

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

§ 817.04. Inland Facility Oil Spill Contingency Plans.

(a) Purpose and Scope

(1) This section describes the requirements for an owner or operator of an inland facility to have an oil spill contingency plan that provides the best achievable protection for potential oil spills into inland waters.

(2) The standards set forth in this section are only planning standards and may not reflect the exigencies of actual spill response. However, these are the minimum standards that must be used to determine the amount of equipment and personnel that must be available for a spill. An inland facility owner or operator is ultimately responsible for mitigating, cleaning up, and remediating the effects of the entire volume of an actual spill regardless of the reasonable worst case spill volume listed in the contingency plan.

(b) Applicability

(1)(A) An owner or operator of an inland facility within one-quarter (1/4) mile of inland waters and that poses a risk of an oil spill into inland waters must have an oil spill contingency plan approved by the Administrator, unless these provisions are not applicable pursuant to (3) of this subsection or the inland facility is granted an exemption pursuant to (c) of this section.

(B) To determine if the requirements of this subchapter are applicable to a particular inland facility, owners and operators may rely on 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.

(2) Independently, the Administrator may determine that an inland facility poses a risk of a spill to inland waters of the state, considering factors such as, but not limited to, proximity to inland waters of the state, topography, land contour, local drainage patterns, volume of oil handled or transported, and facility infrastructure or operations.

(3) This subchapter does not apply to an inland facility if any of the following conditions are met, and therefore no further action needs to be taken:

(A) An inland facility is located more than one-quarter (1/4) mile from inland waters of the state.

(B) For an owner or operator of a production facility with one or more wells within one quarter (1/4) mile of inland waters of the state and none of those wells has an average

daily production rate of 10 barrels or more of oil (excluding produced water) as reported to the Department of Conservation, Division of Oil, Gas, and Geothermal Resources pursuant to sections 3406 and 3227 of the Public Resources Code.

However, if at some time one or more of those wells meets or exceeds the 10 barrel threshold, then the owner or operator shall notify the Administrator simultaneously when the owner or operator reports production data to the Division of Oil, Gas, and Geothermal Resources. From the date of such notice, the owner or operator shall submit a contingency plan pursuant to (e) of this section, as well as an application for a certificate of financial responsibility pursuant to sections 791 through 797.

(C) That part of an inland facility regulated as either an aboveground petroleum storage tank (pursuant to the Health & Safety Code, commencing with section 25270) or regulated as an underground petroleum storage tank (pursuant to the Health & Safety Code, commencing with section 25280).

However, as specified in Health and Safety Code section 25270.2, an aboveground oil production tank regulated by the Division of Oil, Gas, and Geothermal Resources, is not an aboveground storage tank for purposes of being regulated by a unified program agency. Thus, an owner or operator of an aboveground oil production tank is not exempt from this subchapter and may be required to comply with this subchapter.

(4) If at any time there is an oil spill that impacts inland waters of the state from an inland facility for which this subchapter was generally not applicable or that had been previously granted an exemption pursuant to (c) of this section, the Administrator will reevaluate whether the provisions of subchapter (3) and chapter 2 (Financial Responsibility) apply. Such a determination shall be in writing, and upon issuance the requirements of this subchapter and chapter 2 (Financial Responsibility) shall apply immediately from the date of receipt of the determination of applicability.

(c) Exemptions

(1) An inland facility that is located within one quarter (1/4) mile from inland waters of the state may be exempt from contingency plan requirements if any of the following conditions are met:

(A) If a spill from the inland facility will not impact inland waters of the state. The Administrator will determine this based on the following factors, including but not limited to:

1. Slope and elevation;
2. Specific gravity and pour point of oil produced or transported;
3. Permanent natural or man-made barriers that keep spills contained, including but not limited to impervious or semi-impervious surfaces such as concrete or asphalt;
4. A release of oil to or through natural or manmade drainage such as storm drains, culverts, or canals would not impact inland waters of the state; and

5. Measures that prevent releases.

(B) Equipment, tanks, or pipelines within one quarter mile of inland waters that do not handle, transport, or store oil as part of the supply chain of oil. If equipment, tanks, or pipelines within one quarter mile are part of the supply chain of oil, then an exemption may not be granted unless there are other grounds for an exemption.

(C) Transmission pipelines that are less than six and five-eighths (6 and 5/8) inches in outside nominal diameter and are less than 10 miles in length, and where the operator determines that the reasonable worst case spill from any point on the line section would not impact inland waters of the state within four hours after the initiation of the spill.

(2) Exemptions must be requested in writing and must provide specific, technical justification for the request. For production facilities, the request must also include the American Petroleum Institute well numbers. The Administrator shall inspect the inland facility to determine if conditions for the exemption are valid before the request may be approved. The Administrator will provide written notification of his or her findings within 30 calendar days of receiving the request. If a determination is made that the conditions for the exemption are not met, then the inland facility owner or operator shall submit a contingency plan pursuant to (e) of this section.

(A) Submittal of a new or updated exemption request following a denial must be based on new or significantly different facts. Receiving a first denial does not toll the time frame within which to submit a contingency plan pursuant to subsection (e)(1) or (e)(2).

(B) An owner or operator may request reconsideration of the decision to deny an exemption by following the process outlined in (f)(4) of this section. However, this reconsideration process does not toll the requirement to submit a contingency plan.

(3) Exemptions expire five years from the date of issuance, and must be re-applied for by the owner or operator.

(d) Multiple Facility Plans

(1) An owner or operator may request approval of a single contingency plan applicable to any combination of inland facilities and marine facilities, which is commonly referred to as a "blanket plan." The owner or operator shall request approval for the use of a multiple facility plan prior to submitting the plan to the Administrator. The request must include a justification for the use of a multiple facility plan.

(2) The justification shall be based on analysis of the following criteria:

(A) Facility layout, design, or operation;

(B) The reasonable worst case spill volume of each facility;

(C) The similarity of hazards posed by each facility, identified by the risk and hazard analysis;

(D) The response planning area applicable to each facility, including the resources at risk from each facility, such as public works and environmentally, historically, culturally, and economically sensitive sites;

(E) Whether the listed spill management team, rated oil spill response organization, and other response resources can respond to a spill from each of the covered facilities within the required times.

(3) The multiple facility plan shall include all relevant information required by subsections (g) through (t), including a list identifying each facility by location, the core elements common to all facilities, and separate sections or appendices for each facility if applicable.

(e) Plan Submittal and Format

(1) The owner or operator of an inland facility to which this section applies shall submit a contingency plan for substantive review and approval in compliance with this subchapter, and shall apply for a certificate of financial responsibility in compliance with chapter 2 (Financial Responsibility).

(2) Future Operations Coverage

(A) A person or owner or operator who intends to acquire a facility, or change ownership of a facility must submit the following at least 30 calendar days prior to commencement of future operations:

1. The name and address of the facility, and the name, address, phone number, and e-mail address of the owner or operator responsible for the contingency plan;

2. The name, address, phone number, e-mail address, and facsimile number of a qualified individual;

3. Evidence of a contract or other approved means demonstrating the response resources that meet the requirements of this subchapter, such as an agreement with a rated oil spill response organization;

4. Evidence of a contract with a spill management team including the team's contact information, or submit the name, address, phone number, and e-mail address of the owner or operator's spill management team personnel; and

5. An application for a certificate of financial responsibility.

(B) Upon submittal of the information outlined in (A)1. through 5. of this section, preliminary approval will be granted, however, a full oil spill contingency plan must be submitted for substantive review and approval within 120 calendar days after commencing operations.

(3)(A) If a plan holder currently has a marine oil spill contingency plan approved by the Administrator or has a contingency plan approved by another agency, and is required to have an inland facility oil spill contingency plan, and wishes to consolidate the

requirements into one plan, the plan holder must coordinate that consolidation with the Administrator as described in subsection (d). For example, a contingency plan required by another agency may be submitted if it also addresses the requirements of this section.

(B) If information required by this section is contained in other response planning documents, reference materials, or other sources, then the owner or operator may reference or submit those other materials in lieu of recreating the information.

(4) All contingency plan submittals, updates, and revisions shall be in an electronic format that is usable, readable, and searchable by the Administrator (e.g., Microsoft Word, Pages, or a PDF document; not scanned or an image). Additionally, the plan must have a table of contents that is hyperlinked to the different sections of the plan. If updates or revisions are made to a contingency plan, individual updates or revisions can be submitted or a complete contingency plan can be submitted. Other documents required to be submitted with the contingency plan, such as evidence of contracts, diagrams, maps, or photographs shall be submitted in an electronic format (e.g., .pdf, .jpg, .gif) that is usable, readable, and searchable by the Administrator.

(5) Confidentiality

(A) The plan holder may designate information in the contingency plan submitted to the Administrator that the plan holder considers to be a trade secret, confidential, privileged or otherwise exempt from disclosure pursuant to the Public Records Act (Government Code section 6250, et seq.) or other law. It is the policy of the Office of Spill Prevention and Response that all records not exempted from disclosure by law shall be open for public inspection pursuant to the Public Records Act.

(B) The plan holder must assert in writing a claim of exemption at the time the information is submitted to the Administrator. The plan holder must clearly and distinctly identify each paragraph, sentence, number, data, map, photograph, or other item, and provide the specific legal authority for each item that the plan holder believes should be withheld from public disclosure (e.g., Government Code section 6254.15). Generic non-specific labeling of an entire contingency plan or section of a contingency plan is not sufficient designation of information to be withheld nor is it a sufficient assertion or preservation of the justification for withholding information from public release, and will not be considered.

(C) If a plan holder designates information as confidential or privileged, then two different copies of the contingency plan must be submitted as follows:

1. One copy shall contain the un-redacted confidential or privileged information. This contingency plan will be used by the Administrator in the review and approval process.
2. One copy shall be submitted depicting the claimed confidential or privileged information as redacted.
3. Any contingency plan submitted to any state agency, as required by this section, must include all claimed confidential or privileged information as un-redacted.

(D) If the Administrator is requested to publicly disclose information that has been identified with specific legal citation in accordance with (B), the Administrator may notify the plan holder at least 10 business days prior to the release of such information in order to allow the plan holder to seek an appropriate remedy in court, if applicable.

(E) The Administrator will decide whether the redacted information should be disclosed pursuant to the Public Records Act, unless directed otherwise by a court order.

(f) Plan Review and Approval

(1) Review

(A) Each contingency plan or future operations coverage submitted for approval pursuant to (e) of this section shall be substantively reviewed for completeness, adequacy, and compliance with applicable requirements of this subchapter within 30 calendar days after receipt by the Administrator.

(B) The Administrator shall determine whether each contingency plan complies with the requirements of this subchapter. Prior to and subsequent to plan approval, the Administrator may make on-site inspections and require an announced or unannounced drill or exercise of all, or part of, any contingency plan submitted, to determine the plan's adequacy.

(C) If the contingency plan is determined to be deficient then the Administrator shall issue a letter to the owner or operator explaining the deficiencies, which may request submittal of additional information or suggest practicable modifications or alternatives.

(D) Upon receipt of the letter explaining the contingency plan's deficiencies, the owner or operator shall have 30 calendar days to submit a new or modified plan addressing the deficiencies.

(E) The Administrator shall have 15 calendar days to review the resubmitted contingency plan, and issue an approval, denial, or revocation. If the owner or operator fails to adequately address the deficiencies, the Administrator shall declare the contingency plan invalid and shall issue a letter of denial or revocation. The letter shall explain the reasons for denial or revocation, and provide a description of those actions necessary to secure approval.

(2) Approval

(A) A contingency plan shall be approved if it addresses all the applicable requirements specified in this subchapter as providing the best achievable protection (defined in section 790).

(B) A contingency plan will be considered to be valid and effective upon submittal, pending final approval or denial.

(C) Any new or revised contingency plan submitted by an owner or operator in response to a notification of deficiency shall be considered approved unless notified otherwise by the Administrator within the time frames of this subsection.

(D) The plan holder shall be notified when a plan has been approved. A letter of approval shall be issued by the Administrator and will describe the conditions of approval, if any, and specify the expiration date of the letter of approval.

(E) If at any time after a plan has been approved and the Administrator determines the plan is deficient, then the review and approval provisions (1)(B) through (E) shall apply. Deficiency may be based upon verification, on-site inspection, performance at an announced or unannounced drill or exercise, or actual spill.

(3) Revocation of Plan

An already approved plan shall be revoked, if the plan does not comply with, or maintain compliance with, the criteria set forth in this subchapter and does not address issues identified in a notice of deficiency.

(4) Request for Reconsideration or Appeal

(A) The plan holder shall have 15 business days from receipt of a letter of denial or revocation to submit a written request to the Administrator for reconsideration of the decision to deny or revoke. The request must contain the basis for the reconsideration and, if available, provide evidence that rebuts the basis for the Administrator's decision.

(B) Within 15 business days following receipt of the request for reconsideration, a letter will be sent by the Administrator to the plan holder explaining the decision to either rescind the earlier decision, or that reconsideration is denied.

(C) Within 15 business days after receipt of the letter that reconsideration has been denied, the plan holder may submit a written request for a hearing to review the basis of the decision. No such hearing may be requested until all remedies pursuant to this section have been exhausted. The hearing shall be conducted in accordance with chapter 4.5 (commencing with section 11400) of part 1 of division 3 of title 2 of the Government Code, including the right of judicial review as provided for in section 11460.80 of the Government Code.

(5) Public review and comment

(A) Contingency plans may be reviewed by any interested member of the public pursuant to the California Public Records Act (Government Code section 6250 et seq.).

(B) Any person may submit written comments at any time during the review process or after a plan has been approved.

(C) Any person interested in reviewing a contingency plan shall contact the Administrator to schedule an appointment to review the plan at the offices of the Administrator.

(D) A requested copy of a contingency plan or other documents will be provided at the cost of duplication allowed pursuant to the California Public Records Act.

(g) Spill Notification Procedures

(1) Near the front of each contingency plan shall be a list of immediate contacts and phone numbers to call in the event of a threat of or actual spill of oil, including but not limited to:

- (A) The designated qualified individual who is available on a 24-hour basis;
- (B) The rated oil spill response organization listed in the contingency plan, or plan holder employee contacts for all plan holder response resources;
- (C) The designated spill management team;
- (D) The California Governor's Office of Emergency Services, State Warning Center;
- (E) The National Response Center; and
- (F) The Oiled Wildlife Care Network or other wildlife care and treatment organization listed in the plan, pursuant to subsection (o) of this section.

(2)(A) Calls to all contacts listed in (1) shall be initiated immediately but not later than 30 minutes after discovery of a spill or threatened spill of oil. All notifications shall be completed as promptly as possible, but not later than two hours after the first call.

(B) If there is oiled wildlife or a threat to wildlife, the plan holder shall immediately notify the Oiled Wildlife Care Network or the wildlife care and treatment organization listed in the contingency plan.

(3) Initial contact with the qualified individual does not relieve the owner or operator from making timely notifications.

(4) All phone numbers necessary to complete the immediate notification procedures shall be prominently posted and easily referenced.

(5) Each contingency plan shall identify a call-out procedure to acquire the resources necessary to address spills that cannot be addressed by the equipment that the plan holder owns or has under contract. Procedures must allow for initiation of the call-out of additional resources within 24 hours of the incident and must begin as soon as a determination has been made that additional resources are necessary.

(6) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

- (A) Inland facility name and location;
- (B) Date and time of the incident;
- (C) Cause and location of the spill;
- (D) An estimate of the volume of oil spilled and the volume at immediate risk of spillage;

- (E) Type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;
- (F) Size and appearance of the slick;
- (G) Prevailing weather;
- (H) Actions taken or planned by personnel on scene;
- (I) Current condition of the inland facility;
- (J) Injuries and fatalities; and
- (K) Any other information that may be relevant or appropriate.

(7) Reporting of a spill shall not be delayed solely to gather all the information required by this subsection.

(8) An updated estimate of the volume of oil spilled and the volume at immediate risk of spilling shall be reported to the California Governor's Office of Emergency Services if the estimated volumes have increased, but not less than every 12 hours within the first 48 hours of response. The state on-scene coordinator, through the unified command, shall have the option of increasing or decreasing this time frame, depending upon the need for additional notice about the spill. Updated spill volume information included in the incident action plan developed through the unified command will meet the requirements of this subsection.

(h) Introductory Material

(1) Each contingency plan shall provide the following information:

(A) Name and address of the inland facility, and mailing address, if different from the physical address. The name and address of the inland facility shall be referenced in the plan title or on a title page at the front of the plan;

(B) Name, address, phone number, fax number, and e-mail address of both the owner and operator of the inland facility, and indicate which entity is the intended plan holder responsible for implementing the plan;

(C) Name, address, phone number, fax number, and e-mail address of the person to whom correspondence should be sent;

(D) The certificate of financial responsibility number for the inland facility shall be included in the front of the contingency plan. If a certificate has not been issued, then the contingency plan must include a statement whether an application for a certificate has been submitted (including date of submission). The contingency plan will not be approved until a certificate has been issued.

(E) A statement signed, under penalty of perjury, by an executive within the plan holder's management who is authorized to fully implement the contingency plan, and

who shall review the plan for accuracy, feasibility and executability. If an executive does not have training, knowledge and experience in the area of oil spill prevention, preparedness, and response, the statement shall also be signed by another individual within the plan holder's management structure who has training, knowledge, and experience appropriate for the risks posed by the plan holder's reasonable worst case spill volume. The certification statement shall be submitted according to the following format:

"I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the State of California, that the information contained in this oil spill contingency plan is true and correct and that the plan is both feasible and executable."
(signature), (title), (date)

(2) Each plan shall identify a qualified individual, and any alternates that may be necessary for the purpose of implementing the contingency plan, and include documentation that the qualified individual acknowledges this capacity. If an alternate or alternates are identified in the contingency plan, then the plan shall also describe the process by which responsibility will be transferred from the qualified individual to an alternate. During spill response activities, notification of such a transfer shall be made to the state on-scene coordinator at the time the transfer occurs.

(3) Each contingency plan shall identify a spill management team and provide documentation that the spill management team acknowledges this capacity.

(4) Each contingency plan shall identify at least one rated oil spill response organization that will provide the requisite response resources in the event of an oil spill. The plan shall include a copy of the contract or other approved means verifying that any rated oil spill response organization listed in the plan will provide the requisite services. However, if the plan holder itself intends to provide any response resources or capabilities required by this subchapter, then the plan holder shall demonstrate to the Administrator the applicable requirements of this section are met by the plan holder.

(5) Each contingency plan shall provide the name, address, telephone number, e-mail address and fax number of an agent for service of process designated to receive legal documents on behalf of the plan holder, and include documentation that the agent for services of process acknowledges this capacity. Such agent shall be located in California.

(i) Spill Protection Measures

The contingency plan shall describe measures that reduce or mitigate the potential hazards identified in the risk and hazard analysis described in subsection (k) of this section. Such description may include, but is not limited to the following:

(1) Schedules, methods and procedures for testing, maintaining and inspecting equipment and other structures; and

(2) Methods and procedures to reduce spills during transfer and storage operations, including overfill prevention and immediate spill containment resources.

(j) Inland Facility Description and Reasonable Worst Case Spill Volume

(1) The contingency plan shall describe the inland facility generally, and describe the inland facility's operations with specific attention to those locations from which an oil spill could occur and impact inland waters of the state. The contingency plan shall also provide the largest reasonable worst case spill volume of all the facilities covered by the plan, pursuant to (4) below.

(2) For a transmission pipeline, production facility, or other non-railroad facility, the description shall also include the following information as applicable:

(A) A general diagram or map of the facility site;

(B) Well locations by field, including the American Petroleum Institute well number for the well with the largest reasonable worst case spill volume;

(C) Relevant piping and tank diagrams (e.g., enhanced photographs or line drawings) including the location of pipelines; oil storage capacity of each structure covered under the plan and its age, design, construction and general condition; the range of oil products normally stored in each structure; the presence of containment structures and oil transfer locations;

(D) A description of the oil handled or transported, including physical properties, health and safety hazards, pour point, viscosity (API gravity), and type (e.g., Group 5). A safety data sheet can meet some of these requirements. This information shall be maintained separately at the inland facility, and the contingency plan shall identify the stored location of the information;

(E) Maximum storage or handling capacity and current normal daily throughput of oil handled;

(F) A description of the normal procedures for transferring oil, and the amount, frequency and duration of the oil transfers;

(G) The inland facility's normal hours of operation;

(H) Vicinity maps showing any vehicular access to the inland facility, nearby residential, commercial or other populous areas and access to private land necessary to respond to a spill; and

(I) Geographic locations including latitude and longitude of relevant field offices and remote local offices, or any pre-identified incident command post locations.

(3) For a railroad, the contingency plan shall also describe the railroad's areas of transit from which an oil spill could impact inland waters of the state. This description shall include, at a minimum, the following information:

(A) A map of track routes and major rail facilities, that also indicates the high threat urban areas in California as defined by federal law (Title 49 Code of Federal

Regulations Part 1580, Appendix A), and high hazard areas or local safety hazard sites designated and defined by the California Public Utilities Commission.

(B) A copy of the portions of the timetable or timetable instructions depicting the railroad's maximum speeds on tracks in California, as filed with the Federal Railroad Administration, on which oil in bulk may be transported.

(C) A description of the oil in bulk that may be transported as required by subsection (j)(2)(D) of this section.

(D) A list of the railcar types or models in which oil in bulk may be transported.

(E) A list, description, and map of any pre-staged spill response equipment and personnel for deployment of the equipment.

(4) The reasonable worst case spill volume for an inland facility, calculated in barrels, is as follows:

(A) Production Facility: 10 percent of the daily average of oil and condensate of the largest producing well (excluding produced water) as reported to the Department of Conservation, Division of Oil, Gas, and Geothermal Resources each year pursuant to sections 3406 and 3227 of the Public Resources Code. Although this volume does not include the water content (produced water), the owner or operator will be required to respond to and cleanup the impacts of produced water.

(B) Transmission Pipeline: Regardless of the following methodology used for determining the reasonable worst case spill volume for a transmission pipeline, the calculations and parameters used shall be submitted as part of the contingency plan. The reasonable worst case spill volume is the largest of the following:

1. The pipeline's maximum release time in hours (i.e. the time between pipeline rupture and discovery), plus the maximum shutdown response time in hours (based on historic spill data or in the absence of such historic data, the operator's best estimate), multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum daily capacity of the pipeline), plus the largest line drainage volume after shutdown of the line section(s). Line section means a continuous run of pipe that is contained between adjacent pressure pump stations, between a pressure pump station and a terminal or break-out tank, between a pressure pump station and a block valve, or between adjacent block valves; or

2. The largest foreseeable discharge for a line section based on the maximum historic spill, if one exists, adjusted for any subsequent corrective or preventive action taken; or

3. If there are one or more breakout tanks, then the capacity of the single largest tank or battery of tanks within a single secondary containment system, adjusted for the capacity or size of the secondary containment system.

(C) Railroad: The reasonable worst case spill volume for a railroad is based on the railroad's maximum speed in California as stated in the most recent timetable the railroad has filed with the Federal Railroad Administration, and the amount of oil in bulk

transported. Regardless of speed or track class, the minimum reasonable worst case spill volume for a railroad is the largest single tank car the railroad may include in a consist. If a railroad moves more than one tank car in a consist then the reasonable worst case spill volume is based on the larger of either the volume of one tank car or a percentage of the total oil in bulk transported, as follows:

If the Maximum Speed per the Timetable is:	Then the RWCS volume is the higher of:
10 mph	One tank car or 1% of all oil in bulk
25 mph	One tank car or 5% of all oil in bulk
Greater than 25 mph	One tank car or 20% of all oil in bulk

(D) For an inland facility not otherwise described in subsections (A), (B), or (C):

1. The loss of the entire capacity of all in-line, break-out and portable storage tanks not subject to Chapter 6.67 (commencing with Section 25270; aboveground petroleum storage) or Chapter 6.7 (commencing with Section 25280; underground petroleum storage) of Division 20, Health and Safety Code, needed for the continuous operation, used for the purposes of handling or transporting oil, taking into account the existence of volume limiting factors including, but not limited to, line pressure, gravity and the availability and location of the emergency shut-off controls; plus

2. The amount of additional spillage that could reasonably be expected to enter waters of the state during emergency shut-off, transfer or pumping operations if a pipeline or hose ruptures or becomes disconnected, or if some other incident occurs which could cause or increase the size of an oil spill. The spill shall be calculated as follows: the maximum time to discover the release from the pipeline or hose in hours, plus the maximum time to shut down flow from the pipeline or hose in hours (based on historic discharge data or the best estimate in absence of historic discharge data for the inland facility) multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum relief valve setting or maximum system pressure when relief valves are not provided) plus the total line drainage volume expressed in barrels.

3. The Administrator has the discretion to accept that an inland facility may operate a limited number of the total pipelines or tanks at a time. In those circumstances, the reasonable worst case spill volume shall include the drainage volume from the pipelines normally not in use, in addition to the volumes determined in subsections (j)(4)(D)1. and 2. of this section.

(5) The plan holder shall update the reasonable worst case spill volume every calendar year, and any other time that a change in the reasonable worst case spill volume would constitute a significant change pursuant to subsection (u)(3).

(6) If the contingency plan covers multiple types of facilities, then the plan holder's reasonable worst case spill volume for the plan shall be the largest volume.

(k) Risk and Hazard Analysis and Offsite Consequence Analysis

(1) Each inland facility owner or operator shall conduct a risk and hazard analysis that identifies the hazards associated with the operation of the inland facility likely to cause an oil spill, including: operator error, equipment failure, and external events. This subsection shall not require railroads subject to the jurisdiction of the federal Surface Transportation Board to disclose the confidential contents of any safety or security plan required by federal law; however railroads must otherwise comply with the provisions of this subsection.

(2) For hazards identified with the ability to cause an oil spill into waters of the state, the owner or operator shall conduct an offsite consequence analysis for a reasonable worst case spill. The offsite consequence analysis must include a trajectory identifying the potential direction, rate of flow, and time of travel of the reasonable worst case spill from the facility to waters of the state and downstream, accounting for natural and manmade pathways and barriers. The analysis shall assume reasonably foreseeable adverse weather conditions, pessimistic water and air dispersion (including produced water), and other adverse environmental conditions. For risks to inland waters designated as perennial in the National Hydrography Dataset, as described in subsection (b), the analysis must consider the highest flow or current in the waterway for six hours.

(3) Based on the analysis, the contingency plan must:

(A) Identify the types of resources at risk in (i) through (v) below that may be impacted based on the trajectories, including depicting the resources at risk locations on maps.

(i) Habitat and shoreline types, as identified in Table 1 and in Appendix C of the National Oceanic and Atmospheric Administration *Shoreline Assessment Manual* (Aug. 2013), or as identified in the American Petroleum Institute's *Options for Minimizing Environmental Impacts of Inland Spill Response* (Oct. 2016), each incorporated by reference herein.

(ii) The presence of state or federally-listed rare, fully protected, or threatened or endangered species, or state species of special concern, which includes aquatic and terrestrial animal, fish and plant resources.

(iii) The presence of aquatic resources including state fish, amphibians, invertebrates, and plants including important spawning, migratory, nursery and foraging areas.

(iv) The presence of terrestrial animal and plant resources.

(v) The presence of migratory and resident bird and mammal, including relevant migration routes, breeding, stopover, nursery, haul-out, and population concentration areas by season.

(B) Identify the following, and include appropriate contacts, as applicable to emergency response:

(i) Commercial and recreational fisheries areas, aquaculture sites, public beaches, parks, marinas, boat ramps, and recreational use areas;

(ii) Industrial, irrigation, and drinking water intakes, dams, power plants, salt pond intakes, and important underwater structures; and

(iii) Known historical and archaeological sites, and areas of cultural or economic significance to Native Americans.

(C) Identify and map the on-water collection locations and strategies for the identified sites and resources at risk, including access locations.

(4) The owner or operator may rely on and cite area contingency plans, geographic response plans, and other sources to identify the information required by subsections (k)(3)(A), (B), and (C) above. Having a contract with a rated oil spill response organization does not alleviate the requirement for this analysis.

(5) If the information provided is insufficient regarding trajectories, resources at risk, strategies, sites, or contacts, then upon request of the Administrator, the owner or operator shall provide or include additional relevant information.

(J) Response Resources, Response Times, and Daily Recovery Rates

(1) The response resources necessary to address the reasonable worst case spill are brought to the incident over a period of time. The time frame for arrival and operational deployment of response resources is measured from the time the plan holder learns about or receives notification of the spill, drill, or exercise.

(2) The type and amount of response resources, and the time frames for on-scene deployment are specified in the *Response Times, Containment, Recovery & Storage* tables in subsections (m) and (n) of this section. The amount of response resources required by these tables are planning standards to address the plan holder's reasonable worst case spill; additional resources may be required based on the circumstances of an actual spill. The owner or operator may either provide the necessary response resources or rely on a rated oil spill response organization to provide the response resources, as described in subsections (m)(4) and (n)(7) of this section.

(3) A safety assessment, as set forth in subsection (r)(2) of this section and as required by California Division of Occupational Safety and Health regulations (e.g. HAZWOPER), shall occur within the response time frames and before on-scene deployment of response resources.

(4) The actual time necessary to deliver and deploy equipment will be assessed at the time of a spill, drill, or exercise and will take into account the prevailing conditions of weather, and the site safety assessment.

(5) All response resources shall be appropriate for use on the type of oil identified, and shall be appropriate for use in the environment, habitat, terrain, and waterbody in which the response resources are being considered for use.

(m) Terrestrial Response Resources

(1)(A) If an owner or operator's inland facility poses an oil spill risk to inland waters designated as intermittent or ephemeral in the National Hydrography Dataset, as described in subsection (b), then the contingency plan only needs to demonstrate a contract or other approved means for the response resources and capabilities to contain and store a reasonable worst case spill volume into or threatening the dry portions of the waterway (e.g., bed, bank, channel areas). These resources must be available within the time frames described in the *Terrestrial Response Times, Containment, Recovery & Storage* table below. Terrestrial services do not require dedicated response resources.

(B) If an owner or operator's inland facility poses an oil spill risk to inland waters designated as perennial in the National Hydrography Dataset, as described in subsection (b), then the contingency plan must demonstrate on-water response capabilities as described in subsection (n) of this section.

(C) Regardless of the inland water depth, an offsite consequence analysis described in subsection (k) of this section is required.

(D) The following table indicates times within which terrestrial response resources shall be deployed and operational within the first 24 hours of a spill, drill or exercise, for the containment, recovery, and temporary storage of the reasonable worst case spill (RWCS) volume.

TABLE – Terrestrial Response Times, Containment, Recovery & Storage Amounts

Equipment	Deployment Within 6 hours	Deployment Within 12 hours	Deployment Within 24 hours
Containment & Recovery	Sufficient equipment for 50% of RWCS	Sufficient equipment for 75% of RWCS	Sufficient equipment for 100% of RWCS
Temporary Storage	Sufficient storage to adequately support removal	Sufficient storage to adequately support removal	Sufficient storage to adequately support removal

(2) As applicable, the contingency plan must include the following terrestrial response resources and information:

(A) The personnel available to respond to a reasonable worst case spill, including:

1. A list by incident command system position, or a job description;
2. A match between personnel by job function and the equipment to be used, including the plan for mobilization of such personnel; and
3. A description of how personnel to maintain a response effort of at least 14 calendar days would be rotated, retained, or acquired.

(B) The location, description, and condition of containment and recovery equipment, with operators for each piece of equipment, such as backhoes, bulldozers, vacuum trucks, or other types of equipment;

(C) The type and capacity of storage bins; and

(D) Identification of disposal locations for hazardous materials including oil.

(3) The contingency plan must include a narrative description of how containment, recovery, storage, and protection equipment, personnel and other resources will be transported or delivered to a spill site. The description shall account for adverse environmental conditions, adverse weather, water currents or flow (e.g., cubic feet per second), winds, and any other conditions that may be reasonably anticipated which could hinder response efforts.

(4) The requirements of this subsection may be provided by a rated oil spill response organization with a terrestrial services rating (as described in section 819.02). To the extent that the requirements are provided by a rated oil spill response organization, then the contingency plan only needs to include evidence of a contract or other approved means with a rated oil spill response organization to satisfy these requirements. However, if an inland facility owner or operator does not contract with a rated oil spill response organization for the requirements and capabilities described in this subsection and intends to meet these requirements with owner or operator owned equipment and personnel, then the owner or operator must provide the information listed in this subsection, and the owner or operator must comply with the oil spill response organization rating requirements pursuant section 819.01 of this subchapter.

(n) Inland On-Water Response Resources

(1)(A) If an owner or operator's facility poses an oil spill risk to inland waters designated as perennial in the National Hydrography Dataset, as described in subsection (b), then the contingency plan must demonstrate the response resources to perform containment (e.g. hard boom), recovery of spilled oil and oily waste (e.g. skimming), storage of recovered materials (e.g. tanks, bladders), shoreline protection, and implement any pre-identified response strategies to address the reasonable worst case spill volume into or threatening the waterway. These resources must be available within the time frames described in the *Inland On-Water Response Times, Containment, Recovery & Storage* table below. The response resources identified to meet the requirements for the first 6 hours must be dedicated response resources.

(B) If an owner or operator's inland facility poses an oil spill risk to inland waters designated as intermittent or ephemeral in the National Hydrography Dataset, as described in subsection (b), then the contingency plan only needs to demonstrate terrestrial response capabilities as described in subsection (m).

(C) The following table indicates the equipment and times within which inland water on-water response resources shall be deployed and operational within the first 24 hours of a spill, drill or exercise for the containment, recovery, and temporary storage of the reasonable worst case spill (RWCS) volume.

TABLE – Inland On-Water Response Times, Containment, Recovery & Storage Amounts

Equipment	Deployment Within 6 hours (Dedicated)	Deployment Within 12 hours	Deployment Within 24 hours
Containment (hard boom)	1,000' boom	5,000' boom	10,000' boom
Recovery Capability (the lesser of)	820 bbls/day EDRC or 50% of RWCS volume	4,100 bbls/day EDRC or 75% of RWCS volume	8,200 bbls/day EDRC or 100% of RWCS volume
Temporary Storage (the lesser of)	820 bbls or 50% of RWCS volume	1,500 bbls or 75% of RWCS volume	3,000 bbls or 100% of RWCS volume

(2) The contingency plan must include the following information for each response resource listed in the plan:

(A) The personnel available to respond to a reasonable worst case spill, including:

1. A list by incident command system position, or a job description;
2. A match between personnel by job function and equipment to be used, including the plan for mobilization of such personnel; and
3. A description of how personnel to maintain a response effort of at least 14 calendar days would be rotated, retained, or acquired.

(B) The location, inventory and ownership of the equipment to be used to fulfill the on-water response requirements;

(C) The type and capacity of transfer and storage equipment matched to the skimming capacity of the recovery systems;

(D) The manufacturer's rated capacities and the operational characteristics for each major item of on-water recovery equipment;

(E) The effective daily recovery capacity for each major piece of on-water recovery equipment listed, and the effective daily recovery capacity for the skimming systems as a whole. For planning purposes, the capability of the recovery equipment is the manufacturer's rated capacity as derated by the effective daily recovery capacity;

1. A request may be submitted to the Administrator to review the effective daily recovery capacity for a piece of equipment if it can be shown that the equipment has a different capacity than the derating factor allows.

2. The Administrator's decision regarding a change in the effective daily recovery capacity for a piece of equipment will be issued as soon as administratively feasible.

(F) Any vacuum trucks and vessels designated for oil recovery operations, including skimming vessels and vessels designed to tow and deploy boom, and availability of shallow-draft vessels. Each must be designated by registration number or other unique identifier (e.g. VIN, vessel name, etc.);

(G) Adequate maintenance, inspection, and testing of response equipment that is under the immediate control of the operator; and

(H) Anticipate the need for equipment to monitor the movement of spilled oil, including aerial surveillance sufficient to direct skimming operations.

(3) Temporary Storage and Waste Management

(A) Each contingency plan shall identify storage for all recovered oil or all oily waste.

(B) Each contingency plan shall describe how recovered oil and waste will be legally handled and transported, and identify locations able to accept the recovered oil or oily waste for recycling or other means of waste management.

(C) All skimming systems operating at the incident shall have sufficient storage. Sufficient storage shall be no less than the effective daily recovery capacity for the equipment.

(4) Group 5 Oil

(A) For inland facilities that transport or handle Group 5 oil (defined under "Persistent Oil" in section 790) the contingency plan shall have evidence of a contract or other approved means with one or more rated oil spill response organizations or otherwise demonstrate the means to recover Group 5 oil up to the reasonable worst case spill volume. Such equipment and resources shall include, but are not limited to, the following methods and equipment for:

1. Locating the oil suspended in the water column (e.g., sonar, sampling equipment, etc.) or on the bottom of the waterbody;

2. Reducing spreading on the bottom (e.g., containment boom, sorbent boom, silt curtains, etc.);

3. Recovering oil from the bottom (e.g., dredges, pumps, etc.);

4. Assessing the impact of such spills; and

5. Any other methods or equipment appropriate for responding to a spill involving a Group 5 oil.

(5) Shoreline Protection

(A) The contingency plan must address the specific types of shorelines that may be impacted.

(B) The contingency plan must identify response resources appropriate for protecting shorelines, including:

1. Protective booming, shallow-draft vessels, and other shoreline protection equipment.
2. The location, inventory, and ownership of the equipment to be used to fulfill the shoreline protection requirements.

(C) The plan holder must be able to implement response strategies appropriate for each shoreline that could be impacted by a spill, as those strategies are identified in the offsite consequence analysis pursuant to subsection (k).

(D) The plan holder's records for storage, maintenance, inspection, and testing of shoreline protection response resources that are under the immediate control of the operator must be made available to the Administrator upon request.

(6) The contingency plan must include a narrative description of how containment, recovery, storage, and protection equipment, personnel and other response resources will be transported or delivered to a spill site. The description shall account for adverse environmental conditions, adverse weather, water currents or flow (e.g., cubic feet per second), winds, and any other conditions that may be reasonably anticipated which could hinder response efforts.

(7) The requirements of this subsection may be provided by a rated oil spill response organization with an on-water services rating (as described in section 819.02). To the extent the requirements are provided by a rated oil spill response organization, the contingency plan only needs to include evidence of a contract or other approved means with a rated oil spill response organization that will satisfy the requirements. However, if an inland facility owner or operator does not contract with a rated oil spill response organization for the requirements and capabilities described in this section and intends to meet these requirements with plan holder owned and controlled equipment and personnel, then the owner or operator must provide the information listed in this subsection, must comply with the oil spill response organization rating requirements pursuant section 819.01 of this subchapter, and the equipment identified in the plan must be rotated each year so all the owner or operator equipment is tested over the three year period.

(o) Oiled Wildlife Care Requirements

(1) Each contingency plan shall describe the method for providing rescue and rehabilitation of oiled wildlife by one of the following means:

(A) Indicate use of the California Oiled Wildlife Care Network; or

(B) Identify an alternate wildlife care and treatment organization and describe procedures that clearly outline how oiled wildlife will be treated and cared for, including recovery, transport, and processing. Standards and written protocols used for wildlife care shall comply with all applicable state and federal laws. The equipment and personnel necessary to implement these procedures and protocols shall be identified and assured by contract for each response planning area covered by the contingency plan. The documents, equipment, personnel, and facilities must be available for review and inspection by the Administrator upon request.

(p) Applied Response Technologies and Oil Spill Cleanup Agents

(1) The contingency plan may identify and include oil spill cleanup agents and applied response technologies that a plan holder considers appropriate for the plan holder's offsite consequence analysis. Procuring agents or technologies will not guarantee approval by the Administrator and the federal Region 9 Regional Response Team for use during an incident. Any listed agents or technologies must be approved for use in California by the Administrator pursuant to Government Code section 8670.13.1 and chapter 8 of this subdivision, and approved by applicable federal agencies.

(2) The plan shall describe the approval process for the use of oil spill cleanup agents and applied response technologies on oil spills in state or federal waters, and acknowledge the decision to approve the use of such agents and technologies rests exclusively with the Administrator and the Regional Response Team, respectively.

(A) The decision to use applied response technologies or oil spill cleanup agents on oil spills does not reside with the plan holder. The plan holder must know how to:

1. Make the proper spill notifications;
2. Request of the Administrator and the Regional Response Team for consideration of a particular applied response technology or use of an oil spill cleanup agent; and
3. Provide operational support for use of applied response technologies or oil spill cleanup agents.

(q) Readiness, Movement, and Cascading of Response Resources

(1) All plan holder owned and controlled response resources identified in the contingency plan shall be available, deployable, and operational for an exercise, drill, or spill. Any necessary maintenance for equipment, availability of response personnel, or other eventualities must be considered, and alternative response resources identified when relying upon response resources that would be unavailable for those or other reasons. A significant change in response resources must be reported to the Administrator, as provided in subsection (u) of this section.

(2) Major Equipment Removal

(A) The inland facility plan holder shall notify the Administrator when major equipment identified in the contingency plan is removed from service for a period of 24 hours or more for maintenance, sale, or any other reason. Major equipment is that which, if removed, would affect the minimum oil containment, recovery or storage capability set forth in the *Response Times, Containment, Recovery & Storage* tables in subsections (m) and (n) of this section. Notification must be made prior to removing equipment for planned or anticipated removal and within 24 hours of removing equipment for unplanned or unanticipated reasons.

(B) The inland facility shall demonstrate that backup equipment is available during the time that the major equipment is out of service. Backup equipment may be provided from the owner's own inventory or may be made available from another source.

(C) The contingency plan shall remain valid during the time that equipment has been removed from service, unless the Administrator determines the plan is deficient.

(D) The inland facility shall notify the Administrator when the major equipment is back in service.

(3) Cascading. When response resources identified in the contingency plan are to be moved out of the plan holder's planning area, and that movement may impact the plan holder's containment, recovery, or storage capability within the first six hours of a spill, the plan holder or the plan holder's rated oil spill response organization shall make a request to the Administrator to temporarily reduce the minimum oil recovery capability set forth in the *Response Times, Containment, Recovery & Storage* tables in subsections (m) and (n) of this section before the response resources can be moved. The Administrator shall only grant such a request after determining that sufficient response resources are available to address a reasonable worst case spill within the relevant area from where the response resources are being considered for removal.

(r) Incident Management, and Area or Geographic Response Plans

(1) Each contingency plan shall describe an incident command system that will be used for spill management. If the plan holder has its own incident command system handbook, guideline, or reference document, this document shall be made available to the Administrator upon request. The contingency plan shall acknowledge that a federal on-scene coordinator and the Administrator will use the National Incident Management System as the template for management of spills, and will use either the U.S. Coast Guard *Incident Management Handbook* (2014) or the U.S. Environmental Protection Agency *Incident Management Handbook* (2016) for spill management guidance. The plan holder shall be able to integrate its incident command system with the system used by the federal on-scene coordinator or the state on-scene coordinator. The inland facility's initial emergency responder on-site shall initiate the incident command system until a more senior facility responder arrives, as required by subsection 5192(q)(3)(A), of title 8, of the California Code of Regulations.

(2) Each contingency plan shall acknowledge the need to complete a site safety and health plan as required pursuant to section 5192, of title 8, of the California Code of

Regulations. Applicable site safety and health plan elements may include, but are not limited to site hazards, respiratory protection, personal protective equipment, confined space entry, direct reading instruments and exposure monitoring.

(3) Each contingency plan shall acknowledge command and staging sites and facilities identified in the applicable area contingency plan or geographic response plan. For areas not covered by such federal plans, the inland facility contingency plan shall identify potential sites for response operations including locations for:

(A) A central command post sufficient to accommodate the initial incident management; and

(B) Equipment and personnel staging areas.

(s) Training

(1) Each contingency plan shall document that personnel employed by the plan holder regularly receive training applicable to their role in a spill, such as:

(A) Incident command system, including command or general staff position-specific training;

(B) Oil spill emergency response training as required by state and federal health and safety laws for facility personnel likely to be engaged in oil spill response (e.g., section 5192 of title 8 of the Code of Regulations, "HAZWOPER"); and

(C) Use and operation of oil spill response and clean-up equipment.

(2) Training records shall be maintained for three years from the date of the training. All such documentation shall promptly be made available to the Administrator upon request.

(t) Drills and Exercises.

Each contingency plan shall describe a tabletop exercise and equipment deployment drill program for the inland facility that meets the exercise and drill requirements of section 820.02 of this subchapter, to ensure that the plan holder can adequately respond to a spill.

(u) Plan Changes and Updates

(1) The plan holder shall ensure the plan is up-to-date and complete.

(2) Five Year Review

(A) Each plan shall be resubmitted for review and approval every five years from the date of the most recent approval letter.

(B) If the most recently approved plan and all updates submitted since the last plan approval letter have not changed, on or before the five year resubmittal due date the plan holder shall, in lieu of submitting a complete plan as described in subsection (A),

submit a new feasibility and executibility statement to the Administrator indicating that the plan currently on file is up-to-date and complete.

(C) If a contingency plan on file is over five years old from the date of the most recent approval letter (original submission or resubmittal) and there has been no correspondence to the Administrator stating that the plan currently on file is up-to-date and complete, the Administrator shall issue a revocation letter.

(3) Significant Changes

(A) The Administrator shall be notified as soon as possible, but at least within 24 hours, of any significant change to an approved plan. A significant change is one that could affect timely and adequate oil spill response, including but not limited to changes in financial responsibility coverage, major equipment availability, or the designated oil spill response organization. Major equipment is something which, if removed, would affect the minimum oil containment or recovery capability set forth in the *Response Times, Containment, Recovery, & Storage* tables in subsections (m) and (n) of this section.

(B) Changes that do not affect timely and adequate oil spill response are not significant, which may include minor changes in equipment, personnel, or operating procedures.

(4) Change in Ownership. If there is a planned change in control or ownership of an inland facility, then the existing plan holder and the new owner or controlling entity shall each notify the Administrator as soon as it is reasonably possible, but at least 90 calendar days before the date of the change.

(5) Resubmissions. The Administrator may require earlier or more frequent resubmission or updates. The plan holder shall be notified in writing if an earlier resubmission or update is required. The notice shall include an explanation of the reasons for the resubmission or update. The circumstances that may warrant an earlier resubmission or update include, but are not limited to, the following:

(A) A change in statute or regulations;

(B) The development of oil spill response technologies that will provide best achievable protection;

(C) An increased need to protect wildlife or habitat;

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

(E) Deficiencies in oil spill response capability identified during a drill or exercise;

(F) Significant changes to the inland facility;

(G) A change in the rating of an oil spill response organization; or

(H) Any other situation where the Administrator finds deficiencies in the ability to provide timely and effective spill response, impacting best achievable protection.

(6) Resubmissions will be reviewed pursuant to the process described in subsection (e).

(7) The plan holder may request reconsideration of a requirement to resubmit the plan, following the process outlined in subsection (f)(4) of this section.

(v) Enforcement and Compliance

The owner or operator of an inland facility who knowingly, intentionally or negligently violates any provision of this subdivision or the Act may be subject to criminal, civil, or administrative actions, pursuant to Government Code section 8670.57 through section 8670.69.6, and chapter 7 of this subdivision (commencing with section 873).

(w) Severability

If any provision of this section or the application thereof to any person or circumstances is held invalid by a Court, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Note: Authority cited: Sections 8670.5.5, 8670.7.5, 8670.13, 8670.28 and 8670.29, Government Code. Reference: Sections 8670.7, 8670.10, 8670.25.5, 8670.27, 8670.28, 8670.29, 8670.30, 8670.30.5, 8670.31 and 8670.36, Government Code.