

(OSROs). The proposed regulations implement, interpret, and make specific Government Code section 8670.30 as relevant to inland facilities that could impact inland waters who may need to hire an OSRO. The proposed amendments to existing regulations are necessary to provide specificity not found in the Act, and to distinguish inland planning standards from marine standards. However, it is anticipated that in a year or two the marine planning regulations and the inland planning regulations will be consolidated for increased consistency.

OSPR is initiating this regular rulemaking action to formally adopt the OSRO rating amendments. This version of sections 819 through 819.07 is different from the emergency rulemaking version that was done in 2015. OSPR has gained valuable feedback from industry and staff experience from implementing these new mandates.

The sections below set forth a discussion of the specific purpose for the amendments to sections 819 through 819.07 and why each amendment is reasonably necessary to carry out the purpose and address the problem for which it is proposed. (Refer to the text of the proposed regulations)

Section 819. Purpose & Scope

Subsection (b)

Subsection (b) “can” is changed to “may” for consistent expression of permissive provisions.

Authority & Reference

Section 8670.56.6 of the Government Code is removed from both the Authority and Reference as not applicable to section 819. Additionally, minor grammatical revisions are made eliminating commas for uniformity with these and other OSPR regulations.

Section 819.01. Oil Spill Response Organization (OSRO) Ratings.

Subsection (b)

A non-substantive grammatical edit is made to delete the duplicity of “or” for better readability.

Subsection (b)(1) was revised during the first 15-day comment period to allow the provision for facility owners and operators to reference the National Hydrography Dataset (NHD) in determining the applicability of OSPR’s oil spill planning requirements to a facility. In this 15-day comment period, three revisions are made. The first is to eliminate the incorporation by reference. Since this on-line source is owned and managed by the U.S. Geological Survey, is live and constantly updated, OSPR is instead relying on the status conferred by the U.S. Geological Survey to the designation

of waterways. The second revision in (b)(1) adds specific language concerning the data layer within the NHD that provides the designations recognized by the U.S. Geological Survey. This change is made to be consistent with the simultaneous companion rulemakings. The third revision is to include “service” within terrestrial ratings to maintain consistent terminology.

At subsections (c) and (d), typographical edits are made for consistent use of terminology.

Authority & Reference

Section 8670.56.6 of the Government Code is removed from both the Authority and Reference as not applicable to section 819.01. Additionally, minor grammatical revisions are made eliminating commas for uniformity with these and other OSPR regulations.

Section 819.02. Oil Spill Response Organization Rating Application Content.

Subsection (a)

In subsection (a), revision is made to make more clear that all the requirements of a rating application are relevant, though they may not be applicable, at least at the time of submitting an application. Additionally, “subsection” is corrected to “section”; “post” is deleted as an inconsistent reference to mail within these and other OSPR regulations; and “electronic” is changed to “e-mail” to be consistent with these and other OSPR regulations.

Subsection (b)

In subsection (b), revision is made to make more clear that all the requirements of a rating application are relevant, though they may not be applicable, at least at the time of submitting an application.

Subsection (c)

In subsection (c), revisions are made to make more clear that all the requirements of a rating application are relevant, though they may not be applicable, at least at the time of submitting an application.

In subsection (c)(4)(E), correction is made to ensure the entire subsection is stricken out, as was the intent during the first 15-day comment period.

In subsection (c)(5)(C), “their” and “amount(s)” are deleted as unnecessary/superfluous.

In subsection (c)(6), the Shoreline Protection Tables are being incorporated by reference, which is appropriate, so reference to same is added; and, a revision is made for consistent use of terminology.

In subsection (c)(10)(A), an edit is made for consistent use of terminology.

In subsection (c)(10)(C)1., the citation to Cal-OSHA is corrected.

Subsection (d)

For subsection (d)(2), additional clarification is provided. A revision was made during the 45-day comment period changing the requirement of the OSRO to provide an actual contract of contracted resources to instead provide only evidence of the contract. The actual contract is not required. The new revisions for this 15-day comment period is to eliminate the associated requirement of providing one contract for all similar contracts. Since actual contracts are no longer required by way of the revisions during the first 15-day comment period, this provision is no longer relevant.

Subsection (e)

In subsection (e)(1)(A) and (C), edits are made for consistent use of terminology.

In subsections (e)(2) and (e)(3), revisions are made for consistent use of terminology. Additionally, at (e)(2), “can” is changed to “may” for consistent expression of permissive provisions; and, reference to “other conditions” is deleted as unclear or overly broad.

Subsection (e)(4) is revised for more useful formatting and numbering.

At renumbered subsection (e)(4)(B), grammatical revisions are made for consistent use of terminology.

Subsection (g)

At subsection (g)(1), a minor grammatical revision is made to delete an extra comma.

In subsection (g)(2) “removed” is changed to “redacted”, as the proper term and for consistency with edits made at (g)(3)(B) during the 45-day comment period.

Section 819.03. Application Review, Verification and Drills.

Subsection (a)

In subsection (a)(3), the placement of “applicant” is moved for consistency, as seen elsewhere in this subchapter.

In subsection (a)(4), a revision is made for consistent use of terminology.

In subsection (a)(5), “rating letter” is changed to “approval letter” to be consistent with revisions made throughout to change “rating letter” to just “rating”. In this instance, we are referring to the actual document an OSRO would receive from OSPR. Additional revisions are made for improved readability and clarity.

Subsection (b)

Subsection (b) has a revision consistent with similar revisions made during the first 15-day comment period, changing “ratings letters” to “ratings”. This is about the rating itself, not the document they would receive from OSPR indicating the rating issued.

Subsection (c)

In subsection (c)(1)(B), “may” is changed to “shall” for consistent expression of mandatory provisions. Additional revisions are made to be consistent with current practices for an OSRO seeking a terrestrial service rating. One *announced* inspection is performed at the time the application is received; annual inspections are not required.

In subsection (c)(2), “authority” is deleted. The statute grants OSPR the authority to inspect and verify response resources of an OSRO. The OSRO gives consent to OSPR, by voluntarily submitting an application to become an OSRO rated by OSPR.

Subsection (d)

In subsection (d), a revision is made for consistent use of terminology.

In subsection (d)(1)(A), a revision is made for consistency and to eliminate duplicity.

In subsection (d)(2)(D) a revision is made to include “modification” as a potential consequence for failure to participate in a drill. This is consistent with OSPR’s practice (see section 819.06). If an OSRO fails to participate in a drill, it is essentially not in compliance with the conditions of the rating.

Section 819.04. Oil Spill Response Organization Rating Standards, Updates, and Renewals.

Subsection (a)

In subsection (a)(1)(C), two revisions are made to include “service” within terrestrial rating for consistent use of terminology.

In subsection (a)(2)(A), the sites identified by plan holders is deleted. OSPR does not have time frames for these as yet.

Subsection (a)(2)(B) has capitalization revisions for consistency. Reference to the Shoreline Protection Tables is added for consistency. And, “as defined in section 790” is deleted as unnecessarily duplicative; reference to the same definition is already identified earlier, in subsection (a)(1)(A) of the same section.

In subsection (a)(2)(C)2., a minor punctuation addition is made in the second sentence.

In subsection (a)(2)(C)3., “can” is changed to “may” for consistent expression of permissive provisions. Grammatical revisions are made for improved clarity. This is also revised to indicate who is providing the notice – the plan holder.

In subsection (a)(2)(D), the acronym “SSSEP” is deleted. The acronym is not needed.

In subsections (a)(2)(D)2. and 4., “exercised” is changed to “drilled” to be consistent with the terminology throughout the chapter. In the regulations, drills refer to equipment deployment situations, and exercises do not involve equipment deployment.

Subsection (c)

In subsection (c)(1), “per the” is changed to “as indicated in” for clarity; and “rating” is changed to “approval” to be consistent with revisions made throughout changing “rating letter” to just “rating”. In this instance, however, we are referring to the actual document an OSRO would receive from OSPR indicating the requested rating is approved.

In subsection (c)(2), “increase or decrease” is revised to “change” for consistency with similar revisions elsewhere to significant change(s). Reference is provided to the section that addresses significant changes in response resources, consistent with its usage elsewhere.

In subsection (c)(3)(G), “reductions” is revised to “change” for consistency with similar revisions elsewhere to significant change(s); and a minor grammatical revision is made.

Section 819.05. Notice of Change in Response Resources.

Subsection (a)

“Post” is deleted as an inconsistent reference to mail within these and other OSPR regulations; “reduction” is revised to “change” for consistency with similar revisions elsewhere .

Section 819.06. Rating Modification, Suspension, or Revocation.

Subsection (b)

In subsections (b)(1) and (b)(2), revisions are made to eliminate language that may be considered unclear or overly broad.

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 regulations do not duplicate or conflict with federal regulations.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will not have negative impact on the environment; therefore, no mitigation measures are needed.

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