

**State of California
Office of Administrative Law**

In re:

Department of Industrial Relations

Regulatory Action:

Title 8, California Code of Regulations

Adopt sections: 344.76, 344.77

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Section 11349.1 and
11349.6(d)**

OAL File No. 2014-0418-04 C

This Certificate of Compliance establishes the Annual Process Safety Management Program Assessment. (Previous OAL file ## 2013-1021-01E)

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: 5/14/2014


Kathleen Eddy
Senior Counsel

**For: DEBRA M. CORNEZ
Director**

**Original: Christine Baker
Copy: James Robbins**

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2013-1209-01	REGULATORY ACTION NUMBER 2014-0418-04C	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2014 APR 22 AM 9:24
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED FILED
IN THE OFFICE OF

2014 MAY 14 PM 2:53

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

Department of Industrial Relations, Division of Occupational Safety and Health

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Process Safety Management Program Assessment		TITLE(S) 8	FIRST SECTION AFFECTED 344.76	2. REQUESTED PUBLICATION DATE 12/20/2013
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON James M. Robbins	TELEPHONE NUMBER 510-286-0544	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Process Safety Management Program Assessment	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2013-1021-01E
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per agency
request

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT 344.76, 344.77
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND
TITLE(S) 8	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

February 28 – March 17, 2014

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON

James M. Robbins	TELEPHONE NUMBER (510) 286-0544	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) JRobbins@dir.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Christine Baker</i>	DATE 4/21/2014
TYPED NAME AND TITLE OF SIGNATORY Christine Baker, Director, Department of Industrial Relations	

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ENDORSED APPROVED

MAY 14 2014

Office of Administrative Law

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2013-1021-01E	REGULATORY ACTION NUMBER 2014-0418-04C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Industrial Relations, Division of Occupational Safety and Health			AGENCY FILE NUMBER (if any)

2014 APR 18 PM 12:58
OFFICE OF
ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

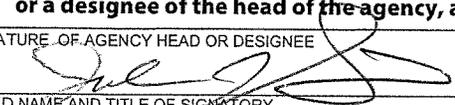
1. SUBJECT OF NOTICE Process Safety Management Program Assessment	TITLE(S) 8	FIRST SECTION AFFECTED 344.76	2. REQUESTED PUBLICATION DATE 12/20/2013
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON James M. Robbins	TELEPHONE NUMBER 510-286-0544	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 2013 512	PUBLICATION DATE 12-20-2013

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Process Safety Management Program Assessment	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 344.76, 344.77
	AMEND
TITLE(S) 8	REPEAL
3. TYPE OF FILING	
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<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> File & Print
<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify) _____
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)	<input type="checkbox"/> Print Only
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) February 28 – March 17, 2014	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	
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<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal

7. CONTACT PERSON James M. Robbins	TELEPHONE NUMBER (510) 286-0544	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) JRobbins@dir.ca.gov
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SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 4/16/2014
TYPED NAME AND TITLE OF SIGNATORY Juliann Sum, Acting Chief, Division of Occupational Safety and Health	

For use by Office of Administrative Law (OAL) only

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 3.2. California Occupational Safety and Health Regulations (Cal/OSHA)
Subchapter 2. Regulations of the Division of Occupational Safety and Health
Article 12.5. Process Safety Management Program Assessment

§ 344.76. Determination of the Annual Process Safety Management Program Assessment.

(a) On or before November 8, 2013 and thereafter September 1 of each year, the division shall, in accordance with Labor Code section 7870, determine the total amount of funds required to support the direct and indirect expenses and cash flow requirements of the Division of Occupational Safety and Health's process safety management program for the following fiscal year. The division's process safety management program includes, but is not limited to, the provision of consultation services, conduct of inspections, and the adoption of standards. This amount shall be the process safety management assessment collected for the following year.

(b) On or before November 15, 2013 and thereafter October 1 of each year, the division shall obtain the following data from the California Energy Commission, for the prior calendar year, as reported to the California Energy Commission and the United States Energy Information Administration:

(1) the aggregate total amount of crude oil (USEIA product code 050) input to and unfinished oil (USEIA product code 812) ~~input to~~ received by all oil refineries located in the state of California, and

(2) the aggregate total amount of crude oil (USEIA product code 050) input to and unfinished oil (USEIA product code 812) ~~input to~~ received by each oil company's refinery (or refineries) located in the state of California.

(c) On or before November 22, 2013 and thereafter November 1 of each year, the division shall determine, for each oil company with an oil refinery (or refineries) located in California, the total crude oil (USEIA product code 050) input to and unfinished oil (USEIA product code 812) ~~input to~~ received by each individual oil company divided by the aggregate total amount of crude oil input to and unfinished oil ~~input to~~ received by all oil companies located in California. The result of this calculation shall be the process safety management assessment factor for that company.

(d) The process safety management assessment to be collected for each oil refinery located in California shall be determined by multiplying the total assessment amount calculated in subdivision (a) of this section by the assessment factor calculated in subdivision (c) of this section for each oil company with an oil refinery or refineries located in California.

Authority: Sections 6307, 6308, and 7870, Labor Code.

Reference: Sections 7855-7870, Labor Code.

§ 344.77. Collection of the Process Safety Management Assessment.

(a) On or before December 1 of each year the Division shall levy each company owning an oil refinery (or refineries) subject to this assessment for the total amount due from that company for its proportional share of the Process Safety Management Assessment as determined in section 5189.1(d) of these regulations. The levy shall include the calculations used to determine the company's proportional individual assessment.

(b) The full amount of the assessment shall be paid to the division within 30 days of the billing. Payment shall be made by using the Process Safety Management Assessment electronic payment option on the division's electronic payment portal at:
http://www.dir.ca.gov/dosh/Payment_options.html

Authority: Sections 6307, 6308, and 7870, Labor Code.

Reference: Sections 7855-7870, Labor Code.