

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
OFFICE OF SPILL PREVENTION & RESPONSE**

SECOND AMENDED INITIAL STATEMENT OF REASONS

for
Adding Section 820.02
to
Title 14, California Code of Regulations
Regarding Oil Spill Equipment Deployment Drills & Tabletop Exercises

Date of Initial Statement of Reasons: December 19, 2017

Date of Amended Statement of Reasons: May 22, 2018

Date of Second Amended Statement of Reasons: October 11, 2018

Dates and Locations of Hearings:

Public Hearing: Date: February 13, 2018
 Time: 9:00 a.m. – 12:00 p.m.
 Location: Natural Resources Building
 1416 Ninth Street, Sacramento, CA 95814

Public Hearing: Date: February 22, 2018
 Time: 1:30 p.m. – 4:30 p.m.
 Location: Associated Builders & Contractors
 19466 Flight Path Way, Bakersfield, CA 93308

I. Addendum

This Second Amended ISOR adds statements of necessity, other clarifying statements, and minor editorial changes. Pursuant to subsection (b) of section 11347,1 of the Government Code, and subsections (a)(1) through (4) of Section 44 of Title 1 of the California Code of Regulations, the Office of Spill Prevention and Response (OSPR) will provide public notice of the modified regulatory text, and the Second Amended ISOR for a minimum of 15 days prior to considering the proposed regulations for adoption.

II. Purpose, Rationale, and Necessity for the Amendment, Addition, or Repeal of the Regulations

The proposed regulations implement, interpret, and add specificity to the drills and exercises provisions of the Act as it relates to inland facilities that pose a threat of an oil spill to inland waters.

Federally, the National Preparedness for Response Exercise Program (PREP) is the basis for all oil spill drills and exercises. PREP was developed in the early 1990's to

establish a workable exercise program that meets the intent of the Oil Pollution Act of 1990 (OPA 90). (Title 33 United States Code §1321 (j)(6)(7)). PREP provides a mechanism for compliance with the federal exercise requirements. PREP is a unified federal effort and satisfies the exercise requirements of the U.S. Coast Guard (USCG), EPA, Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Bureau of Safety and Environmental Enforcement (BSEE). PREP is the standard and structure used by industry across the country.

OSPR's marine equipment deployment drills and tabletop exercises have been based upon and are consistent with PREP. (See section 820.01, Title 14, Code of Regulations) The PREP structure helps to clarify exercise objectives and provides a methodology for evaluating compliance with exercise regulations. PREP does not mandate a given exercise design process. Plan holders are free to design exercises that meet the PREP objectives as well as their own internal ones. The PREP Guidelines describe the minimum expectations for ensuring adequate response preparedness.

OSPR has over 20 years of experience with marine equipment deployment drills and tabletop exercises. The marine regulations have been refined over the years and continue to prove effective. The marine drills and exercises regulations are well understood by industry, Federal counterpart agencies, and local agencies. The proposed inland facility drills and exercise regulations are closely modeled after the existing requirements for marine facilities. Thus, these inland regulations will seem familiar to operators that also have marine operations. However, where necessary to reflect differences between the marine and inland environments, there are differences that distinguish inland facility drills and exercise standards from marine standards.

The discussion below sets forth the rationale for each regulatory provision being added.

Subsection (a):

In subsection (a)(1), a non-substantive revision is made to correct reference to "subchapter" to "chapter".

In subsection (a)(3), revisions are made to eliminate language that may be considered unclear or overly broad, and to provide criteria upon which a change from one tier to another occurs.

Subsection (b):

In subsections (b)(1)(B), (b)(2)(B) and (b)(3)(B), non-substantive edits are made to correct the specific subsection reference of section 817.04.

Subsection (d):

Subsection (d)(3) is deleted. This language was a carry-over from the marine regulations. Since OSPR's mandate has expanded further to inland regions, there are

more plan holders that are required to be exercised. To better manage drill scheduling so that OSPR can have the maximum amount of staff attend the most drills, OSPR is removing this limiting provision.

In subsection (d)(6), revisions are made to eliminate language that may be considered unclear or overly broad, and to provide criteria upon which drills and exercises can be rescheduled.

In subsection (d)(7), “can” is changed to “may” for consistent expression of permissive provisions; an additional grammatical edit is made.

Subsection (g):

A non-substantive edit is made to the subheading for consistent use of terminology.

Subsection (j):

Subsection (j)(5) is deleted. Other than for reasons already described in subsection (j), additional drill or exercise substitutions will not be granted.

Subsection (k):

In subsections (k)(1)(B) and (k)(2)(A) non-substantive grammatical edits are made for consistency with similar expression elsewhere in OSPR’s regulations.

In subsection (k)(2)(D) a non-substantive edit is made to correct the reference to another subsection within section 817.04.

Authority & Reference

A minor grammatical revision is made in the Reference citations eliminating a comma for uniformity with these and other OSPR regulations.

III. *Specific Technology or Equipment Required by Regulatory Adoption* [Gov. C. §11346.2(b)(1)]

None.

IV. *Duplication or Conflict with Federal Regulations* [Gov. C. §11346.2(b)(6)]

The proposed regulation changes for this second 15-day comment period do not duplicate or conflict with federal regulations.

V. *Mitigation Measures Required by Regulatory Action*

The proposed regulatory changes for this second 15-day comment period will not have negative impact on the environment; therefore no mitigation measures are needed.

END