressed in the text and prior public comment responses to this section.
General Support	Chevron supports the overarching goal of the proposed regulations which are intended to reduce the potential for spills and ensure operators are prioritizing safety as part of their daily operations. Achieving these goals will require a regulatory construct that is feasible to implement. W21-1	Thank you for your comment and support.

General Support and §§2103, 2104, 2108, 2112, 2113	Chevron commends OSFM for recognizing the need to revise the compliance deadlines contained in the initial 15-day draft but would encourage consideration of extending the deadlines out further than proposed in the second 15-day draft. W21-2	Refer to Response to W23-7
§§2113(d) and (e) §2108(c)	While Chevron acknowledges that Sec. 2113(d) provides an operator the ability to submit an "explanation demonstrating good cause" if they are not able to comply with the requirements in 2108(c), the language does not affirmatively indicate whether OSFM will provide extensions as appropriate. While we believe the intent of the language is to allow OSFM to approve extensions, we encourage the incorporation of language that states this intent clearly. W21-5	The commenters understanding of the intent of this subsection is correct. This section is drafted to afford operators the ability to demonstrate delay for good cause. However, there is no need to amend the language in the proposed regulations because §2113(e) is already responsive to the commenters concern. The language as drafted affords the OSFM needed flexibility to address delays for good cause without iterating all conceivable situations that could amount to justified delay. If the OSFM incorporated language suggested by the commenter, it would commit or limit the office to one course of action, in the form of granting an extension, while foregoing other potential regulatory compliance mechanisms available to the Office.
§2111	We continue to have significant concerns with the type of information required by Sec. 2111 pertaining to the proposed risk analysis. Specifically, some of the risk analysis related information required in Sec. 2111(c)(2)(A) does not currently exist and will require the development of new datasets that may or may not be feasible to accurately build. W21-6	The OSFM made no changes to proposed regulation language during this comment period relating to the issues raised by the commenter therefore this comment is outside the scope and rejected. See similar response at W14-1 and related Section 2111 responses.
§2111	We believe Sec. 2111 as drafted will lead to significant implementation issues on the part of the agency and compliance issues on the part of the operator. Although the required information may appear easy to produce and generate on paper, in reality the language as drafted requires accurate	No substantive changes were made to this section during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period. See similar responses at W3-8b, W3-9, W5-4

	recording of any “on the ground” changes to the physical environment for the risk analysis to be 100% accurate. The level of site-specific data being required leaves operators vulnerable to filing a noncompliant analysis if the existence of even the smallest physical obstruction is inadvertently overlooked. Chevron requests OSFM take steps to address this concern before the regulation is finalized in order to avoid putting operators at risk for violations attributable to an unintended incomplete analysis. W21-7	
General	Chevron acknowledges these types of concerns may not be fully evident or validated until an actual risk analysis is developed and OSFM is able to see firsthand the challenges operators will have complying with the requirement as drafted. Accordingly, Chevron recommends OSFM work with industry to develop a “pilot project” that allows the agency and industry to develop a fit for purpose risk analysis dataset that is derived from information that is reasonably feasible to develop. This type of approach would allow OSFM to finalize the regulations based on the parameters of what is and is not feasible to produce in a risk analysis. Should OSFM have an interest in examining this type of approach, Chevron is committed to working proactively to help in developing the pilot effort. W21-8	Thank you for your comments
General	Thank you in advance for your time and attention and consideration of our thoughts in this matter. In addition to the comments offered above, Chevron also supports and incorporates by reference the	Thank you for your comments

	comments submitted separately by the Western States Petroleum Association (WSPA). W21-9	
General	The California Independent Petroleum Association (CIPA) appreciates the opportunity to provide comments to the Office of the State Fire Marshal on regulations implementing Assembly Bill 864. W22-1	Thank you for your comments
General	CIPA has previously provided verbal and written testimony to the OSFM, most recently in written comments submitted in October of 2019. Those comments requested clarification and further refinement of the regulation, focused on applying the statutory definition of “pipelines” in the Elder Pipeline Safety Act and on ensuring reasonable and realistic implementation timeframes under the AB 864 regulation for covered pipelines. W22-2	No substantive changes were made to the definition of pipeline during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely.
General	CIPA and our members recognize that the OSFM extended implementation timeframes in the proposed regulations in minor respects. Since those periods don’t directly incorporate time for validation of the effectiveness or operability of potential technological or engineering changes, or for permitting, OSFM’s stated willingness to work with pipeline owners and operators will be critical to ensure that AB 864 is implemented in a cost-effective manner that retains focus on pipelines operating with higher pressures and volumes. W22-3	No changes were made to proposed regulation language at public comment relating to the issues raised by the commenter therefore this comment is outside the scope and rejected.
General	CIPA renews our request that OSFM apply the Elder Act’s longstanding definition of a "pipeline" in the regulation. Retaining the statutory definition will ensure allocation of resources toward pipelines with higher pressures and volumes. Conversely, we believe expanding the definition by regulation would	No substantive changes were made to the definition of pipeline during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely.

	both exceed OSFM's authority and create regulatory uncertainty and inconsistency for owners and operators already facing short timeframes in the regulation for covered pipelines. W22-4	
General	The October 23 regulatory package identified specific situations where OSFM has collected data and performed assessments on a broader range of lines than those defined as pipelines in the Elder Act. CIPA views those data collection efforts as being very different from mandating retrofits or process, technological or engineering changes to lines outside the scope of the Elder Act. To remain within the scope of the Elder Act and the examples noted by OSFM, CIPA encourages OSFM to clarify in the AB 864 regulation that OSFM will only apply the data collection and risk assessment provisions to the Elder Act's exempt low-stress and gravity lines, and will not require retrofits or process, technological or engineering changes to lines that are exempt under the Elder Act. We believe that this approach meets both the spirit and the letter of AB 864 and is consistent with the OFSM's interpretation of its authority under the Elder Act as summarized in the October 23 regulatory package. W22-5	No substantive changes were made to the definition of pipeline during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely.
General	CIPA requests the OSFM revise the proposed AB 864 regulation as summarized in this letter to better conform to the Elder Act's statutory definition of pipelines. W22-6	No substantive changes were made to the definition of pipeline during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely.
General	Western States Petroleum Association (WSPA) appreciates this opportunity to provide feedback regarding the adoption of regulations for pipelines near environmentally and ecologically sensitive	Thank you for your comments

	areas and the related documents: "Second 15-Day Text of Regulations California Code of Regulations, Title 19, Division I, Chapter 14. Hazardous Liquid Pipeline Safety" and the related second 15-day update of Initial Statement of Reasons (ISOR)". WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in five western states including California. W23-1	
General	We have previously provided comments regarding the development of this regulation in four letters, dated July 19, 2016, February 21, 2017, April 1, 2019 and October 16, 2019 (attached). W23-2	Thank you for your comments
General	WSPA has reviewed the latest version of the proposed regulations and the related ISOR and appreciates that the Office of the State Fire Marshal (OSFM) staff have made some adjustments to the proposed regulation based on earlier comments from WSPA and other stakeholders. W23-3	Thank you for your comments
General	However, there remain in WSPA's view several significant concerns with the regulation as proposed that require thoughtful, in-depth discussion between staff and stakeholders. Weighing these concerns and the need for further input, WSPA requests that OSFM strongly consider postponing the current proposal in favor of continued stakeholder discussions focused around maximizing efficiencies by building on existing regulatory requirements. W23-4	Thank you for your comments
General	Notwithstanding our request for withdrawal of the OSFM proposal, we offer the following comments to	Thank you for your comments. Only those comments relating to current 15-day changes were responded to,

	address our continuing significant concerns. Please note that these concerns are additive to the previous concerns stated in our October 16, 2019 comments (attached). W23-5	as many comments were outside the scope of the proposed changes here.
General	1. Lack of OSFM response to WSPA Comment Letters As noted above, WSPA has on four occasions submitted extensive written comments regarding the original proposed regulations and subsequent 15-day updates of the proposed regulations. To date however, we have not been provided any OSFM responses to the WSPA comment letters. In light of our constructive efforts to advance the goals of AB 864 as provided in this letter, WSPA requests the opportunity for dialogue about OSFM's lack of response to WSPA comments prior to the final regulation being sent to the Office of Administrative Law (OAL) to ensure that the regulations can be implemented in a feasible manner. W23-6	The OSFM is not required to respond to all comments until the filing the Final Statement of Reasons with the Office of Administrative Law, see Government Code 11346.9. Our office has considered the considerable comments provided and responded appropriately and in accordance with the law.
General	3. The OSFM Lacks Authority to Regulate Low-Pressure Pipelines For reasons discussed in our October 16, 2019 comments, WSPA believes that AB 864 did not grant the Office of the State Fire Marshal (OSFM) authority to expand the definition of "pipeline" under the Elder California Pipeline Safety Act (PSA) to include low-pressure crude oil pipelines for purposes of the proposed regulation. The PSA definition of "pipeline" excludes low-stress and gravity operated pipelines. (Gov. Code Section 51010.5(a)(3).) OSFM cannot	Revisions to the regulatory language were proposed in the final 15-day comment period below to reflect the use of the statutory definition of "pipeline" found in Government Code 51010.5.

	unilaterally change this definition in the absence of legislative authorization to do so. The revised draft regulation accompanying the 15-day notice adds citations to California Government Code Section 51015.05 as purported additional authority for the agency's regulation of low-pressure pipelines. The Updated Initial Statement of Reasons (Second ISOR) also asserts that the legislative history of Section 51015.05 and the resulting report to the Legislature provide such additional authority. On the contrary, the legislative history and report demonstrate the opposite: that the Legislature intended to reserve to itself the authority to change the PSA's definition of pipeline. Section 51015.05 was adopted as part of AB 3261 (Stats. 1994, Ch. 523), which required the State Fire Marshal to develop a database containing specified information on low-stress crude oil pipelines and gathering pipelines (Gov. Code Section 51015.05(a)-(d)) and to *report to the Legislature* on risks associated with such pipelines and incentive options to encourage pipeline replacement or improvements (Gov. Code Section 51015.05(e)). Unlike AB 864 which directed the Fire Marshal to adopt regulations (Gov. Code Section 51013.1(c)), and which applies the pipeline definition from the PSA (as discussed in WSPA's previous comments and not repeated here), AB 3261 requires the Fire Marshal to "report his or her findings and recommendations to the Legislature." (Gov. Code Section 51015.05(e).) The only reasonable reading of this section is that the	

	Legislature directed the Fire Marshal to gather and analyze information, but retained discretion to decide whether and what action to take after receiving the Fire Marshal's findings and recommendations. The legislative history confirms this interpretation, indicating that the provisions were aimed at inventorying low-pressure and gathering pipelines and "determining the risks they pose." (AB 3261 Assembly Floor Analysis, May 31, 1994.) Nothing in Section 51015.05 authorizes OSFM to make that decision, nor to expand the PSA's pipeline definition to regulate low-pressure pipelines expressly excluded by the language of Gov. Code Section 51010.5(a). The Second ISOR claims that in addition to demonstrating the intent that Section 51015.05 provide a means to "identify and resolve regulatory gaps" from low pressure pipelines, the legislative history of that section "further clarifies OSFM authority to regulate such pipelines." (Second ISOR, p. 2). However, the Second ISOR quotes nothing from the legislative history to support that claim. AB 3261 clearly was intended to help identify regulatory gaps for consideration by the Legislature, but there is nothing to suggest the intent to authorize the OSFM to regulate such pipelines absent further legislative authorization. The Second ISOR paraphrases the Fire Marshal's report to the Legislature pursuant to Section 51015.05 to suggest that the report "*recommended*	

	the OSFM… include identified pipelines in the scope/definition of those pipelines regulated by the OSFM." Second ISOR, p. 2 (emphasis added). Even if the report (which is not legislation or legislative history) had recommended that the OSFM do so without further authorization by the Legislature, the OSFM's report could not override the statute. However, what the report actually says is quite different: • "Include the pipelines identified which would likely impact unusually sensitive areas *in the scope/definition of those pipelines regulated by CSFM under Chapter 5.5 of the California Government Code*." • "*Modify the law* to require continued leak and pipeline inventory reporting for all pipelines in this study. This will enable the CSFM to keep the database current." *See* "An Assessment of Low Pressure Crude Oil Pipelines and Crude Gathering Lines in California, Office of the State Fire Marshal" (April 1997), p. 136 (emphasis added); available at: https://osfm.fire.ca.gov/media/9946/_assessment-study-report-to-legislature.pdf. Thus, the report to the Legislature expressly acknowledged that the law must be modified even to continue inventory reporting, and that in order for the Fire Marshal to regulate low pressure pipelines, they first must be added to the scope and definition of pipelines regulated by OSFM in Chapter 5.5 of the Government Code. That is a change that only the Legislature can make. To date, and notwithstanding	

	its opportunity to follow the report's recommendation explicitly when adopting AB 864, the Legislature has allowed low pressure pipelines to remain excluded from that scope and definition. W23-8	
§2111 §2112 §2117	4. Exemption for Data Collection and Risk Analysis Although, for the reasons described above, WSPA believes that OSFM lacks statutory authority to regulate low pressure pipelines which are excluded from regulation under the PSA, we would not object if the proposed rule were limited to extending the proposed risk analysis requirements in Sections 2111, 2112, 2117 to low pressure pipelines. Section 2111 requires operators to submit a pipeline-specific risk analysis to OSFM including a description of pipeline design and operations, a risk analysis summary, and a spill analysis assessing the consequences of a potential release, to be reviewed by OSFM (Section 2112) and updated every 5 years (Section 2117). Including low pressure pipelines in these risk analysis requirements is not expressly authorized by Gov. Code section 51015.05 which concerned the creation of the database and the 1997 report to the Legislature. However, applying risk analysis requirements to low pressure pipelines at least appears consistent with the general purpose of Section 51015.05 to gather information and report on such pipelines. (See Gov. Code Section 51015.05(a)-(e).) WSPA also urges OSFM to consider the generally lower risk these pipelines pose during OSFM's of review risk analyses for low pressure pipelines. In practice, OSFM should allow and establish a balanced process for more	Revisions to the regulatory language were proposed in the final 15-day comment period below to reflect the use of the statutory definition of "pipeline" found in Government Code 51010.5

	streamlined risk assessments for lower risk low pressure pipelines. By contrast, applying the substantive Best Available Technology (BAT) and retrofitting requirements (Sections 2108-2109), implementation plans (Section 2113), and minimum testing and training requirements (Sections 2115-2116) to low pressure pipelines is not authorized by the legislation cited in the regulation and Second ISOR. W23-9	
General	5. Request for Industry Risk Analysis Pilot Project While WSPA recognizes OSFM's desire to finalize the regulation, we believe Section 2111 as drafted will lead to significant implementation issues on the part of the agency and compliance issues on the part of the operator. While the required information may appear easy to generate, in reality the language as drafted requires accurate recording of any "on the ground" changes to the physical environment for the risk analysis to be accurate. The level of site-specific data being required leaves operators potentially vulnerable to filing a noncompliant analysis if the existence of even the smallest physical obstruction is inadvertently overlooked. WSPA requests OSFM to take steps to correct this concern before the regulation is finalized in order to avoid putting operators at risk for violations attributable to unintended incomplete analyses. WSPA acknowledges these types of concerns may not be fully evident or validated until an actual risk analysis is developed and OSFM is able to determine what level of detail satisfies the wording of the regulation. Accordingly, WSPA recommends	Thank you for your comments.

	OSFM work with industry to develop a "pilot project" that allows the agency and industry to develop a fit for purpose risk analysis that is derived from information that is reasonably feasible to develop. This type of approach would allow OSFM to finalize the regulations based on the parameters of what is and is not feasible to produce in a risk analysis. W23-10 Thank you for considering these comments. W23-11	
General	Phillips 66 Company ("Phillips 66") greatly appreciates the opportunity to provide comments on the State Fire Marshal's proposed regulations. W24-1	Thank you for the comment.
General	Phillips 66 is a member of the Western State Petroleum Association (WSPA) and supports comments submitted by WSPA. W24-2	Thank you for the comment.
General	Phillips 66 appreciates the Office of the State Fire Marshall's proposed changes to the compliance timelines specified throughout the document. Phillips 66 also appreciates the clarifications on the authority cited. W24-3	Thank you for the comment.
General	Lastly, we would like to reiterate from our comment letter dated October 16, 2019, for the previous 15-day comment period, the definition of "best available technology" is ambiguous and the current description does not provide clear guidance on what is considered to be best available technology. Phillips 66 is concerned that this creates confusion regarding interpretation and uncertainty during implementation. W24-5	No substantive changes were made to this section during the 15-day comment period. Therefore, the OSFM rejects this comment as untimely. Similar comment was submitted and answered under related matters during the 45-day comment period. See response to W19-2.

General	Thank you for considering our comments. W24-6	You’re welcome.

THIRD 15-DAY COMMENTERS & IDENTIFIER. PERIOD ENDING FEBRUARY 6, 2020.	
W26	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter dated 02/06/2020
W27	Western States Petroleum Association, Thomas Umenhofer, Vice President, letter dated 02/06/2020

Topic	Summary of Third 15-Day Comments	Agency Responses
General	Support for efforts to recognize existing Elder California Pipeline Safety Act of 1981. W26-2 and W27-2	Accept and your welcome

THIRD 15-DAY COMMENTS PERIOD ENDING FEBRUARY 6, 2020. The following comments are not germane to the proposed regulations; as such, OSFM rejects these comments		
Comments outside of scope	Summary of Third 15-Day Comments	Agency Responses
Definition of Near §2100(a)(9)	Commenter recommends removing the definition of “near” and replacing with the word “a half-mile.” W27-7	No changes were made to this definition, therefore there is no need amend the regulatory language as this comment is outside the scope.
Exemptions for pipelines located outside the coastal zone - §2103(a) Deferral for Pipelines with Existing Best Available Technology – 2104(c)	Commenter request the extension of time for submitting an exemption or deferral request from 7 months 12-18 months. W27-8 and W27-9	No changes were made to the identified section, therefore this comment is rejected as outside the scope.
Timing for compliance - §§2108, 2111, 2112, 2113	Continued concern over expected implementation and compliance timelines related to risk analyses, retrofit plans, and deferral requests. Requests more time be incorporated in the regulation. W26-3 and W27-10	No changes were made to sections related to implementation and compliance timeframes in this 15-Day comment period. Therefore, no changes to the text of the regulation are needed. Importantly, this comment was addressed above in prior comment periods. It should be noted that here, as is explained in previous responses, the compliance and implementation

		timelines were set by statute. The OSFM cannot change statutory requirements through regulatory action.
Risk Analysis - §2111 Implementation Plan - §2113(d)	Commenter states that there are no current technologies available to address the compliance requirements available or may be difficult to produce. Requests that industry and the OSFM develop standards that will meet the compliance requirements of section 2111. W27-11 Commenter requests that the OSFM affirmatively state an extension will be granted for good cause. W27-12	No changes were made to the text of this section therefore this comment is outside the scope and rejected. Similar comments were submitted and responded to above under prior comment periods.
General	Commenter states that they have submitted prior written and verbal comments during prior comment periods and has not received a response. Commenter included all prior comments. W26-1 and W27-4	The OSFM appreciates prior comment submissions. However, no new comments were submitted in relation to the changes noticed during this comment period and have been addressed in responses above or in prior comment periods. There is no need to make changes to the text of the regulation. The Final Statement of Reasons will contain responses to all comments received in a comprehensive package open to all commenters.
General	Commenter included all previously submitted comments in 5 letters from previous comment periods. W27-1	The OSFM appreciates prior comment submissions. However, no new comments were submitted in relation to the changes noticed during this comment period. Prior submittals have been addressed in responses above or in prior comment periods. There is no need to make changes to the text of the regulation.
General	Commenter requests revision to the regulation text as summarized in previously submitted comments. Requests an in-person meeting with the OSFM to discuss and review concerns. W26-4	No new comments were submitted in relation to the changes noticed during this comment period, hence this comment is rejected. The public comment process is the appropriate forum for raising concerns with the regulatory language, which commenter has availed themselves of repeatedly.
General	Commenter requests revision to the regulation text as summarized in previously submitted comments, continued discussion with staff and stakeholders,	No new comments were submitted in relation to the changes noticed during this comment period, hence this comment is rejected. The public comment process is the

	postpone the rulemaking for broadly stated need to maximize efficiencies and building on existing regulatory requirements. W27-3	appropriate forum for raising concerns with the regulatory language, which commenter has availed themselves of repeatedly.
Standardized Regulatory Impact Analysis	Commenter raises wide ranging concerns about the content, assumptions, costs, analysis and other broad concerns related to the SRIA. W27-5	This comment was previously submitted under a public comment period and is addressed above.
General	Recommends the development of a Pilot Project. W27-6	No changes to the regulatory language noticed for this comment period relate to a pilot project, therefore this comment is rejected.

FOURTH 15-DAY COMMENTERS & IDENTIFIER. PERIOD ENDING JUNE 23, 2020.	
W28	California Independent Petroleum Association, Rock Zierman, Chief Executive Officer, letter undated and received 06/23/2020
W29	Western States Petroleum Association, Ben Oakley, California Coastal Region Manager, letter dated 06/23/2020
W30	County of Santa Barbara, Nancy Anderson, Assistant County Executive Officer, letter dated 06/22/2020 submitting comments from Santa Barbara County Fire Department, Rob Hazard, Division Chief/Fire Marshal, letter dated 6/17/2020

Topic	Summary of Fourth 15-Day Comments	Agency Responses
§2108 Timing for Compliance and Pipeline Prioritization	Commenter requests OSFM remove reference to authority to enforce noncompliance with dates for deliverables within a given time and notes that OSFM already retains enforcement authority. Commenter also request reinserting the language found in former subsection (d). W28-1	Language in this section was amended to clarify what the commenter notes, that the OSFM retains enforcement authority. Including reference to commencement of enforcement action by specified dates was required after review by the Office of Administrative Law and resolves the potential conflict and confusion between an effective date and when enforcement will commence. The current version clearly states when enforcement action will be taken by the

		OSFM. Subsection (d) was rendered superfluous with the current revision to the text and is therefore unnecessary. The OSFM sees no need to amend the language
§2108 Timing for Compliance and Pipeline Prioritization	Commenter recommends incorporation of language in this section stating “enforcement may be deferred or waived subject to the operator providing an explanation demonstrating good cause as provided in §2113(d) and (e). W29-4	The OSFM sees no need to insert the language proposed as it is included in section 2113(e).
§2108(c) Timing for Compliance and Pipeline Prioritization	The implementation timeline for submitting the Risk Analysis should be clarified to provide adequate time for operators to implement needed changes. Commenter recommends changing the regulation to read that operators will have 30 months to retrofit their pipelines once their Risk Analyses are approved by OSFM. W28-4, W28-5, W29-5	The timeline for compliance and submittals is controlled by language in the authorizing statute found in Government Code 51013.1(a)-(c). The OSFM lacks authority to change statutory timelines through regulatory action, therefore no amendments to the regulation text will be made.
§2108(d) Timing for Compliance and Pipeline Prioritization 2112(e) State Fire Marshal Risk Analysis Assessment §§2113(b), 2113(d), 2113(e) Implementation Plan	Sections, 2108(d), 2112(e) and 2113(b) should add the clause “absent a showing of good cause from Section 2113(d) and (e). W28-3	See response to W29-4.
§2112(e)	This section should be revised to clarify OSFM may commence enforcement at the specified timelines if the operator is not in compliance with the requirements of section 2108. W28-2	This subsection states that the OSFM shall commence enforcement consistent with the timing requirements found in Section 2108. There is no need to amend the language. See related response in W28-1.

§2112(e)	Commenter recommends adding language that OSFM shall commence enforcement consistent with Section 2018 timelines except where enforcement has been deferred or waived for demonstrating good cause as provided for in section 2113(d) and (e). W29-6	See response to W28-2 and W28-3
§2113(b) Implementation Plan	Commenter states that OSFM should clarify ambiguities between submission of an implementation plan, supplemental implementation plan, and section 2108 because section 2108 is silent in regard to submittal of an implementation plan. Recommends adding language stating that the OSFM shall take enforcement action except where demonstration of good cause is shown under section 2113(d) and (e). W29-7	The text of the regulation is clear and no amendments need to be made. The commenter fails to consider Section 2112 and its impact on implementation plans, supplemental implementation plans, and risk analysis. Section 2112 is clearly identified in the first sentence of 2113(b). Section 2113(b) states that a supplemental implementation plan is to be submitted after approval of the risk analysis, which necessarily includes the Implementation Plan as it is required when submitting a risk analysis as identified in section 2112(a). The commenter has read the various sections in isolation, which results in failing to understand the interplay between sections and subsection; and the impact on deliverables, timing for submission, compliance, and enforcement. The author correctly notes that a supplemental implementation plan is required within 60 days of acceptance of a risk analysis under Section 2112. Section 2112 specifies the timeframe the OSFM has to approve a risk analysis and the accompanying implementation plan.
§2113(d) Implementation Plan	Commenter requests language explicitly stating that the OSFM will provide extensions for demonstrating good cause in delays to timely compliance. W29-8	The language in the text is clear. The OSFM shall take enforcement action unless an operator can demonstrate delay for good cause. The OSFM sees no need to amend the text of the regulation.

FOURTH 15-DAY COMMENTS PERIOD ENDING JUNE 23, 2020. The following comments are not germane to the proposed regulations; as such, OSFM rejects these comments		
Comments outside of scope	Summary of Fourth 15-Day Comments	Agency Responses
Definitions and §2102	Concerns about the definition of “near” and apparent conflicting language with a “buffer zone” in §2102 relating to Environmentally and Ecologically Sensitive Areas. W29-1	No changes were made during this comment period to the definitions section or to section 2102 therefore this comment is outside of the scope and the OSFM sees no need to amend the language.
§2104 Deferral for Pipelines with Existing Best Available Technology	Commenter is concerned about out of service pipelines and how to return a line to service and could be addressed in §2106. W29-2	No changes were made to section 2104 or to 2106 therefore this comment is outside the scope and the OSFM sees no need to amend the language.
§2105 Future Releases From Jurisdictional Pipelines Impacting Environmentally and Ecologically Sensitive Areas in the Coastal Zone	Commenter requests that the term “release” be defined. W29-3	No changes were made to section 2105 relating to release size and therefore the OSFM sees no need to amend language.
§2115 Testing Requirements and Test Failures	Recommends changing testing frequency from 3 years to 5 years and indicates operators cannot test some buried valves. W29-9	No changes were made to this section therefore the comments are outside the scope of the comment period and the OSFM sees no need to amend existing language.

Delay implementation date because of COVID-19	Commenter notes that industry is adversely impacted by COVID-19 and staffing challenges and requests consideration of a later implementation date. W29-10	The impacts of COVID-19 are beyond the scope of this rulemaking.
General	Stated “No comment” on submittal as presented on the proposed regulations. W30	None.