



## SECOND 15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS AND ADDITION OF DOCUMENTS RELIED UPON

June 15, 2017

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 second 15-day continuation notice of changes made to the proposed regulation text and addition of documents relied upon for sections 870.15 through 870.21 of the Oil Spill Prevention and Administration Fund fee.

You are receiving this notice because you either provided written comment (including comments sent via email or fax), commented at the public hearing held on December 8, 2016, expressed an interest in receiving notice of changes, or are directly affected by this rulemaking action.

This Notice will also be posted on OSPR's website at <http://www.wildlife.ca.gov/OSPR/Legal/Proposed-Regulations>.

Amendments to the proposed text originally noticed to the public are indicated in double underline and *italics* and framed for newly added text and ~~double strikeout~~ and *italics* and framed for newly deleted text. The single and double underline without italics formatting from the proposed text originally noticed to the public and during the first 15-day comment period has been retained. These proposed changes are being made available for public comment.

The following are proposed changes for this second 15-day comment period from June 15, 2017 through June 29, 2017:

### **Section 870.15:**

The previously stricken out phrase "...of this subdivision" is being added back in for clarity.

Subsection (a) – illustration correction – the word “fee” was erroneously stricken out during the first 15-day comment period. It is being added back in. Text “(commencing with Section 8670.38)” is mentioned twice in this subdivision, so is being removed as duplicative.

Subsection (b) – illustration correction – the word “paid” was not stricken out during the first 15-day comment period. It is stricken out now. The words “section 870.17(c) of

this chapter and” are added to differentiate it from the reference to the Government Code section.

Authority and Reference – Under “Reference” subsection (c) is removed from “Section 8670.37.58(c)” as unnecessary and to avoid confusion in the event of future changes to the statute.

### **Section 870.17:**

Subsection (a) – changing “must” back to “shall” for consistency in aligning with existing regulatory text. Illustration error – the word “nontank” should have been illustrated in double underline during the first 15-day comment period. It is being illustrated correctly here. “Each fee is deposited” is changed to “Each fee shall be deposited”, to align with statutory language in Government Code section 8670.40(c).

Subsection (b)(1) – illustration corrections – the word “Fee” is changed to lower case ‘f’. The word “not” was left out of the 15-day comment text. It is being added back in, to be illustrated as a strike out. The word “products” was erroneously stricken out during the first 15-day comment period. It is being added back in, followed by “rounded to no more than four decimal places,” to align with statute. The word “when” is being stricken out as unnecessary. Changing “must” back to “shall” for consistency in aligning with existing regulatory text.

Subsection (b)(2) – deleting the words “currently hereby” as unnecessary. The text “rounded to no more than four decimal places” is also deleted as unnecessary and duplicative of that which is stated in subsection (b)(1)..

Subsection (b)(3)(A) – deleted “section 2231 et seq.” and adding “chapter 4.5 of division 2” of “...the California Code of Regulations (commencing with section 2231).” to add more specificity to the referenced authority.

Subsection (b)(3)(B) – illustration correction – this entire subdivision should have been illustrated with double underline during the first 15-day comment period to reflect a new addition. It is being illustrated here as such, in double underline and italics.

Subsection (b)(4) – the word “will” is being changed to “shall”, for consistent expression of mandatory provisions; this wording aligns with existing regulatory text. The words “receipt at” is being changed to “delivery to” to align with statutory language. The last sentence – “This paragraph is based on uncodified language in Section 5 of Assembly Bill 815 (2015)” – is being deleted as unnecessary. Instead it is included as a note in the Authority and Reference at the end of the section.

Subsection (b)(5) – added as a new subdivision.

Subsection (c)(1) – changing “must” back to “shall” for consistency in aligning with existing regulatory text. Capitalizing “Administrator” for consistency with existing regulatory text.

Subsection (c)(2) – deleting the words “currently hereby” as unnecessary.

Subsection (c)(2)(A), (B) and (D) – punctuation changes – at the end of the sentence, the comma after “vessel” at the end of each subsection is deleted, and adding a period. The word “or” and the semicolon at the end of each subsection is deleted, as superfluous.

Subsection (c)(2)(A), (B), (C), (D), and (E) – deleting acronym “USD” as unnecessary and to be consistent with formatting of other OSPR regulations.

In (D) the words “the state of” is added before California to align with the same addition in (E) noticed during the first 15-day comment period.

Subsection (c)(4)(d) – deleting this subdivision as unnecessary.

Authority and Reference – illustration correction – all should have been illustrated with double underline during the first 15-day comment period. Subsection (c) is removed from the citation to section 8670.37.58 as unnecessary and to avoid confusion in the event of future changes to the statute. Also, citation to uncodified language from Assembly Bill 815 (Chapter 108, Statutes of 2015) is provided as the basis for the Legislature’s intent for subsection (b)(4) of this section. This citation is included to align with existing Code of Regulations formatting for uncodified language.

### **New Studies, Reports, or Documents Relied Upon being added to the rulemaking file**

Pursuant to Government Code sections 11346.2 and 11347.1, the following new documents are added to the rulemaking file as documents relied upon:

- Addendum to the Initial Statement of Reasons
- Budget Change Proposal, Fiscal Year 2012/2013, Department of Fish & Wildlife, BCP No. 10, October 2011 (Section E).
- Budget Change Proposal, Fiscal Year 2014/2015, Department of Fish & Wildlife, BCP No. 12, January 2014 (Section A).

OSPR invites interested persons to present statements or arguments with respect to alternatives to the proposed changes or addition of documents relied upon during the written comment period.

### **PUBLIC COMMENT PERIOD**

Any interested person or his or her authorized representative may submit to OSPR written comments relevant to these revisions. Only those comments relating directly to the amendments, which are indicated by double underline and *italics* and **framed** for newly added text, and ~~double-strikeout~~ and ~~italics~~ and **framed** for newly deleted text will be considered. **The written comment period closes 5:00 p.m. on June 29, 2017.** All written comments must be postmarked or 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](mailto:OSPRRegulations@wildlife.ca.gov)

All written comments which pertain to the above-listed modifications and/or documents, will be reviewed and responded to by OSPR's staff as part of the compilation of the rulemaking file.

#### AVAILABILITY OF DOCUMENTS / OSPR CONTACT PERSON(S)

The proposed modifications to the text of the regulations, updated Initial Statement of Reasons, and added documents to the rulemaking file may be accessed on OSPR's website at the following link: <https://www.wildlife.ca.gov/OSPR/Legal/Proposed-Regulations> or are available for public inspection from 8:30 a.m. to 5:00 p.m. at the address below. If you have any specific questions regarding the proposed modifications, please direct them to one of the following contact persons:

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](mailto: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](mailto:Ryan.Todd@wildlife.ca.gov)