



NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS AND ADDITION OF DOCUMENTS RELIED UPON

November 22, 2016

Pursuant to the requirements of Government Code sections 11347.1, 11346.8(c), and section 44 of title 1 of the California Code of Regulations, this serves to provide you with a 15-day continuation notice of changes made to the proposed regulation text and addition to documents relied upon for sections 870.15 through 870.21 of the Oil Spill Prevention and Administration Fund fee.

These changes are in response to comments received regarding the proposed regulation. The changes being made are as follows:

Subchapter Heading – The subchapter heading is being removed as unnecessary. The OSPAF is the only fund administered by OSPR with regulations associated with it, so subdividing this chapter into a subchapter is not necessary.

Section 870.15 – Elimination of commonly used definitions and abbreviations and moving them to section 790 provides clarity and avoids duplication. Only definitions that are truly unique to this particular chapter will stay in this section, e.g., “Barrel Fee”, and “Nontank Vessel Fee.”

Subdivision (a) – definition of “Board” has been removed as unnecessary.

Subdivision (b) - is a description of the nontank vessel fee; the fee itself is set later in this chapter. It is necessary to include this definition to provide clarity to the regulated community to distinguish this fee from other fees deposited into the OSPAF.

Subdivision (c) – definition of “Marine Waters” is being deleted to avoid confusion and redundancy. It is already defined in section 790.

Subdivision (d) – definition of “Petroleum Products” is being removed as unnecessary because the definition of “Oil” in section 790 includes petroleum products and does not need to be duplicated here.

Section 870.17 – old long standing text of section 870.17 has been completely removed and re-drafted for clarity and consistency, and to eliminate mere restatement of

statutory language. The new section 870.17 is consistent with Government Code section 8670.40 as amended by SB 861.

Subdivisions (a)(1) and (2) – distinctions between oil transported by pipeline or vessel in the old section 870.17 were made obsolete by SB 861 and have been removed.

Subdivisions (a) and (b) – are new sections which have been redrafted from the old version of 870.17 to reflect the SB 861 changes made to Government Code section 8670.40, which makes the fee applicable to all oil and petroleum products received at a marine terminal or refinery.

Subdivision (a) – generally explains there are two fees collected that are deposited into the Oil Spill Prevention and Administration Fund (OSPAF).

Subdivision (b) – describes the per-barrel fee collected at refineries and marine terminals.

Subdivisions (b)(1) and (2) – are necessary to both define the fee and set the fee. The fee has been set at \$0.065 cents for many years, and it has not been changed here.

Subdivision (b)(3)(B) – has been updated to include a notification timeframe to the Board of Equalization from OSPR when there is a change in the OSPAFA fee.

Subdivision (b)(4) – is new and has been drafted to reflect the intent of Government Code section 8670.40(b)(3)(A), which reiterates that the fee is only to be paid once, upon the first delivery to a refinery or marine terminal. It is necessary to re-state this important piece of information to the regulated community so there is no confusion or over-payment of the fee.

Subdivision (c) – the text of old subsection (c) regarding the nontank vessel fee has been re-drafted. The new text is substantively the same as the old. It was necessary to slightly alter this version to clarify in paragraph (3) how and when the nontank vessel fee is paid, and to fit in with the formatting of the rest of new section 870.17.

Subdivision (d) – is new and makes clear the hierarchy of statute over regulations, preserving any authority in the statutes.

Section 870.19 – removed as unnecessary. New section 870.17 functionally replaces section 870.19. Much of section 870.19 was essentially a restatement of Government Code section 8670.40.

Section 870.21 – removed as unnecessary. This section was essentially a restatement of Government Code section 8670.40(e).

The studies, reports, or documents being added and relied upon in the rulemaking file are as follows:

- Board of Equalization OSPAF Fee Report of May 2016
- [California Energy Commission 2015 Crude Oil Imports By Rail](#) (incorporated by reference)
- [Department of Conservation, Division of Oil, Gas, and Geothermal Resources, 2015 Report of California Oil and Gas Production Statistics](#), issued April 2015 (incorporated by reference)

OSPR invites interested persons to present statements or arguments with respect to alternatives to the regulations at the scheduled hearing or during the written comment period.

PUBLIC HEARING

OSPR will hold a public hearing on **Thursday, December 8, 2016, from 10:00 a.m. to 11:30 a.m. at Bay Model Visitor's Center, Multipurpose Room, 2100 Bridgeway, Sausalito, CA 94965.** This facility is wheelchair accessible. At the public hearing, any person may present statements or argument orally or in writing relevant to the proposed action described in the Informative Digest. OSPR requests, but does not require that the persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

SUBMISSION OF WRITTEN COMMENTS

Any interested person or his or her authorized representative may submit to OSPR written comments relevant to the proposed regulatory action. **The written comment period closes 5:00 p.m. on Thursday, December 8, 2016.** All written comments must be received by OSPR by then 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
1700 K Street, Suite 250
Sacramento, California 95811
Fax: (916) 324-5662
E-mail: OSPRRegulations@wildlife.ca.gov

AVAILABILITY OF DOCUMENTS / OSPR CONTACT PERSON

OSPR has prepared a revised Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the revised Initial Statement of Reasons, the modified text of the regulations, the Final Statement of Reasons (upon its completion) or other information upon which the rulemaking is based, may be obtained upon request from:

Department of Fish and Wildlife
Office of Spill Prevention and Response
Attention: Christine Kluge
1700 K Street, Suite 250
Sacramento, California 95811
Phone: (916) 327-0910
Email: Christine.Kluge@wildlife.ca.gov

The backup contact person is:

Department of Fish and Wildlife
Office of Spill Prevention and Response
Attention: Ryan Todd
1700 K Street, Suite 250
Sacramento, California 95811
Phone: (916) 324-3406
Email: Ryan.Todd@wildlife.ca.gov

In addition, these documents may be found on the OSPR website at:

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, OSPR may adopt the proposed regulations substantially as described in this notice. If OSPR makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before it adopts the regulations as revised. Any such modifications will also be posted on OSPR's website. Please send requests for copies of any modified regulations to the attention of the contact person as indicated above. OSPR will accept written comments on the modified regulations for 15 days after the date on which they are made available.