

III. Appeal Rights

In accordance with 49 CFR 107.211(a), "[a]ny person aggrieved" by these decisions may file a petition for reconsideration within 20 days of service of this decision. Any party to these proceedings may seek review of RSPA's decisions "by the appropriate district court of the United States * * * within 60 days after such decision becomes final." 49 App. U.S.C. 1811(e).

These decisions will become RSPA's final decisions 20 days after service if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of the decision under 49 U.S.C. 5125(f).

If a petition for reconsideration of these decisions is filed within 20 days of service, the action by RSPA's Associate Administrator for Hazardous Materials Safety on the petition for reconsideration will be RSPA's final decision. 49 CFR 107.211(d).

Issued in Washington, D.C. on February 7, 1995.

Alan I. Roberts,
Associate Administrator for Hazardous Materials Safety.

Appendix A—Statutory and Regulatory Provisions at Issue in PD-8(R), PD-9(R), PD-10(R) and PD-11(R)

A. PD-8(R)—(Docket PDA-9(R)) California Health and Safety Code, Chapter 6.95

25501.3. Additional definition of "Handle"

"Handle" also means the use or potential for use of a quantity of hazardous material by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any purpose other than the immediate transfer to or from an approved atmospheric tank or approved portable tank.

25503.7. Railroad car, marine vessel, or tank truck at same facility 30 days; stored

(a) When any hazardous material contained in any rail car, rail tank car, rail freight container, marine vessel, or marine freight container remains within the same railroad facility or business facility for more than 30 days, or a business knows or has reason to know that any rail car, rail tank car, rail freight container, marine vessel, or marine freight container containing any hazardous

material will remain at the same railroad facility, marine facility, or business facility for more than 30 days, the hazardous material is deemed stored at that location and for purposes of this chapter and subject to the requirements of this chapter.

(b) Subdivision (a) does not apply to a marine vessel while under construction, repair, modernization, or retrofitting while located in a ship repair facility.

(c) Notwithstanding Section 25510, a business handling hazardous materials or hazardous substances which are stored in a manner subject to subdivision (a) shall immediately notify the administering agency whenever a hazardous material is stored in a rail car, rail tank car, rail freight container, marine vessel, or marine freight container. (Amended by Stats. 1991, Ch. 1128.)

B. PD-9(R)—(Docket PDA-7(R)) Los Angeles County Code, Titles 2 and 32

Title 2

Section 2.20.140 Annual fees to be paid by handlers of hazardous materials.

The annual fee required to be paid to the county by every handler of hazardous materials for the administration and enforcement of the provisions of the Act shall be as follows:

Fee group	Total quantity of hazardous materials handled at any one time during the reporting year	Annual fee
I.	Minor Handler 55–500 gallons or 500–5,000 pounds or 200–2,000 cubic feet	\$110.00
II.	Moderate Handler 501–2,750 gallons or 5,001–25,000 pounds or 2,001–10,000 cubic feet	330.00
III.	Major Handler 2,751 and over gallons or 25,001 and over pounds or 10,001 and over cubic feet	770.00
IV.	Major Handler—Large Volume (a) 50,000 gallons and over or (b) 500,000 pounds and over or (c) 200,000 cubic feet and over or (d) A total quantity of two or more hazardous materials when expressed in or converted to pounds that is 500,000 pounds or greater, AND (e) Which is either a refinery, chemical plant, distillery, bulk plant, or terminal as defined herein.	2,650.00

The following definitions govern the construction of this Section 2.20.140:

"Refinery" means a plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline, or other hydrocarbon sources.

"Chemical plant" means a large integrated plant or that portion of such a plant other than refinery or distillery where liquids are produced by chemical reactions or used in chemical reactions.

"Distillery" means a plant or that portion of a plant where liquids produced by fermentation are concentrated, and where the concentrated products may also be mixed, stored, or packaged.

"Bulk plant or terminal" means that portion of a property where liquids are received by tank vessel, pipelines, tank car, or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

V.	Exempt Handler Less than 55 gallons and Less than 500 pounds and Less than 200 cubic feet	No fee
Exception: Underground fuel tanks regardless of quantity.	Annual fee \$110.00