

**FINAL STATEMENT OF REASONS  
FOR  
PROPOSED AMENDMENTS TO THE BUILDING STANDARDS  
OF THE  
CALIFORNIA STATE LANDS COMMISSION  
  
REGARDING CHAPTER 31F, MARINE OIL TERMINALS  
2010 CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2**

**UPDATES TO THE INITIAL STATEMENT OF REASONS:**

The California State Lands Commission (CSLC or Commission) proposed changes to the 2010, California Code of Regulations, Title 24, Part 2, California Building Code, Chapter 31F, Marine Oil Terminals, which were the subject of an initial public comment period (45-days) held from July 20, 2012 through September 11, 2012, with 284 comments received. Pursuant to the comments received, changes were made to 46 sections of those originally proposed express terms.

A second comment period (15-days) was held from November 5, 2012 through November 20, 2012, with 17 comments received. Comments received during this period resulted in one (1) change made to the proposed modified Express Term #4 (the new Section 3101F.7). Note that this modification to the proposed language is merely a change in terminology to reflect consistency with existing regulations and is without legal effect; therefore, recirculation was unnecessary.

The Commission finds that five (5) revisions have been made which warrant a change in the Final Statement of Reasons, since the Initial Statement of Reasons. These revisions were as follows:

<b><u>Section</u></b>	<b><u>Title</u></b>	<b><u>Express Term</u></b>
3103F.5.2.	Static wind loads on vessels	(Express Term #37a – ADDED)
3103F.12	Symbols	(Express Term #44a – ADDED)
3103F.13	References	(Express Term #44b – ADDED)
3104F.2.1	Design earthquake motions	(Express Term #45 – Withdrawn)
3105F.1.5	Analysis and design of mooring components	(Express Term #55 – Withdrawn)

The modified regulatory text was submitted and approved by the Commissioners of the State Lands Commission on Wednesday, December 5, 2012. There was no testimony made by any interested parties at this Commission Meeting.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

**MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The State Lands Commission has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts per Government Code 17500 et seq.

The State Lands Commission finds that a mandate is not created and therefore not reimbursable. These proposed amendments will merely modify the 2010 California Building Code, 24 CCR, Part 2, Chapter 31F, Marine Oil Terminals. Meeting the requirements of the California Building Code (referred to herein as “the code”) is not reimbursable.

**OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S).**

The public review comments and CSLC responses are presented below for the 45-Day Public Comment Period and revised 15-Day Public Comment Period.

In addition, the Notice of Proposed Rulemaking, Initial Statement of Reasons, 45-Day Express Terms, modified 15-Day Express Terms and the Final Statement of Reasons are posted on the CSLC’s website under the Marine Facilities Division (Division).

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**45-DAY PUBLIC COMMENT PERIOD:**

Two hundred-eighty-four (284) comments were received during the 45-Day Public Review Comment period, which extended from July 20, 2012 through September 11, 2012. A Public Hearing was also held on September 11, 2012 at 10:00 am at the Port of Long Beach, Board Room. All comments received have been numbered, grouped and summarized for Commission staff response; copies of the comment letters are attached. Several commenters gave oral testimony at the public hearing and also provided the script of their testimony. These comments are included as part of the total received, and all of the comments have been numbered as shown in the table below.

<b>45-DAY PUBLIC REVIEW COMMENTS</b>			
<b>COMMENT NUMBERS</b>	<b>COMMENTS</b>	<b>COMMENTS</b>	<b>DATE RECEIVED</b>
<b>1 - 3</b>	William Asante	ExxonMobil Research Engineering	08/15/12
<b>4 - 5</b>	Brian Hopper	Hopper Engineering Associates	09/10/12
<b>6 - 49</b>	William M. Bruin	Simpson, Gumpertz & Heger	09/10/12
<b>50 - 97</b>	James W. Kearney	Ben C. Gerwick, Inc.	09/10/12
<b>98 - 157</b>	Ron Heffron	Moffatt & Nichol	09/10/12
<b>158 - 178</b>	Darryl E. Laxo	IMTT	09/10/12
<b>179 - 187</b>	Catherine Reheig-Boyd	Western States Petroleum Association	09/10/12
<b>188 - 196</b>	Jodi Miller	Western States Petroleum Association	09/11/12
<b>197 - 238</b>	Gayle Johnson	Simpson, Gumpertz & Heger	09/11/12
<b>239 - 248</b>	Luis H. Palacios	Simpson, Gumpertz & Heger	09/11/12
<b>249 - 257</b>	Martin L. Eskijian	Independent Consultant	09/11/12
<b>258</b>	Syndi Pompa	DOGGR/Facilities	09/11/12
<b>259 - 264</b>	Robert Andrews	Halcrow, Inc., a CH2M Hill Company	09/12/12
<b>265 - 282</b>	45-Day Public Hearing	Multiple speakers	09/11/12
<b>283 - 284</b>	Kevin Reinertson	CAL FIRE–Office of the State Fire Marshal	09/21/12

**GENERAL – COMMENTS 3, 98, 99, 100 and 258.**

These comments do not address specific sections of Chapter 31F of the code or the Express Terms that were noticed for comments, including:

- (a) Comment 3 – Suggests referencing OCIMF “Jetty Maintenance and Inspection Guide”, 2008
- (b) Comment 98 – Suggests that Commission staff host a workshop with operators and consultants to discuss the proposed changes to Chapter 31F of the code

- (c) Comment 99 – Suggests providing clarification in Section 3102F.1.3 “*Berthing systems*” on whether ancillary facilities should be considered as part of a berthing system and fall under CSLC jurisdiction
- (d) Comment 100 – Suggests adding a new section to Chapter 31F of the code regarding the layout of marine oil terminals for emergency egress, including consideration of the requirements in Section 21.2 of ISGOTT (5<sup>th</sup> Ed.) for a secondary means of egress or a “safe haven”
- (e) Comment 258 – States that District 1 of the CA Division of Oil, Gas and Geothermal Resources (DOGGR), Cypress, CA, has no comments regarding the proposed amendments

**CSLC RESPONSE:** Commission staff appreciates these comments. However, these comments are not specifically directed at the proposed language for Chapter 31F of the code, and therefore, no response is required per Government Code § 11346.9. These comments are rejected, but may be considered for future rulemaking.

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**EXPRESS TERM #1 – COMMENT 50.**

The comment (Comment 50) addresses Section 3101F.2 “*Purpose*”, and the commenter refers to their comment to Express Term #4 (Comment 54), regarding modifications to the alternative approval language.

**CSLC RESPONSE:** Comments rejected. This comment is not specifically directed at the proposed change, the relocation of the “alternatives” language from Section 3101F.2 “*Purpose*” to the new Section 3101F.7, and therefore, no response is required per Government Code § 11346.9.

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**EXPRESS TERM #3 – COMMENTS 7, 51, 52, 53, 249 and 265.**

These comments address Section 3101F.6.2 “*Division review*” and remark on the following:

- (a) The commenters (Comments 7, 51, 249 and 265) criticize the proposed language “*review for compliance with this code*” and question what it means if no Division “approval” or “disapproval” is issued regarding audits, analyses, designs, etc., including concerns such as how operators should proceed with design and construction without finality of review and the potential consequences for non-compliance. Comment 51 also states that “the strictly literal reading of the proposed language is that by merely submitting the audit, analysis, design, etc. to the Division for its review the operator has complied 100% with the requirements of this section”.

**CSLC RESPONSE:** Comments rejected. Removal of the word “approval” from this section does not alter the “*Division review*” process and Commission staff’s enforcement of Chapter 31F of the code through compliance reviews. This change in terminology is being made to more clearly and accurately describe that the Commission staff does not “approve” audits, analyses, designs, etc., but actually checks for compliance. The primary responsibility for compliance rests with the terminal operator and the engineer-of-record. Merely submitting documentation to the Commission staff does not constitute complete compliance, as Commission staff will continue to perform limited reviews and issue compliance determination letters. All Commission staff concerns must be addressed before a submittal can be found compliant; the Commission may initiate enforcement action for non-compliance.

- (b) The commenter (Comment 52) suggests that the removal of “*and approval*” in this section conflicts with the proposed language in Section 3101F.7 regarding “*approval*” of alternatives.

**CSLC RESPONSE:** Comment rejected. Commission staff performs limited reviews of audits, inspections, analyses, evaluations, etc. for which compliance determinations are issued, whereas deviations from the regulatory requirements prescribed in Chapter 31F of the code necessitate an “approval”/“disapproval” decision by the enforcing agency, the Commission.

- (c) The commenter (Comment 53) questions why the Division is not simply acting as an “Authority Having Jurisdiction” and issuing permits.

**CSLC RESPONSE:** Comment rejected. Typically, permitting agencies are granted authority to issue construction or building permits, which include applications, fees, inspections during construction and after completion to ensure compliance with national, regional and local building codes, etc. Under 24 CCR §1.14, the Commission is authorized to adopt and enforce Chapter 31F of the code alone; the Commission does not issue permits.

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**EXPRESS TERM #4 – COMMENTS 54, 250 and 266.**

These comments address the new Section 3101F.7 “*Alternatives*” and remark on the following:

- (a) The commenter (Comment 54) suggests modifying the proposed language to state “...or the approval of any employee of the Division the Chief has previously authorized to act on his behalf”, as the commenter is concerned that the proposed language requires the Division Chief’s direct approval/disapproval of every alternative request.

**CSLC RESPONSE:** Comment rejected. The Division Chief must oversee the processing of all alternative requests per the Division’s internal formal practices. If the Division Chief is absent, his/her authority is temporarily granted to another manager.

- (b) The commenter (Comments 250 and 266) finds the proposed language unacceptable. The commenter essentially asserts that the approval/disapproval of alternatives to the code legally requires “professional engineering discretion and independent engineering judgments, analyses, and determinations”; therefore, the approval/disapproval of alternatives must be executed by a licensed professional engineer and is violated by the proposed language which delegates this authority to a non-engineer. (Ref: “*Guide to Engineering and Land Surveying for City and County Officials*” produced by the California Board of Professional Engineers and Land Surveyors).

**CSLC RESPONSE:** Commission staff agrees with these concerns, and has modified the proposed language to “...shall be subject to Division Chief approval with concurrence of the Division’s lead engineer”, to ensure that the Division’s lead engineer has direct input in the alternatives approval process.

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**EXPRESS TERM #6 – COMMENTS 55, 56, 57 and 197.**

These comments address Table 31F-2-21 “*Maximum Interval between Underwater—Audit Inspections (Years)*” and remark on the following:

- (a) The commenter (Comment 55) suggests the addition of language to Footnote 1 to permit the maximum interval between underwater inspections to be changed based on “completed repair of identified deficiencies”.

**CSLC RESPONSE:** Commission staff has determined that the proposed additional language is unnecessary. Therefore, this comment is rejected.

- (b) The commenter (Comment 56) suggests that the above water and underwater inspection recurrence intervals be redefined to consolidate all above water and underwater structural inspections on a “Structural Inspection Recurrence Interval”.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9. Therefore, this comment is rejected, but may be considered for future rulemaking.

- (c) The commenters (Comments 57 and 197) question if the title of the first column of Table 31F-2-21 should be updated to include the "ICAR" nomenclature and avoid confusion with the other types of assessment ratings.

**CSLC RESPONSE:** Commission staff agrees with these concerns, and has updated the proposed title to "*Inspection Condition Assessment Rating (ICAR)*". To further clarify this issue, Commission staff added Footnote 6 to provide a link to Table 31F-2-54 (Express Term #23), which defines ICARs.

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**EXPRESS TERM #9 – COMMENTS 58, 198 and 199.**

These comments address Section 3102F.3.1 "*Objective*" and remark on the following:

- (a) The commenters (Comments 58 and 199) suggest that the last sentence of this section be corrected to clarify that follow-up actions are not part of the audit.

**CSLC RESPONSE:** Commission staff concurs, and has added "*recommended*" to clarify that recommended follow-up actions are assigned during the audit process and implemented thereafter.

- (b) The commenter (Comment 198) suggests that the last sentence in this section has too many "*and*" phrases and that the one before "*engineering evaluation*" should be removed.

**CSLC RESPONSE:** Comment accepted. Commission staff concurs and has removed this "*and*".

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**EXPRESS TERM #10 – COMMENTS 59, 60, 101, 102 and 259.**

These comments address Section 3102F.3.2 "*Overview*" and remark on the following:

- (a) The commenters (Comments 59 and 102) suggest that the proposed "*below the waterline*" terminology in the first sentence of the third paragraph be modified to "+3' MLLW" for consistency with the delineation of above water and underwater inspections as defined in Express Term #17 (Section 3102F.3.5.1).

**CSLC RESPONSE:** Commission staff appreciates these comments. However, the "*below the waterline*" terminology is complimentary to the "*above the waterline*" terminology used to describe above water inspections in the second paragraph of this section, and this "*waterline*" terminology is used because this section generally discusses the differences between above water and underwater inspections of structural, mechanical and electrical systems, where as Express Term #17 (Section 3102F.3.5.1) specifically addresses above water structural inspections. Therefore, these comments are rejected.

- (b) The commenter (Comment 60) states "See also Item [or Express Term] 17", which refers to their comments on above water structural inspections.

**CSLC RESPONSE:** Commission staff appreciates these comments. However, the "*waterline*" terminology is used because this section generally discusses the differences between above water and underwater inspections of structural, mechanical and electrical systems, where as

Express Term #17 (Section 3102F.3.5.1) specifically addresses above water structural inspections. Therefore, this comment is rejected.

- (c) The commenter (Comment 101) suggests that the last sentence of the first paragraph has an extraneous “and” that should be removed.

**CSLC RESPONSE:** Commission staff appreciates this comment, but has determined that there are no extraneous “and” phrases. Therefore, this comment is rejected.

- (d) The commenter (Comment 259) suggests that the proposed language be modified to clarify the scope of structural inspections and delineation between above water and underwater inspections consistent with Section 3102F.3.5.1 “*Above water structural inspection*”.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this section generally discusses the differences between above water and underwater inspections of structural, mechanical and electrical systems, where as Section 3102F.3.5.1 (Express Term #17) specifically addresses above water structural inspections. Therefore, this comment is rejected.

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**EXPRESS TERM #11 – COMMENTS 6 and 7.**

These comments (Comments 6 and 7) address Section 3102F.3.3.1 “*Initial Audit*”, and the commenter claims that it is impractical to conduct an audit for a new terminal before it operates for several reasons, including that: (1) Commission staff can already review new terminals’ designs, construction, commissioning, initial operations and Marine Terminal Operations Manual through regulated processes, (2) the proposed changes are a duplication of existing regulations, (3) the proposed changes may confuse the process of commissioning a new facility, and (4) audits are intended to assess compliance of existing systems.

**CSLC RESPONSE:** Comments rejected. The initial audit of the “*as-built*” system(s) at new terminals is essential to validating compliance with Chapter 31F of the code prior to operations. The proposed changes do not duplicate the existing regulations or introduce confusion, but rather provide a clear structured format, the audit format, for compiling the evaluations, documentation, drawings and action items necessary to confirm and record/report compliance status. Commission staff will be unable to enforce Chapter 31F of the code and allow a new terminal to operate without this proof of compliance with the various aspects of this state regulation. Therefore, these comments are rejected.

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**EXPRESS TERM #12 – COMMENTS 61 and 158.**

These comments address Section 3102F.3.3.2 “*Subsequent audits*” and remark on the following:

- (a) The commenter (Comment 61) suggests that the above water and underwater inspection recurrence intervals be redefined to consolidate all above water and underwater structural inspections on a “Structural Inspection Recurrence Interval”.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code Section 11346.9. This comment is rejected, but may be consider for future rulemaking.

- (b) The commenter (Comment 158) states that “the maximum interval of 4 years conflicts with the referenced Table 31F-2-21 “*Maximum Interval between Underwater-Audit Inspections (Years)*”.

**CSLC RESPONSE:** Commission staff recognizes the potential for misconstruing the maximum intervals defined in Section 3102F.3.3.2, and has modified the proposed language to remove ambiguity. The maximum subsequent audit and above water inspection interval of 4 years does not conflict with Table 31F-2-2~~1~~, which defines the maximum underwater inspection intervals.

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**EXPRESS TERM #13 – COMMENTS 251, 252, 253, 260, 267 and 268.**

These comments address Section 3102F.3.4.4 "~~Seismic~~ *Structural analyst*" and remark on the following:

- (a) The commenter (Comments 251 and 267) states that the word "*certify*" is being used incorrectly in the proposed language, based on the California Professional Engineers Act's (Ref: Business and Professions Code Section 6735.5) definition.

**CSLC RESPONSE:** Comments accepted. Commission staff concurs, and has modified the proposed language to align with the industry standard (Business and Professions Code § 6703) nomenclature of "*responsible charge*".

- (b) The commenter (Comments 252 and 268) suggests that the term "*responsible charge*" is more appropriate than the proposed word "*certify*", based on the California Professional Engineers Act's (Ref: Business and Professions Code § 6703 and § 6735.5) definitions.

**CSLC RESPONSE:** Comments accepted. Commission staff concurs, and has modified the proposed language to align with the industry standard (Business and Professions Code § 6703) nomenclature of "*responsible charge*".

- (c) The commenter (Comment 253) essentially notes that the Division should be aware that legally "*...at least one registered engineer shall be designated the person in responsible charge of professional engineering work for each branch of professional engineering practices in any department or agency of the state...*" (Business and Professions Code § 6730.2), and infers that the Commission must therefore ensure that the Division's designated engineer in responsible charge is a California registered professional engineer.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected.

- (d) The commenter (Comment 260) requests clarification on the specific requirements to adequately "*certify*" seismic structural analyses.

**CSLC RESPONSE:** Commission staff recognizes the potential for misunderstanding the term "*certify*", and has modified the proposed language to align with the industry standard (Business and Professions Code § 6703) nomenclature of "*responsible charge*".

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**EXPRESS TERM #14 – COMMENTS 103 and 159.**

These comments address Section 3102F.3.4.6 "*Mechanical inspection team*" and remark on the following:

- (a) The commenter (Comment 103) suggests that the proposed language should be revised to clarify the required qualifications for the individual directing the Fire Protection Assessment, and that these requirements should be presented in Section 3102F.3.4.6 instead of Section 3108.

**CSLC RESPONSE:** Comment rejected. Commission staff had decided to keep the qualifications for the individual directing the Fire Protection Assessment in Section 3108F.2.2.

- (b) The commenter (Comment 159) states that: “The mechanical inspection team should be directed by a registered mechanical engineer.”

**CSLC RESPONSE:** Comment rejected. Commission staff appreciates this comment; however, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9.

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**EXPRESS TERM #17 – COMMENTS 8, 9, 62, 63, 64, 104, 105, 106, 107, 108 and 179.**

These comments address Section 3102F.3.5.1 “*Above water structural inspection*” and remark on the following:

- (a) The commenters (Comments 62 and 179) state that “the exact breakdown (by elevation) of structural members falling into the above or underwater inspections should be determined on a case by case basis...”, and claims that the proposed language removes the authority for the above water inspection team to inspect and rate piles, bracing and other components above +3 ft MLLW.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these comments. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, Section 3102F.3.5.1 is reverted back to the existing code language, with the exception of typographical errors.

- (b) The commenters (Comments 9, 63 and 179) suggest several changes to the proposed language, primarily related to redefining and clarifying the delineation for above water inspections with the terminology “*visible above the waterline*”.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these comments. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, Section 3102F.3.5.1 is reverted back to the existing code language, with the exception of typographical errors.

- (c) The commenter (Comment 64) notes that their comments regarding the boundary between above water and underwater inspections during previous revisions of Chapter 31F of the code were that it is confusing to assign two different condition ratings for the same elements, and that Table ES-2 should reflect the worst condition of the element irrespective of the inspection team.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected, but may be considered for future rulemaking.

- (d) The commenters (Comments 8 and 104) cite several reasons for why it is not practical or logical for the dive team to perform the inspections of entire piles.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these concerns. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, Section 3102F.3.5.1 is reverted back to the existing code language, with the exception of typographical errors.

- (e) The commenter (Comment 105) argues that the mechanisms and rates of deterioration for above water and underwater components differ significantly, justifying different inspection intervals and separate ratings.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these concerns. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, Section 3102F.3.5.1 is reverted back to the existing code language, with the exception of typographical errors.

- (f) The commenter (Comment 106) argues that there are significant differences between the level of effort, associated expenses, scope of work and access considerations for above water and underwater inspections, and that these differences are not properly recognized and accounted for if above water inspection is added to the underwater inspection scope.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these concerns. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, Section 3102F.3.5.1 is reverted back to the existing code language, with the exception of typographical errors.

- (g) The commenter (Comments 107 and 108) generally remarks that the current code inspection methodology should not be altered, as it satisfies its fundamental purpose, making sure “both above water and underwater conditions are accounted for when performing a global structural assessment/rating”.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these concerns. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, Section 3102F.3.5.1 is reverted back to the existing code language, with the exception of typographical errors.

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**EXPRESS TERM #18 & 19 – COMMENT 261.**

This comment (Comment 261) addresses Table 31F-2-32 “*Underwater Inspection Levels of Effort*” and Table 31F-2-43 “*Scope of Underwater Inspections*”, and states that the tables appear inconsistent because “detectable defects are defined for a Level III inspection of concrete piles, but a Level III Inspection is not required for concrete piles”.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, which simply address renumbering of the tables and the correction of a typographical error. Therefore, no response is required per Government Code § 11346.9; this comment is rejected, but may be considered for future rulemaking.

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**EXPRESS TERM #20 – COMMENTS 10, 65, 66, 67, 109, 110, 200, 201 and 262.**

These comments address Section 3102F.3.5.2 “*Underwater structural inspection*” and remark on the following:

- (a) The commenters (Comments 10, 65, 200 and 262) generally point out that the proposed language does not accomplish its intent, as it excludes the piles and bracing above +3 ft MLLW from the underwater inspection.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, the language in the first paragraph of Section 3102F.3.5.2 is reverted back to the existing code language.

- (b) The commenter (Comment 66) notes that the proposed language only addresses piles and bracing, excluding other components such as seawalls, fender systems, etc.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, the language in the first paragraph of Section 3102F.3.5.2 is reverted back to the existing code language.

- (c) The commenter (Comment 67) suggests a few changes to the proposed language to redefine the boundary between above water and underwater inspections with the terminology “*not visible for inspection above the waterline*” and the removal of the proposed language “*but not limited to piles, pile bracing, and*”.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, the language in the first paragraph of Section 3102F.3.5.2 is reverted back to the existing code language.

- (d) The commenter (Comment 109) states: “Disagree with this change for reasons cited in Item [or Express Term] 17 above [Section 3102F.3.5.1]”.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, the language in the first paragraph of Section 3102F.3.5.2 is reverted back to the existing code language.

- (e) The commenter (Comment 110) states: “Agree that bracing should remain part of the underwater inspection scope”.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, the language in the first paragraph of Section 3102F.3.5.2 is reverted back to the existing code language.

- (f) The commenter (Comment 201) is concerned that adding the above water portions of the piles and framing to the scope of underwater inspections inappropriately applies all of the underwater inspection requirements to these components.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, the language in the first paragraph of Section 3102F.3.5.2 is reverted back to the existing code language.

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**EXPRESS TERM #22 – COMMENTS 68, 69, 70, 71, 111, 112, 113, 114 and 115.**

These comments address Figure 31F-2-1 “*EXAMPLE, STATEMENT OF TERMINAL OPERATING LIMITS*” and remark on the following:

- (a) The commenter (Comment 68) suggests that “*REFERENCE CALCULATION*”, “*NAME OF REPORT*” and “*PREPARER NAME*” should be plural.

**CSLC RESPONSE:** Comment accepted. Commission staff concurs, and added “(S)” following “*CALCULATION*”, “*REPORT*” and “*PREPARER*”. Commission staff also added “(S)” following “*DATE*” and modified “*ALTERNATIVES*” to “*ALTERNATIVE(S)*” to correct these typographical errors.

- (b) The commenter (Comment 69) question if “*MINIMUM WATER DEPTH*” should instead read “*MAXIMUM VESSEL DRAFT*” under the “*BERTH DESCRIPTION*”.

**CSLC RESPONSE:** “*MAXIMUM DRAFT*” and “*MAXIMUM ARRIVAL DRAFT*” are listed under the “*VESSEL DESCRIPTION*”. Therefore, this comment is rejected.

- (c) The commenter (Comment 70) suggests that departing the berth during extremely high wind events and the availability of tugs may be problematic to respond to the “*SURVIVAL CONDITION LIMIT*”, and that “*or request tug assistance*” should be added.

**CSLC RESPONSE:** The description of “*SURVIVAL CONDITION LIMITS*” stated in Figure 31F-2-1 is consistent in reiterating the wind load requirements defined in Section 3103F.5.2.1.2. Furthermore, Figure 31F-2-1 is an “*EXAMPLE*” that should be customized for individual terminals. Since no changes have been proposed to the applicable language in Section 3103F.5.2.1.2, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9. Therefore, this comment is rejected, but may be considered for future rulemaking.

- (d) The commenter (Comment 71) suggests aligning the current directions with the orientation of the face of the berth under the “*ENVIRONMENTAL CONDITION LIMITS*”.

**CSLC RESPONSE:** Comment accepted. Commission staff concurs with this concern, and has corrected this issue by modifying the example current angle statements so that the current directions generally align with the face-of-wharf and ebb-flood arrows.

- (e) The commenter (Comment 111) suggests that the “*PHYSICAL BOUNDARY OF BERTHING SYSTEM*” is in error, as the boundary should be redrawn to include the trestle since this is part of the “berthing system”.

**CSLC RESPONSE:** Commission staff concurs with this concern, and has corrected this error by modifying this label to “*PHYSICAL BOUNDARY OF BERTH*” to remove the potential for misunderstanding, as “berthing systems” may extend beyond the example boundary shown.

- (f) The commenter (Comment 112) questions if existing Statements of Terminal Operating Limits (STOLs) will have to be updated to the new proposed STOL format.

**CSLC RESPONSE:** Comment rejected. Figure 31F-2-1 is an “*EXAMPLE*”, and should be customized for individual terminals. Existing STOLs do not have to be upgraded to this new format, but operators may opt to upgrade to this new, more effective format when redoing the STOLs or at any time.

- (g) The commenter (Comment 113) states that there is “no easy way to monitor the wave period” and suggests that this should be deleted from the figure.

**CSLC RESPONSE:** Figure 31F-2-1 is an “*EXAMPLE*” that should be customized for individual terminals. And wave period is a limit considered during the assessment of terminals. Therefore, this comment is rejected.

- (h) The commenter (Comment 114) questions the difference between “*WATER DEPTH*” and “*MINIMUM WATER DEPTH*”.

**CSLC RESPONSE:** Comment accepted. Commission staff concurs that this information is confusing, and has modified the “*BERTH DESCRIPTION*” with the addition of “*MINIMUM*” before “*WATER DEPTH*” and removal of “*MINIMUM WATER DEPTH 38.0 FT*”. Furthermore, Commission staff has removed item #4 under “*BERTH NOTES*”, as this example statement introduced greater confusion to this issue.

- (i) The commenter (Comment 115) states that “it is good practice to include the line type associated with the breaking strength”.

**CSLC RESPONSE:** Figure 31F-2-1 is an “*EXAMPLE*” that should be customized for individual terminals. Therefore, this comment is rejected, but may be considered for future rulemaking.

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**EXPRESS TERM #23 – COMMENTS 11, 202 and 203.**

These comments address Table 31F-2-~~54~~ “*Assessment Ratings*” and remark on the following:

- (a) The commenters (Comments 11 and 203) state that “the ICAR is meant to compare the original condition with the as-is condition of the structure”, and that decisions on repairs, upgrades or remedial actions should not be based on ICARs alone, suggesting instead that specific instances of damage be addressed by RAPs (i.e. repairs, upgrades and remedial actions should be addressed in Table ES-2, not Table ES-1C).

**CSLC RESPONSE:** Commission staff recognizes these concerns, and has added “*Ratings shall be assigned comparing the observed condition to the original condition*” to Footnote 3 for further clarification on assigning ICARs. No other modification to the proposed language is necessary.

- (b) The commenter (Comment 202) suggests that a footnote be added to Table 31F-2-~~54~~ to clarify that ICARs shall be assigned comparing the current inspected condition to the original condition of structures and/or systems when newly built.

**CSLC RESPONSE:** Commission staff concurs, and has added “*Ratings shall be assigned comparing the observed condition to the original condition*” to Footnote 3 for further clarification on assigning ICARs.

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**EXPRESS TERM #27 – COMMENT 263.**

This commenter addresses Table 31F-2-~~76~~ “*Structural Follow-up Actions*” and suggests that “follow up actions that consist of evaluations or different levels of inspections be limited to those cases where the initial work could not clearly define whether there was a significant deficiency”.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected.

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**EXPRESS TERM #28 – COMMENTS 72, 73, 116, 117 and 204.**

These comments address the new Tables 31F-2-7A through 7C (*Executive Summary Tables ES-1A, ES-1B and ES-1C*) and remark on the following:

- (a) The commenters (Comments 72 and 204) state that the footnotes are unclear and confusing, citing that they have changed from previous draft versions which had separate sets of footnotes for each table. (Ref: draft versions of the Executive Summary Table format made available by the Division prior to these proposed regulatory revisions)

**CSLC RESPONSE:** Commission staff appreciates these concerns, but has decided to consolidate the footnotes for Tables 31F-2-7A through 7C to eliminate excessive repetition. The commenters do not specify which footnotes are “unclear” and “confusing”, and Commission staff does not find that modifications to the proposed footnotes are necessary. Therefore, these comments are rejected.

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- (b) The commenter (Comment 73) asserts that “determining the re-inspection interval based on the conditions of elements relative to their original condition can cause problems”, reasoning that structural elements that have sustained heavy damage, but are redundant or unnecessary, can lead to “*Poor*” or “*Serious*” ICARs, but have “*Fair*” or “*Satisfactory*” OSARs and SSARs.

**CSLC RESPONSE:** ICARs should be assigned comparing the observed condition of the structure(s) and/or system(s) to the original condition; this practice is consistent with industry standards. To avoid misunderstanding, the Commission staff has modified the proposed language for Footnote 9 to align with the proposed language in Footnote 3 of Table 31F-2-54 (Express Term #23).

- (c) The commenter (Comment 116) is concerned that the way the proposed tables are structured does not allow for summarization of whether a “Berthing System” is fit-for-purpose or not.

**CSLC RESPONSE:** Comment rejected. Tables 31F-2-7A through 7C are filled in with “*Example*” data, and should be customized for individual terminals. The “*Overall*” terminology is noted in Footnote 1 to be used for summarization, such as assigning the overall berthing systems fitness-for-purpose. Therefore, no modifications to the proposed language are necessary, and this comment is rejected.

- (d) The commenter (Comment 117) questions the meaning of the terminology “*Wharfhead*”.

**CSLC RESPONSE:** Tables 31F-2-7A through 7C are filled in with “*Example*” data, and should be customized for individual terminals. The terminology “*Wharfhead*” refers to the main platform of a wharf. Therefore, no modifications to the proposed language are necessary, and this comment is rejected.

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**EXPRESS TERM #32 – COMMENTS 12, 74, 75, 76, 118 and 205.**

These comments address Section 3102F.3.7 “*Follow-up actions*” and remark on the following:

- (a) The commenters (Comments 12 and 205) argue that follow-up actions should only be tied to RAPs, not condition ratings, because significant condition ratings will be accompanied by specific deficiencies with assigned RAPs, and that mixing and matching of condition ratings and deficiencies adds confusion to documenting and tracking progress, and thus becomes redundant and worthless.

**CSLC RESPONSE:** Commission staff recognizes these concerns, and has amended the proposed language in the second sentence of the second paragraph to correct this statement, since follow-up and remedial actions are only reported in the Executive Summary Table ES-2 for “*Component Deficiency Remedial Action Priorities (RAP)*” (corresponding to Example Table 31F-2-8 or Express Term #29). No other modification to the proposed language is necessary.

- (b) The commenter (Comment 74) questions if compliance with “...*the Division shall be notified immediately...*” is the responsibility of the Audit Team, the Terminal Operator, or the Terminal Owner.

**CSLC RESPONSE:** Comment rejected. Commission staff appreciates this comment. This comment is not specifically directed at the proposed amendments, and therefore, requires no response per Government Code § 11346.

- (c) The commenter (Comment 75) notes that the recurrence interval of audits and inspections often differ, and implies that deficiencies discovered during inspections are not always assigned RAPs and assessment ratings until they are reported in the subsequent audit.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment, and has modified the proposed language in the fourth sentence of the second paragraph to clarify that all Executive Summary Tables shall be maintained and updated as necessary, and shall be submitted with, but not limited to, the inspections. Failure to assign or reassign RAPs and assessment ratings, as appropriate, immediately following inspections, would be in direct violation of this regulation. To make clear, ICARs shall be reassigned following inspections, where appropriate, and if significant deficiencies are discovered during an inspection that could alter the existing OSARs and SSARs, at a minimum, the Executive Summary Tables should recommend follow-up actions, including whether reanalysis is required straightaway and call out any operational restrictions to be implemented immediately.

- (d) The commenter (Comment 76) suggests expanding the proposed language in the first sentence of the second paragraph to require that the Division be notified immediately of “*any obvious imminent threat to the safety of the facility personnel, the public, or the environment is noted by the inspection team*”.

**CSLC RESPONSE:** Commission staff appreciates this comment, and has determined that the suggested additional language is not necessary. Conditions that pose “*immediate threats to public health, safety or the environment*” already warrant the assignment of RAPs of “P1” or “P2” or follow-up actions of “*Emergency Action*” by definition, and structure(s) and/or system(s) that are “*not fit-for-purpose*” already warrant the assignment of assessment ratings of “1”, “2” or “3”. The existing proposed language in this section requires that if such conditions are assigned, “*...the Division shall be notified immediately*”. Therefore, this comment is rejected.

- (e) The commenter (Comment 118) suggests that the proposed language be modified to limit the requirement for immediate Division notification to assessment ratings of “1”, RAPs of “P1” or “*Emergency Action*”.

**CSLC RESPONSE:** Comment rejected. Commission staff must be notified immediately of assessment ratings of “1”, “2” or “3”, or RAPs of “P1” or “P2”, or “*Emergency Action*”, because by definition these structure(s) and/or system(s) are “*not fit-for-purpose*”, require “*urgent action*” or “*immediate remedial actions*”, “*pose(s) a potential threat to public health, safety and the environment*”, may require immediate operational restrictions, etc.

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**EXPRESS TERM #33 – COMMENTS 13, 14, 77, 119,120, 121, 122, 123, 124, 160, 206 and 264.**

These comments address Section 3102F.3.8 “*Documentation and reporting*” and remark on the following:

- (a) The commenters (Comments 13, 77, 123, 160 and 206) assert that the first sentence of the proposed language implies that all audit, inspection and other reports and drawings shall be signed and stamped by both the responsible engineer and the audit team leader, and that this may violate the P.E. regulations. (Ref: “Board Rules and Regulations Relating to the Practices of Professional Engineering and Professional Land Surveying” (16 CCR §§ 400-476))

**CSLC RESPONSE:** Comments accepted. Commission staff concurs that the originally proposed language to the first paragraph did not properly convey the intent, by mistakenly implying that the audit team leader would be required to sign and stamp all documentation. Therefore, the proposed language is amended by reinstating the first sentence in the existing

code, which requires the audit team leader to sign and stamp the audit. And a second sentence is added regarding the requirement for the engineer in responsible charge to sign and stamp each of their reports, drawings or documents.

- (b) The commenter (Comment 14) suggests that Executive Summary (ES) Tables should only be issued by terminal owners and audit team leaders in audits, and that the inspection teams should communicate their concerns to the owner and audit team leader, who would update the ES tables accordingly. The commenter also implies that the inspection team could generate new ES tables for each inspection, instead of adding to the existing ES tables.

**CSLC RESPONSE:** Commission staff appreciates this comment. The terminal operator is primarily responsible for compliance with Chapter 31F of the code, and is therefore, ultimately responsible for the maintenance and updating of their ES tables. Each terminal operator shall update and maintain a single set of ES tables. The terminal operator shall select if their inspection team leader or audit team leader assists in assigning or reassigning ratings in the ES tables following inspections, but regardless, the inspection report submitted to the Division shall include these updated ES tables. Therefore, this comment is rejected.

- (c) The commenter (Comment 119) suggests retaining the original terminology "*berthing system*" as opposed to the proposed terminology "*MOT*" in the third paragraph of this section, because audits are conducted on berthing systems, not MOTs.

**CSLC RESPONSE:** Comment accepted. Commission staff agrees, and has reverted back to the existing code language of "*berthing system*", since the original terminology is more precise and accurate.

- (d) The commenter (Comment 120) suggests changing the "*Evaluation and assessment*" paragraph "to provide a summary of the inspections that have been done, with the detailed inspections documented in the appendices".

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected.

- (e) The commenter (Comment 121) suggests adding appendices for above water inspections, underwater inspections, mechanical/piping inspections, electrical inspections, etc.

**CSLC RESPONSE:** Commission staff appreciates this comment, but has determined that the proposed additional language is unnecessary, because "*Inspection/testing data*" is listed as item #2. Therefore, this comment is rejected.

- (f) The commenters (Comments 122 and 264) request clarification on the meaning of the proposed addition of item #9 for "*Corrosion assessment*", and Comment 122 suggests that this item should be deleted because corrosion should be reported in the inspection reports.

**CSLC RESPONSE:** Commission staff has added item #9 for "*Corrosion assessment*", because it was previously omitted and is required per Section 3111F.10. The corrosion assessments may be incorporated in the inspection reports or under separate cover.

- (g) The commenter (Comment 124) states that: "*These changes [to Section 3102F.3.8] merit further discussion with CSLC in a workshop meeting.*"

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected, but may be considered for future rulemaking.

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**EXPRESS TERM #34 – COMMENT 125.**

This commenter addresses Section 3102F.3.9 “*Action plan implementation report*” and suggests that the existing language be retained, stating that “requiring a notification for every deficiency corrected is too onerous” and that not providing a timeframe for compliance is ambiguous.

**CSLC RESPONSE:** Comment rejected. This change in terminology is being made to more clearly and accurately describe the existing process for reporting action plan implementations to the Commission.

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**EXPRESS TERM #37a – COMMENTS 1 and 2.**

[Note: This express term was inserted for consistency in responding to the 45-Day Public Comments.]

- (a) The commenter (Comment 1) does not directly address Section 3103F.5.2.3 “*Static wind loads on vessels*”, but comments that the 1997 OCIMF “Mooring Equipment Guidelines” (2<sup>nd</sup> Ed.) was superseded by the 2008 OCIMF “Mooring Equipment Guidelines (MEG3)” (3<sup>rd</sup> Ed.).

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested.

- (b) The commenter (Comment 2) does not directly address Section 3103F.5.2.3 “*Static wind loads on vessels*”, but comments that the 1977 OCIMF “Prediction of Wind and Current Loads on VLCCs” is now incorporated in the 2008 OCIMF “Mooring Equipment Guidelines (MEG3)” (3<sup>rd</sup> Ed.) as Appendix A.

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested.

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**EXPRESS TERM #38 – COMMENTS 78, 126, 127 and 128.**

These comments address changes to Section 3103F.6.1 “*General*” and remark on the addition of the “accidental factor” to “*Equation (3-16)*” and its definition.

- (a) The commenter (Comment 78) directs the reader to his comments on Item [or Express Term] #39 and discusses the “accidental factor” as part of his narrative regarding berthing velocity and angle.

**CSLC RESPONSE:** No response is required per Government Code § 11346.9 since this comment is not specifically directed at the proposed amendments; therefore, this comment is rejected.

- (b) The commenter (Comment 126) disagrees with the use of the “accidental berthing factor”, suggesting it is “over and above the minimum requirements”.

**CSLC RESPONSE:** Comment rejected. The purpose of this modification is to clarify the use of the accidental/ abnormal impact factor, implicitly specified in Section 3105.F.4.5 via the PIANC & UFC references. There is no change from existing code provisions.

- (c) The commenter (Comment 127) states that they do not think that “an accidental factor should be included in an operational load combination”, stating that the use of the LRFD berthing load factor of 1.6 and abnormal berthing energy factor would be “double dipping”. The

commenter suggests that instead, the “strength reduction factors can be set to 1.0 and strength increase factors may be included”.

**CSLC RESPONSE:** Comment rejected. The purpose of this modification is to clarify the use of the accidental/ abnormal impact factor, implicitly specified in Section 3105.F.4.5 via the PIANC & UFC references. There is no change from existing code provisions.

- (d) The commenter (Comment 128) states that: “*These changes [to Section 3103F.6.1] merit further discussion with CSLC in a workshop meeting.*”

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected, but may be considered for future rulemaking.

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**EXPRESS TERM #39 – COMMENTS 15, 16, 79, 80, 81, 129, 207 and 208.**

These comments address changes within Section 3103F.6.7 “*Berthing velocity and angle*”.

- (a) Comments 15, 81 and 207 relate to Footnote 2 and the second line of Table 31F-3-9 “*Berthing Velocity  $V_n$  (Normal to Berth)*”, stating that Footnote 2 is no longer appropriate with the changes made to the first column.

**CSLC RESPONSE:** Comments accepted. Commission staff agrees with these comments, and has removed Footnote 2 and the reference to it in Table 31F-3-9. The second line in the table remains.

- (b) The commenters (Comments 16, 79 and 208) state that the proposed language regarding temporary velocity monitoring equipment is a significant change to the original intent of this section, without justification, and opposes PIANC guidelines. The commenters generally argue that measured velocities should be used in lieu of generic values to determine adequacy of berthing structures, and Comment 16 suggests that “velocity monitoring should be encouraged for both new terminals and old”.

**CSLC RESPONSE:** Comments rejected. This issue has already been addressed and the Division’s intention has been clarified in the letter issued to all MOTs by the Division Chief on November 16, 2010, with the subject “MOTEMS Compliant Vessel Berthing and the Use of Velocity Monitoring Equipment”. Additionally, MOTEMS-compliant berthing systems may use this equipment, and the Commission staff does not intend to limit this option.

- (c) The commenter (Comment 80) essentially suggests that compiling and evaluating local velocity monitoring data at existing terminals should be encouraged, as it could provide the maritime industry with useful berthing information and aid in the development of updated berthing criteria.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected, but may be considered for future rulemaking.

- (d) Comment 129 is editorial and states that “tug boat” should be two words.

**CSLC RESPONSE:** Comment accepted. Comment staff concurs, and notes that the proposed title for the second column of Table 31F-3-9 is marked as such.

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**EXPRESS TERM #40 – COMMENTS 4 and 281.**

These comments (Comments 4 and 281) relate to the proposed changes to Section 3103F.8.7 “*Berthing load (B<sub>e</sub>)*”, and the commenter asks for guidance in relation to the phrase “*No increase in allowable stresses shall be applied for ASD*”.

**CSLC RESPONSE:** Comments rejected. These comments are not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9.

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**EXPRESS TERM #41 – COMMENT 130.**

This comment relates to proposed changes made to Section 3103F.8.8 “*Earthquake loads (E)*”, and laments the deletion of “load factors” and then expands on why this may be problematic.

**CSLC RESPONSE:** Comment rejected. The deletion of the first two sentences in this section was done because they present redundant information; the LRF and ASD load factors for load combinations exist in Tables 31F-3-12 and 31F-3-13, respectively, and have not been altered. Therefore, in fact, “load factors” are not deleted in this code.

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**EXPRESS TERM #43 – COMMENTS 17, 18, 82, 83, 84, 131, 132, 133, 134, 135, 136, 137, 180 and 209.**

These comments relate to Section 3103F.10 “*Mooring hardware*”.

- (a) The commenters (Comments 17 and 209) generally disagree with the proposed language regarding mooring hardware in the 2<sup>nd</sup> paragraph and its impact on the designs for bollards and cleats. The commenters argue contradictory points regarding the proposed language, with Comment 17 stating that “using MBLs only can create situations where mooring hardware is designed and installed without being able to develop the full rated capacity” (i.e. unconservative) and Comment 209 stating that “if a bollard is used for barge service only, it may have to be sized for loads that are way out of proportion to what it might ever experience” (i.e. too conservative).

**CSLC RESPONSE:** Commission staff appreciates these comments, and has modified the proposed language in the 2<sup>nd</sup> paragraph as suggested in Comment 180.

- (b) The commenters (Comment 18 and 82) generally state that the proposed language regarding mooring hardware in the 2<sup>nd</sup> paragraph provides no guidance on multiple hook design and may yield excessively conservative design for quick release hook assemblies and supporting structures.

**CSLC RESPONSE:** Commission staff appreciates these comments, and has modified the proposed language in the 2<sup>nd</sup> paragraph as suggested in Comment 180.

- (c) The commenters (Comments 83, 135 and 136) request clarification on the proposed language in the 2<sup>nd</sup> paragraph regarding comparison of “ultimate” vs. “allowable” loads (i.e. ultimate capacity of the mooring lines vs. “*the rated safe working load*” of the hooks).

**CSLC RESPONSE:** Commission staff appreciates these comments, and has modified the proposed language in the 2<sup>nd</sup> paragraph as suggested in Comment 180.

- (d) The commenter (Comment 84) notes that the ISOR “Statement of Justification” statement “The ‘Safety Factor of 1.2 or greater’ statement applies to all mooring hardware and not just hooks, ensuring that the mooring equipment is stronger than the mooring line or mooring tail” is not guaranteed to be correct and irrelevant.

**CSLC RESPONSE:** Comment rejected. Commission staff appreciates this comment. This comment is not specifically directed at the proposed change, and therefore, no response is required per Government Code § 11346.9.

- (e) Comment 131 disagrees with moving the 2<sup>nd</sup> paragraph in Section 3103F.10.1, as modified, to Section 3103F.10, and directs the reader to their comments on Express Term #44 for explanation.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that the relocation of this item is appropriate. And the comments regarding Express Term #44 are not specifically directed at the proposed change to this, the relocation of the “alternatives” language from Section 3101F.2 “Purpose” to the new Section 3101F.7, and therefore, no response is required per Government Code § 11346.9.

- (f) Comment 132 is directed at the 2<sup>nd</sup> sentence in the 1<sup>st</sup> paragraph of Section 3103F.10 and requests clarification regarding whether existing “(E)” terminals need to have capacities marked on bollards, because it “could be onerous and in some cases misleading”.

**CSLC RESPONSE:** Comment accepted. The Express Term #43 has been modified to indicate that only new “(N)” terminals need to have all mooring fittings clearly marked with their safe working loads. Furthermore, Commission staff has modified the proposed title to include “(N/E)” to eliminate the potential for confusion, as the proposed express term states new “(N)” and existing “(E)” requirements within the same paragraphs.

- (g) Comment 133 asks if the factored MBL load applies to all lines connected to the hardware simultaneously for hardware with multiple hooks, bollards receiving multiple lines, etc.

**CSLC RESPONSE:** Commission staff appreciates these comments, and has modified the proposed language in the 2<sup>nd</sup> paragraph as suggested in Comment 180.

- (h) Comment 134 asks if the factored MBL load applies to all lines on all hardware for structures with multiple hardware locations.

**CSLC RESPONSE:** Commission staff appreciates these comments, and has modified the proposed language in the 2<sup>nd</sup> paragraph as suggested in Comment 180.

- (i) The commenter (Comment 137) states that: “*These changes [to Section 3103F.10] merit further discussion with CSLC in a workshop meeting.*”

**CSLC RESPONSE:** Comment rejected. Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9.

- (j) The commenter (Comment 180) states that the proposed language regarding mooring hardware evaluation in the 2<sup>nd</sup> paragraph “appears to be irrespective of whether the individual piece of mooring hardware (and its support) comprises 1, 2, 3, or 4 quick release hooks”, and suggests the following alternative language:

*“All mooring hardware, including individual hooks, or bollards, shall be rated to withstand the minimum breaking load (MBL) of the strongest line required for the governing vessel configuration, using a Safety Factor of 1.2 or greater (N). All mooring hardware anchorage and supporting structures shall be capable of supporting the rated safe working load of the entire mooring hardware configuration without additional safety factor.”*

**CSLC RESPONSE:** The commenter's proposed revised language is accepted, and the proposed language is modified as suggested.

- (k) No comments were specifically directed at the reference number in Section 3103F.10 “*Mooring hardware*”.

**CSLC RESPONSE:** The reference number has been modified in Section 3103F.10 “*Mooring hardware*” due to changes made to Section 3103F.13 “*References*” (Express Term #44b) in response to the 45-Day Public Comments.

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**EXPRESS TERM #44 – COMMENTS 19, 20, 21, 22, 85, 138, 139, 140, 141, 142, 161, 210, 211, 212 and 213.**

These comments relate to Section 3103F.10.1 “*Quick release hooks*”.

- (a) Comments 19, 85, 138, 161, 210 and 211 basically question the basis for requiring triple quick-release hooks everywhere at new MOTs or berthing systems, as specified in the 1<sup>st</sup> paragraph.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these comments. Due to a need for further investigation, we will consider this topic for future rulemaking, and therefore, the qualifiers “*breasting*” are replaced, reverting back to the existing code language at this time.

- (b) Comment 20 states that the requirements for minimum number of quick-release hooks (1<sup>st</sup> paragraph) only reference “*tankers*”, and questions the requirements for barge operations and if bollards are still acceptable.

**CSLC RESPONSE:** Comment rejected. This comment is not specifically directed at the changes proposed, and therefore no response is required per Government Code § 11346.9. However, we note that these requirements apply specifically to “*tankers*”. As stated in Section 3105F.1.4, quick release hooks are still required for barges at new terminals. However, the number of hooks in the assembly is not specified.

- (c) Comments 21, 212 and 213 object to the insertion of “(N/E)” at the end of the 2<sup>nd</sup> paragraph following the requirement that “*Only one mooring line shall be placed on each quick release hook*”. The commenters generally argue that the original intent was for new “(N)” terminals only and that “there is no benefit or risk reduction gained by imposing this restriction at terminals”.

**CSLC RESPONSE:** Comments rejected. The original version of this section and paragraph did not blatantly define the applicability of the 2<sup>nd</sup> paragraph by marking its classification with “(N)”, “(E)” or “(N/E)”. However, Section 3101F.3 (paragraph 1) states that if none of these classifications are indicated, then “(N/E)” shall be considered. Section 3101F.3 has been in effect since the inception of Chapter 31F of the code. Therefore, the proposed language is intended to clarify the original intent.

- (d) The commenters (Comments 22 and 141) present similar concerns, but recommend opposing solutions, regarding the proposed removal of Equation (3-21). Comment 22 argues that the Division needs to provide an alternative to Equation (3-21) that “is more reasonable, [and] that does not force designers to design for 100% of all the hook loads as is implied with Proposes Item 43 [or Express Term #43]”. Comment 141 argues that the code should retain Equation (3-21).

**CSLC RESPONSE:** Comments rejected. Equation (3-21) was removed because it was generated empirically, and does not always predict reasonable results. As a result of the proposed language suggested by Comment 180, the 2<sup>nd</sup> paragraph in Express Term #43 has been modified to specify that “*All mooring hardware anchorage and supporting structures*”

*shall be capable of supporting the rated safe working load of the entire mooring hardware configuration without additional safety factor*", thereby obviating the need for an equation to be provided and addressing this issue.

- (e) Comment 139 is concerned with the last sentence of the first paragraph, and suggests that the phrase, "*Remote release may be considered for emergency situations*" is out of place in a regulatory document.

**CSLC RESPONSE:** Comment rejected. From the phrase, it is obvious that remote release mechanisms are optional. It is advisory in nature.

- (f) Comment 140 relates to the last sentence of the second paragraph and the requirement for having only one line per hook. It states that many terminals do not have quick release hooks, but bollards and that it may be appropriate to clarify this point.

**CSLC RESPONSE:** Comment rejected. Section 3103F.10.1 is titled "*Quick Release Hooks*", and as changed, does not address bollards. Bollards are considered in Section 3103F.10.2 and do not have requirements limiting the number of lines placed thereon.

- (g) The commenter (Comment 142) states that: "*This change [to Section 3103F.10.1] merits further discussion with CSLC in a workshop meeting.*"

**CSLC RESPONSE:** Comment rejected. Commission staff appreciates this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9.

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**EXPRESS TERM #44a – COMMENTS N/A.**

[Note: This express term was inserted for consistency in responding to the 45-Day Public Comments.]

No comments were received related to Section 3103F.12 "*Symbols*".

**CSLC RESPONSE:** During the 45-Day Public Comment Period, the Commission staff discovered that the symbol for accidental factor " $F_A$ " was omitted from Section 3103F.12. The proposed language corrects this error, and is consistent with the changes made in Section 3103F.6.1 (Express Term #38).

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**EXPRESS TERM #44b – COMMENTS 1 and 2.**

[Note: This express term was inserted for consistency in responding to the 45-Day Public Comments.]

- (a) The commenter (Comment 1) does not directly address Section 3103F.13 "*References*", but comments that the 1997 OCIMF "Mooring Equipment Guidelines" (2<sup>nd</sup> Ed.) was superseded by the 2008 OCIMF "Mooring Equipment Guidelines (MEG3)" (3<sup>rd</sup> Ed.).

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested.

- (b) The commenter (Comment 2) does not directly address Section 3103F.13 "*References*", but comments that the 1977 OCIMF "Prediction of Wind and Current Loads on VLCCs" is now incorporated in the 2008 OCIMF "Mooring Equipment Guidelines (MEG3)" (3<sup>rd</sup> Ed.) as Appendix A.

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested.

**EXPRESS TERM #45 – COMMENTS 23, 86, 143, 214, 215, 216, 254 and 269 (WITHDRAWN)**

These comments relate to changes made to Section 3104F.2.1 “*Design earthquake motions*”, and the commenters (Comments 23, 86, 143, 214, 215, 216, 254 and 269) generally suggest that the criteria of “*Prevention of a major spill (≥ 1200 bbls)*” should be left in as-is, and suggest that removing it and claiming that the intent of MOTEMS is to prevent “any oil spill, regardless of the size” is a very significant change in both the intent and application of the criteria. Comment 143 suggests further discussion with CSLC staff would be of merit.

**CSLC RESPONSE:** Commission staff agrees with these concerns, and has become aware that the proposed change created inadvertent problems. The original intent of this change was to dispel concerns regarding the seismic performance standards for MOTs with low oil exposure. However, this performance standard is necessary to define an upper bound of possible spill scenarios. Therefore, the proposed language is amended by reinstating the existing code, and the originally proposed revisions to Section 3104F.2.1 have been withdrawn.

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**EXPRESS TERM #49 – COMMENTS 239 and 240.**

These comments relate to Section 3104F.65.3 “*Nonstructural critical systems assessment*”, and generally comment that the scope and applicability of this section should be clarified.

**CSLC RESPONSE:** Comments rejected. These comments are not specifically directed at the changes proposed, and therefore, no response is required per Government Code § 11346.9. The basic wording of this paragraph has not changed since the inception of Chapter 31F of the code. This section relates to both existing “(E)” and new “(N)” terminals. The added sentence ensures that Reference, [4.5], cited can be used for adequate response to seismic inputs.

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**EXPRESS TERM #51 – COMMENTS 24 and 217.**

These comments relate to Section 3104F.87 “*References*” and both indicate that the Reference [4.5] is outdated and has been superseded.

**CSLC RESPONSE:** Commission staff acknowledges these concerns, and has amended the reference date to “*September 2009*”, but is keeping the “*Sacramento, CA*” for consistency with the referencing format utilized throughout Chapter 31F of the code.

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**EXPRESS TERM #52 – COMMENTS 25, 87, 144, 162 and 218.**

These comments relate to Section 3105F.1.3 “*Mooring/berthing requirements-risk classification*”.

(a) Comment 25 claims that the new Bullet 2, regarding current meter requirements, is a significant change for existing terminals and is without justification. Additionally, the commenter states that: “The Rationale Incorrectly states that there is no change to the regulations, when in fact the change eliminates the option of not installing a current meter if the terminal chooses to conservatively employ a 1.5 factor as allowed in MOTEMS Section 3103F.5.3.1”.

**CSLC RESPONSE:** Comment rejected. Section 3103F.5.3.1 states that: “*Local current velocities may be obtained from NOAA [3.16] or other sources, but must be supplemented by site-specific data, if the current velocity is higher than 1.5 knots. Site-specific [current] data shall be obtained by real time measurements over a one-year period. If this information is not available, a safety factor of 1.25 shall be applied to the best available data until real time measurements are obtained.*” Therefore, Section 3103F.5.3.1 allows a 1.25 safety factor (not 1.5, as indicated by the commenter) to be applied “...until real time measurements are obtained” and states that real time site-specific data is required “...if the current velocity is higher than 1.5 knots”. Note that the option allowed in Section 3103F.5.3.1 has not been

removed; it is a temporary allowance and not applicable to the permanent current meter requirements in Section 3105F.1.3. If the operator feels that the current meter requirement is too onerous, an alternative request may be submitted to the Division in accordance with the new Section 3101F.7. Chapter 31F of the code has been in effect since February 6, 2006, and any existing terminal in a high velocity current (> 1.5 knots) area should have long since installed a current meter.

- (b) Comments 87, 162 and 218 all indicate that “*berthing systems*” is not pieces of equipment, and suggest moving Item 5 out of the equipment list and into the body of the text.

**CSLC RESPONSE:** Commission staff agrees with these concerns, and the proposed language is modified by making the “*Berthing systems*” statement a standalone sentence

- (c) Comment 144 suggests adding the word “metocean” before the word “*conditions*” in the 1<sup>st</sup> paragraph of the proposed language.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that no additional language is needed.

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**EXPRESS TERM #54 – COMMENTS 26, 27, 28, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 145, 146, 163, 164, 165, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 219, 220, 221, 222, 255, 256, 270, 272, 273, 274, 275, 276, 277, 278 and 279.**

These comments relate to Section 3105F.1.4 “*New MOTs*”.

- (a) Comment 26 questions why bollards are not allowed for spring line on new MOTs.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this concern. Due to a need for further investigation, we will consider this topic for future rulemaking, and therefore, the spring line exception is replaced, reverting back to the existing code language at this time.

- (b) Comments 27, 90, 91, 93, 94, 95, 96, 97, 145, 165, 183, 184, 185, 186, 187, 188, 189, 190, 191, 195, 196, 219, 222, 255, 270, 272, 273, 274, 275 and 279 generally question the justification for, applicability of and potential impacts/effects/consequences of implementing the proposed last sentence in the proposed 2<sup>nd</sup> paragraph, which states: “*For berths susceptible to passing vessel effects, an underkeel clearance of minimum of 4 ft at low water shall be provided to account for vessel trim and tidal variations [5.1].*” Several arguments are presented by the commenters.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these comments. Due to a need for further investigation, we will consider the codification of underkeel clearance requirements for new MOTs in future rulemaking, and therefore, the final sentence of the proposed language is removed, reverting back to the existing code language at this time.

- (c) Comments 28, 88, 89, 146, 181, 182, 192, 193, 220, 221, 276 and 277 generally state that the proposed last sentence in the proposed 2<sup>nd</sup> paragraph regarding underkeel clearance requirements for new MOTs is poorly written, questioning the meaning of the terms “*low water*” and “*passing vessel effects*”.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these comments. Due to a need for further investigation, we will consider the codification of underkeel clearance requirements for new MOTs in future rulemaking, and therefore, the final sentence of the proposed language is removed, reverting back to the existing code language at this time.

- (d) Comments 92, 194 and 278 discuss and question, in general, the distinction between "new and existing" terminals and the potential effect of the proposed underkeel clearance requirements (the proposed last sentence of the proposed 2<sup>nd</sup> paragraph) on existing terminals.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further investigation, we will consider the codification of underkeel clearance requirements for new MOTs in future rulemaking, and therefore, the final sentence of the proposed language is removed, reverting back to the existing code language at this time.

- (e) Comment 163 is regarding the change "...~~should~~ shall..." in the last sentence of the 1<sup>st</sup> paragraph, and questions if it is "just the hook that shall not contact the deck, or is it the entire quick release assembly?"

**CSLC RESPONSE:** Comment rejected. These comments are not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9.

- (f) Comments 164 suggest that the 2<sup>nd</sup> paragraph regarding mooring layout seems out of place, because the preceding paragraph refers to the mooring hooks. It also indicates a need to define "low water".

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further investigation, we will consider the codification of underkeel clearance requirements for new MOTs in future rulemaking, and therefore, the final sentence of the proposed language is removed, reverting back to the existing code language at this time.

- (g) Comments 256 suggest that the reference in the 2<sup>nd</sup> paragraph regarding mooring layout should be updated as indicated in their comment on Express Term #62 (Comment 257).

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. Due to a need for further investigation, we will consider the codification of underkeel clearance requirements for new MOTs in future rulemaking, and therefore, the final sentence of the proposed language is removed, reverting back to the existing code language at this time.

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#### **EXPRESS TERM #55 – COMMENTS N/A (WITHDRAWN)**

No comments were received related to Section 3105F.1.5 "*Analysis and design of mooring components*".

**CSLC RESPONSE:** The originally proposed revisions to Section 3105F.1.5 "*Analysis and design of mooring components*" have been withdrawn, because the reference numbers are reverted back to the existing code language due to changes made to Section 3105F.7 "*References*" (Express Term #68) in response to the 45-Day Public Comments.

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#### **EXPRESS TERM #56 – COMMENTS 1 and 2.**

- (a) The commenter (Comment 1) does not directly address Section 3103F.13 "*References*", but comments that the 1997 OCIMF "Mooring Equipment Guidelines" (2<sup>nd</sup> Ed.) was superseded by the 2008 OCIMF "Mooring Equipment Guidelines (MEG3)" (3<sup>rd</sup> Ed.).

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested and appropriately renumbered the references.

- (b) The commenter (Comment 2) does not directly address Section 3103F.13 “References”, but comments that the 1977 OCIMF “Prediction of Wind and Current Loads on VLCCs” is now incorporated in the 2008 OCIMF “Mooring Equipment Guidelines (MEG3)” (3<sup>rd</sup> Ed.) as Appendix A.

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested and appropriately renumbered the references.

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**EXPRESS TERM #57 – COMMENT 147.**

This comment addresses Section 3105F.2.1 “Manual procedure” and suggests the addition of a reference to Section 3105F.3.2 to define “passing vessel effects”.

**CSLC RESPONSE:** Comment accepted. Commission staff concurs and has added this reference.

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**EXPRESS TERM #59 – COMMENT 148.**

- (a) This comment addresses Section 3105F.3.2 “Passing vessels” and questions how passing vessel forces may be combined with wind, wave and current forces in mooring analyses, as reported in the Terminal Operating Limits (TOLs).

**CSLC RESPONSE:** This comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected.

- (b) No comments were received directly related to the references in Section 3105F.3.2 “Passing vessels”.

**CSLC RESPONSE:** The reference numbers have been modified in Section 3105F.3.2 “Passing vessels” due to changes made to Section 3105F.7 “References” (Express Term #68) in response to the 45-Day Public Comments.

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**EXPRESS TERM #60 – COMMENTS N/A.**

No comments were received related to Section 3105F.3.3 “Seiche”.

**CSLC RESPONSE:** The reference numbers have been modified in Section 3105F.3.3 “Seiche” due to changes made to Section 3105F.7 “References” (Express Term #68) in response to the 45-Day Public Comments.

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**EXPRESS TERM #61 – COMMENTS N/A.**

No comments were received related to Section 3105F.4 “Berthing analysis and design”.

**CSLC RESPONSE:** The reference numbers have been modified in Section 3105F.4 “Berthing analysis and design” due to changes made to Section 3105F.7 “References” (Express Term #68) in response to the 45-Day Public Comments.

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**EXPRESS TERM #62 – COMMENTS 29, 257 and 271.**

This comment addresses Section 3105F.4.3.1 “Continuous fender system” and present opposing arguments for modifications to Equation 5-2 for computing vessel contact length.

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**CSLC RESPONSE:** Commission staff appreciates and acknowledges these opposing comments. Due to a need for further investigation, we will consider this topic for future rulemaking, and therefore, Equation 5-2 is reverted back to the existing code language at this time.

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**EXPRESS TERM #66 – COMMENTS N/A.**

No comments were received related to Section 3105F.4.5 “*Design and selection of new fender systems*”.

**CSLC RESPONSE:** The reference numbers have been modified in Section 3105F.4.5 “*Design and selection of new fender systems*” due to changes made to Section 3105F.7 “*References*” (Express Term #68) in response to the 45-Day Public Comments.

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**EXPRESS TERM #67 – COMMENTS N/A.**

No comments were received related to Section 3105F.5 “*Layout of new MOTs*”.

**CSLC RESPONSE:** The reference number has been modified in Section 3105F.5 “*Layout of new MOTs*” due to changes made to Section 3105F.7 “*References*” (Express Term #68) in response to the 45-Day Public Comments.

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**EXPRESS TERM #68 – COMMENTS 1 and 2.**

(a) No comments were directed specifically at Reference [5.1] in Section 3105F.7 “*References*”.

**CSLC RESPONSE:** Reference [5.1] has been removed for consistency with the changes made to Section 3105F.1.4 (Express Term #54) in response to the 45-Day Public Comments, and the references have been appropriately renumbered.

(b) The commenter (Comment 1) does not directly address Section 3105F.7 “*References*”, but comments that the 1997 OCIMF “*Mooring Equipment Guidelines*” (2<sup>nd</sup> Ed.) was superseded by the 2008 OCIMF “*Mooring Equipment Guidelines (MEG3)*” (3<sup>rd</sup> Ed.).

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested and appropriately renumbered the references.

(c) The commenter (Comment 2) does not directly address Section 3105F.7 “*References*”, but comments that the 1977 OCIMF “*Prediction of Wind and Current Loads on VLCCs*” is now incorporated in the 2008 OCIMF “*Mooring Equipment Guidelines (MEG3)*” (3<sup>rd</sup> Ed.) as Appendix A.

**CSLC RESPONSE:** Comment accepted. Commission staff acknowledges this comment, and has amended the proposed language as suggested and appropriately renumbered the references.

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**EXPRESS TERM #69 – COMMENTS 5 and 282.**

These comments address Section 3106F.5 “*Soil structure interaction*” and question if the proposed language regarding soil-structure interaction is redundant to Section 3104F.2.3.1.3.

**CSLC RESPONSE:** Comments rejected. The proposed language is not redundant. Section 3104F.2.3.1.3 presents a simplified methodology for combining inertial and kinematic loads; however, this does not mean that simplified methodology is rational or justified. The code requires analyses and evaluation of geotechnical hazards and foundations to be based on site-

specific information; the appropriate method of considering inertial and kinematic load combinations should therefore be determined for each marine oil terminal independently, based on the site-specific evaluation. This is consistent with the current best-practice of geotechnical engineering. Therefore, the proposed language has not been altered.

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**EXPRESS TERM #73 – COMMENTS 149 and 166.**

These comments address Section 3108F.2.2 "~~Fire plan~~ *Protection Assessment (N/E)*" and request clarification of code requirements for the preparation and review of a "Fire Protection Assessment" (previously "Fire Plan").

**CSLC RESPONSE:** These comments are not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; these comments are rejected.

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**EXPRESS TERM #74 – COMMENTS 30, 31, 32, 167, 223, 224, 225, 241, 242 and 243.**

These comments address Section 3108F.3.2 "*Emergency shutdown systems*" and remarked on the following:

- (a) Item #4 – (Comment 167) "The systems should achieve redundancy regardless of how one station is damaged, by fire or otherwise"

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; this comment is rejected, but may be considered for future rulemaking.

- (b) Item #9 – (Comment 223) Periodic testing of emergency shutdown systems is not related to Section 3109F.5.2 regarding "valve actuators (N/E)", and therefore, the applicability to existing "(E)" is not justified.

**CSLC RESPONSE:** It is appropriate for both new and existing "(N/E)" emergency shutdown systems to be periodic tested. Therefore, this comment is rejected.

- (c) Item #10 – (Comments 30, 223, 224, 225, 241 and 243) Changing the applicability of this requirement to include existing "(E)" is inappropriate for several reasons cited, such as cost implications, undue burden, the applicability of API 2218, etc.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges these comments. Due to a need for further investigation, we will consider this topic for future rulemaking, and therefore, Item #10 is reverted back to the existing code language at this time.

- (d) Item #10 – (Comments 31, 32 and 242) It is unclear if API 2218 compliance is required or should be used as a guideline and if the entire API 2218 is applicable or only Section 6.

**CSLC RESPONSE:** These comments are not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9; these comments are rejected.

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**EXPRESS TERM #75 – COMMENTS 33, 226 and 244.**

These comments address Table 31F-8-2 "*FIRE HAZARD CLASSIFICATION*" and state that the fifth row of information is a duplicate of the last row.

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**CSLC RESPONSE:** Commission staff concurs and has removed the fifth row of the table.

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**EXPRESS TERM #76 – COMMENTS 168, 227 and 284.**

These comments address Section 3108F.4 “*Fire detection*” and remark on the following:

- (a) The State Fire Marshal (Comment 284) questions the use of the proposed language as opposed to “*enforcing agency*” terminology, for consistency with the “Building/Fire Code”.

**CSLC RESPONSE:** Comment accepted. Commission staff concurs and has amended the proposed language to the “*enforcing agency*” terminology.

- (b) The commenters (Comments 168 and 227) question the benefits of requiring the retention of specification, testing and maintenance records for fire detection systems in Chapter 31F of the code, and if this requirement is duplicative of local fire department requirements.

**CSLC RESPONSE:** The retention of specification, testing and maintenance records is important to safe operations at marine oil terminals for many reasons. For example, testing and maintenance of fire detection systems can help in the identification of recurring problems, ensuring that work meets the manufacturer’s or local enforcing agency’s guidelines, and verification of fitness-for-purpose. Specification information is important to have for the testing and maintenance. In general, specifications are already required to be collected and retained in accordance with Sections 3102F.1.4 and 3102F.1.5, and the proposed language emphasizes the applicability of these requirements to fire detection systems, but does not create new requirements. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for fire detection systems at marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. To avoid misunderstanding, the Commission staff has modified the proposed language for clarity.

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**EXPRESS TERM #77 – COMMENTS 228 and 284.**

These comments address Section 3108F.5 “*Fire alarms*” and remark on the following:

- (a) The State Fire Marshal (Comment 284) questions the use of the proposed language as opposed to “*enforcing agency*” terminology, for consistency with the “Building/Fire Code”.

**CSLC RESPONSE:** Commission staff concurs and has amended the proposed language to the “*enforcing agency*” terminology.

- (b) The commenter (Comment 228) questions the benefits of requiring the retention of specification, testing and maintenance records for fire alarms in Chapter 31F of the code, and if this requirement is duplicative of local fire department requirements.

**CSLC RESPONSE:** The retention of specification, testing and maintenance records is important to safe operations at marine oil terminals for many reasons. For example, testing and maintenance of fire alarms can help in the identification of recurring problems, ensuring that work meets the NFPA-72 or local enforcing agency’s guidelines, and verification of fitness-for-purpose. Specification information is important to have for the testing and maintenance. In general, specifications are already required to be collected and retained in accordance with Sections 3102F.1.4 and 3102F.1.5, and the proposed language emphasizes the applicability of these requirements to fire alarms, but does not create new requirements. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for fire alarms at marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. To avoid misunderstanding, the Commission staff has modified the proposed language for clarity.

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**EXPRESS TERM #80 – COMMENTS 150, 151, 229, 283 and 284.**

These comments address Section 3108F.6.3 “*Fire water*” and remark on the following:

- (a) The State Fire Marshal (Comment 283) questions the proposed reference to NFPA 25, as opposed to referencing the California-specific version of the NFPA 25.

**CSLC RESPONSE:** Commission staff concurs with this concern, and has amended the proposed language to instead reference the NFPA 25 “*as adopted and amended by the State Fire Marshal*”.

- (b) The State Fire Marshal (Comment 284) questions the use of the proposed language as opposed to “*enforcing agency*” terminology, for consistency with the “*Building/Fire Code*”.

**CSLC RESPONSE:** Commission staff concurs and has amended the proposed language to the “*enforcing agency*” terminology.

- (c) The commenter (Comment 229) questions the benefits of requiring the retention of specification, testing and maintenance records for water-based fire protection systems in Chapter 31F of the code, and if this requirement is duplicative of local fire department requirements.

**CSLC RESPONSE:** The retention of specification, testing and maintenance records is important to safe operations at marine oil terminals for many reasons. For example, testing and maintenance of water-based fire protection systems helps in the identification of recurring problems, ensuring that work meets the NFPA 25 guidelines (as adopted and amended by the State Fire Marshal or local enforcing agency requirements), and verification of fitness-for-purpose. Specification information is important to have for the testing and maintenance. In general, specifications are already required to be collected and retained in accordance with Sections 3102F.1.4 and 3102F.1.5, and the proposed language emphasizes the applicability of these requirements to water-based fire protection systems, but does not create new requirements. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for water-based fire protection systems at marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. To avoid misunderstanding, the Commission staff has modified the proposed language for clarity.

- (d) The commenter (Comment 150) requests that the term “*reliable*”, which is used in this section’s discussion of the source of fire water, be clarified, particularly with regard to seismic vulnerability.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9. Therefore, this comment is rejected, but may be consider for future rulemaking.

- (e) The commenter (Comment 151) requests that the requirement for a fire boat hose connection be clarified, and suggests that it should not be mandated if a secondary fire water source is provided.

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9. Therefore, this comment is rejected, but may be considered for future rulemaking.

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**EXPRESS TERM #82 – COMMENTS 34 and 152.**

These comments address Section 3108F.7 "*Critical systems seismic assessment (N/E)*" and remark on the following:

- (a) The commenter (Comment 34) questions the scope of work required for the seismic assessment of critical systems.

**CSLC RESPONSE:** The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and does not create new requirements. Therefore, this comment is not specifically directed at the proposed amendments, and no response is required per Government Code § 11346.9; this comment is rejected.

- (b) The commenter (Comment 152) states that the proposed language is "ambiguous as a CalARP assessment of equipment systems is already required".

**CSLC RESPONSE:** The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and emphasizes the applicability of these requirements to fire detection, fire protection and emergency shutdown systems, without creating new requirements. Therefore, this comment is rejected.

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**EXPRESS TERM #83 – COMMENT 283.**

This comment addresses Section 3108F.78 "*References*", and the State Fire Marshal questions the proposed reference to NFPA 25, as opposed to referencing the California-specific version of the NFPA 25.

**CSLC RESPONSE:** Commission staff concurs with this concern, and has amended the proposed language in Express Term #80 to instead reference the NFPA 25 "*as adopted and amended by the State Fire Marshal*". Therefore, no modification to the proposed reference was necessary.

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**EXPRESS TERM #86 – COMMENTS 169 and 170.**

These comments address Section 3109F.5.1 "*Valves and fittings*" and remark on the following:

- (a) Item #1 – The commenter (Comment 169) recommends that a reference to ASME B31.3 also be provided in this item.

**CSLC RESPONSE:** Commission staff appreciates this comment and acknowledges that this reference was inadvertently omitted and is consistent with the code. Therefore, this comment is accepted.

- (b) Item #10 – The commenter (Comment 170) states that the discharge from pressure relief valves requirements "would restrict discharge of water from a fire water system back to the open water (fresh or salt) from which it was pumped" and that this is "not very practical".

**CSLC RESPONSE:** Commission staff appreciates and acknowledges this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9. Therefore, this comment is rejected, but may be consider for future rulemaking.

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**EXPRESS TERM #87 – COMMENTS 35, 171, 230 and 245.**

These comments address Section 3109F.6 "*Utility and auxiliary piping systems*" and remark on the following:

- (a) The commenters (Comments 35, 171 and 230) question the added safety or environmental benefits of external visual inspections of utility and auxiliary piping.

**CSLC RESPONSE:** Comments rejected. The external visual inspection of utility and auxiliary piping provides a minimum means to monitor the condition of these pipelines and is important to their safe and reliable operations for many reasons. For example, some consequences of utility and auxiliary pipeline failures are loss of MOV control (compressed air), or release of a liquid, vapor or gas creating a potentially flammable atmospheric hazard (stripping and sampling, vapor control, natural gas). This proposed language establishes minimum inspection criteria for marine oil terminals that may prevent oil spills and protect public health, safety and the environment. Therefore, these comments are rejected.

- (b) The commenter (Comment 245) requests clarification on whether the requirement for external visual inspections of utility and auxiliary piping is limited to Section 10.1 (External Visual Inspection) of API 574.

**CSLC RESPONSE:** Comment accepted. Commission staff concurs with this concern and has amended the proposed language to “...*similar to that defined in Section 10.1 of API 574 [9.16] (N/E).*”

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**EXPRESS TERM #88 – COMMENTS 36, 231 and 232.**

These comments address Section 3109F.7 “*References*” and remark on the following:

- (a) The commenters (Comments 36 and 232) state that the edition number for Reference [9.6] is in error.

**CSLC RESPONSE:** The Comments are accepted. Commission staff concurs and has corrected this unintentional typographical error.

- (b) The commenter (Comment 231) state that publication date and location for Reference [9.7] are in error.

**CSLC RESPONSE:** Commission staff acknowledges these concerns, and has amended the reference date to “*September 2009*”, but is keeping the “*Sacramento, CA*” for consistency with the referencing format utilized throughout Chapter 31F.

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**EXPRESS TERM #89 – COMMENTS 37, 38, 39, 172, 233, 234, 246 and 247.**

These comments address Section 3110F.9 “*Equipment & systems maintenance (N/E)*” and remark on the following:

- (a) The commenters (Comments 37 and 247) are concerned that the proposed language is “too general” and question if this requirement is intended to include any/every piece of equipment.

**CSLC RESPONSE:** Commission staff concurs with these concerns, and has amended the proposed language to clarify that this requirement is for “*Mechanical and electrical equipment critical to oil spill prevention, such as, but not limited to: mooring line quick release and loading arm quick disconnect systems...*”.

- (b) The commenters (Comments 38, 172 and 233) question the safety benefit and necessity of requiring the retention of the maintenance records for mechanical and electrical equipment.

**CSLC RESPONSE:** The retention of maintenance records is important to safe operations at marine oil terminals, and is beneficial for several reasons, such as helping in the identification of recurring problems, ensuring that work meets the manufacturers’ guidelines and allowing for verification of fitness-for-purpose. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for mechanical and electrical equipment at

marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. To avoid misunderstanding, the Commission staff has modified the proposed language for clarity.

- (c) The commenters (Comments 39 and 234) question the necessity of maintaining mechanical and electrical equipment in accordance with “manufacturer’s recommendations”.

**CSLC RESPONSE:** The maintenance of mechanical and electrical equipment is important to safe operations at marine oil terminals. Maintenance of equipment is critical in the harsh marine environment and to ensure accurate and reliable operation of each piece of equipment in accordance with the manufacturers’ guidelines. If the operator feels that a manufacturer’s recommendations are too onerous, an alternative request may be submitted to the Division in accordance with the new Section 3101F.7. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. To avoid misunderstanding, the Commission staff has modified the proposed language for clarity.

- (d) The commenter (Comment 246) questions whether the requirements in Section 3110F.9 are applicable to existing equipment.

**CSLC RESPONSE:** The Comment is accepted. Commission staff appreciates and acknowledges these concerns, and has amended the proposed language to clarify which requirements apply to “(N/E)” or “(N)”.

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**EXPRESS TERM #90 – COMMENTS 40, 41, 42, 153, 173, 235, 236, 237, 248 and 283**

These comments address Section 3110F.10 “*Pumps (N/E)*” and remark on the following:

- (a) The commenters (Comments 40, 173 and 235) question the safety benefit and necessity of retaining specification information for hydrocarbon and fire water pumps.

**CSLC RESPONSE:** The retention of specification information is important to the maintenance and testing of pumps to ensure that they are fit-for-purpose; this includes all pertinent information. In general, specifications are already required to be collected and retained in accordance with Sections 3102F.1.4 and 3102F.1.5, and the proposed language emphasizes the applicability of these requirements to pumps, but does not create new requirements. Therefore, these comments are rejected.

- (b) The commenters (Comments 41 and 236) question if the reliability of hydrocarbon pumps is beyond the scope of the Commission’s authority per PRC 8755.

**CSLC RESPONSE:** Comments rejected. Hydrocarbon pump reliability is an environmental issue and therefore within the Commission’s authority.

- (c) The commenters (Comments 42 and 237) question if onshore hydrocarbon service pumps must be maintained per API 2610 in accordance with the proposed language.

**CSLC RESPONSE:** Commission staff agrees with this concern, and has modified the proposed language to clarify that hydrocarbon pumps that serve the oil transfer operations at the berthing system should be maintained per API 2610.

- (d) The commenters (Comments 153 and 248) question if the retention of specification information should only apply to “(N)” terminals and systems, where the adequacy of hydrocarbon and firewater pumps are evaluated during design and deployment based on this information.

**CSLC RESPONSE:** The retention of specification information is important to the maintenance and testing of new and existing pumps to ensure that they are fit-for-purpose. In general, specifications are already required to be collected and retained in accordance with Sections 3102F.1.4 and 3102F.1.5, and the proposed language emphasizes the applicability of these requirements to pumps, but does not create new requirements. Therefore, these comments are rejected.

- (e) The State Fire Marshal (Comment 283) questions the proposed reference to NFPA 25, as opposed to referencing the California-specific version of the NFPA 25.

**CSLC RESPONSE:** Commission staff concurs with this concern, and has amended the proposed language to instead reference the NFPA 25 “*as adopted and amended by the State Fire Marshal, or local enforcing agency requirements*”.

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**EXPRESS TERM #91 – COMMENTS 43, 44 and 154.**

These comments address Section 3110F.11 “Critical systems seismic assessment (N/E)” and remark on the following:

- (a) The commenter (Comment 43) questions if the proposed language in Section 3110F.11 is duplicative of the proposed language in Express Term #82 (new Section 3108F.7).

**CSLC RESPONSE:** This requirement is not duplicative. The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and emphasizes the applicability of these requirements to critical mechanical and electrical equipment, without creating new requirements. Therefore, this comment is rejected.

- (b) The commenter (Comment #44) questions the scope of work required for the seismic assessment of critical systems.

**CSLC RESPONSE:** The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and does not create new requirements. Therefore, this comment is not specifically directed at the proposed amendments, and no response is required per Government Code § 11346.9; this comment is rejected.

- (c) The commenter (Comment #154) states that the proposed language is “ambiguous as a CalARP assessment of equipment systems is already required”.

**CSLC RESPONSE:** The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and emphasizes the applicability of these requirements to critical mechanical and electrical equipment, without creating new requirements. Therefore, this comment is rejected.

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**EXPRESS TERM #92 – COMMENTS N/A.**

No comments were directed specifically at Reference [10.27] in Section 3110F.912 “References”.

**CSLC RESPONSE:** Reference [10.27] has been amended with the reference date of “September 2009” for consistency with the changes made to References [4.5] and [9.67] in Section 3109F.7 (Express Term #88) in response to the 45-Day Public Comments.

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**EXPRESS TERM #93 – COMMENTS 45, 174 and 175.**

These comments address Section 3111F.5.1 “Emergency power systems” and remark on the following:

- (a) The commenter (Comment 45) states that the first sentence of the proposed language is confusing and duplicative of the Section 311F.5 requirements.

**CSLC RESPONSE:** This requirement is not duplicative, as Emergency Power Systems and Stored Energy Emergency Power Systems were not specifically covered in previous versions of Chapter 31F. Therefore, this comment is rejected.

- (b) The commenter (Comment 174) questions if the proposed section requires Emergency Power Systems at all marine oil terminals (i.e. both new and existing).

**CSLC RESPONSE:** Commission staff acknowledges this concern. The intent of this section is to require the installation of Emergency Power Systems at all "(N)" marine oil terminals, as indicated in the proposed language which states "...shall be installed (N)...". This section also applies to "(N)" system installations and the maintenance of "(N/E)" systems. Therefore, no modification to the proposed language is necessary.

- (c) The commenter (Comment 175) requests that "critical systems" be clearly defined.

**CSLC RESPONSE:** "Critical systems" are adequately discussed in the Section 3104F.65.3. Therefore, the comment is rejected and no modification to the proposed language was necessary.

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**EXPRESS TERM #98 – COMMENTS 46, 47, 155, 176 and 238.**

These comments address Section 3111F.9.3 "Monitoring systems (N/E)" and remark on the following:

- (a) The commenter (Comments 46) states that "the MOTEMS audit should only look at operability of monitoring systems and compliance with TOLs", as the operator is ultimately responsible for restoring operations and remaining in compliance with the TOLs.

**CSLC RESPONSE:** The maintenance of monitoring systems is important to safe operations at marine oil terminals. Maintenance of monitoring systems is critical in the harsh marine environment and to ensure accurate and reliable operation of each system in accordance with the manufacturers' guidelines. Therefore, this comment is rejected.

- (b) The commenter (Comment 47) questions the necessity of maintaining monitoring systems in accordance with "manufacturer's recommendations".

**CSLC RESPONSE:** The maintenance of monitoring systems is important to safe operations at marine oil terminals. Maintenance of monitoring systems is critical in the harsh marine environment and to ensure accurate and reliable operation of each system in accordance with the manufacturers' guidelines. If the operator feels that a manufacturer's recommendations are too onerous, an alternative request may be submitted to the Division in accordance with the new Section 3101F.7. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. To avoid misunderstanding, the Commission staff has modified the proposed language for clarity.

- (c) The commenter (Comment 155) questions if there is a limit to the quantity or time period for which monitoring system records must be retained.

**CSLC RESPONSE:** Commission staff agrees with this concern, and has amended the proposed language for clarification.

- (d) The commenters (Comments 176 and 238) question the safety benefit and necessity of requiring the retention of the maintenance records for monitoring systems.

**CSLC RESPONSE:** The retention of maintenance records is important to safe operations at marine oil terminals, and is beneficial for several reasons, such as helping in the identification of recurring problems, ensuring that work meets the manufacturers' guidelines and allowing for verification of fitness-for-purpose. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for monitoring systems at marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. To avoid misunderstanding, the Commission staff has modified the proposed language for clarity.

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**EXPRESS TERM #99 – COMMENTS 156 and 177.**

These comments address Section 3111F.10.1 "*Corrosion assessment (N/E)*" and remark on the following:

- (a) The commenter (Comments 156) suggests that Section 3111F.10.1 should probably be deleted because the corrosion of structural elements and piping should be documented in the inspection and evaluation reports.

**CSLC RESPONSE:** Comment rejected. This comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9. Therefore, this comment is rejected.

- (b) The commenter (Comments 177) requests clarification on the type of registered engineer required to fulfill the requirements in this section.

**CSLC RESPONSE:** Commission staff acknowledges this comment. However, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9. Therefore, this comment is rejected.

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**EXPRESS TERM #101 – COMMENTS 48, 49, 157 and 178.**

These comments address Section 3111F.11 "*Critical systems seismic assessment (N/E)*" and remark on the following:

- (a) The commenters (Comments 48 and 178) question if the proposed language in Section 3111F.11 is duplicative of the proposed language in Express Term #91 (new Section 3110F.11).

**CSLC RESPONSE:** This requirement is not duplicative. The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and emphasizes the applicability of these requirements to electrical power systems, without creating new requirements. Therefore, this comment is rejected.

- (b) The commenter (Comment 49) questions the scope of work required for the seismic assessment of critical systems.

**CSLC RESPONSE:** The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and does not create new requirements. Therefore, this comment is not specifically directed at the proposed amendments, and no response is required per Government Code § 11346.9; this comment is rejected.

- (c) The commenter (Comment 157) states that the proposed language is "ambiguous as a CalARP assessment of equipment systems is already required".

**CSLC RESPONSE:** The proposed language provides an explicit link to existing Sections 3104F.65.3 and 3110F.8, and emphasizes the applicability of these requirements to electrical power systems, without creating new requirements. Therefore, this comment is rejected.

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**15-DAY PUBLIC COMMENT PERIOD:**

A 15-Day Public Comment Period was held from November 5, 2012 through November 20, 2012 to present proposed revisions based on comments received during the initial 45-Day Public Comment Period. All comments received have been numbered, grouped and summarized for Commission staff response, as shown in the table below; copies of the comment letters are attached.

15-DAY PUBLIC REVIEW COMMENTS			
COMMENT NUMBERS	COMMENTS	COMMENTS	DATE RECEIVED
285 - 287	James W. Kearney	Ben C. Gerwick, Inc.	11/18/12
288 - 289	Martin L. Eskijian	Independent Consultant	11/19/12
290 - 301	William M. Bruin	Simpson, Gumpertz & Heger	11/20/12

**EXPRESS TERM #4 – COMMENTS 288 and 289.**

These comments address the new Section 3101F.7 and remark on the following:

- (a) The commenter (Comment 288) finds the proposed language unacceptable. The commenter reiterates and elaborates on his previous comments (Comment 250 and 266, which was submitted during the 45-Day Public Comment Period) regarding approval/disapproval of alternatives to Chapter 31F of the code. The commenter again asserts that the Division Chief (a non-engineer) is “NOT legally permitted to approve any engineering alternative to Chapter 31F of the CBC”, and that many alternatives require “professional engineering discretion and independent engineering judgments”. (Ref: “Professional Engineers Act” (Business and Professions Code §§ 6700-6799) and “Guide to Engineering and Land Surveying for City and County Officials” produced by the California Board of Professional Engineers and Land Surveyors).

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that the proposed language of “...approval with concurrence...” alleviates this issue, since an alternative cannot be approved without the concurrence of the Division’s lead engineer in responsible charge.

- (b) The commenter (Comment 289) states that the proposed language is unacceptable, and that since the Division has no “lead engineer” position, this terminology should be changed to “engineer in responsible charge”.

**CSLC RESPONSE:** Commission staff understands these concerns, and has modified the proposed language to “...the Division’s lead engineer in responsible charge”, to ensure that the Division’s engineering lead, who is designated the person in responsible charge of professional engineering work of the Division of the CSLC (in accordance with the “Professional Engineers Act” and specifically the Business & Professions Code § 6730.2), has direct input in the alternatives approval process. Note that this modification to the proposed language is merely a change in terminology to reflect consistency with existing professional regulations and is without legal effect; therefore, recirculation is unnecessary.

**EXPRESS TERM #22 – COMMENT 285 and 290**

These comments address Figure 31F-2-1 “EXAMPLE, STATEMENT OF TERMINAL OPERATING LIMITS” and remark on the following:

- (a) The commenter (Comment 285) reiterates and elaborates on their previous comment (Comment 70, which was submitted during the 45-Day Public Comment Period) regarding the “*SURVIVAL CONDITION LIMIT*” statement in the “*LEGEND*” of Figure 31F-2-1. The commenter again suggests that departing the berth during extremely high wind events and the availability of tugs may be problematic to respond to the “*SURVIVAL CONDITION LIMIT*”. The commenter further elaborates that it may also be difficult to maintain compliance with both the terminal’s operating manual guidelines and the SF Bay Pilots’ Guidelines while responding, but does not provide specific details, and states that “OCIMF specifically refers to calling for tug assistance to aid in keeping vessels on the berth”.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that the modified proposed language has appropriately addressed this concern. See “CSLC Responses” to Express Term #22, Comment 70 (item “(c)”) above in the “45-Day Public Comment Period” section.

- (b) The commenter (Comment 290) is concerned about the “*OPERATIONAL CONDITION LIMIT*” and “*SURVIVAL CONDITION LIMIT*” statements in the “*LEGEND*” of Figure 31F-2-1, stating that the response actions stated (i.e. “*TERMINATE PRODUCT TRANSFER*” and “*DISCONNECT PRODUCT LINES & DEPART BERTH*”) may or may not be appropriate and should be determined on a case by case basis. The commenter also notes that the figure should be annotated that the actions shown are examples only.

**CSLC RESPONSE:** Commission staff appreciates this comment. However, the description of “*OPERATIONAL CONDITION LIMIT*” stated in Figure 31F-2-1 is consistent with the wind load requirements defined in Sections 3103F.5.2.1.1. Furthermore, Figure 31F-2-1 is an “*EXAMPLE*” that should be customized for individual terminals. Since no changes have been proposed to the applicable language in Sections 3103F.5.2.1.1, this comment is not specifically directed at the proposed amendments, and therefore, no response is required per Government Code § 11346.9.

Furthermore, Commission staff has determined that the modified proposed language has appropriately addressed this concern. See “CSLC Responses” to Express Term #22, Comment 70 (item “(c)”) above in the “45-Day Public Comment Period” section.

Therefore, this comment is rejected, but may be considered for future rulemaking.

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#### **EXPRESS TERM #32 – COMMENTS 286, 287 and 291.**

These comments address Section 3102F.3.7 “*Follow-up actions*” and remark on the following:

- (a) The commenter (Comment 287) reprints their previous comments (Comments 74, 75 and 76, which was submitted during the 45-Day Public Comment Period), and elaborates on their concerns regarding the Division notification requirements. The comments expresses concern that the proposed section does not: (1) “require that the Division be notified immediately upon observation of dangerous conditions”, (2) does not specify a timeframe between completion of the inspections and submission of the inspection reports (i.e. notification of the Division), and (3) does not define who must make the notifications.

**CSLC RESPONSE:** Commission staff appreciates these comments, and has the following responses:

The commenters 1<sup>st</sup> and 3<sup>rd</sup> concerns were previously expressed in Comments 76 and 74, respectively, (during the 45-Day Public Comment Period), and Commission staff has already responded to these concerns. See “CSLC Responses” to Express Term #32, Comments 76 (item “(d)”) and 74 (item “(b)”) above in the “45-Day Public Comment Period” section.

The commenters 2<sup>nd</sup> concern is not specifically directed at the proposed amendments, and therefore, requires no response per Government Code § 11346.9 (i.e. no modification to the proposed language is necessary); therefore, this comment is rejected.

- (b) The commenter (Comment 286) remarks on the proposed removal of the word “regularly” and addition of the word “inspections” in the last sentence of the section. The commenter questions if “ALL” Executive Summary Tables must be resubmitted with inspection reports, stating that in some cases, the OSARs and SSARs cannot be modified or verified without reanalysis, which is within the scope of the audits and not the inspections.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that the modified proposed language has appropriately addressed this concern. See “CSLC Responses” to Express Term #32, Comment 75 (item “(c)”) and Express Term #33, Comment 14 (item “(b)”) above in the “45-Day Public Comment Period” section.

- (c) The commenter (Comment 291) reprints their previous comment (Comment 12, which was submitted during the 45-Day Public Comment Period), regarding follow-up actions.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that the modified proposed language has appropriately addressed this concern. See “CSLC Responses” to Express Term #32, Comment 12 (item “(a)”) above in the “45-Day Public Comment Period” section.

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#### **EXPRESS TERM #39 – COMMENT 292.**

This comment addresses changes within Section 3103F.6.7 “*Berthing velocity and angle*”, and the commenter (Comment 292) repeats their previous comment (Comment 16, which was submitted during the 45-Day Public Comment Period), regarding the use of velocity monitoring equipment.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that no modifications to the proposed language are necessary. See “CSLC Responses” to Express Term #39, Comment 16 (item “(b)”) above in the “45-Day Public Comment Period” section.

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#### **EXPRESS TERM #43 – COMMENTS N/A (PARTIALLY WITHDRAWN)**

No comments were received during the 15-Day Public Comment Period that were directed at Section 3103F.10 “*Mooring hardware (N/E)*”; however, comments were received regarding Section 3103F.10.1 “*Quick release hooks*” (Express Term #44), which involve closely related topics.

**CSLC RESPONSE:** Commission staff acknowledges receipt of several comments during the 45-Day and 15-Day Public Comment Periods regarding the proposed changes to Sections 3103F.10 (Express Term #43) and 3103F.10.1 (Express Term #44). And Commission staff recognizes that concerns remain about the design and evaluation of mooring hardware, anchorage and supporting structures, including: (1) the proposed removal of Equation (3-21) in Section 3103F.10.1 “*Quick release hooks*” (Express Term #44), (2) the proposed relocation and modification of the 1<sup>st</sup> sentence in the 2<sup>nd</sup> paragraph of Section 3103F.10.1 to the proposed 2<sup>nd</sup> paragraph of Section 3103F.10, and (3) the addition of the proposed 2<sup>nd</sup> paragraph language in Section 3103F.10. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, these proposed revisions to Sections 3103F.10 (Express Term #43) and 3103F.10.1 (Express Term #44) have been withdrawn; these proposed items are reverted back to the existing code language.

**EXPRESS TERM #44 – COMMENTS 293, 294, 295 and 296. (PARTIALLY WITHDRAWN)**

These comments relate to Section 3103F.10.1 “*Quick release hooks*”.

- (a) The commenter (Comment 293) reprints their previous comment (Comment 19, which was submitted during the 45-Day Public Comment Period), regarding the design of hook assemblies.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that no modifications to the proposed language are necessary. See “CSLC Responses” to Express Term #44, Comment 19 (item “(a)”) above in the “45-Day Public Comment Period” section.

- (b) The commenter (Comment 294) reprints their previous comment (Comment 20, which was submitted during the 45-Day Public Comment Period), regarding quick release hook requirements for tankers vs. barges.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that no modifications to the proposed language are necessary. See “CSLC Responses” to Express Term #44, Comment 20 (item “(b)”) above in the “45-Day Public Comment Period” section.

- (c) The commenter (Comment 295) reprints their previous comment (Comment 21, which was submitted during the 45-Day Public Comment Period), regarding the one mooring line per quick release hook requirement.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that no modifications to the proposed language are necessary. See “CSLC Responses” to Express Term #44, Comment 21 (item “(c)”) above in the “45-Day Public Comment Period” section.

- (d) The commenter (Comment 296) reprints their previous comment (Comment 22, which was submitted during the 45-Day Public Comment Period), regarding the removal of Equation 3-21.

**CSLC RESPONSE:** Commission staff acknowledges receipt of several comments during the 45-Day and 15-Day Public Comment Periods regarding the proposed changes to Sections 3103F.10 (Express Term #43) and 3013F.10.1 (Express Term #44). And Commission staff recognizes that concerns remain about the design and evaluation of mooring hardware, anchorage and supporting structures, including: (1) the proposed removal of Equation (3-21) in Section 3103F.10.1 “*Quick release hooks*” (Express Term #44), (2) the proposed relocation and modification of the 1<sup>st</sup> sentence in the 2<sup>nd</sup> paragraph of Section 3103F.10.1 to the proposed 2<sup>nd</sup> paragraph of Section 3103F.10, and (3) the addition of the proposed 2<sup>nd</sup> paragraph language in Section 3103F.10. Due to a need for further evaluation, we will consider this topic for future rulemaking, and therefore, these proposed revisions to Sections 3103F.10 (Express Term #43) and 3103F.10.1 (Express Term #44) have been withdrawn; these proposed items are reverted back to the existing code language.

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**EXPRESS TERM #52 – COMMENT 297.**

This comment relates to Section 3105F.1.3 “*Mooring/berthing requirements-risk classification*”, and the commenter (Comment 297) reprints their previous comment (Comment 25, which was submitted during the 45-Day Public Comment Period), regarding current meter requirements.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that no modifications to the proposed language are necessary. See “CSLC Responses” to Express Term #52, Comment 25 (item “(a)”) above in the “45-Day Public Comment Period” section.

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**EXPRESS TERM #76 – COMMENT 298.**

This comment addresses Section 3108F.4 “*Fire detection*”, and the commenter (Comment 298) questions the necessity of maintaining fire detection systems in accordance with “manufacturer’s recommendations”.

**CSLC RESPONSE:** Comment rejected. The maintenance of fire detection systems is important to safe operations at marine oil terminals. Maintenance of equipment is critical in the harsh marine environment and to ensure accurate and reliable operation of each piece of equipment in accordance with the manufacturers’ guidelines. If the operator feels that a manufacturer’s recommendations are too onerous, an alternative request may be submitted to the Division in accordance with the new Section 3101F.7. This proposed language is a proactive safety approach and establishes minimum maintenance criteria for marine oil terminals in order to prevent oil spills and to protect public health, safety and the environment. Therefore, no additional modifications to the proposed language are necessary.

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**EXPRESS TERM #89 – COMMENT 299.**

This comment address Section 3110F.9 “*Equipment & systems maintenance (N/E)*”, and the commenter (Comment 299) reprints their previous comment (Comment 39, which was submitted during the 45-Day Public Comment Period), regarding the necessity of maintaining mechanical and electrical equipment in accordance with “manufacturer’s recommendations”.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that the modified proposed language has appropriately addressed this concern. See “CSLC Responses” to Express Term #89, Comment 39 (item “(c)”) above in the “45-Day Public Comment Period” section.

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**EXPRESS TERM #98 – COMMENT 300.**

This comment addresses Section 3111F.9.3 “*Monitoring systems (N/E)*”, and the commenter (Comment 300) reprints their previous comment (Comment 47, which was submitted during the 45-Day Public Comment Period), regarding the necessity of maintaining monitoring systems in accordance with “manufacturer’s recommendations”.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that the modified proposed language has appropriately addressed this concern. See “CSLC Responses” to Express Term #98, Comment 47 (item “(b)”) above in the “45-Day Public Comment Period” section.

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**EXPRESS TERM #101 – COMMENT 301.**

This comment addresses Section 3111F.11 “*Critical systems seismic assessment (N/E)*”, and the commenter (Comment 301) reprints their previous comment (Comment 49, which was submitted during the 45-Day Public Comment Period), regarding the scope of work required for the seismic assessment of critical systems.

**CSLC RESPONSE:** Comment rejected. Commission staff has determined that no modifications to the proposed language are necessary. See “CSLC Responses” to Express Term #101, Comment 49 (item “(b)”) above in the “45-Day Public Comment Period” section.

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**DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS**

The State Lands Commission has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the adopted regulation. These proposed changes to the existing Code, as is that Code, are directed only at Marine Oil Terminals and no private persons. There are no other statutory policies or laws that pertain to Marine Oil Terminals from an engineering perspective.

**REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:**

This is not applicable, as there are no small businesses, as defined by Government Code § 11342.610, affected by these proposed regulations.