

CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH AND GAME
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE
CHAPTER 3. OIL SPILL PREVENTION AND RESPONSE PLANNING
SUBCHAPTER 3.5. OIL SPILL RESPONSE ORGANIZATION RATINGS

§ 819. Purpose and Scope.

(a) The oil spill response organization rating process was developed to evaluate the capability of persons providing oil spill cleanup services and to facilitate the preparation and review of oil spill contingency plans.

(b) A vessel or facility owner or operator who is required to submit an oil spill contingency plan pursuant to this chapter must, among other things, identify and ensure by contract or other approved means the availability of personnel and equipment necessary to respond to all contingency plan requirements. Plan holders may rely on a rated oil spill response organization to comply with contingency plan requirements. Plan holders that have a contract or other approved means for spill containment, recovery, storage, or shoreline protection services of a rated oil spill response organization do not have to list that oil spill response organization's response resources in their plan.

Note: Authority cited: Sections 8670.7, 8670.7.5, 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

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

(a) An oil spill response organization may voluntarily apply to the Administrator for any or all of the following ratings: terrestrial service rating, on-water service rating for marine water, on-water service rating for inland water, or a shoreline protection service rating.

(b) The Administrator will only grant ratings for applicable planning time frames within each area contingency plan or response planning area, as applicable. Ratings are issued based on the capability to provide the services of containment, recovery, oil storage, or sensitive site protection in the following environments:

(1) Inland waters designated as intermittent or ephemeral in the National Hydrography Dataset and the statewide quarter mile buffer data layer (as depicted in the Southwest Environmental Response Management Application, on the National Oceanic and Atmospheric Administration's website). This is applicable to terrestrial service ratings.

(2) Inland waters designated as perennial in the National Hydrography Dataset. This is applicable to inland on-water ratings.

(3) Marine waters.

(4) Shoreline protection of environmentally sensitive sites, as described subsection 819.02(e)(4).

(c) An oil spill response organization with a current on-water rating (marine or inland) may request a terrestrial service rating, and vice versa, upon meeting the applicable rating requirements. The Administrator will treat such a rating as a modification to the rating and the expiration date of the current rating will remain in effect.

(d) An unrated oil spill response organization must submit a complete application at least 90 calendar days prior to a plan holder citing the oil spill response organization's response services to comply with the plan holder's contingency planning requirements.

(e) Only oil spill response organizations that receive a rating from the Administrator are eligible to enter into pre-spill agreements to provide response services to the Administrator for spills where the responsible party cannot be identified or is unable or unwilling to provide timely response and cleanup, pursuant to Government Code section 8670.56.6(j)(1).

(f) An oil spill response organization's rating shall remain in effect for three years from the date of issuance unless revoked.

(g) The ratings assigned pursuant to this subchapter are for planning purposes and may not reflect the exigencies of actual spill response.

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.28 and 8670.30, Government Code.

§ 819.02. Oil Spill Response Organization Rating Application Content.

(a) An individual or entity may apply for consideration as a rated oil spill response organization to provide oil spill response services and capabilities to plan holders. A written application meeting all of the applicable requirements of this section shall be delivered in person, by mail, or by e-mail to the following:

Department of Fish and Wildlife
Office of Spill Prevention and Response (OSPR)
Attn: Preparedness Branch
1700 K Street, Suite 250
Sacramento, CA 95811
E-mail: osro@wildlife.ca.gov

(b) All applicable information in this subsection and subsections (c), (d), (e) and (f) is required before an application will be considered complete to be reviewed by the Administrator:

(1) The oil spill response organization's name, contact person, mailing and physical address, e-mail address, facsimile and telephone numbers;

(2) All subcontractor company names (if applicable), contact person, mailing and physical addresses, e-mail address, facsimile, and telephone numbers;

(3) List of plan holders contracted with;

(4) For the previous two years from the date of the application, documentation of California oil spills responded to or California equipment deployment drills participated in, including personnel and equipment used;

(5) An organizational diagram depicting the oil spill response organization's response organization and management or command structure;

(6) A description of the roles, responsibilities and method to integrate the oil spill response organization with an incident command system or a unified command as required by Title 8, California Code of Regulations, section 5192(q)(3)(A);

(7) For each type of service, identify the types of oil to which the oil spill response organization is willing and able to respond; and

(8) A description of the oil spill response organization's communications equipment, to include:

(A) The amount and type of equipment;

(B) The frequencies to be used; and

(C) The number of certified operators.

(c) Response Resources - Equipment and Personnel

The application shall include the applicable information for each area contingency plan or response planning area. The application shall indicate whether the response resources are OSRO-owned and controlled (as defined in section 790) or subcontracted (including subcontractor's name). The application shall also indicate whether the response resources are dedicated or non-dedicated (as defined in section 790 and described in 819.04(a)). The application shall include the following information for on-water and terrestrial response resources, as applicable, including the stored location for each item, but not limited to:

(1) A description of the boom to include:

(A) Total lengths of boom by type;

(B) Manufacturer name and model;

(C) Freeboard and draft;

(D) Connector type;

(E) Intended operating environments; and

(F) Associated anchoring systems.

(2) A description of the skimmers or skimming system, to include:

(A) Total number of skimmers by type;

(B) Skimmer manufacturer name and model;

(C) Intended skimmer operating environments, including water current;

- (D) Skimmer type by design (i.e., stationary, advancing, self-propelled, stationary/advancing);
- (E) Compatibility of the skimmer, pump, power source, and hoses;
- (F) Skimmer manufacturer's nameplate capacity;
- (G) Effective Daily Recovery Capacity (EDRC);
- (H) Storage capacity of the skimming system (e.g., dracones, tank barges, portable liquid storage tanks, etc.), and pump rate for off-loading on-board storage;
- (I) For each vessel with built-in or on-board skimming capability, provide the details outlined above in (A) thru (H), as applicable; and
- (J) For each vacuum truck, provide the details outlined above in (A) thru (H), as applicable, as well as the license number of the truck.

(3) A description of all vessels used for response efforts, to include:

- (A) Vessel name, registration number, and International Maritime Organization (IMO) number, as applicable;
- (B) Vessel length, width, and draft;
- (C) Vessel type by design;
- (D) Intended response use or purpose for the vessel, and the operating environments;
- (E) Towing capability and capacity;
- (F) Horsepower;
- (G) Amount of boom on board;
- (H) Amount of on-board storage for recovered liquids;
- (I) Pump rate for off-loading on-board storage; and
- (J) Applicable design limits, including suitability for different types of oils, operating environments as related to adverse weather, and draft.

(4) A description of any barge and its on-board portable or fixed tanks, to store recovered oil and liquids, to include:

- (A) Vessel name;
- (B) Official number;
- (C) Length/beam/draft; and
- (D) Maximum capacity.

(5) For terrestrial containment and recovery, a description of all equipment including, but not limited to:

- (A) Backhoes;
- (B) Bulldozers;
- (C) Vacuum trucks, including size and storage capacity;
- (D) Portable or fixed storage tanks, including maximum capacity;
- (E) Hydraulic cranes, including manufacturer name, size and type; and
- (F) Pumps, including size, type and pump rate.

(6) For shoreline protection, a description of the boom, anchoring systems, vessels, skimmers, special equipment, trained personnel, and other response resources identified for each site or strategy in the "Protect by Hour" time frames in the Shoreline Protection Tables (as defined in section 790, and posted on the Office of Spill Prevention and Response website).

(7) Equipment inspections and maintenance must be documented and the records maintained for three years. The location of the records must be noted in the application, and all records must be available for review during verification inspections conducted by the Office of Spill Prevention and Response.

(8) For any equipment not located within the area contingency plan or response planning area for which a rating is sought, the applicant shall provide attestation that the equipment is transportable and available for use within the rating time period.

(9) Equipment shall be listed only if it is in fully operable condition. Future equipment, ordered but not yet delivered and fully operable, may be listed, but it must be listed and identified separately with its date of availability indicated.

(10) Personnel

For all personnel identified as a response resource, the application shall include the following for each area contingency plan or response planning area in which a rating is requested:

(A) The number of personnel that are to be utilized for response efforts within the first six hours of a spill, their assignments during spill response, whether they are dedicated or non-dedicated response resources, and whether they are OSRO-owned and controlled or are subcontracted personnel. A list matching trained personnel by name to the equipment type and the response services offered shall be made available for review during verification inspections by the Office of Spill Prevention and Response;

(B) The plan for mobilization of personnel including cascading additional personnel, and estimated time of mobilization;

(C) A list of the training and qualifications required for each spill response assignment including:

1. All appropriate state and federal safety and training requirements, including the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal-OSHA) requirements for Hazardous Operations and Emergency Response, and the requirements under Title 8, California Code of Regulations, section 5192;

2. The number of trained supervisors and laborers, and the types of training received;

3. The procedures for training personnel;

4. The timelines for mobilizing and training additional response personnel not under contract; and

5. A statement by the oil spill response organization certifying that all personnel within a job category or for specific equipment use have the requisite training and qualifications for their assignment during spill response.

(D) Documentation of training and qualifications shall be maintained by the oil spill response organization and shall be made available to the Administrator upon request.

(d) Subcontracted Response Resources

If response resources that form the basis for a rating are under contract from another party, and if the information required in this subsection is not listed elsewhere, the following information is required in the application:

(1) On-scene deployment time frames by area contingency plan or response planning area, as applicable, and operating environments.

(2) Evidence of a valid contract from each company that is providing the contracted resources. The evidence shall include, but not be limited to, the following:

(A) The name of the company providing the resources (subcontractor);

(B) A complete listing and storage location of the specific resources being provided;

(C) The time frame for which the agreement is valid;

(D) Any limits on the availability of resources; and

(E) A signed letter from the subcontractor by an authorized individual, to the oil spill response organization stating the following:

“The information provided regarding [subcontractor] response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow Office of Spill Prevention and Response personnel access to my facility and records for the purpose of verifying the information contained in the rating application in which my assets are listed. I agree to participate in announced and unannounced drills as set forth in section 819.03 of Title 14 of the California Code of Regulations, to verify any or all of the information regarding the response resources contained in my rating application.”

(3) Any drill or inspection of subcontracted response resources shall be coordinated with the oil spill response organization whose application contains the subcontracted response resources.

(4) If any on-water subcontracted response resources are relied upon for the first six hours, then those subcontracted response resources must be dedicated response resources, and indicated as subcontracted dedicated response resources in the application pursuant to subsection (c).

(e) Service-Specific Information

The application for a rating must include the following:

(1) A list of the area contingency plans or response planning areas within which response services are being offered. Include for each area:

(A) The response services being offered (i.e., containment, on-water or terrestrial recovery, storage, and shoreline protection);

(B) Estimated time frames to deploy response resources on-scene for each service;

(C) The operating environments for the response services, as applicable, minimum operating depth, and currents or flow for vessels, skimmers, and containment boom; and

(D) The requested rating, as described in subsection 819.04(a).

(2) For each rating (as described in section 819.04) and for each response service offered, a written plan of operations or a narrative describing the call-out of the response resources within each area contingency plan or response planning area of response coverage. The plan of operations or narrative may be limited to the time frames described in section 819.04(a)(1). The description shall account for seasonal environmental conditions that may be reasonably anticipated that would hinder response efforts.

In addition, the application may include a written general plan to acquire response resources beyond these time frames.

(3) A description of the systems approach (as defined in section 790) for the response services offered in a narrative format for the equipment listed in subsection (b) of this section. The narrative shall include, but not be limited to:

(A) For all boom or containment:

1. A description of how containment equipment, including boom, is transported and the method of deployment.

(B) For all skimmers (including vacuum trucks and vessel of opportunity skimming systems):

1. A description of how the skimmer is deployed and operated.
2. A description of how the skimmer is transported.

(C) For all vessels (oil spill response organization owned vessels, and subcontracted vessels):

1. A description of how the vessel is transported.
2. A description of the type of spill response service the vessel is primarily to be used for (e.g., skimming, towing boom, boom deployment).

(D) For all recovered oil and liquid storage:

1. A description of how recovered oil is transported to and from storage.

(E) For heavy equipment:

1. A description of how the equipment is transported and deployed, if applicable.

(4) For shoreline protection services, the following information shall be submitted with the application:

(A) Sensitive site name and its strategy or site number, or plan holder identified site;

(B) The “Protect by Hour” time frames in the Shoreline Protection Tables, for the site for which the rating is sought (expected time of impact);

(C) Expected time of arrival and deployment of response resources; and

(D) The minimum amount of boom, anchoring systems, vessels, skimmers, special equipment, trained personnel, and other resources identified for each site or strategy in the “Protect by Hour” time frames in the Shoreline Protection Tables. Dedicated equipment must be identified.

(E) A description of how the shoreline protection response resources are transported and deployed.

(f) Attestation

The application shall contain the following language, signed and dated by an authorized representative of the oil spill response organization:

“The information provided regarding response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow Office of Spill Prevention and Response personnel access to my facility and equipment, prior and subsequent to receiving a rating, for the purpose of verifying the information contained in this application. I understand that all response resources identified for rating purposes are subject to verification visits. I agree to participate in announced and unannounced drills as set forth in section 819.03 of Title 14 of the California Code of Regulations, to verify any or all of the information contained in this application, prior and subsequent to receiving a rating.”

(g) Confidentiality

(1) An oil spill response organization rating applicant may designate proprietary information in the application to be kept confidential. Additionally, an oil spill response organization rating applicant may designate any reports or studies prepared or submitted pursuant to any oil spill response organization rating requirements as proprietary information.

(2) Each instance of information designated as confidential must be clearly identified as proprietary, and cite the specific legal authority for each designation. Generic assertions or nonspecific designations will not be accepted or recognized. The Administrator will make a determination regarding which information may be considered confidential and redacted from any copy of the application that is made available for public review.

(3) If an oil spill response organization rating applicant designates information as confidential, two different copies of the application must be submitted as follows:

(A) One copy must contain the confidential information. This application will be utilized in the review and rating process; and

(B) One copy must be submitted with the confidential information redacted. This copy will be available for public review. This application must contain sufficient information in place of the redacted information so that any individual reviewing the application will understand all the elements of the application.

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.10, 8670.19, 8670.28 and 8670.30, Government Code.

§ 819.03. Application Review, Verification and Drills.

(a) Review of Rating Application

(1) A complete application for a rating will be reviewed within 90 calendar days of receipt.

(2) The Administrator shall rate an oil spill response organization upon determination that the applicant has met the requirements for the appropriate rating criteria, as outlined in this subchapter, for the equipment, services, and operating environments listed in the application.

(3) The Administrator shall not issue a rating until the oil spill response organization applicant successfully completes an unannounced equipment deployment drill to verify the information in the oil spill response organization's application, pursuant to subsection (d)(2) below.

(4) A requested rating may be denied or an existing rating may be modified if the Administrator determines that the oil spill response organization applicant fails to meet the rating criteria of any response services, based upon inspection, verification or performance at an announced or unannounced drill or actual spill, or for other reasons as determined by the Administrator. The Administrator may require the satisfactory completion of an unannounced drill of a rated oil spill response organization prior to being granted a modified rating, or prior to reinstatement of a revoked or suspended rating.

(5) Upon meeting the requirements of this subchapter, an oil spill response organization will receive an approval letter from the Administrator that will state the type of response services for which the rating is valid, the area contingency plan or response planning area where the rating(s) apply, rating time frames, on-water or terrestrial daily containment and recovery rates, storage capacity, shoreline protection, as applicable, and any conditions or restrictions.

(6) A rating cannot be assigned, transferred, or assumed.

(b) Standards For Review

Oil spill response organization ratings will be issued to the oil spill response organization subject to the following conditions:

(1) Equipment, equipment maintenance and inspection records, registration records (e.g. vehicles and vessels), personnel training records, and personnel-specific equipment qualifications must be available for inspection and verification by the Administrator. Any resources not on site at the time of an inspection will not be counted until verified by subsequent inspection.

(2) Response personnel must comply with all appropriate state and federal safety and training requirements. Safety requirements include, but are not limited to, the following (found in Title 8, California Code of Regulations):

Trenching and Shoring (sections 1504, 1539-1547)
Electrical Safety (sections 2299-2974)
Injury and Illness Prevention Program (section 3203)
Employee Exposure Records (section 3204)
Transporting Employees (section 3702)
Crane Safety (sections 4885-5049)
Noise/Hearing Conservation (sections 5095-5100)
Ergonomics (section 5110)
Respiratory Protection (sections 5141 and 5144)
Airborne Contaminants/Employee Exposure Monitoring (section 5155)
Confined Space (sections 5157-5159)
Hazardous Waste Operation and Emergency Response (section 5192)
Hazard Communication (section 5194)
Benzene Standard (section 5218)

(3) Safety records may be inspected for verification.

(c) Inspections and Verification of Response Resources

(1)(A) An oil spill response organization that has applied for a rating is subject to unannounced inspections any time prior and subsequent to receiving a rating to verify the response resources and services cited in the application.

(B) An oil spill response organization that has applied for a terrestrial service rating shall be subject to an initial announced equipment verification inspection, in each response planning area, unless the Administrator determines that facts or circumstances compel additional inspections to verify rated capabilities.

(C) Any contract or subcontract for response resources listed in the application must acknowledge the Office of Spill Prevention and Response personnel's right to inspect and verify listed contracted response resources or those response resources will not be counted. Inspection of subcontracted response resources shall be coordinated with the oil spill response organization whose application contains the subcontracted response resources.

(2) The submittal of a rating application and the acceptance of a rating grants the Administrator or any duly authorized representative of the Office of Spill Prevention and Response the consent to do any of the following:

(A) Enter the oil spill response organization's or subcontractor's facility or other areas where response service equipment is stored or serviced, to inspect the response resources cited in the application;

(B) Document, photograph or videotape any response resources;

(C) Request start up, operation, or demonstration of any response resources or response system cited in the application;

(D) Inspect and copy any documents, reports, equipment maintenance records, employee training records, or other information required to verify the response resources cited in the application.

(3) Deficiencies noted during an inspection may result in denial of the application, or revocation or modification of the oil spill response organization's rating.

(4) The Administrator may accept an inspection completed by a governmental agency if all requirements of this subchapter are met.

(d) Announced and Unannounced Equipment

Deployment Drills. Announced and unannounced equipment deployment drills shall be conducted to verify any or all of the elements of the response services provided by an oil spill response organization in its application prior to and subsequent to issuing a rating. The Administrator may determine if actual spill response may be substituted in lieu of a drill, as described in section 820.01(k).

(1) Announced Equipment Deployment Drills

All oil spill response organizations shall submit annual drill schedules to the Office of Spill Prevention and Response and conduct equipment deployment drills for response resources listed in the application, including subcontracted equipment, for any services for which they are rated. The exact dates of the drills shall be submitted 30 calendar days prior to the drill being conducted.

(A) At least fifty percent of all response equipment other than boom shall be drilled each year. All response equipment, including boom, shall be drilled over a two-year period. The oil spill response organization will ensure that this equipment is identified and the same equipment is not used repeatedly for each drill.

(B) For equipment deployment drills for an on-water rating, the oil spill response organization shall operate boats, boom and skimmers in each type of operating environment contained in the application.

(C) Documentation that these drills have been performed shall be submitted to the Office of Spill Prevention and Response within 30 calendar days after completion of the drill. The equipment deployment drills pursuant to this subsection will also satisfy the equipment deployment drill requirement of section 818.02(l)(3) for any vessel, section 817.02(k)(3), or section 817.04(u) for any facility that utilizes the oil spill response organization's resources to fulfill the response element of the vessel or facility's own plan. These drills will not fulfill the semi-annual equipment deployment drill requirement of facility-owned equipment pursuant to section 817.02(k)(1)(B) or section 817.04(u).

(D) The oil spill response organization shall ensure it coordinates equipment deployment drills with its subcontractor. Full systems must be deployed and operating for all booming, on-water recovery and storage, and shoreline protection services.

(2) Unannounced Equipment Deployment Drills

Oil spill response organizations are subject to unannounced equipment deployment drills by the Office of Spill Prevention and Response to verify the ability of the oil spill response organization to respond and deploy equipment and personnel as stated in the oil spill response organization's application, prior to and subsequent to receiving a rating. Unannounced equipment deployment drills will only be held to verify ratings of the first 24 hours of capability. Unannounced terrestrial service rating drills shall only include equipment and personnel inspections.

(A) An oil spill response organization shall be subject to one unannounced drill per year in each area contingency plan or response planning area in which a rating has been applied for or issued by the Administrator.

1. The Administrator may call an unannounced drill to test containment, recovery, and storage rating services that the oil spill response organization intends to provide, pursuant to the oil spill response organization's application.

2. Each oil spill response organization applying for a rating to provide shoreline protection services shall be subject to one unannounced drill that tests its ability to provide shoreline protection services in each area contingency plan or geographic response plan in which it applies to provide shoreline protection services.

(B) For a requested terrestrial service rating within a single response planning area, an unannounced drill will not require equipment or personnel to be mobilized. However, if an oil spill response organization applies for a terrestrial service rating within more than one response planning area, then the Administrator may conduct one or more unannounced drills requiring mobilization of response resources.

(C) Significant changes in resources, as described in section 819.05, may warrant additional unannounced drills.

(D) Failure to participate in an unannounced drill may result in modification, denial or revocation of the oil spill response organization's rating as described in section 819.06.

(E) The Administrator may modify, suspend or revoke an oil spill response organization's rating if the oil spill response organization fails to satisfactorily complete an unannounced drill.

(F) The Administrator may cancel an announced or unannounced drill at any time due to hazardous or other operational circumstances, which shall include but not be limited to:

1. Any unsafe activity or condition;
2. Oil or cargo transfer operations;
3. Inclement weather or sea state;
4. Ongoing spill response activities;

- 5. Emergency situation as determined by the U.S. Coast Guard captain of the port; or
- 6. Other situations or conditions related to hazards or operational concerns, as determined by the Administrator.

(G) All non-governmental costs associated with an unannounced drill are the obligation of the oil spill response organization.

(H) An oil spill response organization may identify client plan holders who wish to receive credit for a drill as described in section 820.01.

(I) The Administrator shall issue a written report evaluating the performance of the oil spill response organization after every unannounced drill called by the Administrator within 30 calendar days.

(J) The Administrator shall determine whether an unannounced drill called upon the oil spill response organization by a federal agency qualifies as an unannounced drill for the purpose of this section.

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.19, 8670.28 and 8670.30, Government Code.

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

(a) Rating Standards

(1) Ratings for Containment, Recovery, and Storage

An oil spill response organization may apply for a rating within an area contingency plan or a response planning area, or county within a response planning area to provide containment, on-water or terrestrial recovery, or storage services to plan holders. Ratings will reflect the type of response services offered based on the projected arrival time of the response equipment and personnel within the designated areas.

(A) Marine Waters. Ratings for the first six hours of marine on-water services require sufficient dedicated response resources (as defined in section 815.05(c)) or OSRO-owned and controlled resources (as defined in section 790). Ratings for containment boom services will be issued for the first 12 hours of capability. Containment boom, on-water recovery, and storage response resources must be at the location of the drill or spill, and deployed and operating within one hour of arrival, but no later than the designated time frame for each rating. The marine water rating time frames apply to all operating environments and are as follows:

| Ratings by Hour | Equipment Times |
|-----------------|--|
| 0 | On-scene and operational within 30 minutes |
| 1 | On-scene and operational within 1 hour |
| 2 | On-scene and operational within 2 hours |
| 3 | On-scene and operational within 3 hours |
| 4 | On-scene and operational within 4 hours |
| 6 | On-scene and operational within 6 hours |

| Ratings by Hour | Equipment Times |
|-----------------|--|
| 12 | On-scene and operational within 12 hours |
| 18 | On-scene and operational within 18 hours |
| 24 | On-scene and operational within 24 hours |
| 36 | On-scene and operational within 36 hours |
| 60 | On-scene and operational within 60 hours |

(B) Inland On-Waters. Ratings for the first six hours of inland on-water services require sufficient dedicated response resources. The containment boom, recovery, and storage response resources must be at the location of the drill or spill, and deployed and operating within one hour of arrival, but no later than the designated time frame for each rating. The inland on-water rating time frames are as follows:

| Ratings by Hour | Equipment Times |
|-----------------|--|
| 6 | On-scene and operational within 6 hours |
| 12 | On-scene and operational within 12 hours |
| 24 | On-scene and operational within 24 hours |

(C) Terrestrial. Dedicated response resources are not required for a terrestrial service rating. Terrestrial response resources may be owned or subcontracted by the oil spill response organization to meet the terrestrial service rating and on-scene requirements. The equipment must be at the location of the drill or spill, and deployed and operating within one hour of arrival, but no later than the designated time frame for each rating. The inland terrestrial service rating time frames are as follows:

| Ratings by Hour | Equipment Times |
|-----------------|--|
| 6 | On-scene and operational within 6 hours |
| 12 | On-scene and operational within 12 hours |
| 24 | On-scene and operational within 24 hours |

(2) Ratings for Shoreline Protection

(A) Ratings for shoreline protection are based on the ability of the oil spill response organization to perform identified protection strategies for a sensitive site in the time frames required, as outlined in the appropriate Shoreline Protection Tables.

(B) Ratings for sites with “Protect by Hour” time frames, as specified in the Shoreline Protection Tables, up to and including six hours, require dedicated response resources or OSRO-owned and controlled resources. The following table lists the applicable percentage of dedicated response resources that are required for each area contingency plan:

| Area Contingency Plan | % DEDICATED RESPONSE RESOURCES FOR SHORELINE PROTECTION - 0 to 6 Hours - |
|-----------------------|--|
| 1 | 50% |
| 2 | 75% |
| 3 | 0% |
| 4 | 0% Except, for Channel Islands Harbor and Port Hueneme sites only, 75% dedicated response resources are required. |
| 5 | 75% |
| 6 | 50% |

(C) For shoreline protection coverage for vessels operating in small harbors, the Shoreline Protection Tables include a listing of small harbors throughout the state. An oil spill response organization may apply for a rating for each small harbor by meeting the requirements in the table. The following rating criteria are associated with the Small Harbor Table only:

1. Non-dedicated response resources are allowed for shoreline protection coverage for vessels that operate in small harbors.
2. The amounts of boom, boats and personnel, as listed in the Shoreline Protection Tables, are required for the vessels that operate in small harbors. In some locations, additional response resources may be federally required in the applicable area contingency plan.
3. Response resource requirements may be met either with pre-positioned equipment (as identified in the plan holder's contingency plan) or by a contract with a rated oil spill response organization. Advance notice by the plan holder to the oil spill response organization is required before operating within a small harbor.
4. An oil spill response organization may apply for a temporary small harbor rating for shoreline protection for a specific time frame to cover a vessel being used for a specific project. Unannounced drills for these temporary ratings will not require actual deployment of equipment.

(D) To receive a rating for shoreline protection services, an oil spill response organization shall participate in the Office of Spill Prevention and Response's sensitive site strategy evaluation program, as defined in section 790, and shall comply with all local, state and federal laws, regulations, and permitting requirements (e.g. damage minimization measures and equipment specifications).

1. An oil spill response organization that applies for a rating for shoreline protection services shall be subject annually to at least one, but not more than four, announced sensitive site strategy evaluation program drills that test the protective response strategies that are designed to exclude or divert oil spills away from environmentally sensitive sites for which they apply to provide services.

2. An oil spill response organization that participates in the sensitive site strategy evaluation program will receive a yearly schedule from the Office of Spill Prevention and Response which lists the sensitive sites to be drilled. The oil spill response organization shall make arrangements to provide all the necessary equipment and personnel. The Administrator will develop this schedule to assure that a representative number and type of sensitive sites that could potentially be impacted will be drilled. The schedule shall reflect the Office of Spill Prevention and Response's Best Achievable Protection mandate, factoring in the Office of Spill Prevention and Response's workload, and seasonal variability and sensitivities. The Office of Spill Prevention and Response will work with the oil spill response organization to ensure that all local, state, and federal laws, regulations and permitting requirements are complied with as part of sensitive site strategy evaluation program drill planning and implementation.

3. For facilities that conduct their own sensitive site drill planning and implementation, the Office of Spill Prevention and Response will work with the facility plan holder to ensure that all local, state, and federal laws, regulations and permitting requirements are complied with as part of the drill planning and implementation.

4. Oil spill response organizations are required to drill the sensitive site response strategies that are identified in the applicable Shoreline Protection Tables.

(3) Ratings for Group 5 Oil Recovery and Containment

An oil spill response organization may apply for a rating within an area contingency plan or a response planning area, or county within a response planning area, to provide Group 5 oil (as defined under "Persistent Oil" in section 790) recovery services. This rating may be applied for by submitting either:

(A) A valid nonfloating oil classification, issued by the U.S. Coast Guard; or

(B) A list and description of equipment and personnel, including, but not limited to:

1. Detection: Sonar, sampling equipment or other methods to locate the oil on the bottom or suspended in the water column;

2. Subsurface Containment: Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;

3. Recovery: Dredges, pumps, SCUBA equipment, certified divers or other equipment and personnel necessary to recover oil from the bottom and on the shoreline; and

4. Other appropriate equipment necessary to respond to a spill involving the type of oil handled, stored, or transported.

(b) Updates

(1) To maintain the oil spill response organization's assigned rating, the following information shall be updated and submitted to the Administrator within 30 calendar days of a non-significant change:

(A) The current list of the oil spill response organization's client plan holders; and

(B) The list of owned and subcontracted oil spill response equipment and trained personnel listed in the application.

(2) Pursuant to section 819.05, significant changes shall be reported to the Administrator.

(c) Renewals

(1) An oil spill response organization shall file an application for renewal at least 90 calendar days prior to the expiration of the rating. Renewal applications shall address the same content as a new application and shall follow the same review, verification, and drill procedures as a new application, as specified in subsection 819.03. Modification of a rating shall not affect the three year rating period as indicated in the approval letter.

(2) Ratings may be renewed earlier at the request of the oil spill response organization in the event the oil spill response organization has sustained a significant change in response resources, as described in section 819.05.

(3) The Administrator may require an earlier or more frequent rating renewal than that required in subsection (c)(1) above. The oil spill response organization will be notified in writing if an earlier renewal is required. The notice will include an explanation of the reasons for the earlier rating renewal. The circumstances that would warrant an earlier renewal include, but are not limited to, the following:

(A) A change in regulations;

(B) The development of new oil spill response technologies as determined by the Administrator;

(C) Deficiencies in oil spill response capability identified by the Administrator as part of the Coastal Protection Review;

(D) An increased need to protect plant and wildlife habitat;

(E) Deficiencies in oil spill response capability identified during an oil spill;

(F) Deficiencies in oil spill response capability identified during an announced or unannounced drill;

(G) Significant change in the oil spill response organization's response capability; or

(H) Any other situation that calls into question the oil spill response organization's rated capabilities, as determined by the Administrator.

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.28 and 8670.30, Government Code.

§ 819.05. Notice of Change in Response Resources.

(a) The oil spill response organization shall notify the Administrator of any significant change in equipment, personnel, management, or subcontracted equipment or personnel, 14 calendar days in advance of the change. This notice shall be by e-mail or mail, or may be oral if followed by a written notice as soon as possible. If the change is unforeseen, oral notice shall be given immediately after becoming aware of such change. The notice shall include the identification of backup resources sufficient to maintain the oil spill response organization's rating, subject to approval by the Administrator.

(b) Failure to notify the Administrator of a significant change in response resources may result in the modification of a rating or revocation of all ratings.

(c) For purposes of this subchapter, a significant change is one that would affect the oil spill response organization's ability to respond consistent with its rating.

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.28 and 8670.30, Government Code.

§ 819.06. Rating Modification, Suspension, or Revocation.

(a) Criteria for Modification, Suspension, or Revocation

(1) Criteria for modification.

The Administrator may modify a rating at any time if the oil spill response organization is not in compliance with the conditions of the issued rating. Situations that may cause a modification include, but are not limited to: a failure to meet the objectives of an equipment deployment drill; failure to perform the rated services at a spill; a change or reduction in equipment or personnel; or any other factor that would affect the ability to perform the rated services. The oil spill response organization shall only perform consistent with the modified rating.

(2) Criteria for suspension.

The Administrator may suspend a rating at any time if the oil spill response organization is not in compliance with the requirements of this subchapter. Situations that may cause a suspension of a rating include, but are not limited to: self-initiated stoppage of services; bankruptcy; natural disaster; or a situation beyond the control of the oil spill response organization that prohibits it from providing the rated services. An oil spill response organization with a suspended rating shall not provide the suspended services until either the suspension is lifted or the rating is modified.

(3) Criteria for revocation.

The Administrator may revoke all issued ratings based on a determination that the oil spill response organization cannot perform any of its rated services.

(b) Procedure For Modification, Suspension, or Revocation

(1) When the Administrator modifies or suspends a rating, the oil spill response organization shall be notified in writing of the reasons for the modification or suspension by certified or registered mail.

(A) Modification. An oil spill response organization may reapply for a rating that has been modified. The application shall include a narrative describing what measures were taken to correct the deficiencies outlined in the modification letter.

(B) Suspension. An oil spill response organization may submit a written request for the suspension to be lifted. The Administrator will review the request within 15 calendar days of receipt, and determine whether to maintain the suspension or lift the suspension.

(2) When the Administrator revokes all ratings, the oil spill response organization shall be notified in writing by certified or registered mail of the reasons for the revocation. The revocation shall be effective 15 calendar days after issuance. The oil spill response organization shall have 30 calendar days from the date of receipt to reply in writing addressing the reasons for the revocation. The Administrator shall have 15 calendar days to review the reply and either maintain the revocation or rescind the revocation.

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.28 and 8670.30, Government Code.

§ 819.07. Reconsideration and Hearing Procedures.

(a) Reconsideration Procedures

(1) A person may request reconsideration of a modification, suspension, revocation, or denial if that person is one of the following:

(A) An applicant for an oil spill response organization rating or renewal who has received written notice of denial; or

(B) An oil spill response organization who has had a rating modified, suspended, or revoked.

(2) A request for reconsideration shall meet the following criteria:

(A) Any request for reconsideration must be in writing, signed by the person requesting reconsideration or by a legal representative of that person, and must be submitted to the Administrator.

(B) The request for reconsideration must be received by the Administrator within 15 business days of the date of notification of the decision.

(C) The request for reconsideration shall state the reasons for the reconsideration, including presenting any new information or facts pertinent to the issues raised by the request for reconsideration.

(3) The Administrator shall notify the oil spill response organization of his or her decision within 15 business days of the receipt of the request for reconsideration. This notification shall be in writing and shall state the reasons for the decision. The notification shall also provide information concerning the right to a hearing and the procedures for requesting a hearing.

(b) Hearing Procedures

The oil spill response organization may, within 15 business days after receipt of notice that reconsideration has been denied, request a hearing in writing.

(1) Any hearing required under this subchapter shall be conducted by an independent hearing officer according to the procedures specified in Government Code section 11500 et. seq. (Administrative Adjudication: Formal Hearing) and shall be scheduled as expeditiously as possible.

(2) The hearing officer shall issue a written decision within 30 calendar days after conducting the hearing. The decision of the hearing officer shall constitute the final administrative decision.

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.28 and 8670.30, Government Code.

END