

## OFFICE OF SPILL PREVENTION AND RESPONSE

### NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the Office of Spill Prevention and Response (OSPR) within the Department of Fish and Wildlife, proposes to amend Section 790 in Subdivision 4, Chapter 1, of Title 14 of the California Code of Regulations. This section pertains to General Definition and Abbreviations. This proposal updates the version of the Shoreline Protection Table listed in the definition.

### PUBLIC HEARING

Pursuant to Gov. Code S. 11346.8(a), **no public hearing has been scheduled** on the proposed action. However, a hearing will be held if OSPR receives a written request for a public hearing from any interested person, no later than 15 days prior to the close of the written comment period. If a hearing is requested, it will be held in Sacramento. **Copies of the written comments submitted will be made available upon request.**

### SUBMISSION OF WRITTEN COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to OSPR. All written comments must be received by OSPR at this office no later than **May 24, 2016, by 5 P.M.** in order to be considered. Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Wildlife  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090  
Attention: Shaun S. Pritchard  
Fax: (916) 324-5662  
E-mail: [Shaun.Pritchard@Wildlife.ca.gov](mailto:Shaun.Pritchard@Wildlife.ca.gov)

### PERMANENT ADOPTION OF REGULATIONS

OSPR may thereafter adopt the proposal substantially as described in this Notice, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposals - with changes clearly indicated - will be available for 15 days prior to its adoption from the person designated in this Notice as contact person. The text will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### AUTHORITY AND REFERENCE

Government Code Section 8670.10 grants the Administrator of OSPR the authority to adopt regulations and guidelines for oil spill contingency plans. The proposed regulations implement, interpret and make specific Government Code Sections 8670.28 through 8670.31.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act), enacted in 1990 by Senate Bill 2040, created a comprehensive state oil spill program for marine waters. Among its many provisions, it required the adoption of regulations requiring oil spill contingency plans for tank vessels, nontank vessels, and marine facilities.

Following the enactment of the Act, and the establishment of the Office of Spill Prevention and Response (OSPR), regulations governing oil spill contingency plans were adopted. These regulations established clear and consistent guidelines to those parties either affected by their adoption or charged with their enforcement. These regulations were necessary to implement, interpret and make specific Government Code Sections 8670.28 through 8670.31.

These proposed amendments to the regulations are needed to update the required Shoreline Protection Tables (SP Tables), which were adopted in 2006 as a new approach to determine required shoreline protection response resources and to level the playing field for the plan holders and the Oil Spill Response Organizations (OSROs) they contract with. These SP Tables show the sites to be protected, the hour by which they should be protected, and the response resources required to provide this protection. These tables provide a standard for the statutorily mandated Best Achievable Protection of coastal resources.

An update to the definition of "Shoreline Protection Tables" has also been included, to update the date of the most current tables.

## POLICY STATEMENT OVERVIEW

The updates align the SP Tables with the 2013 versions of the Area Contingency Plans (ACP), which are developed by the U.S. Coast Guard with input from affected stakeholders, mandated by the Oil Pollution Act of 1990 [OPA-90, at 33 USC 1321(j)]. Section 790(s)(6) has been updated by necessity with a new date March 2016 for the new version of the SP Tables, which are incorporated by reference.

It is not anticipated that the updates to the SP Tables will require and additional resources or costs to the regulated community. In addition to the consolidations and corrections, the substantive changes are refinements to strategies that should result in no extra costs to implement.

The proposed regulations will provide benefits to the health and welfare of California residents, worker safety, and the state's environment, by ensuring that adequate shoreline protection response resources are available in the timeframes outlined in the SP Tables, which could potentially eliminate or mitigate the impacts of the spill on the shoreline environment.

After conducting a search of any other regulations in this area, we find that these are the only regulations dealing with requirements for shoreline protection, as outlined in the

Shoreline Protection Tables. Therefore, the Department finds that these proposed regulations are not inconsistent or incompatible with existing state regulations.

Document Incorporated by Reference:

Shoreline Protection Tables, March 2016 (new revised date)

SMALL BUSINESS IMPACT STATEMENT

OSPR has determined that the proposed regulations may affect small businesses.

No proposed alternatives have been identified.

COMPLIANCE WITH GOVERNMENT CODE  
SECTIONS 8574.10, 8670.28, 8670.29 AND 8670.55

In accordance with Government Code Section 8670.55(a), these regulations have been developed in consultation with the Oil Spill Technical Advisory Committee.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE.

Other non-discretionary costs or savings imposed upon local agencies: NONE.

Costs or savings in federal funding to the state: NONE.

Cost impacts on representative private persons or businesses: It is not anticipated that the updates to the SP Tables will require any additional resources or costs to the regulated community. In addition to the consolidations and corrections, the substantive changes are refinements to strategies that should result in no extra costs to implement. OSPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: NONE.

BUSINESS IMPACTS

OSPR has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

No response alternatives have been identified.

## RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The proposed regulations:

- Will not result in the creation or elimination of jobs within the State of California;
- Will not result in the creation of new businesses or the elimination of existing businesses within the State of California;
- Will not result in the expansion of businesses currently doing business within the State of California.
- Will provide benefits to the health and welfare of California residents, worker safety, and the state's environment, by ensuring that adequate shoreline protection response resources are available in the timeframes outlined in the SP Tables, which could potentially eliminate or mitigate the impacts of the spill on the shoreline environment.

## CONSIDERATION OF ALTERNATIVES

OSPR must determine that no reasonable alternative considered by OSPR or that has otherwise been identified and brought to the attention of OSPR would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

OSPR has made an initial determination that there are no reasonable alternatives.

## AVAILABILITY OF DOCUMENTS AND OSPR CONTACT PERSON

OSPR has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from the:

Department of Fish and Wildlife  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the World Wide Web at the following address:

<https://www.wildlife.ca.gov/OSPR/Legal/Proposed-Regulations>

Questions regarding the proposed regulations, requests for documents, or any questions concerning the substance of this regulatory action may be directed to Shaun Pritchard (916-324-6259), or Joy Lavin-Jones (916-327-0910).