

**State of California  
Office of Administrative Law**

**In re:**  
**Office of Spill Prevention and Response**

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections: 817.04**

**Amend sections: 790**

**Repeal sections:**

**NOTICE OF FILING AND PRINTING ONLY  
OF EMERGENCY REGULATIONS**

**Government Code Section 11343.8**

**OAL Matter Number: 2016-0822-03**

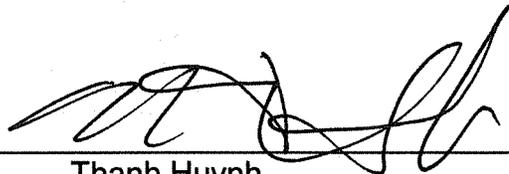
**OAL Matter Type: Emergency File and Print  
Only (EFP)**

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This emergency re-adopt by the Office of Spill Prevention and Response (Office) amends section 790 of title 14 of the California Code of Regulations (CCR) to modify existing definitions and abbreviations. It also adopts section 817.04 of title 14 of the CCR to establish contingency plan requirements for "Inland Facilities."

OAL filed these emergency regulations with the Secretary of State and will publish the emergency regulations in the California Code of Regulations.

**Date: September 1, 2016**



**Thanh Huynh  
Senior Attorney**

**For: Debra M. Cornez  
Director**

**Original: Thomas M. Cullen Jr.  
Copy: Christine Kluge**

# EMERGENCY

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2016-0822-03EFP</b>
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**ENDORSED - FILED**  
 in the office of the Secretary of State

SEP -1 2016

1:43 pm

For use by Office of Administrative Law (OAL) only

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OFFICE OF  
 ADMINISTRATIVE LAW

NOTICE

REGULATIONS

**AGENCY WITH RULEMAKING AUTHORITY**  
 OFFICE OF SPILL PREVENTION AND RESPONSE

AGENCY FILE NUMBER (if any)

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

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	
<b>OAL USE ONLY</b>	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) OIL SPILL CONTINGENCY PLANS - INLAND FACILITIES/DEFINITIONS		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-0825-05EFP
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED</b> (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 817.04
	AMEND 790
TITLE(S) 14	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input 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 checked="" 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 checked="" type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Government Code sec. 8670.7.5</u>	

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)

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

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))

Effective on filing with Secretary of State

\$100 Changes Without Regulatory Effect

Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)

Fair Political Practices Commission

State Fire Marshal

Other (Specify)

7. CONTACT PERSON Christine Kluge	TELEPHONE NUMBER (916) 327-0910	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Christine.Kluge@wildlife.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 	DATE 8/22/2016
TYPED NAME AND TITLE OF SIGNATORY Eric B. Milstein, Assistant Chief Counsel	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

SEP 01 2016

Office of Administrative Law

**TITLE 14. CALIFORNIA CODE OF REGULATIONS  
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH & WILDLIFE  
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE  
CHAPTER 1. GENERAL DEFINITIONS AND ABBREVIATIONS**

**790. DEFINITIONS AND ABBREVIATIONS.**

Unless the context requires otherwise, the following definitions are limited to governing the construction of this subdivision and implementation of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act).

Subsections (a)(1) through (b)(3): No Change.

(b)(4) "Best Achievable Protection" means

- (A) the highest level of protection which can be achieved through the use of both of the following:
  - 1. the best achievable technology, and
  - 2. those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable.
  
- (B) The Administrator's determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable natural resources and state waters, while also considering all of the following:
  - 1. the use of current and historical protection provided by the measures,
  - 2. the technological achievability of the measures, and
  - 3. the cost of the measures.
  
- (C) The Administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The Administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to historical and current prevention methods, historical and current improvements in technology, and response readiness. Additionally the Administrator shall consider the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for the natural resources of the state.

Subsections (b)(5) through (b)(10): No Change.

- (c)(1) "California Oil Spill Contingency Plan" means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Government Code Section 8574.1) of Chapter 7.

Subsections (c)(2) through (d)(6): No Change

(d)(7) "Distribution Pipeline" means a pipeline used to transport oil or petroleum products that is not associated with a Production Facility.

Subsections (e)(1) and (e)(2): No Change.

(e)(3) "Environmentally Sensitive Site" means an area defined pursuant to the applicable area contingency plans or geographic response plans, as created and revised by the U.S. Coast Guard, the U.S. Environmental Protection Agency, and the Administrator.

Subsections (e)(4) through (e)(5): No Change.

(f)(1)(A) "Facility" means any of the following located in the state waters or located where an oil spill may impact state waters:

1. A building, structure, installation, or equipment used in oil exploration, oil well drilling operations, oil production, oil refining, oil storage, oil gathering, oil processing, oil transfer, oil distribution, or oil transportation, or
2. A marine terminal, or
3. A pipeline that transmits oil, or
4. A railroad that transports oil as cargo, or
5. A drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(B) "Facility" does not include any of the following:

1. A vessel, except a vessel located and used for any purpose described in subsection(f)(1)(A)(5), or
2. An owner or operator subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code, or
3. Operations on a farm, nursery, logging site, or construction site that are either of the following:
  - (i) Do not exceed 20,000 gallons in a single storage tanks, or
  - (ii) Have a usable tank storage capacity not exceeding 75,000 gallons, or
4. A small craft refueling dock.

Subsections (f)(2) through (g)(2): No change.

(g)(3) "Geographic Response Areas" (GRA) mean subdivisions of an ACP Area used for marine oil spill planning and response, which are based on natural basins or other natural features, landmarks, or general planning demarcations as described in the appropriate ACP.

(g)(4) Geographic Response Plan (GRP) means a plan addressing oil spills to waters of the state other than marine waters, that includes response strategies for protecting specific sites, developed in partnership with state and local agencies, private stakeholders, the U.S. Coast Guard (USCG), and the U.S. Environmental Protection Agency (EPA), as part of the Region 9 Response Team (RRT).

Subsections (g)(5) through (i)(2): No Change.

(i)(3) "Inland Facility" means a Facility (as defined in Subsection (f)(1)) located in Waters of the State (as defined in Subsection (w)(1)) other than Marine Waters (as defined in Subsection (m)(3)), or where a discharge could impact Waters of the State other than Marine Waters.

Subsections: (i)(4) through (l)(7): No Change.

(m)(1) "Marine Facility" means a Facility (as defined in Subsection (f)(1)) located in marine waters or where a discharge could impact marine waters.

Subsections (m)(2) through (m)(4): No Change

(m) (5) "Measurable Flow" means water flow which can be measured using conventional stream assessment equipment and techniques.

(m)(6) "Mobile Transfer Unit" (MTU) means a vehicle, truck, or trailer, including all connecting hoses and piping, used for transferring oil at a location where a discharge could impact Waters of the State.

(m)(7) "Mobilization Time" means the time ...

(m)(8) "MTU" means Mobile Transfer Unit.

Subsections (n)(1) through (o)(1): No Change.

(o)(2) "Office of Spill Prevention and Response" means the California Department of Fish and Wildlife, Office of Spill Prevention and Response established pursuant to the Act, led by the Administrator.

Subsections (o)(3) through (o)(7): No Change.

(o)(8) "Oil Spill Contingency Plan" or "Contingency Plan" means the oil spill contingency plan required pursuant to this subdivision.

Subsections (o)(9) through (o)(13): No Change.

(o)(14) "OSPR" see "Office of Spill Prevention and Response".

(o)(15) "OSRO" means Oil Spill Response Organization.

- (o)(16) "Owner or Operator" means any of the following:
- (A) in the case of a tanker, barge or nontank vessel, any person who owns, has ownership interest in, operates, charters by demise, or leases the tanker, barge, or nontank vessel;
  - (B) in the case of a Facility, any person who owns, has an ownership interest in, or operates the Facility
  - (C) except as provided in subparagraph (D), in the case of any tanker, barge, nontank vessel or facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means, to an entity of state or local government, the owner or operator is any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the tanker, barge, nontank vessel or facility immediately before the conveyance;
  - (D) an entity of the state or local government which acquired ownership or control of a tanker, barge, nontank vessel or facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into waters of the state;
  - (E) "Owner" or "Operator" does not include a person who, without participating in the management of a tanker, barge, nontank vessel or facility, holds indicia of ownership primarily to protect his or her security interest in the tanker, barge, nontank vessel or facility;
  - (F) "Operator" does not include any person who owns the land underlying a facility or the facility itself if the person is not involved in the operations of the facility.

Subsections (o)(17) through (p)(5): No Change

(p)(6) "Pipeline" means any line or conduit used at any time to transport oil. A pipeline will be considered a facility if it is located in waters of the state or where a discharge from the pipeline could impact waters of the state.

(p)(7) "Plan Holder" means the owner/operator of a facility, tank vessel, nontank vessel, small marine fueling facility, or vessel carrying oil as secondary cargo; or other person or entity, responsible for the development, submittal, update, maintenance of, and compliance with the oil spill contingency plan required under this subdivision.

(p)(8) "Point of Transfer", means a position ...

(p)(9) "Port Authority" means the person, governmental agency ...

(p)(10) "Production Facility" means any equipment attendant to oil production or injection operations including, but not limited to, tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, production safety systems, separators, manifolds, and pipelines that are not under the jurisdiction of the State Fire Marshal pursuant to Section 51010 of the Government Code, excluding fire

suppressant equipment.

(p)(11) "Production pier" means a structure ...

(p)(12) "Protection and Indemnity (P&I) Club" means a ...

Subsections (q)(1) and (q)(2): No Change.

(r)(1) "Railroad" means a railroad, railway, rail car, rolling stock, or train that carries oil as cargo.

(r)(2) "Rated OSRO" means an OSRO that has received a satisfactory rating from the Administrator for a particular rating level established pursuant to Section 819.01 of this subdivision.

(r)(3) "Reasonable Worst Case Oil Spill" (RWCS) is defined ...

(r)(4) "Regional Response Team (RRT)" means ...

(r)(5) "Remove" or "Removal" means the extraction ...

(r)(6) "Response Planning Area" (RPA) means the boundaries that are used for Contingency Plans and OSRO Ratings. These boundaries mirror the Cal-Office of Emergency Services Mutual Aid Regions (and are the same boundaries as the Local Emergency Planning Committee (LEPC) Regions). These boundaries are separate, but closely coincide with the Captain of the Port Area Contingency Planning areas that are used for marine facility and vessel contingency plans. The RPA numbering and county boundaries are described below:

RPA I – Counties of Los Angeles, Orange, San Luis Obispo, Santa Barbara, and Ventura.

RPA II – Counties of Humboldt, Del Norte, Mendocino, Lake, Sonoma, Marin, Napa, Solano, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, San Benito, Santa Cruz and Monterey.

RPA III – Counties of Butte, Colusa, Glenn, Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba.

RPA IV – Counties of Alpine, Amador, Calaveras, El Dorado, Nevada, Placer, Sacramento, San Joaquin, Stanislaus, Tuolumne, and Yolo.

RPA V – Counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, and Tulare.

RPA VI – Counties of Imperial, Inyo, Mono, Riverside, San Bernardino, San Diego.

(r)(7) "Response Resources" means all the personnel ...

(r)(8) "Response Vessel" means any tanker, barge ...

(r)(9) "Responsible Party (or Party Responsible)" means any of the following:

- (A) The owner or transporter of oil or a person or entity accepting responsibility for the oil;
- (B) The owner, operator or lessee of, or person who charters by demise, any tanker, barge, nontank vessel or facility;
- (C) A person or entity who accepts responsibility for vessel or facility; or
- (D) The person who fulfills the role of the Qualified Individual during spill response only if that person is also one of the individuals as described in subparagraphs (A) through (C) above.

(r)(10) "Risk and Hazard Analysis" means ...

(r)(11) "Risk Zone" means one of the areas ...

Subsections (s)(1) through (s)(9): No Change.

(s)(10) "Small Marine Fueling Facility" means either of the following:

- (A) A mobile transfer unit, or
- (B) A fixed facility that is not a marine terminal, which dispenses primarily nonpersistent oil, and may dispense small amounts of persistent oil, primarily to small craft, and meets all of the following criteria:
  - (1) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.
  - (2) Has total usable tank storage capacity not exceeding 75,000 gallons.
  - (3) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

Subsection (s)(11): No Change.

(s)(12) "Spill", "discharge" or "oil spill" means a release of any amount of oil into Waters of the State that was not authorized by a federal, state, or local governmental entity.

(s)(13) "State Waters" see "Waters of the State".

(s)(14) "Staff" means the Administrator or any personnel within OSPR or the California Department of Fish and Wildlife authorized to act on behalf of the Administrator.

(s)(15) "State Fiscal Year" see "Fiscal Year"...

(s)(16) "State Incident Commander" means a person ...

(s)(17) "State Liaison Officer" means that person responsible for the coordination of information between the State Incident Commander/Federal On-Scene-Coordinator and other state and local government representatives. The State Liaison Officer is a function within the Incident Command System as described in the California Oil Spill Contingency Plan.

(s)(18) "Static Bollard Pull" see "Bollard Pull"

Subsections (t)(1) through (v)(1): No Change.

(v)(2) "Vessel Carrying Oil as Secondary Cargo" means any vessel that does not carry oil as primary cargo, but does carry oil as cargo. The Administrator may establish minimum oil volume amounts or other criteria by regulations.

Subsections (v)(3) through (v)(5): No Change.

(w)(1) "Waters of the State" or "State Waters" means any surface water, including saline waters, marine waters, and freshwaters, within the boundaries of the state, but does not include groundwater.

(w)(2) "Working Capital", as defined by GAAP...

(w)(3) "Working Days" means those days of the week ...

Authority: Sections 8670.7, 8670.13.1, 8670.13.2, 8670.17.2, 8670.23.1, 8670.28, 8670.29 and 8670.35, Government Code.

Reference: Sections 8670.3, 8670.7, 8670.13, 8670.13.2, 8670.17.2, 8670.21, 8670.23.1, 8670.28, 8670.29, 8670.31 and 8670.35, Government Code.

**TITLE 14. CALIFORNIA CODE OF REGULATIONS  
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH & WILDLIFE  
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE  
CHAPTER 3. OIL SPILL PREVENTION AND RESPONSE PLANNING  
SUBCHAPTER 3. OIL SPILL CONTINGENCY PLANS**

**817.04 INLAND FACILITIES**

**(a) Purpose & Scope**

An owner or operator of an Inland Facility, as defined in Section 790 of this subdivision, for whom this section is applicable as described in (b) below, must prepare an Oil Spill Contingency Plan and submit the plan to the Administrator by January 1, 2016. Note: all days in this section are calendar days unless otherwise noted.

This section describes content required in an Oil Spill Contingency Plan, requirements for response strategies, equipment delivery timeframes and other provisions related to an oil spill from an Inland Facility. If information required by this section is contained in other documents or sources, then those other documents or sources may be referenced or a copy may be submitted in lieu of recreating the information. If the information provided is not sufficient to meet the requirements of this subchapter, additional information may be requested by the Administrator.

The standards set forth in this section are only planning standards and may not reflect the exigencies of actual spill response. However, these are the minimum standards that must be used to determine the amount of equipment and personnel that must be available for a spill. The Inland Facility owner or operator is ultimately responsible for mitigating, cleaning up and remediating the entire volume of an actual spill regardless of the volume of oil spilled.

**(b) Applicability**

(1) Unless a provision is preempted or an Inland Facility is exempt, the requirements in this section apply to an Inland Facility that poses a risk of an oil spill into Waters of the State, except Marine Waters.

(2) An Inland Facility will be considered to have the potential to impact Waters of the State based on the geographical and locational aspects of the site and operations. Such aspects shall include, but are not limited to, proximity to Waters of the State, land contour and local drainage patterns.

(3) This subchapter does not apply to Inland Facilities, and no further action needs to be taken, if any of the following conditions are met:

(A) The Inland Facility is located more than a quarter (1/4) mile from Waters of the State.

(B) For Production Facilities: If the operator's largest producing well produces less than a daily average rate of ten (10) barrels of oil as reported to the Department of Conservation Division of Oil, Gas, and Geothermal Resources.

Well production daily averages shall be reviewed/revised every calendar year, beginning in January. Prior exempt owner/operators that exceed the ten (10) barrel threshold shall immediately, but no longer than ninety (90) days, submit a contingency plan to the Administrator.

(4) If at any time there is an oil spill that does impact Waters of the State from an Inland Facility for which this subchapter had been deemed not applicable, the requirements of this subchapter and Chapter 2 shall apply immediately and the Inland Facility owner or operator has one hundred twenty (120) days in which to meet the Contingency Plan and Certificate of Financial Responsibility (COFR) requirements.

(5) After January 1, 2016, if it is determined by the Administrator or if an owner or operator of an Inland Facility becomes aware of an oil spill threat posed to Waters of the State by the facility, the requirements of this subchapter and Chapter 2 shall apply immediately and the Inland Facility owner or operator has one hundred twenty (120) days in which to meet the Contingency Plan and Certificate of Financial Responsibility (COFR) requirements.

**(c) Exemptions**

(1) Inland Facilities that are located less than one quarter ( $\frac{1}{4}$ ) mile from Waters of the State may be exempt from oil spill Contingency Plan requirements if any of the following conditions are met:

(A) If a spill from the Inland Facility will not impact Waters of the State. This determination may consider the following:

1. Slope and elevation;
2. Specific Gravity and Pour Point of oil produced or transported;
3. Permanent natural or man-made barriers;
4. Waters of the State will not be impacted through natural or manmade drainage such as storm drains, culverts and canals.

(B) For Distribution Pipelines: A line section that is less than six and five eighths ( $\frac{5}{8}$ ) inches in outside nominal diameter and is less than ten (10) miles in length, and where the operator determines that the reasonable worst case discharge from any point on the line section would not impact Waters of the State within four (4) hours after the initiation of the discharge.

(C) Inland Facility equipment subject to Chapter 6.67 (Commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(2) Exemptions must be requested in writing and must provide specific, technical justification for the request. The Administrator shall inspect the Inland Facility to determine if conditions for the exemption are valid before the request may be approved. The Administrator will provide written notification of his or her findings within thirty (30) days of receiving the request. If a decision is made that the conditions for the exemption are not met, then the Inland Facility owner/operator shall submit a Contingency Plan within one hundred twenty (120) days of receipt of the decision. Exemptions must be re-applied for by the owner or operator every five (5) years.

(3) If a spill from an Inland Facility does impact Waters of the State, and the Inland Facility had previously received an exemption, that exemption is automatically revoked, and the requirements of this subchapter and Chapter 2 shall apply immediately and the Inland Facility owner or operator has one hundred twenty (120) days in which to meet the Contingency Plan and Certificate of Financial Responsibility (COFR) requirements.

**(d) Plan Format**

(1) All Contingency Plan submittals shall be in an electronic format approved by the Administrator. If changes are made to a plan, updates can either be submitted on-line or a complete and up-to-date plan shall be submitted in an electronic format approved by the Administrator. Other documents required to be submitted with the Contingency Plan, such as signed contracts or diagrams, shall be scanned and submitted in an electronic format approved by the Administrator. Although not required, it is requested that the Table of Contents be linked to the different sections of the plan.

**(2) Confidentiality:**

(A) A Plan Holder may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the plan that is made available for public review.

(B) A Plan Holder may also request that any reports or studies prepared or submitted under any Contingency Plan requirements be designated as proprietary information. Such a request must include justification for designating the report or study, such as drill reports or any background information developed for the Risk and Hazard Analysis, as confidential.

(C) Any information designated as confidential must be clearly identified as proprietary.

(D) If a Plan Holder designates information as confidential, two different copies of the plan must be submitted as follows:

1. One copy shall contain the confidential information. This plan will be utilized by the Administrator in the review and approval process;
2. One copy shall be submitted with the confidential information removed. This copy will be available for public review. This plan shall contain sufficient information in place of the confidential information so that any individual reviewing the plan can understand all the elements of the plan.
3. Any plan submitted to any state agency, as required by this section, must include all confidential information.
4. The Administrator will decide if it is confidential.

**(e) Plan Review and Approval**

**(1) Timeframe**

(A) Each submitted Plan shall be reviewed for compliance with applicable requirements within thirty (30) calendar days after receipt by the Administrator.

(B) The Administrator shall determine whether each plan complies with requirements of this subchapter. Prior to and subsequent to plan approval, the Administrator may make on-site inspections, and require an announced or unannounced drill of all or part of any Contingency Plan submitted, in order to determine the plan's adequacy.

(C) If the plan is determined to be deficient, then the Administrator shall issue a letter to the Plan Holder explaining the deficiencies and, if practicable, suggested modifications or alternatives.

(D) Upon receipt of the letter explaining the plan's deficiencies, the Plan Holder shall have thirty (30) calendar days to submit a new or modified plan.

(E) The Administrator shall have fifteen (15) calendar days to review this new submittal, and issue an approval, denial, or revocation. If a Plan Holder fails to adequately address the deficiencies, the Administrator shall issue a letter of denial or revocation, and declare the plan null and void.

**(2) Approval of a Plan**

(A) A plan shall be approved if it addresses all the applicable elements specified in this subchapter.

(B) A plan will be considered to be valid and effective upon submittal, until it is denied. Exceptions to this requirement will be considered by the Administrator on a case-by-case basis.

(C) Any new or revised plan submitted by an owner/operator in response to a notification of deficiency shall be considered approved unless notified otherwise

by the Administrator within the timeframes of this subsection.

(D) The Plan Holder shall be notified when a plan has been approved. A letter of approval shall be issued by the Administrator and will describe the conditions of approval, if any, and specify the expiration date of the letter of approval.

(E) If at any time after a plan has been approved the Administrator determines the plan is deficient, the provisions of (1)(B) through (E) above shall apply.

**(3) Denial or Revocation of Plan**

(A) A new plan shall be denied, or an already approved plan shall be revoked, if a plan does not comply with or maintain compliance with the criteria set forth in this subchapter.

(B) If approval of a Contingency Plan is denied or revoked, the Administrator shall issue a letter to the Plan Holder explaining the reasons for denial or revocation, and provide a description of those actions necessary to secure approval.

**(4) Request for Reconsideration or Appeal**

(A) The Plan Holder shall have fifteen (15) calendar days from receipt of a letter of denial or revocation to submit a written request to the Administrator for a reconsideration of the decision to deny or revoke. The request must contain the basis for the reconsideration and, if available, provide evidence which rebuts the basis for the Administrator's decision.

(B) Within fifteen (15) calendar days following receipt of the request for reconsideration, the Plan Holder will be sent a letter explaining that the Administrator is either adhering to the earlier decision or that the decision has been rescinded.

(C) Within fifteen (15) working days after receipt of the letter that reconsideration has been denied, the Plan Holder may submit a written request for a hearing to review the basis of the decision. No such hearing may be requested unless and until all remedies pursuant to this section have been exhausted. The hearing shall be conducted in accordance with Chapter 4.5 (commencing with Section 11400) of Part I of Division 3 of Title 2 of the Government Code, including the right of judicial review as provided for in Section 11460.80 of the Government Code.

**(5) Public Review and Comment**

(A) Contingency Plans will be made available for review by any interested member of the general public pursuant to the Public Records Act (Gov. Code, § 6250 *et seq.*).

(B) Any interested person may review a plan and submit written comments during the review period. Such comments will be taken into consideration during the

Administrator's approval process if received prior to a decision.

(C) Any person interested in reviewing a plan shall contact the Administrator to request an appointment to review the plan at the offices of OSPR. Requested copies of the plans will be provided at the cost of duplication.

**(f) Plan Updates**

**(1) Timeframes**

(A) The Plan Holder shall ensure that all plans are up-to-date and complete. All plans shall be resubmitted for review once every five (5) years from the date of the most recent approval letter.

(B) If the most recently approved plan and all updates submitted since the last plan approval letter have not changed, on or before the five (5) year resubmittal due date the owner/operator shall, in lieu of submitting a complete plan as described in Subparagraph (A) above, submit correspondence to the Administrator stating that the plan currently on file with OSPR is up-to-date and complete.

(C) If the Contingency Plan on file is over five (5) years old from the date of most recent approval letter (original submission or resubmittal) and there has been no correspondence to the Administrator stating that the plan currently on file with the OSPR is up-to-date and complete, that plan shall be revoked.

**(2) Unscheduled Updates**

(A) The Administrator shall be notified as soon as possible, but at least within twenty-four (24) hours, of any significant change or update to an approved plan.

(B) A significant change is one that could affect timely and adequate oil spill response, including changes in ownership and Financial Responsibility coverage.

(C) Changes which are not significant include minor changes in equipment, personnel, or operating procedures which do not affect timely and adequate oil spill response.

(D) As soon as administratively feasible, the Administrator will approve any change that would benefit the public health and safety, improve environmental protection, or facilitate more effective response, containment and clean up.

**(g) Blanket Plans**

(1) A blanket Contingency Plan(s) may be submitted for Facilities that are substantially similar to one another. The owner/operator shall request approval for the use of a blanket plan prior to submitting the plan to the Administrator. The request must include a justification for the use of a blanket plan.

- (2) For production wells the justification must be based on the following criteria:
- (A) Each well must be substantially similar in layout and design;
  - (B) Each well must extract similar petroleum fluids;
  - (C) The largest Reasonable Worst Case Spill well (as described in Subsection (k)) from each facility must show substantially similar risks, sites leakage, and be in the same OSPR Statewide Response Planning Area, as defined Section 790, including risks to the same environmentally, economically or culturally sensitive sites; and
  - (D) The Response Resources (as defined in Section 790) must be able to respond to any and all of the covered facilities in the same, or essentially the same, amount of time.
- (3) A separate appendix that lists and identifies the location of the other wells covered by the blanket plan shall be included as an attachment to the plan.

**(h) Notification Procedures**

(1) The first page of each plan is designated the initial response manual and shall include a list of immediate contacts to call in the event of a threatened discharge or actual discharge of oil, including but not limited to:

- (A) A Rated Oil Spill Response Organization (OSRO), or other initial response resources if an OSRO is not being used;
- (B) A Qualified Individual (QI) who is available on a 24-hour basis;
- (C) The California Governor's Office of Emergency Services, and;
- (D) U.S. Coast Guard National Response Center.

(2) All calls shall be initiated immediately, but no longer than thirty (30) minutes after discovery of a discharge of oil or threatened discharge of oil.

(3) Initial contact with the QI does not relieve the owner or operator from making timely notifications.

(4) All phone numbers necessary to complete the immediate notification procedures shall be included in the initial response manual.

(5) Each plan shall identify a call-out procedure to acquire the resources necessary to address spills that cannot be addressed by the equipment that the owner/operator owns or has under contract. Procedures must allow for initiation of the call-out of additional resources within twenty-four (24) hours of the incident and must begin as soon as a determination has been made that additional resources are necessary.

(6) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

- (A) Inland Facility name and location;
- (B) Date and time of the incident;
- (C) Cause and location of the spill;
- (D) An estimate of the volume of oil spilled and the volume at immediate risk of spillage;
- (E) Type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;
- (F) Size and appearance of the slick;
- (G) Prevailing weather;
- (H) Actions taken or planned by personnel on scene;
- (I) Current condition of the Inland Facility;
- (J) Injuries and fatalities; and
- (K) Any other information as appropriate.

(7) Reporting of a spill shall not be delayed solely to gather all the information required by this subsection.

(8) An updated estimate of the volume of oil spilled and the volume at immediate risk of spillage shall be reported to the California Governor's Office of Emergency Services whenever a significant change in the amount reported occurs, but not less than every twelve (12) hours within the first forty-eight (48) hours of response. The State Incident Commander and/or the Federal On-Scene Coordinator, through the Unified Command, shall have the option of increasing or decreasing this timeframe, as needed. Updated spill volume information included in the Incident Action Plan developed through the Unified Command will meet the requirements of this subsection.

**(i) Introductory Material**

(1) Each plan shall provide the following information:

- (A) Name and address of the Inland Facility, and mailing address if different. The name and address of the Inland Facility shall be referenced in the plan title or on a title page at the front of the plan;
- (B) Name, address, phone number, fax number and e-mail address, if available, of the owner and/or operator of the Inland Facility;

(C) Name, address, phone number, fax number and e-mail address, if available, of the person to whom correspondence should be sent;

(D) A certification statement signed, under penalty of perjury, by an executive within the Plan Holder's management who is authorized to fully implement the oil spill Contingency Plan, and who shall review the plan for accuracy, feasibility and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention, preparedness, and response, the certification statement shall also be signed by another individual within the Plan Holder's management structure who has this requisite training, knowledge, and experience. The certification shall be submitted according to the following format:

"I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the State of California, that the information contained in this Contingency Plan is true and correct and that the plan is both feasible and executable."

(signature), (title), (date)

(E) The California Certificate of Financial Responsibility (COFR) number for the Inland Facility shall be included in the front of the plan.

(2) Each plan shall identify a Qualified Individual (QI) (as defined in Section 790), and any alternates that may be necessary for the purpose of implementing the plan, and include documentation that the QI acknowledges this capacity. If an alternate or alternates are identified in the plan, then the plan shall also describe the process by which responsibility will be transferred from the QI to an alternate. During spill response activities, notification of such a transfer shall be made to the State Incident Commander at the time it occurs.

(3) Each plan shall provide the name, address, telephone number, e-mail address and fax number of an agent for service of process designated to receive legal documents on behalf of the Plan Holder, and include documentation that the agent for services of process acknowledges this capacity. Such agent shall be located in California.

(4) Each plan shall identify a Spill Management Team (defined Section 815.05) and provide documentation that the Spill Management Team acknowledges this capacity.

(5) Each plan shall contain a copy of the contract or other approved means verifying that any Oil Spill Response Organization(s) that is named in the plan will provide the requisite equipment and personnel in the event of an oil spill.

#### **(j) Description of Spill Mitigation Measures**

(1) The plan shall describe spill mitigation measures in place that reduce or mitigate the potential hazards identified in the Offsite Consequence Analysis described in Subsection (I). Such description may include the following:

(A) Schedules, methods and procedures for testing, maintaining and inspecting equipment and other structures; and

(B) Protection measures for areas that are subject to flooding.

(2) The Inland Facility shall provide additional relevant information to the Administrator upon request.

(3) If the information required by this section is contained in other documents or sources, then those other documents or sources may be referenced or a copy may be submitted in lieu of recreating the information. If the information provided is not sufficient to meet the requirements of this subchapter, additional information may be requested by the Administrator.

**(k) Inland Facility Description and Reasonable Worst Case Spill Volume**

The Contingency Plan shall describe the Inland Facility, its operations generally and its Reasonable Worst Case Oil Spill volume.

(1) Each plan shall describe the Inland Facility's design and operations with specific attention to those locations from which an oil spill could occur and impact Waters of the State. This description shall include, at a minimum, the following information as applicable:

(A) A general diagram of the Inland Facility;

(B) Well locations by field;

(C) Relevant piping and tank diagrams including the location of lines; oil storage capacity of each structure covered under the plan and its age, design, construction and general condition; the range of oil products normally stored in each structure; the presence or absence of containment structures and equipment; and oil transfer locations, control stations, safety equipment, drip pans and the drainage for drip pans;

(D) A description of the oil types, physical properties and health and safety hazards. A Safety Data Sheet (SDS) or equivalent will meet some of the requirements and can be maintained separately at the Inland Facility, providing the plan identifies its location;

(E) Maximum storage or handling capacity and current normal daily throughput of oil handled;

(F) A description of the normal procedures for transferring oil, and the amount, frequency and duration of the oil transfers;

(G) The Inland Facility's normal hours of operation; and

(H) Vicinity maps showing any vehicular access to the Inland Facility, nearby residential, commercial or other populous areas and access to private land necessary to respond to a spill.

(2) For a Railroad, the plan shall describe the railroad's areas of transit from which an oil spill could impact Waters of the State. This description shall include, at a minimum, the following information:

(A) A map of track routes and major rail facilities, including the high hazards areas and high threat urban areas in the state, as those areas are identified by federal law and the California Public Utilities Commission (e.g., CPUC Decision 97-09-045);

(B) A description of the oil cargo transported, including types, physical properties, and health and safety hazards of the oil cargo. A safety data sheet (SDS) or equivalent information may satisfy some of these requirements; the plan shall identify where the SDS or equivalent is kept for emergency response use;

(C) A list of the types of oil cargo train cars that may make up the consist; and

(D) A list, description, and map of any pre-staged spill response equipment and personnel for deployment of the equipment.

(3) The Reasonable Worst Case Spill (RWCS) volume for an Inland Facility, calculated in barrels, is as follows:

(A) Production Facilities: Ten percent (10%) of the daily average of the largest producing well.

(B) Distribution Pipelines: The pipeline's maximum release time in hours (i.e., the time between pipeline rupture and discovery), plus the maximum shut-down response time in hours (based on historic discharge data or in the absence of such historic data, the operator's best estimate), multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum daily capacity of the pipeline), plus the largest line drainage volume after shutdown of the line section(s) in the response zone, expressed in barrels. As used in this subsection: line section means a continuous run of pipe that is contained between adjacent pressure pump stations, between a pressure pump station and a terminal or break-out tank, between a pressure pump station and a block valve, or between adjacent block valves; response zone means a geographic area either along a length of pipeline or including multiple pipelines, containing one or more adjacent line sections, for which the operator must plan for the deployment of, and provide spill response capabilities. The size of the zone is determined by the operator after considering available capabilities, resources and geographic characteristics; or

1. The largest foreseeable discharge for the line section(s) within a response zone expressed in barrels, based on the maximum historic

discharge, if one exists, adjusted for any subsequent corrective or preventive action taken; or

2. If the response zone contains one or more break-out tanks, the capacity of the single largest tank or battery of tanks within a single secondary containment system, adjusted for the capacity or size of the secondary containment system, expressed in barrels.
3. Regardless of methodology for making the RWCS determination, the calculations and such parameters as flow rates, linefill capacities and emergency shutoff times that are used to determine a pipeline's RWCS volume, shall be submitted as part of the plan.

(C) Railroads: Twenty percent (20%) of the maximum volume of oil cargo that a railroad may transport by a single train within the state (e.g. a manifest train or a "unit train"), based on 714 barrels per tank car.

(D) For Inland Facilities not otherwise described in paragraphs (A) and (B) above:

1. The loss of the entire capacity of all in-line, break-out and portable storage tank(s) needed for the continuous operation, used for the purposes of handling or transporting oil, taking into account the existence of volume limiting factors including, but not limited to, line pressure, gravity and the availability and location of the emergency shut-off controls; plus
2. The amount of additional spillage that could reasonably be expected to enter Waters of the State during emergency shut-off, transfer or pumping operations if a hose(s) or pipeline(s) ruptures or becomes disconnected, or if some other incident occurs which could cause or increase the size of an oil spill. The spillage shall be calculated as follows: the maximum time to discover the release from the pipe or hose in hours, plus the maximum time to shut down flow from the pipe or hose in hours (based on historic discharge data or the best estimate in absence of historic discharge data for the Inland Facility) multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum relief valve setting or maximum system pressure when relief valves are not provided) plus the total linefill drainage volume expressed in barrels.
3. The Administrator has the discretion to accept that an Inland Facility can operate only a limited number of the total pipelines at a time. In those circumstances, the Reasonable Worst Case Spill volume shall include the drainage volume from the piping normally not in use, in addition to the volume determined in 1. and 2., above.

**(I) Risk and Hazard Analysis; Oil Spill Consequence Analyses:**

- (1) Each Inland Facility, as determined by the Administrator, shall include the results

of a Risk and Hazard Analysis, which identifies the hazards associated with the operation of the Inland Facility, including: operator error, equipment failure and external events likely to cause an oil spill. This subsection shall not require Railroads subject to the jurisdiction of the federal Surface Transportation Board to identify hazards related to rail transportation, operations, safety or security.

(2) For the significant hazards identified, as applicable, the Contingency Plan shall include an Offsite Consequence Analysis that identifies certain areas and resources at risk to be protected from a RWCS discharge, environmental consequences of a RWCS discharge and identify protection strategies. References to information in Area Contingency Plans (ACPs), Geographic Response Plans (GRPs) or similar documents created by state or local agencies satisfy this aspect of the Contingency Plan's content. However, in the absence of ACPs, GRPs or similar plans for a given area of the state, an Inland Facility shall conduct an analysis to make this determination.

(3) The Contingency Plan shall identify and describe the following resources at risk that may be impacted by a Reasonable Worst Case Oil Spill from the Inland Facility into Waters of the State, including depicting locations on maps. This determination shall assume adverse weather conditions, pessimistic water and air dispersion and other adverse environmental conditions such that the worst possible dispersion of the oil into the land, air and water will be considered.

(A) Habitat types, shoreline types and associated wildlife resources in those locations;

(B) The presence of state or federally-listed rare, threatened or endangered species or state species of special concern;

(C) The presence of aquatic resources including state fish, amphibians, invertebrates, and plants including important spawning, migratory, nursery and foraging areas;

(D) The presence of terrestrial animal and plant resources;

(E) The presence of migratory and resident bird and mammal migration routes, including breeding, nursery, stopover, haul-out, and population concentration areas by season;

(F) The presence of commercial and recreational fisheries including aquaculture sites;

(G) Public beaches, parks, marinas, boat ramps and diving areas;

(H) Industrial and drinking water intakes, power plants, salt pond intakes, and important underwater structures;

(I) Areas of known historical and archaeological sites (but not their specific description or location); and

(J) Areas of cultural or economic significance to Native Americans (but not their specific description or location).

(4) The Contingency Plan shall describe the response strategies to protect the identified sites and resources at risk.

(5) The Inland Facility shall provide or include additional relevant information upon request of the Administrator.

**(m) Response Times and Daily Recovery Rates**

(1) The Response Resources necessary to address the RWCS are brought to the incident over a period of time. The timeframe for arrival and operational deployment of Response Resources is measured from the time of notification of the spill or drill.

(2) The capability of Response Resources and the timeframes for on-scene delivery are specified in the *Response Times & Containment Recovery Rate Table* below. The total amount of Response Resources required is the amount necessary to address the RWCS.

(3) All Response Resources shall be operational no longer than one (1) hour after conducting a site safety assessment for the use of the Response Resources.

(4) For on-water Response Resources, the type and amount required shall take into account the Effective Daily Recovery Capacity (EDRC; defined in Section 790) of the Response Resources.

(5) The on-scene timeframes for delivery and deployment of Response Resources does not take into account the time required to conduct a health and safety assessment of the site as set forth in Subsection 817.04(s)(2), and as required by the California Division of Occupational Safety and Health.

(6) The actual time necessary to deliver and deploy equipment will be assessed at the time of an incident or drill and will take into account the prevailing conditions of weather, as well as the health and safety site assessment requirements.

**TABLE - Response Times & Containment Recovery Rates**

The following table indicates times within which Response Resources shall be deployed and operational within the first 24 hours of a spill or drill, for the containment and recovery of the RWCS volume:

Equipment Arrival Times	Within 6 hours	Within 12 hours	Within 24 hours
Containment	10%	50%	100%

of the Spill			
Minimum Oil Recovery Capability (Whichever is the Lesser)	820 bbls, or Sufficient on-water or terrestrial Response Resources to respond to 50% of the RWCS	4,100 bbls or 75% of the RWCS	8,214 bbls, or Sufficient on-water or terrestrial Response Resources to respond to the remaining 25% of the RWCS

**(n) Terrestrial Response Resources**

(1) If an Owner or Operator's facility poses an oil spill risk to a waterway that has a Measurable Flow less than 180 days a year over a five year period, the Contingency Plan must demonstrate a Contract or Other Approved Means for the Response Resources and capabilities to contain and recover a Reasonable Worst Case Spill volume into or threatening the dry portions of the waterway (e.g. bed, bank, channel areas). If the waterway is dry part of the year but has Measurable Flow at least 180 days or more a year over a five year period, then the Plan must also demonstrate On-water response capabilities as described in Subsection (o).

(2) To the extent that the requirements of this subchapter are provided by a Rated OSRO with a Terrestrial Rating, then Contingency Plan only needs to include evidence of a Contract or Other Approved Means with a Rated OSRO that will satisfy the requirements. However, if an Inland Facility owner/operator does not contract with a Rated OSRO for the requirements and capabilities described in this subsection and intends to meet these requirements with owner or operator owned equipment and personnel, then the owner or operator must get a Terrestrial Rating pursuant Section 819.01(b) of this subchapter

(3) The Response Resources identified for a Response Planning Area shall be appropriate for use in that area given the limitations of the geography and local environmental conditions. The Response Resources identified shall also be appropriate for use on the type of oil identified.

(4) If applicable, the Contingency Plan must include the following Response Resources:

(A) The location and description of equipment with operators, i.e. backhoe, bulldozer, and/or vacuum truck;

(B) Labor force with appropriate training and credentials; and

(C) The type and capacity of storage bins.

(5) Each plan shall describe procedures for the transport of required Response Resources to the spill site.

(6) The plan must identify disposal locations of hazardous materials.

(7) Any Response Resources identified in the plan shall be available for a response.

(8) The Plan Holder shall notify the Administrator when major equipment is removed from service for a period of twenty-four (24) hours or more for maintenance or repair. Major equipment is that which, if removed, would affect timely implementation of the Plan. Notification must be made prior to removing equipment for regularly scheduled maintenance, and within twenty-four (24) hours of removing equipment for unscheduled repairs.

**(o) On-Water Response Resources**

If an Owner or Operator's facility poses an oil spill risk to a waterway that has a Measurable Flow at least 180 days a year over a five year period, then the plan shall demonstrate the following on-water Response Resources and capabilities:

(1) Each plan shall identify the personnel and equipment to perform containment, recovery of spilled oil and oily waste, storage of recovered materials, shoreline protection, and implement identified response strategies, to address the RWCS volume. These resources must be available within the timeframes described in the *Response Times & Containment Recovery Rates Table* above.

(2) To the extent that the following information is provided by a Rated OSRO, the Contingency Plan only needs to include evidence of a contract or other approved means with a Rated OSRO that will satisfy the following requirements. However, if an Inland Facility owner/operator does not contract with a Rated OSRO for the requirements and capabilities described in this section and intends to meet these requirements with Inland Facility-owned equipment and personnel, then each plan shall demonstrate the following:

(A) The location, inventory and ownership of the equipment to be used to fulfill the response requirements of this subchapter;

(B) The type and capacity of storage and transfer equipment matched to the skimming capacity of the recovery systems;

(C) The manufacturer's rated capacities and the operational characteristics for each major item of oil recovery equipment;

(D) The Effective Daily Recovery Capacity (EDRC, as defined in Section 790) for each major piece of on-water recovery equipment listed, as well as the EDRC for the skimming systems as a whole.

1. A request may be submitted to the Administrator to review the effective daily recovery capacity for a piece of equipment if it can be shown that the equipment has a different capacity than the de-rating factor allows.
2. The Administrator's decision regarding a change in the effective daily recovery capacity for a piece of equipment will be issued as soon as administratively feasible.

(E) Vessels designated for oil recovery operations, including skimmer vessels and vessels designed to tow and deploy boom, and availability of shallow-draft vessels;

(F) Storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator;

(G) Anticipate the need for equipment to monitor the movement of discharged oil, including aerial surveillance sufficient to direct skimming operations;

(H) Each plan shall describe the personnel available to respond to an oil spill, including:

1. A list by Incident Command System (ICS) position, or a job description;
2. A match between personnel by job function, and the equipment proposed for use, including the plan for mobilization of such personnel; and
3. Sufficient personnel to maintain a response effort of at least fourteen (14) days; and

(I) Each plan shall describe how required equipment, personnel and other resources will be delivered to the spill site. The description shall account for adverse environmental conditions, such as:

1. Adverse weather (e.g., snow, ice, flooding);
2. Flow (e.g., cubic feet per second) winds and currents;
3. Any other known environmental conditions that could restrict response efforts.

(3) Response Resources shall be appropriate for use in a particular area given the limitations of the bathymetry, geomorphology, shoreline types, and other local

environmental conditions. Additionally, the equipment identified shall be appropriate for cleaning up the types of oil that may be spilled.

#### (4) Temporary Storage and Waste Management

(A) Each plan shall identify sufficient initial storage for all recovered oil or all oily waste.

(B) The plan shall identify locations that would be able to accept the recovered oil or oily waste for recycling or other means of waste management.

(C) All skimming systems operating at the incident shall have sufficient storage. Sufficient storage shall be no less than the EDRC for the equipment.

#### (5) Group 5 Oils

For Inland Facilities that transport or handle Group 5 oils (as defined under "persistent oil" in Section 790), where a spill may impact Waters of the State, the plan shall have evidence of a contract with one or more Rated OSRO(s) or demonstrate other approved means to recover Group 5 oil up to the RWCS volume. Such equipment and resources shall include, but are not limited to, the following methods and equipment for:

(A) Locating the oil on the bottom or suspended in the water column (e.g. sonar, sampling equipment, etc.);

(B) Reducing spreading on the bottom (e.g. containment boom, sorbent boom, silt curtains, etc.);

(C) Recovering oil from the bottom (e.g. dredges, pumps, etc.);

(D) Assessment of the impact of such discharges; and

(E) Any other appropriate methods or equipment necessary to respond to a discharge involving a Group 5 oil.

#### (6) Shoreline Protection

If a spill from the Inland Facility may impact Waters of the State, then the plan must include the following shoreline protection response resources:

(A) Each plan shall demonstrate that a Rated OSRO, or other approved means, will provide all necessary response resources to implement the response strategies appropriate to each shoreline that could potentially be impacted by a spill from the Inland Facility, as those strategies are identified in the Oil Spill Consequence Analysis pursuant to (I) above.

(B) The following information is required in the Contingency Plan regarding shoreline protection; however, some or all of this information may be provided by a Rated OSRO listed in the plan:

1. The amounts of all protective booming, shallow-draft vessels and shoreline protection equipment necessary to address the specific types of shorelines that may be impacted;
2. The location, inventory and ownership of the equipment to be used to fulfill the response requirements; and
3. The procedures for storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator to be made available upon request from the Administrator.

**(p) Oiled Wildlife Care Requirements**

Each plan shall describe the method for providing care and treatment to oiled wildlife by one of the following approved means:

- (1) Indicate use of the California Oiled Wildlife Care Network (OWCN); or
- (2) Describe procedures that clearly outline how oiled wildlife care will be provided, including recovery, transport, processing care and treatment. The equipment and personnel necessary to implement these procedures shall be identified and assured by contract for each Response Planning Area covered by the plan. Standards and written protocols used for wildlife care shall comply with all applicable State and Federal laws.

**(q) Applied Response Technologies (ART) and Oil Spill Cleanup Agents (OSCA)**

(1) Contingency Plan Holders must include information on the use of ARTs and OSCAs in spill response if:

- (A) Activities for the Inland Facility could produce an oil spill that has the potential to threaten Waters of the State; and
- (B) There is a need or request to use an Oil Spill Cleanup Agent (OSCA); or
- (C) There is a need or request to use in-situ burning on any type of spill.

(2) Inland Contingency Plans (for spills that could affect Waters of the State) may identify and include the OSCAs and ART approaches that a Plan Holder considers most appropriate to their Reasonable Worst Case Oil Spill response scenario. Procuring OSCA resources will not guarantee they will receive OSPR Administrator and Regional Response Team approval for use on particular incidents.

(3) Approval for the use of ART on oil spills to state or federal waters rests exclusively with the OSPR Administrator and the Region IX Regional Response Team (RRT), respectively.

(A) Response decision-making is triggered by federal (National Response Center) and state (California Governor's Office of Emergency Services) spill reporting and is supported by state and federal ART Technical Specialists.

(B) The decision to use an ART approach or OSCA on oil spills does not reside with the Contingency Plan Holder. The Contingency Plan Holder:

1. Must know how to make the proper spill notifications;
2. Can make a request of the OSPR Administrator and/or Regional Response Team for consideration of a particular ART approach or use of an OSCA;
3. Can and should provide operational support, as appropriate, for an oil spill response using ART or an OSCA.

**(r) Readiness, Movement, and Cascading of Response Resources**

(1) Any equipment and personnel identified in the plan shall be available for response. Any necessary maintenance for the equipment, vacation periods for response personnel or other eventualities must be taken into account in relying upon these resources.

(2) Maintenance: The Inland Facility Plan Holder shall notify the Administrator when major response equipment identified in the plan is removed from service for a period of twenty-four (24) hours or more for maintenance or repair. Major equipment is that which, if removed, would affect the minimum oil recovery capability set forth in the *Response Times & Containment Recovery Rates* table in Subsection (m) above. Notification must be made prior to removing equipment for regularly scheduled maintenance and within twenty-four (24) hours of removing equipment for unscheduled repairs.

(A) The Inland Facility shall demonstrate that backup equipment is available during the time that the major response equipment is out of service. Backup equipment may be provided from the owner's own inventory or may be made available from another source.

(B) The Contingency Plan shall remain valid during the time that equipment has been removed from service for maintenance or repair, if the Administrator has not disapproved such removal within twenty-four (24) hours of notification.

(C) The Inland Facility shall notify the Administrator when the major equipment is back in service.

(3) Cascading: There may be times when it is necessary to move Response Resources from one area to another in order to respond to a catastrophic oil spill. However, the Administrator needs to ensure that sufficient Response Resources are available to address a reasonable risk within the relevant area. Therefore, when certain Response Resources are needed from one area which may impact the Plan Holder's containment and recovery capability at the six (6) hour level, the Plan Holder or OSRO shall make a request to the Administrator to temporarily reduce the minimum oil recovery capability set forth in the *Response Times & Containment Recovery Rates* Table in Subsection (m) above before the Response Resources can be moved. The Administrator shall only grant such a request after determining that sufficient Response Resources are available to address a reasonable risk within the relevant area from where the Response Resources are being considered for removal.

**(s) Incident Management and Area or Geographic Response Plans**

(1) Each plan shall indicate use of the U.S. Coast Guard or U.S. Environmental Protection Agency *Incident Management Handbook* which describes the Incident Command System (ICS), or another widely recognized incident management system appropriate for pollution response and cleanup. Personnel shall be trained and competent in ICS. The Inland Facilities' senior emergency responder on-site shall initiate the ICS response until a more senior response official arrives, as required by Subsection 5192 (q)(3)(A), of Title 8, of the California Code of Regulations.

(2) Each plan shall ensure completion of a Site Safety and Health Plan (SSHP) as required pursuant to Section 5192, of Title 8, of the California Code of Regulations. Applicable SSHP elements may include, but are not limited to, site hazards, respiratory protection, personal protective equipment, confined space entry, direct reading instruments and exposure monitoring.

(3) Where available, each plan shall use response operation sites and facilities identified in the applicable Area Contingency Plan or Geographic Response Plan. For areas not covered by such plans, the Inland Facility Contingency Plan shall identify potential sites for response operations including location(s) for:

(A) A central command post sufficient to accommodate the initial Incident Command Post (ICP); and

(B) Equipment and personnel staging areas.

**(t) Training**

(1) Each plan shall document that appropriate personnel employed by the Inland Facility regularly receive training, such as:

(A) Incident Command System;

(B) Oil spill emergency response training as required by state and federal health and safety laws for Inland Facility personnel likely to be engaged in oil spill response (e.g., "HAZWOPER"); and

(C) Use and operation of oil spill response and clean-up equipment, if appropriate.

(2) Training records shall be maintained for three (3) years. All such documentation must be promptly made available to the Administrator upon request.

**(u) Drills and Exercises**

Each plan shall describe the Inland Facility's drill and exercise program that meets the drills and exercises requirements of Section 820.02, to ensure that the elements of the plan will function during a spill.

**(v) Enforcement and Compliance**

(1) The owner or operator of an Inland Facility who knowingly, intentionally or negligently violates any provision of this subdivision may be subject to criminal, civil, or administrative actions, pursuant to the Government Code beginning with Section 8670.57 through Section 8670.69.6.

(2) Any injunction issued pursuant to Government Code section 8670.57 shall not require a Railroad subject to the jurisdiction of the federal Surface Transportation Board to cease rail transportation operations.

(3) The Administrator may issue a compliance order to an Inland Facility when the Administrator determines that a person or entity has undertaken, or is threatening to undertake, an activity or procedure that:

(A) Requires a permit, certificate, approval, or authorization under this subdivision or the Act, without securing the permit, certificate, approval, or authorization; or

(B) Is inconsistent with any permit, certificate, rule, regulation, guideline, or authorization previously issued or adopted by the Administrator; or

(C) Threatens to cause or substantially increases the risk of unauthorized discharge of oil into the Waters of the State.

(4) The compliance order may consist of a range of directives, including:

(A) An order to cease and desist operations, to the extent not prohibited under federal and state law; or

(B) An order to comply with the requirements set forth under this subdivision or the Act, as described in Section 873.4 of this subdivision; or

(C) A notice of warning.

(5) An order under Subsection (v)(4)(A) of this Section shall not be issued against a Railroad subject to the jurisdiction of the federal Surface Transportation Board.

(6) Any compliance order issued by the Administrator may be subject to those terms and conditions the Administrator may determine are necessary to ensure compliance with this subdivision or the Act, that are not otherwise prohibited by law.

(7) Any order to cease and desist operations shall be subject to the following conditions:

(A) Shall be effective upon the issuance thereof;

(B) Copies shall be served immediately by certified mail upon the person or governmental agency being charged with the actual or threatened violation;

(C) Become null and void ninety (90) days after issuance; and,

(D) Shall be consistent with Subdivision (a) of Section 8670.27 of the Government Code.

**(w) Severability**

If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Authority: Sections 8670.7 8670.7.5, 8670.28, 8670.29 and 8670.30, Government Code.

Reference: Sections 8670.7, 8670.10, 8670.25.5, 8670.27, 8670.28, 8670.29, 8670.30, 8670.31, and 8670.37.51, Government Code.