

**TITLE 14. CALIFORNIA CODE OF REGULATIONS  
DIVISION 1. 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**

**[New Section]**

**Draft Amendments May 3, 2016**

**(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 for substantive review and approval. ~~New inland facilities that begin oil transportation services~~ Inland Facilities that begin operations after January 1, 2016 shall have 180 days to submit an Oil Spill Contingency Plan. Changes in ownership of an Inland Facility will require a new plan to be submitted at least 60 days prior to the change in ownership. Note: Aall 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 within one-quarter (1/4) mile of Waters of the State and 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 an Inland Facility~~ies, and no further action needs to be taken~~, if any of the following conditions are met, and no further action needs to be taken:

(A) The Inland Facility is located equal to or more than ~~a one-~~ quarter (1/4) mile from Waters of the State.

(B) For Production Facilities: If the operator's largest producing well produces less than or equal to a daily average rate of ten (10) barrels of oil (excluding produced water) 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-one hundred twenty (~~90~~120) days, submit a contingency plan to the Administrator.

(C) That part of an Inland Facility subject to Chapter 6.67 (Commencing with Section 25270; above ground petroleum storage tanks) or Chapter 6.7 (commencing with Section 25280; underground storage tanks) of Division 20 of the Health and Safety Code. Note that an aboveground oil production tank that is subject to Section 3106 of the Public Resources Code is not exempt.

(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 (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, including but not limited to impervious or semi-impervious surfaces such as concrete or asphalt;

4. Waters of the State will not be impacted by a release of oil to or 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 (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. For production facilities, the request must also include the All American Petroleum Institute (API) well numbers. 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. An owner or operator may request reconsideration of the decision to deny an exemption following the process outlined in Subsection (e)(4). ~~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.

(4) Exemptions must be re-applied for by the owner or operator every five (5) years.

#### **(d) Plan Format**

(1) All Contingency Plan submittals shall be in an electronic format ~~approved by acceptable to~~ the Administrator. The format shall be searchable (e.g., MS Word, Pages, or a PDF document (not scanned or an image)). Additionally, the Table of Contents must be linked to the difference sections of the plan. 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) The Plan Holder may designate information submitted to the Administrator that the Plan Holder considers to be a trade secret, confidential, privileged or otherwise exempt from disclosure under the Public Records Act (California Government Code Section 6250 *et seq.*) or other law.

(B) The Plan Holder must assert a claim of exemption at the time the information is submitted to the Administrator. The Plan Holder must clearly and distinctly identify each paragraph, sentence, number, data, map, photograph, or other item, and provide the specific legal authority for each item that the Plan Holder believes should be withheld from public disclosure. (e.g. Government Code Section 6254.15). Clear labeling, and citation to specific legal authority as to each item, will greatly assist with redaction. Generic non-specific labeling of an entire document is not sufficient assertion or preservation of what or why information should be withheld from public release, and may not be considered.

(C) If the Administrator is requested to publically disclose information that has been identified with specific legal citation in accordance with paragraph (2), the Administrator may notify the Plan Holder at least ten (10) business days prior to the release of such information in order to allow the Plan Holder to seek an appropriate remedy in Court, if applicable.

~~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 or privileged, two different copies of the plan must be submitted as follows:

1. One copy shall contain the confidential or privileged information. This plan will be utilized by the Administrator in the review and approval process;
2. One copy shall be submitted ~~with depicting~~ the confidential or privileged information as redacted. ~~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 or privileged information.

4. The Administrator will decide if it is confidential or privileged.

**(e) Plan Review and Approval**

(1) Timeframe

(A) Each submitted Plan shall be substantively 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 invalid.

(2) Approval of a Plan

(A) A plan shall be approved if it adequately addresses all the applicable elements specified in this subchapter as providing the Best Achievable Protection, as defined.

(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 of 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.

(45) Public Review and Comment

(A) Contingency Plans will be made available for review by any interested member of the general public pursuant to the [California](#) 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, [pursuant to the](#)

California Public Records Act.

**(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.

(E) The Administrator may require earlier or more frequent resubmission or updates than that required in Subparagraph (A). The owner/operator shall be notified in writing if an earlier resubmission or update is required. The notice shall include an explanation of the reasons for the resubmission or update. The circumstances that would warrant an earlier resubmission or update include, but are not limited to, the following:

1. A change in regulations;
2. The development of new oil spill response technologies as determined by the Administrator during any review of response capability standards;
3. An increased need to protect plant and wildlife habitat;

- 4. Deficiencies in oil spill response capability identified during an oil spill;
- 5. Deficiencies in oil spill response capability identified during an oil spill drill;
- 6. Significant changes to the inland facility; and
- 7. Any other situation deemed appropriate by the Administrator where deficiencies in the ability to provide timely and effective oil spill response are identified.

**(g) Blanket Plans**

(1) A blanket Contingency Plan~~(s)~~ may be submitted for Inland Facilities that are substantially similar to one another. The owner or 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~~ The justification ~~must~~ may be based on the following criteria:

(A) ~~Each well must be substantially s~~ similar in layout, ~~and~~ design, or operation;

(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 and similar Risk and Hazard Analysis risks; ~~sites leakage, and be in the same OSPR~~

(C) The Statewide Response Planning Area ~~(, as defined in~~ in Section 790); where operations occur, including risks to the ~~same~~ environmentally, economically or culturally sensitive sites; and

(D) The ability of 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 facilities, wells, or units covered by the blanket plan shall be included ~~as an attachment to~~ with the plan.

**(h) Notification Procedures**

(1) ~~The first page~~ Near the front of each plan ~~is designated the initial response manual and~~ shall ~~include be~~ 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~~ The designated Qualified Individual (QI) who is available on a 24-hour basis;

(C) The California Governor's Office of Emergency Services, State Warning Center and;

(D) ~~The U.S. Coast Guard~~ National Response Center;

(E) The designated Spill Management Team; and

(F) As soon as a threat to wildlife is identified, the plan holder shall notify the Oiled Wildlife Care Network (OWCN) or the method for providing wildlife care and treatment approved pursuant to subsection (p).

(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.~~ prominently posted and easily referenced.

(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~~ On-Scene Coordinator 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 in 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 (l). 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, including the API well number for each well, if applicable.

(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, handled or transported, including~~ physical properties, ~~and~~ health and safety hazards, ~~pour point, viscosity (API gravity), and type (eg. Group 5)~~. A Safety Data Sheet (SDS) or equivalent ~~will can~~ meet some of these requirements, and ~~can should~~ 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.

(I) Geographic coordinates (latitude and longitude) of field production office or field Incident Command Post.

(2) For a Railroad, the plan shall also 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 that may be 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 as required by paragraph (1)(D)~~;

(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 (excluding produced water).

(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~~ may only 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.

**(l) Risk and Hazard Analysis; Oil Spill Offsite 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 likely to cause an oil spill, 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. disclose the confidential contents of any safety or security plan required by federal law. Railroads must comply with Subsections (2) and (3) below.~~

(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 collection and protection strategies. ~~References to information in- Inland Facilities within reasonable proximity of an~~ Area Contingency Plans (ACPs), Geographic Response Plans (GRPs) or similar documents created by state or local agencies may reference these other plans to 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 this~~ analysis ~~to make this determination for areas of potential impact. Having a contract with a Rated OSRO does not alleviate the requirement for the analysis required by this section.~~

(3) ~~As applicable, the~~ Contingency Plan-Offsite Consequence Analysis 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 (include produced water) into the land, air and water will be considered. For risks to streams,

rivers, and similar waterways, the analysis must consider the highest current (CFS) in the waterway for 6 hours.

(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, which includes aquatic and terrestrial animal, fish and plant resources;

~~(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;~~

(4) The analysis shall include contacts for the following, as applicable:

~~(FA) The presence of c~~Commercial and recreational fisheries including aquaculture sites, public beaches, parks, marinas, boat ramps and other recreational use areas;

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

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

~~(IC) Areas of known h~~Historical and archaeological sites and areas of cultural or economic significance to Native Americans (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 or other confidential information).~~

(4.5) The Contingency Plan shall describe and map the response, collection locations and strategies to protect for the identified sites and resources at risk as identified in (3) and (4) above, including access locations.

(5.6) 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 Tables in (n) and (o)* 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)~~(4) 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)~~(5) 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.

~~(6) All Response Resources shall be appropriate for the environment, habitat, terrain, and waterbody for where those resources may be used.~~

**~~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:~~

<b>Equipment Arrival Times</b>	<b>Within 6 hours</b>	<b>Within 12 hours</b>	<b>Within 24 hours</b>
<b>Containment of the Spill</b>	40%	50%	100%
<b>Minimum Oil Recovery Capability (Whichever is the Lesser)</b>	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~~ 18~~20~~ days or less a year (average 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~~ more than 18~~20~~ days ~~or more~~ a year (average over a five year period), then the Plan must also demonstrate On-water response capabilities as described in Subsection (o). However, the Offsite Consequence Analysis described in (l) is required in either case.

These resources must be available within the timeframes described in the Terrestrial Response Times & Containment Recovery Rates Table.

**TABLE – Terrestrial Response Times & Containment Recovery Rates**

The following table indicates times within which terrestrial 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:

<u>Equipment Arrival Times</u>	<u>Within 6 hours</u>	<u>Within 12 hours</u>	<u>Within 24 hours</u>
<u>Containment</u>	<u>Sufficient containment for 50% of RWCS</u>	<u>Sufficient containment for 75% of RWCS</u>	<u>Sufficient containment for 100% of RWCS</u>
<u>Temporary Storage</u>	<u>Sufficient storage to adequately support removal</u>	<u>Sufficient storage to adequately support removal</u>	<u>Sufficient storage to adequately support removal</u>

(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 or 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. Terrestrial services do not require dedicated response resources.

(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 more than 1820 days a year (average 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 On-Water Response Times & Containment Recovery Rates Table.

**TABLE – On-Water Response Times & Containment Recovery Rates**

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

Equipment Arrival Times	Within 6 hours	Within 12 hours	Within 24 hours
<b>Containment</b>	10% (Minimum 1,000' boom)	50%	100%
<b>Minimum Oil Recovery Capability  (Whichever is the Lesser)</b>	820 bbls/day, or <del>Sufficient on-water or terrestrial Response Resources to respond to</del> 50% of the RWCS	4,100 bbls/day, or 75% of the RWCS	8,214 bbls/day, or <del>Sufficient on-water or terrestrial Response Resources to respond to the remaining 25%</del> <u>100%</u> of the RWCS
<b>Temporary Storage</b>	Sufficient capacity to support recovery capability	Sufficient capacity to support recovery capability	Sufficient capacity to support recovery capability

(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-on-water recovery equipment;

(D) The Effective Daily Recovery Capacity (EDRC, as defined in Section 790) for each major ~~piece-item~~ of on-water recovery equipment listed, as well as the EDRC for the skimming systems as a whole. For planning purposes, the capability of the equipment is manufacturer's rated capacities as modified by EDRC.

1. A request may be submitted to the Administrator to review the ~~effective daily recovery capacity~~EDRC 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~~EDRC 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~~ 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~~ SpillOffsite 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)(1) Inland Contingency Plans (for spills that could affect Waters of the State) The contingency plan may identify and include the oil spill cleanup agents (OSCA)s and alternative response technologies (ART) approaches that a Plan Holder considers most appropriate to their Reasonable Worst Case Oil Spill response scenario for the Plan Holder's offsite consequence analysis. Procuring OSCA resources will not guarantee they will receive OSPR Administrator and Regional IX Regional Response Team (RRT) approval for use on particular during an incidents.~~

~~(3)(2) The plan shall describe that a 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 OSCA and ART 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 containment or recovery capability set forth in the *Response Times & Containment Recovery Rates* tables in Subsection ~~(n)~~ and (o) 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., [Section 5192 of Title 8 of the Code of Regulations](#), "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 8670.69.9.

(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.

Note: Authority cited: Sections 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.