

INITIAL STATEMENT OF REASONS
March 23, 2016

These proposed amendments to the regulations are needed to update the required Shoreline Protection Tables (SP Tables,), which were adopted initially in 2006 as a new approach to determine required shoreline protection response resources. 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. The information was used to obtain resources and contracts to meet the requirements in the tables. These tables provide a standard for the statutorily mandated Best Achievable Protection of coastal resources.

The specific purpose for each adoption, amendment, or repeal contained in these proposed regulations is set forth below:

Section 790(s)(6) has been updated by necessity with the date (March 2016) for the new version of the SP Tables, which are incorporated by reference.

August 2016 Version of the Shoreline Protection Tables

In 2006, a new approach to determining required shoreline protection response resources had been developed. This involved modeling oil spills from risk sites, using wind, current and tide conditions which aggravate the spread of oil. Using the trajectories, timetables of spill impacts to sensitive resources were generated, and requisite shoreline protection response resources identified from the respective Area Contingency Plans (ACP), which are developed by the U.S. Coast Guard with input from affected stakeholders, and mandated by the Oil Pollution Act of 1990 [OPA-90, at 33 USC 1321(j)]. The ACPs include listings of sensitive sites, and the strategies and resources to protect these sites

The combination of the resulting trajectories, along with the sites and strategies from the ACPs, were used to identify shoreline resources impacted and requiring protection, the response equipment needed, and the time by which the shorelines must be protected to prevent unmitigated impact.

The sites, times of impact, and response resources needed were identified in a table form, in the Shoreline Protection Tables, incorporated by reference herein.

The ACP process is one of continuous improvement, as strategy refinements and strategy testing are continuing and updates to the ACP are made. The goal was to capture these updates and incorporate them in future regulations updates to the SP Tables, using the procedures outlined in the Administrative Procedures Act. Incorporating these strategy improvements to the SP Tables are needed to implement the intent of Government Code S. 8670.28(a)(2), which requires that response standards regularly be improved, to protect the resources of the state from an oil spill.

Many, if not most, of the changes are clean up, consolidations and corrections, and update totals.

The March 2016, version of the SP Tables, as well as the ACP updates, have been reviewed by OSPR staff and stakeholders including industry, Oil Spill Response Organizations, U. S. Coast Guard, Area Committees, and environmental groups

For the purpose of this rulemaking, the updates to the SP Tables have been formatted in the following ways:

- Information that has been changed is shown in strikeout and underline, and highlighted in yellow cells.

- The “type of or reason for change” can be found in the last column of the amended tables. This column will be removed when the approved SP Tables are published.

The changes to update the SP Tables to reflect updates in the refinements in the shoreline protection strategies outlined in the applicable ACP, are necessary to meet the requirements and intent of Government Code S. 8670.28(a)(2), which requires that response standards regularly be improved, to protect the resources of the state.

Codifying these changes from the ACP updates as necessary to ensure that the standards set forth in the SP Tables continue as enforceable measures for the protection of California’s natural resources. ACP guidance, while valuable, is not enforceable.

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.

DOCUMENTS RELIED UPON

Area Contingency Plans. California’s six Area Committees established in the California Coastal Zone are comprised of federal, state and local agencies, tribal governments, resource trustees, industry, and other entities. The primary role of an Area Committee is to act as a preparedness and planning body to develop, maintain and exercise Area Contingency Plans (ACPs) and provide a forum for planning and preparing for responses to major incidents that affect multiple jurisdictions. Major response actions require extraordinary cooperation and coordination among all levels of government.

ECONOMIC IMPACT ANALYSIS

It is not anticipated that the updates to the SP Tables will require significant 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.

Therefore, 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;
- Are not considered “major regulations” based on the economic impact assessment;
- Will not result in the expansion of business currently doing business in the state.

Without the amendments proposed in this rulemaking, contracts for required shoreline protection during an oil spill may not include specifications on the most updated strategies. Therefore 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.

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

BUSINESS IMPACT

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. In addition to the consolidations and corrections, the substantive changes are refinements to strategies that should result no extra costs to implement.

No proposed alternatives have been identified.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not require the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

OSPR must determine in the Final Statement of Reasons 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.

No alternatives have been identified.

COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11346.2(b)(6), 11346.5, and 11349(f)

The regulations do not conflict with Federal statutes or regulations.