



Inland Facility Regulations Frequently Asked Questions

The following Questions and Answers are offered to assist inland facility owners and operators (e.g. production facilities, pipelines, railroads, refineries, etc.) with determining applicability and compliance with the Office of Spill Prevention & Response's (OSPR) inland facility regulations. All CCR code references are to Title 14 of the California Code of Regulations.

Q. WHAT IS THIS NEW INLAND FACILITY PROGRAM?

- A. In July 2014 Governor Brown and the California Legislature expanded OSPR's program to address oil spill planning and response for all surface "waters of the state" at risk from oil spills. Thus, certain inland facilities such as pipelines, production facilities, refineries, and railroads must file an oil spill contingency plan with OSPR for review and approval, and must also make a demonstration of financial responsibility for a potential oil spill.

Emergency regulations promulgated in 2015 were finalized in 2018 through a formal rulemaking process and became effective January 1, 2019.

Q. WHEN ARE THE DUE DATES FOR CONTINGENCY PLANS AND FINANCIAL RESPONSIBILITY SUBMISSIONS?

- A. An oil spill contingency plan and an application for a Certificate of Financial Responsibility must be submitted to OSPR by the owner or operator of an inland facility at least 30 calendar days prior to commencement of operations.

Q. DOES THIS EVEN APPLY TO ME?

- A. Proximity to State Waters: An inland facility that is within $\frac{1}{4}$ mile of inland waters of the state and that poses a risk of an oil spill into those waters must comply with the oil spill planning and financial responsibility requirements, unless the facility is granted an exemption (see information about exemptions below). Inland waters are those that are not tidally influenced, and includes dry washes and arroyos.

Making this determination is easy. Simply go to the Environmental Response Management Application (ERMA) website, and choose [Southwest ERMA](#). Enter the latitude/longitude coordinates of a particular facility and find the facility on the map. A data layer in ERMA depicts a blue $\frac{1}{4}$ mile "buffer zone" for identified waters of the state. If the latitude/longitude coordinates of a particular inland facility are not within the $\frac{1}{4}$ mile blue "buffer zone", then the requirements do not apply and nothing further is required. If the coordinates are within the $\frac{1}{4}$

mile blue “buffer zone”, then the operator must comply with the oil spill contingency plan and financial responsibility requirements (unless an exemption is requested and granted). You must ensure the following data layer in ERMA is selected: Bathymetry & Hydrology / Hydrology & Hydrography / Surface Waters-Statewide / Quarter Mile Buffer of Streams-Statewide. This data layer is the National Hydrography Dataset (NHD), created by the U.S. Geological Survey.

Note: The ¼ mile NHD data layer in ERMA is only a tool for determining applicability of OSPR’s oil spill planning and financial responsibility requirements to a particular facility. The data layer does not represent the full scope of waters that are legally considered “waters of the state” of California. Waters of the state are much broader for many other legal and regulatory purposes, and state waters include dry washes and arroyos where flow may be intermittent or ephemeral. For example, an oil spill into a dry part of the Kern River must be reported and cleaned-up, even though that particular stretch of the waterway/waterbody may not have been covered by the spiller’s oil spill contingency plan, and may not have been depicted in the NHD data layer. For some agencies, waters of the state also includes groundwater.

OSPR has posted this [Guidance Document](#) for using Southwest ERMA to determine applicability of the regulations.

Storm Drains: Storm drains are not considered waters of the state for OSPR’s contingency planning purposes. An inland facility within ¼ mile of a storm drain is not required to have an oil spill contingency plan or demonstrate financial responsibility pursuant to OSPR’s regulations (assuming that facility is not also within ¼ mile of waters of the state). However, storm drains are significant for other legal purposes -- for example, an oil spill into a storm drain must be reported and the spill must be cleaned up.

EXEMPTIONS

Q. Are there any exemptions even if my inland facility is within one-quarter mile of inland waters?

A. Yes. Inland facilities that are located within ¼ mile of inland waters may be exempt from the oil spill contingency plan and financial responsibility requirements if ANY of the following conditions exist:

- Production Facilities: Oil wells that produce a daily average of less than 10 bbls per day of oil are exempt.
- Aboveground Petroleum Storage Tanks/Underground Storage Tanks: These regulations do not apply to any inland facility that is regulated by and in compliance with either the APST or UPST programs, pursuant to Chapter 6.67 or Chapter 6.7 of Division 20 of the Health and Safety Code. No further action is required.
- Barriers/Topography: If a spill from the inland facility will not impact inland waters. OSPR will consider the following when making this assessment:
 - Geography of the area where the inland facility is located.
 - Specific gravity and pour point temperature of the product produced or transported.
 - Permanent, natural, or man-made barriers between the inland facility and waters of the state.
 - Other relevant factors.

Q. If I think my inland facility is exempt, how do I request an exemption?

- A. Exemption requests must be made in writing and must provide specific, technical justification for the request. Requests must be delivered or emailed to the OSPR Administrator at:

Office of Spill Prevention & Response
Prevention Branch - Exemptions
Post Office Box 944209
Sacramento, CA 94244-2090
Email: Cplanexemptions@wildlife.ca.gov

OSPR will inspect the inland facility to determine if the exemption is warranted. The OSPR Administrator will notify the facility operator of the decision within 30 calendar days of the request. If an exemption is not granted, then the inland facility owner or operator must submit a contingency plan and demonstration of financial responsibility within 120 calendar days of receipt of the exemption denial.

However, if the inland facility is granted an exemption, and the facility has an oil spill that does impact inland waters, then the facility may be required to comply with OSPR's requirements.

Q. MY OPERATIONS CROSS LARGE INLAND REGIONS OF THE STATE; HOW DO I PLAN FOR THAT?

- A. *Multiple Habitats:* Operators that are spread across multiple counties and Response Planning Areas (RPA) (e.g., pipelines, railroads) and thus habitats and landscapes, need a more comprehensive oil spill contingency plan that must address the various types of riparian habitats and inland waters (perennial and non-perennial) threatened by the inland facility operations. For example, the operator must have a retainer with an Oil Spill Response Organization (OSRO) that is rated for each RPA where the operator operates. The regulations explain how this may be accomplished in the contingency plan. Any question can be directed to OSPR's Preparedness Branch.

FINANCIAL RESPONSIBILITY

Q. How much financial responsibility do I need to demonstrate?

- A. Inland facilities, including railroads, must demonstrate a minimum capability to pay for oil spill cleanup and damages costs. For a threat to inland waters designated as intermittent or ephemeral, the amount is equivalent to the facility's Reasonable Worst Case Spill volume (RWCS), expressed in barrels, and multiplied by \$6,000.00. For example: a RWCS of 596 bbls x \$10,000 = \$5,960,000. For a threat to inland waters designated as perennial, the amount is equivalent to the facility's RWCS, expressed in barrels, and multiplied by \$10,000.00. The maximum financial responsibility that may be required for an inland facility is \$100 million. [Ref. 14 CCR §791.7(h)(1)(G)]

Q. How do I determine my Reasonable Worst Case Spill volume?

A. It depends upon your inland facility type. Refer to [14 CCR §817.04(j)]

Q. What do I need to submit to demonstrate proof of Financial Responsibility

A. It depends on the method used to demonstrate financial responsibility (e.g., insurance, self-insurance, etc.). The regulations describe the options and documents that must be submitted for each option. [Refer to 14 CCR §795]

An application must be submitted with the relevant documents. The application and other forms can be found on OSPR's [Financial Responsibility webpage](#).

Q. When do I need to submit proof of Financial Responsibility?

A. An application, and all associated supporting documents, for a certificate of financial responsibility, must be submitted by the owner or operator of an inland facility at the same time as the contingency plan. Approval of the application must be secured before operating in California. [Ref. 14 CCR §791.6(b)]

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