

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

**INITIAL STATEMENT OF REASONS
including
ECONOMIC IMPACT ASSESSMENT**

Title 14, California Code of Regulations
Adopt Sections 830.1 through 830.11
Regarding Spill Management Team Certification
and
Amend Sections 790, 815.05, 815.07, 816.02, 817.02, 817.03, 818.02,
818.03, 817.04, 825.05, 825.07, 826.02, 826.03, 827.02
Regarding Definitions and Oil Spill Contingency Plans

Date of this Initial Statement of Reasons: July 21, 2020

I. Description of Regulatory Action

(a) General Background

The California Department of Fish and Wildlife, Office of Spill Prevention and Response (OSPR) is proposing to adopt through this regular rulemaking the criteria for spill management teams to be certified by the Administrator of OSPR. This is to implement statutory changes made in 2017.

Assembly Bill 1197, signed by the Governor in October 2017, requires the Administrator of OSPR to adopt regulations to establish criteria for evaluating and certifying spill management teams based on their capacity to effectively respond to and manage an oil spill response. Owners and operators of certain facilities and vessels are required to have an oil spill contingency plan (plan holders), that includes a spill management team that has been certified by the Administrator of OSPR.

(b) Spill Management Team Certification Background

Almost all oil spills need some cleanup oversight, and medium to large oil spills require tens to hundreds of people to properly manage the incident. At an oil spill response, the Unified Command will consist of CDFW/OSPR representatives, U.S. Coast Guard (USCG) or U.S. Environmental Protection Agency (EPA) representatives, responsible party representatives, and other jurisdictional and trustee agencies, as appropriate.

Since 1991, the *Lempert-Keene-Seastrand Oil Spill Prevention & Response Act* (Act) has required owners and operators of certain facilities and large vessels that may pose an oil spill risk to state waters to prepare and submit to the Administrator of OSPR, an oil spill contingency plan within which, among other requirements, must identify a spill management team. Spill management teams are personnel that staff the incident command organizational structure for managing some or much of a response to an oil spill. These teams are required to be skilled in the incident command system structure and must be capable of working with OSPR staff and federal agency staff to ensure effective management of the spill response effort. Often the spill management teams

used by plan holders are contractors or consultants, although they may also consist of a plan holder's own employees or those affiliated with the plan holder company, or any combination of these.

OSPR has the authority to conduct announced and unannounced exercises on plan holders. There is an established list of exercise objectives that plan holders must accomplish over a three-year period. Spill management teams that are identified in plan holders' contingency plans also participate in the exercises and demonstrate the ability of the plan holder to meet established performance standards in the response and management of oil spills. A facility owner or operator must provide for training and exercises on elements of the contingency plan at least annually, with all elements of the plan subject to a drill or exercise at least once every three years (Government Code section 8670.29(b)(9)).

(c) Contingency Plans Background

The Act requires operators of certain vessels and facilities to have an oil spill contingency plan while operating in California to cover potential oil spills to waters of the state. Additionally, operators must maintain a level of readiness that will allow effective implementation of the applicable contingency plans (Government Code sections 8670.28.5 through 8670.34).

The Act requires the OSPR Administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans (Government Code sections 8670.28 and 8670.29). The regulations must provide for the best achievable protection of waters and natural resources of the state. Among the numerous requirements, the Administrator must set standards for response, containment, and cleanup equipment and operations, which must be maintained and regularly improved to protect the natural resources of the state. Since the early 1990's OSPR has had regulations implementing these contingency plan requirements.

The contingency plan sections of the California Code of Regulations (815.05, 815.07, 816.02, 817.02, 817.03, 818.02, 818.03, 817.04, 825.05, 825.07, 826.02, 826.03, 827.02) are being amended to implement the legislative changes by Assembly Bill 1197 (Government Code sections 8670.29 and 8670.32). The amendments to these sections are included in this rulemaking with proposed new sections 830.1 through 830.11 (spill management team certification) to ensure coordinated accuracy and updated requirements for contingency plan holders.

(d) Definitions Background

Section 790, the definitions section, was first promulgated in 1991. This section is being amended to account for the legislative changes enacted by Assembly Bill 1197 (Government Code sections 8670.29 and 8670.32).

II. Problem the Regulatory Action Intends to Address [Government Code section 11346.2(b)(1)]

In 2013, OSPR began conducting unannounced exercises focusing on incident management objectives to indirectly evaluate the ability of spill management teams to

staff and manage an organizational structure through plan holder oil spill contingency plans. The goal of unannounced exercises versus announced exercises was to better understand the state of spill response readiness of these teams.

Spill management teams are used by vessels and facilities to manage spill response actions and are required to be identified in plan holders' oil spill contingency plans. However, through numerous exercises over the years, OSPR has identified that some spill management teams have difficulty filling more than just the cursory incident management positions. The more significant concern is with staff unfamiliar with their duties and responsibilities, and personnel lacking training to fill particular incident command positions.

Current regulations do not specify criteria for how many personnel comprise a spill management team, how quickly personnel must arrive on-scene, or which training and/or qualifications personnel should achieve, and there is no mechanism for verifying a spill management team's capabilities before it can be referenced in a contingency plan. There has been no direct ability for the Administrator to evaluate or regulate the capabilities of consultant/contractor spill management teams; they are regulated indirectly through tank vessel, non-tank vessel, and facility plan holder exercises. If a spill management team performs poorly during a tabletop exercise, the recourse is against the plan holder, not the spill management team.

The proposed regulations establish criteria and a process for certifying spill management teams. The regulations will provide a direct mechanism for evaluating a spill management team's ability to respond by establishing minimum requirements for training and/or experience of personnel, time frames for personnel to arrive on-scene, and criteria for a successful completion of exercise objectives, based on classification levels derived from reasonable worst-case spill volumes contained in contingency plans for which spill management teams provide services. The classification system and associated criteria will establish standards that will ensure consistency and adequacy of a spill management team's response capabilities. These regulations are modeled after OSPR's existing oil spill response organization rating program.

III. Purpose, Rationale, and Necessity for the Amendment, Addition, or Repeal of the Regulations [Government Code section 11346.2(b)(1)]

Government Code section 8670.32 directs the Administrator of OSPR to adopt regulations to establish minimum requirements for spill management teams to be certified. The proposed regulations implement, interpret, and add specificity to the provisions of Government Code sections 8670.3, 8670.5, 8670.10, 8670.29, and 8670.32. This proposed regulatory action is necessary to provide specificity not found in the *Lempert-Keene-Seastrand Oil Spill Prevention and Response Act*.

OSPR has more than 25 years of experience with equipment deployment drills and tabletop exercises. Its drills and exercises regulations are well understood by industry, federal counterpart agencies, and local agencies, and they continue to prove effective. These proposed regulations complement existing drills and exercise requirements that are already being met by vessel and facility owners and operators and are very similar to OSPR's existing regulations in the rating of oil spill response organizations.

OSPR is initiating this regular rulemaking action to formally adopt spill management team certification requirements which would include an application and review process and minimum response capability requirements. The purpose is to improve California's preparedness and assure that spill management teams will be qualified to manage an oil spill response. Over the past two years, OSPR conducted pre-rulemaking public outreach and participated in significant engagement with interested parties and/or those who may be subject to the proposed regulations, by holding workshops, scoping sessions, and smaller individual meetings, as well as dozens of internal subject matter expert meetings. These efforts helped to inform and ensure the best, most equitable regulations.

The sections below set forth a discussion of the specific purpose for each regulatory provision to be adopted in sections 830.1 through 830.11 and why each regulatory provision is reasonably necessary to carry out the purpose and address the problem for which it is proposed.

Adopt Sections 830.1 through 830.11 – Spill Management Team Certification

These new sections to Title 14 are added to implement the mandates of Government Code sections 8670.29 and 8670.32.

Section 830.1 – Purpose, Scope, and Applicability

Subsection (a)(1)

Purpose: Subsection (a)(1) describes the purpose and intent of these new regulations.

Necessity: To lay the foundation of the regulations.

Subsection (a)(2)

Purpose: Subsection (a)(2) provides specificity as to whom these certification requirements apply and that a plan holder's contingency plan must identify a team capable of responding in the geographic areas the plan holder operates.

Necessity: This subsection is necessary to convey the requirement of plan holders to form a spill management team to manage a spill response, and to inform plan holders that all of the assets identified in their plan must be covered by a certified spill management team to ensure adequate coverage of response capabilities across the state.

Subsection (a)(3)

Purpose: Subsection (a)(3) introduces the concept that plan holders may draw upon a number of sources to construct a certified spill management team.

Necessity: To allow for greater flexibility, the regulations allow for spill management teams to be comprised of a variety of sources - a plan holder's own staff or personnel employed by parent companies or affiliates, or entirely contracted, or a combination of these.

Subsection (a)(4)

Purpose: Subsection (a)(4) explains that the requirements described in these regulations are planning standards, not actual performance standards. This is a common planning concept.

Necessity: This subsection is necessary to acknowledge that unpredictable circumstances may impact response activities, but the regulations establish minimum standards for spill management team qualifications and response capabilities. This language is consistent with that included in other OSPR regulations (Title 14, California Code of Regulations, sections 817.02(d)(3), 817.03(d)(3), 817.04(a)(2), 818.02(d)(3), 818.03(d)(3), 827.02(h)(2), and 819.01(g)).

Subsection (b)(1)

Purpose: Subsection (b)(1) provides general applicability of this subchapter, a time frame for implementation, and clarification of who must apply.

Necessity: It is necessary to ensure that plan holders and outside entities offering spill management services apply for certification in a timely manner. Thirty days is a reasonable time for plan holders to assess their internal and potential external sources of spill management team personnel since they are already required to identify a spill management team in their contingency plans.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.2 – Certification Requirements

Subsections (a) and (b)

Purpose: Subsection (a) outlines the steps that spill management teams must take to achieve certification. Subsection (b) describes what spill management teams must do to maintain certification.

Necessity: Subsections (a) and (b) are necessary to orient spill management teams to the various steps that must be taken to achieve and then maintain certification and provides reference to the section numbers to consult for further details. Because spill management team certification is a new concept entailing various requirements, this subsection is included to improve transparency and navigability of the regulations.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.3 – Spill Management Team Classifications

Subsection (a)

Purpose: Subsection (a) explains that certifications of spill management teams are based on tier classifications that are established according to the reasonable worst-case spill volume in contingency plans for which spill management teams will provide services.

Necessity: It is necessary to categorize spill management teams based on a classification system, reasonably apply response times, personnel, training, and objectives requirements commensurate with the severity of the potential threat posed to the environment. The tier criteria are modeled after OSPR's Drills and Exercises program (14 CCR 820.01 and 820.02).

Subsection (b)

Purpose: Subsection (b) explains that certifications are location and environment based. The geographic areas are defined by the boundaries of area contingency planning or response planning areas (defined in section 790).

Necessity: These planning areas are reference areas for response times of spill management team personnel and address criteria for geographic regions for spill management team service coverage (Government Code section 8670.32(j)(1)(A)). A spill management team seeking certification for a particular geographic area must satisfy the on-scene time frame requirements for vessels or facilities within that area. Spill management teams may apply to provide different levels of services in different planning areas based on where resources are stationed, similar to the oil spill response organization rating program (Title 14, California Code of Regulations, sections 819 through 819.07).

Subsection (c)

Purpose: Subsection (c) describes the thresholds for the three tiers by which spill management teams will be classified, based on reasonable worst-case spill volumes in contingency plans impacting marine or inland waters of the state.

Necessity: It is necessary to categorize spill management teams based on reasonable worst-case spill volume to reasonably apply response times, personnel, training, and objectives requirements commensurate with the severity of the potential threat posed to the environment. The greater the volume of oil involved, the greater the risk to waters of

the state. Classification into tiers based on reasonable worst-case spill volume is in line with the requirement that plan holders identify a certified spill management team capable of managing a response to the reasonable worst-case spill volume in their plans. (Government Code section 8670.29(8)(A))

The tiers are modeled after OSPR's Drills and Exercises program, wherein drill and exercise requirements are also tiered based on the reasonable worst-case spill volume of a particular facility. These were created based on drill coordinators' and spill responders' knowledge of what it takes to respond to and manage a reasonable worst-case spill. The specific volume delineation between the tiers for spill management team classification are derived as follows:

Tier I: A reasonable worst-case spill volume greater than 600 barrels that may impact marine waters; or greater than 1000 barrels that may impact inland waters.

Tier II: A reasonable worst-case spill volume of 250 to 599 barrels that may impact marine waters; or 500 to 999 barrels that may impact inland waters.

Tier III: A reasonable worst-case spill volume of less than or equal to 249 barrels that may impact marine waters; or less than or equal to 499 barrels that may impact inland waters.

Classification into tiers for exercises originated with the inland Drills and Exercises program; the same volume thresholds were used as those for inland exercise tiers to avoid confusion. For marine plans, smaller volumes were chosen because a spill to California's marine waters is more likely to result in complex responses requiring more intensive resources compared to a spill of the same volume to inland waters due to the relative difficulty of containing a spill to the marine environment compared to inland environments.

Subsection (d)

Purpose: Subsection (d) reserves the Administrator's flexibility to assign a facility to a more appropriate tier if the reasonable worst-case spill volume were to change. This would align response and management capabilities with the risk posed to ensure like facilities are subject to the same expectations. Causes of a change to a reasonable worst-case spill volume include increases in well production, increases in throughput or acquisition of larger breakout tanks for pipelines, increases in transfers rate for facilities, increased tank storage on offshore platforms, and acquisition of larger tanks for mobile transfer units.

Necessity: Subsection (d) is necessary because if changes to a plan holder's operations cause increased risk to waters of the state, response capabilities and potentially financial responsibility must be increased commensurate with the risk. This serves the legislative intent to provide best achievable protection of waters of the state.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.4 – On-Scene Requirements

Subsection (a)

Purpose: Subsection (a) outlines the three tiers of classifications of spill management teams, which are based on the reasonable worst-case spill volumes in contingency plans. The designated on-scene personnel and the arrival times vary based on the tiers and are commensurate with the severity of the potential threat posed to the environment.

Necessity: Subsection (a) is necessary because statute instructs the Administrator to establish criteria that include the number of people and equipment spill management teams will provide, and time frames for personnel to arrive on-scene (Government Code section 8670.32(j)). Spill management team personnel are divided into the Initial and Cascading Response Personnel groups to allow for a full team to mobilize and integrate into an incident management structure. The categorizing of personnel into Initial and Cascading designations evolved from input from industry and other stakeholders that spills are often managed by local/regional personnel, and the role of the spill management team is to assume control over incident management on behalf of the responsible party around 24 hours into a response.

Subsections (a)(1)(A), (a)(2)(A), and (a)(3)(A)

Purpose: These subsections explain that spill management team personnel are divided into two groups, Initial Response Personnel and Cascading Response Personnel. Each group is defined in section 790 as part of this rulemaking. The purpose of these subsections is to establish requirements for minimum numbers of personnel comprising the Initial Response Personnel within each tier, the incident command system positions that personnel must perform, and on-scene arrival times for personnel and equipment.

Necessity: These subsections set a standard by which personnel will be evaluated. Initial Response Personnel include three to four people (depending on tier classification) who can arrive within eight hours of being notified of a spill and can fill specific incident command system positions and will bring equipment necessary for their position, such as laptop computers and other communication equipment. Specific training requirements for Initial Response Personnel are described in section 830.5.

The eight-hour arrival capability for Initial Response Personnel is selected because it allows for arrival to geographic regions statewide, including remote locations. These time frames are similar to time frames included in other states' regulations. For example, Alaska requires Incident Commanders to arrive in geographic regions within six hours, other Command and General staff personnel to arrive within 12 hours, and five to ten additional personnel to arrive within 24 hours (18 Alaska Admin. Code section 75.562). Also, Washington requires Incident Commanders to be able to arrive within six

hours, with personnel filling thirteen additional incident command system positions, but without specific time frames for arrival (Washington Admin. Code section 173-182-280).

The specific incident command system positions identified in 2. were chosen as follows: the Incident Commander has the overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations; the Safety Officer is required to assess, characterize, and identify any potential safety and health threats; the Operations Section Chief is responsible for the management of tactical operations crucial to a spill response. These three incident command system positions have the authority to act on behalf of the responsible party to accomplish the most urgent tasks within the first 24 hours of a spill.

Subsections (a)(1)(B), (a)(2)(B), and (a)(3)(B)

Purpose: These subsections establish requirements for minimum numbers of personnel comprising the Cascading Response Personnel within each tier, the incident command system positions personnel must perform, and on-scene arrival times for personnel and equipment.

Necessity: These subsections set a standard by which personnel will be evaluated. Cascading Response Personnel include 8 positions (depending on tier classification) who can arrive within 24 hours of being notified of a spill and can fill the incident command system positions required of the Initial Response Personnel, plus additional positions to fill other specific incident command system positions and will bring equipment necessary for their position. Specific training requirements for Cascading Response Personnel are described in section 830.5.

The 24-hour arrival capability for Cascading Response Personnel is selected because it allows for arrival to geographic regions statewide, including remote locations, given the number and of personnel required are more likely to be coming in from out-of-state. These time frames are similar to time frames included in other states' regulations. Additionally, these times have been identified by industry as reasonable.

The eight and 24-hour on-scene arrival capabilities required by OSPR for both Initial and Cascading Response Personnel, respectively, are achievable in all regions of the state while providing sufficient response capacity to protect California's waters of the state.

Subsections (a)(1)(C), (a)(1)(D), (a)(2)(C), (a)(2)(D), (a)(3)(C), (a)(3)(D)

Purpose: These subsections ensure sufficient coverage of Cascading Response Personnel.

Necessity: These subsections establish requirements for alternates to perform the incident command system positions of the Cascading Response Personnel. Tier I spill management teams must have two alternates for the Incident Commander and Planning Section Chief positions and one alternate each for each position with a minimum of 12 personnel. Tier II spill management teams must have one alternate for each position with a minimum of 10 personnel, and Tier III spill management teams must have a minimum of eight personnel with no requirement to supplement with

alternates. Alternates for Tier III are not required because the contingency plans covered by this classification have the lowest reasonable worst-case spill volumes and therefore the least need for additional personnel. Spills of this reasonable worst-case spill volume typically are less prolonged and are able to be resolved with fewer response resources.

Requirements for minimum numbers of personnel and alternates are necessary to implement Government Code section 8670.32(j)(1)(B). Alternates for specific positions are necessary to account for replacements during a longer response, and the possibility that personnel may be unavailable to respond. These requirements are tiered to reflect that larger volumes spilled are more likely to require an extended response involving more personnel.

The minimum numbers allow for cross-training individuals to fill more than one position, while ensuring that enough personnel are available to staff an incident management structure. Requirements for alternates to fill incident command positions and minimum number of personnel are similar to other states' requirements. Alaska requires one alternate for each of the five positions required, for a total of 10 personnel identified by name, with an additional 10-15 personnel available to fill positions. Washington requires two alternates for each of the eight command and general staff positions and one alternate for each of the other six positions; personnel may be listed a maximum of two times each for an effective minimum of 18 personnel.

The Incident Commander and Planning Section Chief positions play especially important and skilled roles in incident management, which is why the positions require two alternates in Tier I spill management teams.

Subsection (a)(3)(E)

Purpose: This subsection explains that Tier III spill management teams that provide services to plan holders that pose less of a risk to the environment have reduced response requirements.

Necessity: This subsection is necessary to align personnel and tactical response requirements for contingency plan holders posing a threat to waterways that are dry most of the year (subsection 817.04(m)). Plan holders that have with reduced risk relative to those with potential impacts to perennial streams have fewer planning requirements for tactical resources, so they have a lesser need for personnel to manage a response.

Subsection (b)

Purpose: The purpose of subsection (b) is to state that spill management teams may use the same personnel to fulfill requirements for Initial Response Personnel responding within eight hours and Cascading Response Personnel responding within 24 hours.

Necessity: This subsection establishes standards by which personnel will be evaluated. The Initial and Cascading Response Personnel designations were established to account for highly trained personnel being located out of state. This subsection is

necessary to clarify that spill management teams located within California may rely on those personnel to fulfill requirements for both Initial and Cascading response positions if the personnel meet the on-scene arrival capability and training requirements for each group to which they are assigned.

Subsection (c)

Purpose: The purpose of subsection (c) is to ensure that spill management teams can account for personnel required of their tier certification and that personnel meet basic availability and communication requirements.

Necessity: This subsection establishes standards by which personnel will be evaluated. The requirements for location within the continental US, 24-hour availability, and fluency in English are the same as existing requirements for Qualified Individuals listed in contingency plans. Maintaining a list of personnel names is required so that the availability of personnel can be confirmed.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.5 – Training and Experience Requirements

Subsection (a)(1)

Purpose: Subsection (a)(1) explains that the curriculum used in training courses provided by the Federal Emergency Management Agency/Homeland Security and the U.S. Coast Guard and is the standard for the training requirements listed in this section. These agencies' courses are the basis for the National Incident Management System (NIMS) qualifications for incident management personnel. NIMS integrates effective practices in emergency response into a comprehensive national framework for incident management. NIMS is the incident command system used in oil spills. The regulations allow spill management teams to take equivalent courses that are not coordinated by agencies, and this subsection describes that these courses should achieve the same learning outcomes over the same time periods, and in the same physical setting provided by the Federal Emergency Management Agency and U.S. Coast Guard and courses.

Necessity: This subsection is necessary to specify the curriculum that satisfies these requirements. The regulations allow for equivalent courses offered by persons other than agencies because agency courses may not be sufficiently and timely available to the regulated community, and there are many qualified contractors offering these courses both on behalf of agencies and outside agency purview. Specifying that courses deliver the same learning outcomes, time periods, and settings clarifies which

equivalent courses satisfy the requirements. Learning outcomes for these courses are publicly available on the Federal Emergency Management Agency's and United States Coast Guard's web sites.

Subsection (a)(2)

Purpose: Subsection (a)(2) explains that all position-specific courses required of Tier I and Tier II Cascading Response Personnel, listed in subsections (j) and (k) of this section, must be led by an instructor. Five of the courses (Incident Commander, Liaison Officer, Public Information Officer, Logistics Section Chief, Finance Section Chief) may be delivered virtually by an instructor, whereas three of the courses (Safety Officer, Operations Section Chief, Planning Section Chief) must be led by an instructor in an in-person setting.

Necessity: This subsection is necessary to account for obstacles to delivering in-person training courses posed by the Covid-19 pandemic. The Federal Emergency Management Agency's and United States Coast Guard's training guides specify that the position-specific courses listed in this section are delivered in a classroom setting, but it is anticipated that this cannot be accomplished at the time this rulemaking becomes effective, due to safety considerations. Allowing for position-specific courses to be conducted virtually, provided they are led by an instructor, allows spill management teams to obtain a significant proportion of the training required, while retaining acceptably high standards. In this context, "virtual" is commonly understood to mean real-time interactions that take place over the internet using integrated audio, video, and chat tools.

The three training courses required to be held in person are designated as such because the complexity of the instruction required is not amenable to delivery in a virtual setting, even with an instructor. The Safety Officer has far-reaching responsibilities, including the completion and dissemination of multiple complex forms, plans, and safety messages, which require extensive interaction with the Planning and Operations sections. The interactivity required of an effective Safety Officer training course cannot be adequately achieved in a virtual setting. Because of the paramount role of the Safety Officer in ensuring that response actions are conducted safely, it is necessary to require this course be delivered in an in-person setting. Similarly, the Operations Section Chief and Planning Section Chief courses require multiple participatory demonstrations and interactive exercises that are essential to convey the extensive collaboration between the sections that is integral to developing incident action plans. Because these activities are not conducive to a virtual setting, it is necessary to require these courses to be conducted in person. As described in subsection (c) below, the time frame specified for spill management teams requesting a new certification to comply with the training requirements was extended considerably to allow sufficient time for personnel to complete these in-person courses.

Subsection (b)

Purpose: Subsection (b) establishes that instructors leading equivalent courses must be qualified to teach the subjects covered by the courses.

Necessity: This subsection is necessary to set guidelines for acceptable training. The regulated community requested that instructor qualifications be addressed by the regulations, and the language is modeled after the California Occupational Safety and Health Administration's Hazardous Waste Operations and Emergency Response (HAZWOPER) regulations (Title 8 CCR, section 5192), with which the regulated community is familiar. The subsection states that instructors must either have formal education or credentials for teaching the courses, or they must have skills and experience necessary for teaching.

Subsection (c)

Purpose: Subsection (c) establishes a grace period for teams to achieve the training requirements described in this section.

Necessity: This subsection establishes standards by which personnel will be evaluated. Personnel on many teams will be required to undertake multiple training courses, which takes time and often means time away from their day-to-day jobs. Eighteen months was originally selected for the length of the grace period, because it provides a reasonable time frame to achieve training standards, considering the availability of scheduled courses offered through agencies, the availability of outside instructors, and the capacity of the regulated community to devote personnel time to training. However, due to the impacts of the Covid-19 pandemic on industry's ability to safely attend in-person training courses required for certification, the grace period was extended from 18 months to the end of the third full calendar year after the issuance of an interim certification. This time frame was selected to correspond with the time by which a spill management team with an interim certification must obtain a full certification by completing the objectives described in section 830.6. This extension of the grace period is sufficient to allow for safe delivery of the training courses that are required to be delivered in an in-person setting. The correspondence of the training qualification deadline with the deadline for completing objectives at an exercise facilitates the common industry practice of delivering training prior to an exercise to minimize travel costs.

Subsection (d)

Purpose: Subsection (d) establishes that spill management team personnel have health and safety training required for their incident command system positions.

Necessity: This subsection is necessary because the regulations must address health and safety training as part of establishing standards for qualifications of spill management team personnel. Hazardous Waste Operations and Emergency Response (HAZWOPER; Title 8 CCR, section 5192), is the primary safety training requirement for responders to pollution incidents.

Subsection (e)

Purpose: Subsection (e) establishes training requirements for all Initial Response Personnel, regardless of tier classification. These requirements form the basis upon which tiered training requirements for Initial Response Personnel are built. They include familiarity with the contingency plans for which personnel provide services; eight hours

of incident command system refresher training, formal training, or exercise participation each year; and performance of personnel's respective incident command positions in California every three years.

Necessity: This subsection is necessary to establish that spill management personnel filling initial response positions have a baseline familiarity with the contingency plans they will be tasked with implementing and the incident command system.

In subsection (e)(1), familiarity with the contingency plans for which spill management teams provide services is necessary to facilitate orderly implementation of the plan during the first 24 hours of a spill.

Subsection (e)(2) establishes a requirement for Initial Response Personnel to take refresher incident command system training. This is important to ensure that personnel remain familiar with the incident command system, particularly those who do not use the incident command system in their day-to-day jobs. Eight hours of refresher training is selected based on the example set by HAZWOPER regulations (Title 8 CCR, section 5192), which require eight hours of refresher training each year. To avoid requiring personnel to spend excessive time in training activities, the refresher training may be accomplished throughout the year, and formal training courses and exercise participation may fulfill this requirement.

Informal review of the incident command system may also fulfill the requirement for incident command system refresher training. Activities characterized as informal review could include practicing the use of incident command system forms and participation in discussions about incident command system protocols as part of quarterly notification exercises or semi-annual equipment deployments required of plan holders by OSPR's Drills and Exercises regulations (sections 820.01 and 820.02). Because this requirement is included for the purpose of ensuring that personnel retain familiarity with the incident command system, the regulations afford spill management teams flexibility in determining how best to ensure that personnel engage with the incident command system. Records of incident command system refresher training shall be kept by spill management teams, and are subject to review and verification by OSPR, as described in subsection (o) of this section and in section 830.7.

The requirement in subsection (e)(3) for Initial Response Personnel to perform their respective incident command system positions in California is because some oil spill response protocols and organizational structures are unique to the state, and personnel must practice within these structures to ensure that they are prepared to respond to spills in California. The three-year time frame was chosen because it aligns with OSPR's requirement for vessel contingency plans to be tested in California in their entirety on a triennial basis (section 820.01(a)(2)(A)2.). It also aligns with industry guidance on training best practices issued by the global oil industry organization IPIECA (formerly the International Petroleum Industry Environmental Conservation Association, now just "IPIECA") stating that three years is the maximum time that personnel can retain detailed knowledge without practice.

Subsection (f)

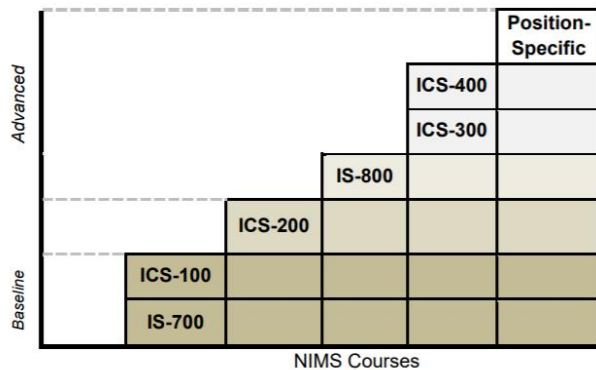
Purpose: Subsection (f) establishes training requirements specific to Initial Response Personnel in the Tier I classification.

Training requirements for Initial Response Personnel use a “team-based” model, with the tier level determining how many personnel are required to have completed six training courses. A team-based approach was selected for Initial Response Personnel so that the requirements can be met using various permutations of staff with basic to intermediate incident command system training, allowing for flexibility in meeting requirements for the first 24 hours of a response.

Necessity: This subsection is necessary to establish the Tier I Initial Response Personnel training requirements.

The selection of training courses is based on the National Incident Management System (NIMS) Training Program. The five incident command system training courses listed in (1) and (2) of this subsection include foundational through intermediate courses, as shown in Figure 1 below. IS-100, Introduction to Incident Command System, and IS-700, An Introduction to the National Incident Management System, are the “baseline” courses introducing the incident command system and the NIMS concepts. The NIMS Training Guide designates IS-200, Basic Incident Command System for Initial Response, as the next level of advancement, enabling personnel to operate efficiently within the incident command system. IS-800, An Introduction to the National Response Framework, is the next level of advancement, and ICS-300, Intermediate ICS for Expanding Incidents provides personnel with advanced knowledge and application of the incident command system and the planning process.

Figure 1: Training for ICS Personnel



For Tier I Initial Response Personnel who will manage the first 24 hours of incidents with the greatest potential to require a complex, extended response, all personnel shall have completed the baseline courses IS-100 and IS-700, as well as IS-200 and IS-800, the next levels up. These courses deliver key concepts about managing an initial response, as well as concepts from the National Response Framework, which are important for members of a team managing a growing incident involving federal agencies.

A minimum of two of the four Tier I Initial Response Personnel must have ICS-300 since it is the first course in the NIMS Training Program hierarchy to provide in-depth incident command system training, which is important to making forward-thinking decisions during the first 24 hours that will facilitate an efficient response moving forward. Two personnel having completed this course is selected because larger reasonable worst-case spill volumes is a proxy for spill complexity and extent of impacts; having more than one of the initial response personnel trained to this level facilitates effectiveness in the early hours of a spill response, as well as a smooth transition of command.

In subsection (f)(3), HAZWOPER Incident Commander/On-scene Manager was selected as an Initial Response Personnel requirement because it includes key competencies: capability of implementing a contingency plan, and knowledge of local, state, and federal plans, as well as employee safety and personal protective equipment utilization (described in Title 8 CCR subsection 5192(q)(6)(E)). Across all tiers, one member of the Initial Response Personnel group shall have this training because this knowledge is crucial for commencing a safe and effective response.

Subsection (g)

Purpose: Subsection (f) establishes training requirements specific to Initial Response Personnel in the Tier II classification.

Necessity: The subsection is necessary to establish the Tier II Initial Response Personnel training requirements.

Tier II personnel will manage the first 24 hours of responses likely to span multiple operational periods, but less complex than responses requiring Tier I spill management teams. The training requirements for Tier II Initial Response Personnel are exactly the same as those for Tier I, with the exception of only one member being required to have ICS-300, Intermediate ICS for Expanding Incidents. This was chosen to reflect the relatively less complex, extended response required for a Tier II volumes compared to a Tier II volume.

Subsection (h)

Purpose: Subsection (h) establishes training requirements specific to Initial Response Personnel in the Tier III classification.

Necessity: The subsection is necessary to establish the Tier III Initial Response Personnel training requirements.

All Tier III Initial Response Personnel must have the baseline ICS courses, IS-100 and IS-700, as discussed above, but only one member must complete the courses beyond the baseline courses (IS-200, IS-800, ICS-300). The contingency plans covered by this classification of spill management team have the lowest reasonable worst-case spill volumes and therefore the least need for additional personnel. Spills of this reasonable worst-case spill volume typically are less prolonged and are able to be resolved with fewer response resources. Tier III responses are the most likely to be concluded within 24-48 hours, with lesser likelihood of expansion compared to Tier I and II responses.

Subsection (i)

Purpose: Subsection (i) establishes training requirements for all Cascading Response Personnel, regardless of tier classification. These requirements form the basis upon which tiered training requirements for Cascading Response Personnel are built. The requirements include familiarity with the California Oil Spill Contingency Plan and other agency regional planning documents (area contingency plans, geographic response plans, defined in section 790) as applicable; ability to demonstrate skills and competencies of respective incident command system positions; baseline through intermediate incident command system training courses; 16 hours of incident command system refresher training, formal training, or exercise participation each year; and performance of personnel's respective incident command positions in California every three years.

Necessity: This subsection is necessary to establish that spill management personnel filling cascading response positions have familiarity with state and regional contingency plans they will be tasked with implementing, strong intermediate knowledge of the incident command system, and competency in their respective positions.

Subsection (i)(1) provides that in addition to the contingency plans for which spill management personnel provide services, familiarity with the California Oil Spill Contingency Plan, and applicable area contingency plans and geographic response plans is necessary so that Cascading Response Personnel can efficiently integrate into a command structure with OSPR and federal agencies having jurisdiction (the U.S. Coast Guard or the U.S. Environmental Protection Agency).

In subsection (i)(2), an ability to demonstrate the competencies, behaviors, and tasks associated with incident command system positions is necessary so that personnel can effectively fulfill the roles and responsibilities of their respective positions. The Federal Emergency Management Agency's National Qualification System position task books were chosen as a reference because these are the standard for NIMS and they are readily available online. Spill management teams may also use their own position task books if they utilize a qualification system adapted for their operations.

Just as all Initial Response Personnel have minimum training requirements, subsection (i)(3) specifies the minimum training requirements for all Cascading Response Personnel. It is necessary for Cascading Response Personnel to be trained through ICS-300, Intermediate ICS for Expanding Incidents, because this course provides the in-depth, participatory instruction that is necessary for personnel to independently function in leadership positions in the incident command system. The other required courses listed in subsection (i)(3) – IS 100, IS-200, IS-700, and IS-800 – are all prerequisites for ICS-300, so it is necessary for personnel to have these courses as well.

Subsection (i)(4) establishes a requirement to take refresher incident command system training. This is necessary to ensure that personnel remain familiar with the incident command system, particularly those who do not use the incident command system in their day-to-day jobs. Sixteen hours is selected because cascading personnel should maintain more fluency with the incident command system than what is required for Initial Response Personnel. The refresher can be accomplished throughout the year, and

personnel may use formal training and exercise participation as well as informal review of the incident command system, as discussed above for subsection (e), to fulfill this requirement. Because of the importance of the functions filled by Cascading Response Personnel, 16 hours each year spent engaging in these activities is a reasonable requirement.

The requirement in subsection (i)(5) for Cascading Response Personnel to perform their respective incident command system positions in California is because some oil spill response protocols and organizational structures are unique to the state, and personnel must practice within these structures to ensure that they are prepared to respond to spills in California, as discussed above in subsection (e). The stipulation that this requirement only applies to the minimum number of personnel required was added in response to a request for clarification about requirements of spill management teams maintaining larger rosters of personnel than the minimum numbers required in these regulations. For example, if a team has 15 Tier I Planning Section Chiefs, it would be onerous to require each of them to perform in California every three years. It is reasonable to require only three Planning Section Chiefs, the minimum for Tier I spill management teams, to comply with this requirement.

Subsection (j)

Purpose: Subsection (j) establishes training requirements specific to Cascading Response Personnel in the Tier I classification.

Training requirements for Cascading Response Personnel are specific to incident command system positions, unlike the team-based requirements for initial response personnel. Cascading Response Personnel arrive within 24 hours prepared to assume control of an incident in unified command with OSPR and the federal agency having jurisdiction (U.S. Coast Guard or U.S. Environmental Protection Agency). These position-specific training courses are part of the Federal Emergency Management Agency's or the U.S. Coast Guard's curriculum. The number of hours specified for position-specific training was selected from the shorter of the course lengths associated with each agency's curriculum.

Training for Tier I cascading response positions also includes performing their respective roles in an exercise testing the largest reasonable worst-case spill volume of plans for which services are provided, or 78,125 barrels, whichever is smaller.

Training courses and exercise participation required of each incident command system position may be substituted for experience managing emergency responses, quantified as number of hours performing incident command system positions during responses.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

Position-based courses were selected as requirements because it is necessary for personnel managing complex responses to have training specific to their roles, responsibilities, and interaction with other incident command system units in order to manage spills effectively and minimize damage to California's resources. The shorter of the two curricula offered by the U.S. Coast Guard and the Federal Emergency

Management Agency was selected to allow spill management teams flexibility in selecting training courses, and to avoid giving preference to either federal agency's training curriculum.

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which personnel provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command. The exercise must include the largest spill volume to which personnel are likely to respond because spill volume is a primary determinant of response scale and complexity. The cap of 78,125 barrels on simulated volumes was included because spill management teams pointed out that there is no upper limit on planning volumes for Tier I, making the requirement ambiguous for teams offering contracted services. The cap of 78,125 barrels was designated because it is the largest planning volume for containment and recovery required in OSPR's contingency plan regulations for marine facilities and vessels (sections 817.02 and 818.02). This cap is included in exercise participation requirements for all Tier I cascading response positions.

The allowance for experience to substitute for training was included to acknowledge expertise gained through participation in real emergency responses. Many personnel began careers in emergency management before incident command system courses were available outside of fire agencies, and it is reasonable to recognize their qualifications. Experience is quantified as number of hours performing incident command system positions in emergency responses of a given type. The incident typing system is a scale of incident complexity originally developed by the U.S. Fire Administration and adopted by the U.S. Coast Guard and the National Incident Management System Training Program. The incident typing scale is a holistic measure of incident complexity, based on factors such as the extent of the organizational structure, response duration, and utilization of local, regional, and national resources, with Type 1 incidents being the most complex and Type 5 being the least. The U.S. Coast Guard formally applies types to some incidents, but the incident typing scale can be used to assign a type based on typing criteria included in the U.S. Coast Guard's *Incident Management Handbook* (2014).

Subsection (j)(1)

Purpose: This subsection establishes training and experience required for Tier I Incident Commanders. Tier I Incident Commanders are required to have ICS-400, Advanced ICS or its equivalent, and an instructor-led, position-specific Incident Commander course in addition to the requirements of all cascading personnel in subsection (i) of this section.

The training requirements include performance as Incident Commander in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Incident Commander will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Incident Commander or Deputy Incident Commander for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

ICS-400, Advanced ICS, is required of Tier I Incident Commanders because it is critical for personnel performing the lead position on behalf of the responsible party (defined in section 790 of chapter 1) to have an advanced knowledge of the incident command system. Instructor-led, position-specific courses or equivalents are required of all Tier I Cascading Response Personnel. Position-specific courses must be led by an instructor to ensure effective delivery of learning objectives, as discussed above in subsection (a)(2). Thirty-two hours was selected because it is the lesser duration of the U.S. Coast Guard (ICS-410, Advanced Incident Commander, 32 hours) and the Federal Emergency Management Agency's (E/L 950 NIMS ICS All-Hazards Position Specific Incident Commander, 40 hours) curriculum.

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Incident Commanders provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities managing a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Incident Commander or Deputy Incident Commander for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected because this time period represent about 10-12 work shifts and five to six operational periods requiring preparation and completion of written incident action plans. Type 3 incidents were selected because they require multiple operational periods and a robust incident command structure, and Type 4 were included in addition to Type 3 to acknowledge experience in increasingly complex incidents. Type 3 incidents are the most complex incidents cited in this subchapter because Type 1 and Type 2 incidents are exceedingly rare and including them would render the experience requirements effectively unattainable. Similarly, performance as Deputy Incident Commander was included because of the rarity of oil spills, and because deputies have essentially the same qualifications and authority as Incident Commanders.

This quantification of experience in lead or deputy/assistant to lead incident command system positions that may substitute for training is repeated for all cascading response positions.

Subsection (j)(2)

Purpose: This subsection establishes training or experience required for Tier I Safety Officers. Tier I Safety Officers are required to have a position-specific Safety Officer course in addition to the requirements of all cascading personnel in subsection (i) of this section. The Safety Officer position-specific training must be led by and instructor and conducted in person.

The training requirements include performance as Safety Officer in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Safety Officer will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Safety Officer or Assistant Safety Officer for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

The position-specific training duration of 28 hours was selected because it is the lesser duration of the U.S. Coast Guard (ICS-404 Safety Officer, 32 hours) and the Federal Emergency Management Agency's (E/L 954 NIMS ICS All-Hazards Position Specific Safety Officer, 28 hours) curriculum. As discussed above in subsection (a)(2), position-specific courses must be led by an instructor to ensure effective delivery of learning objectives. The requirement for the course to be conducted in person is necessary because the complex duties, responsibilities, and interactions required of a Safety Officer are not amenable to being adequately presented in a virtual setting.

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Safety Officers provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Safety Officer or Assistant Safety Officer for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected based on the considerations described previously in subsection (j)(1).

Subsection (j)(3)

Purpose: This subsection establishes training or experience required for Tier I Assistant Public Information Officers. Tier I Assistant Public Information Officers are required to have an instructor-led, position-specific Public Information Officer course in addition to the requirements of all cascading personnel in subsection (i) of this section.

The training requirements include performance as Public Information Officer or Assistant Public Information Officer in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Assistant Public Information Officer will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Public Information Officer or Assistant Public Information Officer for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

The Assistant designation was included for this position because of feedback from the regulated community that either OSPR or the federal agency having jurisdiction tend to assume the lead Public Information Officer position during oil spill incidents, so the regulations should not conflict with common practice.

The position-specific training duration of 16 hours was selected because it is the lesser duration of the U.S. Coast Guard (ICS-403 Public Information Officer, 16 hours) and the Federal Emergency Management Agency's (E/L 952 NIMS ICS All-Hazards Position Specific Public Information Officer, 35 hours) curriculum. Position-specific courses must be led by an instructor to ensure effective delivery of learning objectives, as discussed above in subsection (a)(2).

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Assistant Public Information Officers provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Public Information Officer or Assistant Public Information Officer for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected based on the considerations described previously in subsection (j)(1).

Subsection (j)(4)

Purpose: This subsection establishes training or experience required for Tier I Assistant Liaison Officers. Tier I Assistant Liaison Officers are required to have an instructor-led, position-specific Liaison Officer course in addition to the requirements of all cascading personnel in subsection (i) of this section.

The training requirements include performance as Liaison Officer or Assistant Liaison Officer in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Assistant Liaison Officer will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Liaison Officer or Assistant Liaison Officer for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

The Assistant designation was included for this position as a result of feedback from the regulated community that the section 2410 of the Regional Contingency Plan the Regional Response Team (defined in section 790 of chapter 1) region including California (Region IX) prohibits representatives of the responsible party from being designated as the Liaison Officer, so regulations should not conflict with this federal planning document.

The position-specific training duration of 16 hours was selected because it is the duration of both the U.S. Coast Guard (ICS-402 Liaison Officer, 16 hours) and the Federal Emergency Management Agency's (E/L 956 NIMS ICS All-Hazards Position Specific Liaison Officer, 16 hours) curriculum. Position-specific courses must be led by an instructor to ensure effective delivery of learning objectives, as discussed above in subsection (a)(2).

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Assistant Liaison Officers provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Liaison Officer or Assistant Liaison Officer for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected based on the considerations described previously in subsection (j)(1).

Subsection (j)(5)

Purpose: This subsection establishes training or experience required for Tier I Operations Section Chief. Tier I Operations Section Chiefs are required to have an instructor-led, in-person position-specific Operations Section Chief course in addition to the requirements of all cascading personnel in subsection (i) of this section.

The training requirements include performance as Operations Section Chief in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Operations Section Chief will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Operations Section Chief or Deputy Operations Section Chief for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

The position-specific training duration of 24 hours was selected because it is the lesser duration of the U.S. Coast Guard (ICS-430 Operations Section Chief, 24 hours) and the Federal Emergency Management Agency's (E/L 958 All-Hazards Position Specific Operations Section Chief, 28 hours) curriculum. As discussed above in subsection (a)(2), position-specific courses must be led by an instructor to ensure effective delivery of learning objectives. The requirement for the course to be conducted in person is necessary because the interactive activities required in an Operations Section Chief course are not conducive adequately presentation in a virtual setting.

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Operations Section Chiefs provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Operations Section Chief or Deputy Operations Section Chief for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected based on the considerations described previously in subsection (j)(1).

Subsection (j)(6)

Purpose: This subsection establishes training or experience required for Tier I Planning Section Chief. Tier I Planning Section Chiefs are required to have an instructor-led, position-specific Planning Section Chief course in addition to the requirements of all cascading personnel in subsection (i) of this section.

The training requirements include performance as Planning Section Chief in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Planning Section Chief will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Planning Section Chief or Deputy Planning Section Chief for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

The position-specific training duration of 28 hours was selected because it is duration of both the U.S. Coast Guard (ICS-440 Planning Section Chief, 28 hours) and the Federal Emergency Management Agency's (E/L 962 All-Hazards Position Specific Planning Section Chief, 28 hours) curriculum. As discussed above in subsection (a)(2), position-specific courses must be led by an instructor to ensure effective delivery of learning objectives. The requirement for the course to be conducted in person is necessary because the interactive activities required in an Planning Section Chief course are not conducive adequately presentation in a virtual setting.

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Planning Section Chiefs provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Planning Section Chief or Deputy Planning Section Chief for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected based on the considerations described previously in subsection (j)(1).

Subsection (j)(7)

Purpose: This subsection establishes training or experience required for Tier I Logistics Section Chief. Tier I Logistics Section Chiefs are required to have an instructor-led, position-specific Logistics Section Chief course in addition to the requirements of all cascading personnel in subsection (i) of this section.

The training requirements include performance as Logistics Section Chief in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Logistics Section Chief will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Logistics Section Chief or Deputy Logistics Section Chief for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

The position-specific training duration of 24 hours was selected because it is duration of both the U.S. Coast Guard (ICS-450 Logistics Section Chief, 24 hours) and the Federal Emergency Management Agency's (E/L 967 All-Hazards Position Specific Logistics Section Chief, 35 hours) curriculum. Position-specific courses must be led by an instructor to ensure effective delivery of learning objectives, as discussed above in subsection (a)(2).

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Logistics Section Chiefs provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Logistics Section Chief or Deputy Logistics Section Chief for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected based on the considerations described previously in subsection (j)(1).

Subsection (j)(8)

Purpose: This subsection establishes training or experience required for Tier I Finance Section Chief. Tier I Finance Section Chiefs are required to have an instructor-led, position-specific Finance Section Chief course in addition to the requirements of all cascading personnel in subsection (i) of this section.

The training requirements include performance as Finance Section Chief in an exercise simulating a response to the largest reasonable worst-case spill volume listed in the plans for which the Finance Section Chief will provide services, or 78,125 barrels, whichever is smaller.

Experience that may substitute for the above training requirements includes 120 hours performing as Finance Section Chief or Deputy Finance Section Chief for Type 3 incidents, or 150 hours for Type 3 and Type 4 incidents.

Necessity: It is necessary to establish training requirements for each Tier and incident command system position for cascading personnel.

The position-specific training duration of 16 hours was selected because it is duration of both the U.S. Coast Guard (ICS-460 Finance Section Chief, 16 hours) and the Federal Emergency Management Agency's (E/L 973 All-Hazards Position Specific Finance Section Chief, 21 hours) curriculum. Position-specific courses must be led by an instructor to ensure effective delivery of learning objectives, as discussed above in subsection (a)(2).

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which Finance Section Chiefs provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command structure. The cap of 78,125 barrels was included as described previously in subsection (j).

Performance as Finance Section Chief or Deputy Finance Section Chief for 120 hours in Type 3 incidents or 150 hours for a combination of Type 3 and Type 4 incidents was selected based on the considerations described previously in subsection (j)(1).

Subsection (k)

Purpose: Subsection (k) establishes training requirements specific to Cascading Response Personnel in the Tier II classification.

Tier II training requirements include position-specific training courses that are part of the Federal Emergency Management Agency's or the U.S. Coast Guard's curriculum. As with Tier I, the number of hours specified for position-specific training was chosen as the shorter of the course lengths associated with each agency's curriculum.

Training for Tier II cascading response positions includes performing respective roles in an exercise testing the smaller of 999 barrels (the largest reasonable worst-case spill volume associated with the tier) or the largest reasonable worst-case spill volume of plans for which services are provided.

Training courses and exercise participation required of each incident command system position may be substituted for experience managing emergency responses. For Tier II Incident Commanders (section 830.5(k)(2)), experience that may substitute for the above training requirements includes 84 hours performing as Incident Commander or Deputy Incident Commander for Type 4 incidents, or 120 hours for Type 4 and Type 5 incidents. For all other positions, experience that may substitute for the above training requirements includes 84 hours performing as the leads or Deputies/Assistants to the lead for their respective positions for Type 4 incidents.

Necessity: It is necessary to establish requirements for training, as well as experience that may substitute for training, for Tier II Cascading Response Personnel. These position-based requirements ensure that personnel have the training or experience to manage an effective response and minimize damage to the state's environmental and economic resources.

Position-based courses were selected as requirements because it is necessary for personnel managing potentially complex responses have received training specific to their roles, responsibilities, and interaction with other incident command system units, as described in subsection (j). Position-specific courses must be led by an instructor to ensure effective delivery of learning objectives, and the Safety Officer, Operations Section Chief, and Planning Section Chief courses must be delivered in an in-person setting, as discussed above in subsection (a)(2).

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which personnel provide services is necessary to ensure

that they have tangible experience performing their roles and responsibilities in a unified command. The exercise must include the largest spill volume to which personnel are likely to respond because spill volume is a primary determinant of response scale and complexity. The cap of 999 barrels on simulated volumes was chosen because it is the upper threshold for the Tier II spill management team classification. This cap is included in exercise participation requirements for all Tier II cascading response positions.

The allowance for experience to substitute for training was included to acknowledge expertise gained through participation in real emergency responses. Experience is quantified as number of hours performing incident command system positions in emergency responses of a given type using the criteria included in the U.S. Coast Guard's *Incident Management Handbook* (2014). For Tier II cascading response positions, incident types of lesser complexity than the Tier I requirements were selected. The incident typing scale uses organizational structure as a key contributing metric, and because positions other than Incident Commander are not typically staffed for a Type 5 incident, only the Incident Commander experience cites Type 5 incidents. Performance in Deputy and Assistant positions is included because of the rarity of oil spills, and because secondary positions have similar responsibilities and authority as leads.

For Tier II Incident Commanders, performance as Incident Commander or Deputy Incident Commander for 84 hours in Type 4 incidents or 120 hours for a combination of Type 4 and Type 5 incidents was selected because this time period represent about 7-10 work shifts and three to five operational periods requiring planning and execution of response operations. Type 4 incidents were selected because they include multiple resources, and Type 5 were included in addition to Type 4 incidents for Incident Commanders to acknowledge experience in increasingly complex incidents. For other positions, Type 5 incidents were not included because positions other than Incident Commander are not reliably staffed during in Type 5 incidents.

Subsection (l)

Purpose: Subsection (l) establishes training requirements specific to Cascading Response Personnel in the Tier III classification.

Tier III training requirements include performing respective roles in an exercise testing the smaller of 499 barrels (the largest reasonable worst-case spill volume associated with the tier) or the largest reasonable worst-case spill volume of plans for which services are provided.

The allowance for experience to substitute for training was included to acknowledge expertise gained through participation in real emergency responses. Experience is quantified as number of hours performing incident command system positions in emergency responses of a given type using the criteria included in the U.S. Coast Guard's *Incident Management Handbook* (2014). For Tier III cascading personnel, required training courses and exercise participation may be substituted for 60 hours of experience performing the lead or deputy/assistant to leads of their respective positions during Type 4 emergency responses. Tier III Incident Commanders (section 830.5(l)(2)), may include Type 5 incidents in the 60 hours.

Necessity: It is necessary to establish requirements for training, as well as experience that may substitute for training, for Tier III Cascading Response Personnel. These requirements ensure that they have the training or experience to manage an effective response and minimize damage to the state's environmental and economic resources.

Participation in an exercise simulating a response to the largest reasonable worst-case spill volume listed in plans for which personnel provide services is necessary to ensure that they have tangible experience performing their roles and responsibilities in a unified command. The exercise must include the largest spill volume to which personnel are likely to respond because spill volume is a primary determinant of response scale and complexity. The cap of 499 barrels on simulated volumes was chosen because it is the upper threshold for the Tier III spill management team classification. This cap is included in exercise participation requirements for all Tier III cascading response positions.

For experience substituting for training, 60 hours was selected because this time period represent about 5 work shifts and two to three operational periods requiring planning and execution of response operations. Type 4 incidents were selected because they include multiple resources, and Type 5 were included in addition to Type 4 incidents for Incident Commanders to acknowledge experience in increasingly complex incidents. For other positions, Type 5 incidents were not included because positions other than Incident Commander are not reliably staffed during in Type 5 incidents.

Subsection (m)

Purpose: Subsection (m) addresses qualifications of alternates for cascading response positions, as required by section 830.4(a). Alternates must have the training or experience required for respective positions and tiers, except that the exercise requirement may be satisfied by performance in the deputy/assistant position in addition to performing the lead position.

Necessity: This subsection is necessary to address qualifications for alternates for cascading response positions. The training requirements include performance in the lead position in an exercise testing the largest reasonable worst-case spill volume listed in plans for which personnel will provide services. Many plan holders intend to furnish certified spill management teams made up of their own personnel and will cross-train personnel to perform more than one incident command system position. During informal scoping, plan holder representatives pointed out that cross-trained alternates would have a difficult time achieving exercise participation in the lead position for alternates, since the reasonable worst-case spill volume is exercised every three years. The allowance for alternates to use performance in deputy/assistant positions for the required exercise participation was included to afford plan holders the flexibility to train their employees as a certified spill management team, while maintaining a reasonably high standard for qualification.

Subsection (n)

Purpose: Subsection (n) describes the information required to be documented as evidence of experience in emergency responses to substitute for training requirements.

Necessity: This subsection establishes standards by which personnel will be evaluated. Documentation of experience is necessary so that experience cited by personnel in lieu of training can be verified by OSPR. Incident types are required because the requirements for experience are based on time spent performing incident command system positions during incidents of varying complexity. The incident name, geographic location, brief descriptions of incidents, duties and positions performed, dates of performance, and a reference who can verify the experience are required so that experience can be authenticated.

The allowance for crediting experience in incidents not formally typed is necessary because many incidents are not formally typed by an agency. Because the incident typing system can be applied based on characteristics of the incident, personnel experience can be classified by applicants and supported with the information described above.

Subsection (o)

Purpose: Subsection (o) identifies that training and experience records of spill management team personnel must be maintained and provided to OSPR upon request.

Necessity: This subsection is necessary so that OSPR can validate that spill management team personnel's qualifications are complete in accordance with the requirements described in section 830.5.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.6 – Exercise Objectives Required for Full Certification

Subsection (a)

Purpose: Subsection (a) establishes the objectives that spill management teams must complete at a single exercise or spill response in California within three years of receiving an interim certification to become certified. The certification process and interim certifications are described on section 830.7. Exercises at which spill management teams perform objectives for certification must test the smaller of either the largest reasonable worst-case spill volume or 78,125 barrels.

An exercise for certification may be scheduled using either of two processes, described in (a)(1) and (a)(2). Spill management teams may achieve objectives for certification at exercises of approved contingency plans conducted as part of OSPR's existing drills and exercises program. Spill management teams using this option will undergo the process for scheduling an exercise through OSPR's existing program while indicating this intent, providing a minimum of 60-calendar day notice. Spill management teams

may also achieve the objectives for certification at an exercise that is not part of OSPR's drills and exercise program, and they shall contact OSPR to schedule such an exercise. Subsection (a)(3) stipulates that the objectives must be completed by December 31 of the third full calendar year from the date an interim certification is issued.

Necessity: The requirement to achieve objectives for certification (described in subsection (b)) is necessary because the Administrator must observe a spill management team's performance in California as a condition for issuing a certification (Government Code section 8670.32(c)). Certification exercises should simulate responses to the largest reasonable worst-case spill volume or 78,125 barrels so that spill management teams demonstrate their capability of managing reasonable worst-case spill volumes listed in plans for which they provide services, as required by Government Code section 8670.29(b)(8)(A). The cap of 78,125 barrels is included as described above in section 830.5(j).

A spill management team may combine an exercise for certification with an exercise of an approved contingency plan conducted as part of OSPR's Drills and Exercises program, in pursuance of Title 14, sections 820.01 and 820.02. This is necessary because statute specifies that exercises conducted for spill management team certification should be combined with other relevant exercises (Government Code section 8670.32(e)(1)). The three-year time frame was selected because it corresponds to the existing requirement for vessel plans to be exercised in California (section 820.01(a)(2)). A three-year period also corresponds to the exercise cycle that many facility plan holders follow to comply with federal regulations requiring reasonable worst-case spill scenarios pursuant to the federal National Preparedness for Response Exercise Program (NPREP) protocols. NPREP is the basis for all oil spill drills and exercises, established to meet the intent of the Oil Pollution Act of 1990 (OPA 90) (Title 33, United States Code, section 1321 (j)(6)(7)).

The 60-day notification period is selected to align with the 60-day notification required for tabletop exercises in OSPR's existing program. The designation of December 31 is to align with the existing yearly exercise scheduling through OSPR's Drills and Exercises program of which plan holders are already accustomed.

It is necessary to allow spill management teams to perform objectives for certification outside of OSPR's Drills and Exercises program because that program only includes exercises of approved contingency plans. A spill management team requesting certification may not have contracts with current approved plan holders, so it is necessary to provide a mechanism for certification that is independent of an approved contingency plan. This also allows spill management teams flexibility to conduct certification exercises ahead of plan holders' reasonable worst-case exercise schedules if a spill management team chooses to do so.

Subsection (b)

Purpose: Subsection (b) establishes the exercise objectives for spill management teams to become certified. They are grouped into time intervals by which spill management teams must be capable of completing after being notified of a spill or exercise.

Necessity: Statute requires the Administrator to establish regulations that include criteria for spill management team certification objectives (Government Code section 8670.32(j)(2)). A spill management team's ability to meet the exercise objectives identified in this section reflects its members' competency to perform their positions, and their ability to work as a team to enact essential response measures.

The objectives are categorized into time frames according to the order in which actions are taken to initiate a response and establish an incident command structure. Response actions and supporting organizational structure must be underway within 24 hours in order to take advantage of the one to two-day window of opportunity to efficiently contain and remove oil before oil spreads and poses increased harm to sensitive species and their habitats. This window of opportunity is a widely accepted response concept that is documented, for example, in the National Oceanic and Atmospheric Administration's [Characteristics of Response Strategies: A Guide for Spill Response in Marine Environments](#).

In subsections (b)(1), (2) and (3), the 10, 16, and 24-hour benchmarks were selected to ensure that all necessary objectives can be achieved within the first 24 hours in the event of a reasonable worst-case spill. The time frames were selected to balance the urgency of taking initial actions with a spill management team's ability to mobilize to geographic regions across the state. The time frames consider the spill management team's ability to work toward initial objectives remotely as personnel mobilize, and they were selected after extensive dialogue with the regulated community during the informal scoping process.

These requirements establish minimum standards for spill management teams listed in contingency plans to manage a reasonable worst-case spill. Not every spill will require teams to achieve all of the objectives, and incidents may not develop along the timelines that are included in this subsection. Teams must demonstrate that they are able to achieve these objectives within the specified time frames in the event of a reasonable worst-case in order to satisfy contingency planning requirements. Response objectives should be achieved by spill management teams as early as possible as warranted by a specific incident.

Subsection (b)(1)

Purpose: This subsection establishes the objectives that spill management teams must be capable of achieving within ten hours of receiving notification of a spill or exercise.

Necessity: The four objectives listed in section (b)(1) are essential objectives that should be achieved as soon as possible in a response. The ten-hour time frame is selected to allow initial response personnel arriving within eight hours (On-Scene Requirements, section 830.4) to assess the incident and initiate the managed response activities identified in section (b)(1).

Subsection (b)(1)(A)

Purpose: This subsection establishes the objective of performing an initial site safety assessment and briefing.

Necessity: This objective is necessary because work to control and contain a spill cannot begin until the site has been characterized and personnel have been briefed on risks, hazards, and mitigation.

Subsection (b)(1)(B)

Purpose: This subsection establishes the objective of providing timely and relevant information about incident characteristics to agencies and technical specialists, such as local air districts and specialists contracted by the responsible party.

Necessity: This objective is necessary to protect public health in the event of an oil spill. Information about a spilled product's characteristics, potential volume, and status of control/containment efforts are critical types of information needed to identify risks to public health and inform analyses used by health agencies to determine whether community protective actions should be ordered during a spill. Since the Acute and 8-Hour Reference Exposure Levels is an online source, is live and frequently updated, and is owned and managed by the California Office of Environmental Health Hazard Assessment (OEHHA), OSPR is relying on the status conferred upon OEHHA regarding the designation of hazardous exposure levels.

Subsection (b)(1)(C)

Purpose: The purpose of this objective is to ensure that spill management teams move quickly to assess initial priorities, objectives, and staffing needs to support initial objectives.

Necessity: This objective is necessary because it is critical to initiate organized decision-making and identify personnel to carry out actions in accordance with established objectives.

Subsection (b)(1)(D)

Purpose: The purpose of this objective is to ensure that spill management teams order resources required to control and manage spills according to potential severity.

Necessity: This objective is necessary because mobilization of tactical resources to mitigate and clean up a spill is critical to minimize damage to the environment and provide best achievable protection to waters of the state.

Subsection (b)(2)

Purpose: This subsection establishes the objectives that spill management teams must be capable of achieving within 16 hours of receiving notification of a spill or exercise.

Necessity: These objectives are necessary to ensure that steps are taken toward building a robust incident management structure including state and federal agencies. The 16-hour time frame is selected because it allows for initial response personnel arriving within eight hours (On-Scene Requirements, section 830.4) to carry out the objectives described in this subsection to establish an organized response that includes needed incident command functions and incorporates state and federal trustee agencies.

Subsection (b)(2)(A)

Purpose: The purpose of this objective is to ensure that spill management teams are able to assess incident-specific needs for establishing units within the incident command system structure, and to begin to staff identified positions such as unit leaders, task force/strike team leaders, and technical specialists.

Necessity: This objective is necessary to ensure that spill management teams assess the need to establish incident command structure units and positions to provide critical tactical, planning, and support functions, based on the incident's status and potential. Staffing of identified positions must be initiated quickly after initial assessments have been made to facilitate a timely and effective response.

Subsection (b)(2)(B)

Purpose: The purpose of this objective is to ensure that spill management teams are able to conduct briefings with complete, accurate, timely, and relevant information.

Necessity: This objective is necessary to facilitate trustee agencies' integration into spill response by providing their representatives with thorough briefings. Spill management teams must be able to convey accurate and thorough information about the incident status and actions taken so that federal and state representatives having jurisdiction can take actions to protect life safety, stabilize the incident (40 Code of Federal Regulations section 300.317), and provide best achievable protection to waters of the state (Government Code section 8574.7) as required by federal and state law.

Subsection (b)(2)(C)

Purpose: The purpose of this objective is to ensure that when personnel arrive to assume control of incident management from the initial responders, the transition is planned, orderly, and announced to personnel and agencies.

Necessity: This objective is necessary to ensure continuity of response efforts when there is a transition of incident management responsibilities. Such a transition would occur when more qualified spill management team personnel arrive to assume responsibility over leadership positions, or personnel are relieved by other qualified personnel.

Subsection (b)(3)

Purpose: This subsection establishes the objectives that spill management teams must be capable of achieving within 24 hours of receiving notification of a spill or exercise.

Necessity: These objectives are necessary to support a spill management team's ability manage an ongoing spill response. The 24-hour time frame is selected because these functions are essential to manage and support a response within the one to two-day window during which chances for successful containment of oil and prevention of environmental damage are the highest.

Subsection (b)(3)(A)

Purpose: This objective establishes that spill management teams must be able to establish an initial incident command post that is secure and adequate to support initial response management.

Necessity: Although many actions taken within the first 24 hours of a response can be supported remotely, a physical incident command post is necessary to support an organized and efficient response. Approved contingency plans must identify potential sites of command posts capable of supporting a response organization (Title 14, sections 817.02(f)(2)(A), 818.02(g)(2)(A), 817.04(r)(3)(A), 827.02(j)(2)(A)). Therefore, spill management teams should be capable of establishing an incident command post within 24 hours to provide for initial response, planning, and support functions.

Subsection (b)(3)(B)

Purpose: This objective establishes that spill management teams to are able to post a common operating picture displaying situational, environmental, and other data gathered for a spill response, and to store data in a format that is accessible to incident commanders and trustee agencies.

Necessity: A common operating picture is critical in managing a spill response. Awareness of the status of containment and shoreline protection measures, locations of safety zones, environmental conditions, and other data are critical in supporting ongoing response actions and planning. It is necessary that response data is simultaneously available to trustee agencies represented in the unified command so that the agencies can act cooperatively in accordance with statutory requirements to manage a spill response.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code 8670.10, 8670.19, 8670.28, 8670.29, and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.7 – Application Submission and Review

Subsection (a)(1)

Purpose: This subsection establishes that all persons (as defined in section 790) that will provide personnel for a certified spill management team shall apply and become certified in order to be listed in contingency plans.

Necessity: It is necessary to make clear which entities must apply for certification, as personnel comprising a spill management team are often drawn from a variety of employers. Many spill management teams offer comprehensive spill management services by contract, and others provide services covering specific incident command

system positions. Additionally, plan holders may train their own employees in spill management, and they may rely on personnel employed by parent companies or other associated businesses. Plan holders may rely on any combination of spill management personnel to form a certified spill management team. Each person providing services shall submit an application so that OSPR can evaluate whether they meet the requirements described in this subchapter.

Thirty days is a reasonable time for plan holders to assess their internal and potential external sources of spill management team personnel, since they are already required to identify a spill management team in their contingency plans. OSPR conducted an extensive informal scoping process with the regulated community, so the community is aware of this impending requirement.

Subsection (a)(2)

Purpose: This subsection introduces the forms that spill management teams must use to apply for certification. Plan holders shall use an Application for Certification of Plan Holder Spill Management Team form DFW 1005 (new 02/28/20), and other providers of spill management personnel shall use an Application for Certification of External Spill Management Team form DFW 1006 (new 03/10/20). This paragraph also establishes how spill management teams must submit completed application forms to OSPR.

Necessity: This paragraph is necessary so that spill management teams are aware of the required forms and how they can submit them to OSPR.

Subsection (b)

Purpose: Subsection (b) describes the process for OSPR's review and verification of a spill management team's application forms, as well as the time frame over which the review and verification will be conducted.

Necessity: This subsection is necessary for transparency of the application review and verification process. The 180-day period was selected to allow OSPR to complete these processes, particularly when this subchapter becomes effective and applications become due for plan holders and other providers of spill management personnel within 30 days of the effective date.

Subsection (b)(1)

Purpose: This subsection describes the process OSPR will use to verify the ability of spill management team personnel to arrive on scene to meet the requirements of section 830.4 and as described on the applications for certification. OSPR will verify these capabilities by conducting unannounced tabletop exercises to simulate personnel mobilizing to respond to a spill, without requiring actual deployment of personnel. Spill management teams applying for certification in more than one geographic region are subject to unannounced exercises in each region.

Necessity: This section is necessary so that OSPR can confirm a spill management team's on-scene arrival capabilities. The goal of unannounced exercises held under these guidelines is to demonstrate the ability of a spill management team to mobilize in

accordance with certifications for which it applies. OSPR will give spill management teams a spill scenario and location, and teams will report to OSPR which personnel are available and how they would arrive within the required times frames (e.g., driving from current location to spill location, commercial flight numbers). This will allow OSPR to confirm that personnel can arrive as required.

It is necessary for a spill management team applying for certification in multiple geographic regions to be subject to unannounced exercises in each area so that on-scene arrival capabilities can be verified across their area of coverage. OSPR will prioritize verifying each application for certification within the 180-day period over verifying each region specified by each spill management team. Unannounced exercises will also be conducted to verify on-scene arrival capabilities during the application renewal process, as described in section 830.8(b), allowing OSPR to verify on-scene arrival capabilities across a spill management team's geographic coverage over time.

Subsection (b)(2)

Purpose: This subsection establishes that OSPR will verify a spill management team's training and/or experience by requesting records supporting the qualifications listed on the spill management team's application for certification. If a spill management team applying for a new certification does not meet these requirements at the time of an application, a training plan indicating which courses will be completed by the end of the third full calendar year following issuance of an interim certification shall be submitted, and the Administrator will verify that the training has been achieved before issuing a full certification.

Necessity: This subsection is necessary so that OSPR can confirm that qualifications of spill management team personnel are consistent with the requirements of the certification being requested, as described on a spill management team's application for certification. The 15-day period is selected for consistency with other time frames for correspondence cited in this subchapter (sections 830.9, 830.10, 830.11). OSPR's contingency plan regulations (817.02, 817.03, 817.04, 818.02, 818.03) and oil spill response organization regulations (819.02) require submission of training records to the administrator upon request, but they do not include time frames. Because spill management teams are required to keep records of training and experience, delivery to OSPR within 15 days should be achievable.

Subsection (c)

Purpose: Subsection (c) describes the interim certification that the Administrator will issue upon verifying the contents of a new application, described in subsection (b) above. An interim certification indicates that a spill management team meets the requirements of sections 830.4 of this subchapter but has not yet demonstrated the objectives described in section 830.6, and personnel may not have completed the training requirements described in section 830.5. An interim certification allows a spill management team to be listed in contingency plans to fulfill plan holder requirements. An interim certification will expire if the spill management team does not demonstrate the training qualifications and objectives within the specified time frame. This subsection also states that a full certification is valid for three years.

Necessity: This subsection is necessary to establish the process by which a spill management team achieves interim certification upon satisfying the on-scene (described in section 830.4) and ultimately a full certification upon meeting the training and/or experience requirements (section 830.5) and demonstrating the objectives for certification (section 830.6). The interim certification allows the program for certifying spill management teams to proceed, while not requiring plan holders to deviate from their established exercise cycles, as discussed above in subsection 830.6(a).

The three-year time frame for the validity of an interim certification is selected because the Administrator is prohibited from issuing a certification until observing a spill management team's performance in a spill or exercise in California (Government Code section 8670.32(c)), and because spill management team exercises are required to be combined with other relevant exercises to the extent practical (Government Code section 8670.32(e)(1)). The three-year period corresponds to existing requirement for vessel plans to be exercised in California (subsection 820.01(a)(2)) as well as the three-year cycle by which many facility plan holders exercise reasonable worst-case spill scenarios to comply with federal regulations requiring adherence to NPREP protocols. By implementing a three-year compliance period, the Administrator can observe a spill management team's performance before awarding certification, while avoiding conducting additional large exercises which come with considerable expense to the regulated community. The designation of December 31 is to align with the existing yearly exercise scheduling through OSPR's Drills and Exercises program of which plan holders are already accustomed. As discussed in subsection 830.5(c) above, the three-year period for a spill management team to meet the training requirements is selected to allow for sufficient time to plan for and achieve the training courses that are required to be delivered in an in-person setting, and to correspond with the deadline for performing the objectives for full certification, described in section 830.6.

For clarity, it is necessary to state the expiration date of a full certification. The three-year period is set by Government Code section 8670.32(d).

Subsection (d)

Purpose: Subsection (d) describes the steps the Administrator will take if a spill management team's application for certification and/or review and verification process is not satisfactory. The Administrator will notify any plan holders citing the spill management team of the denial within 15 calendar days, and plan holders shall identify a replacement within 30 calendar days and submit a revised application. The Administrator will review a revised application and issue either an interim certification or a denial within 15 calendar days.

Necessity: It is necessary to define the processes that will be taken if an application review and verification does not meet the requirements. The 15-day time frame for the Administrator to notify plan holders of a denial is selected for consistency with other time frames for similar review cited in this subchapter (sections 830.9, 830.10, 830.11). Fifteen days provides sufficient time for the Administrator to determine which plan holders have identified a spill management team that has been issued a denial. The 30-day period for plan holders to identify another provider of services and submit a revised application is selected to allow plan holders time to assess options and engage in contracting or securing other agreements as necessary to replace the services provided

by a spill management team that was issued a denial. The 15-day period for the Administrator to review a revised application, in subsection (d)(3), is selected for consistency with other review time frames in this subchapter, as described above. A 15-day period allows for timely review of a revised application.

Subsection (e)

Purpose: Subsection (e) provides that a certification cannot be assigned, transferred or assumed to or by another spill management team.

Necessity: Each spill management team is certified based on its own capability. A certification pertains only to the spill management team that applies for and receives that certification. (Government Code section 8670.32(h))

Subsection (f)

Purpose: Subsection (f) states the processes for a spill management team applicant to assert a claim of confidentiality and therefore withheld from public disclosure.

Necessity: Documents within the possession of an agency are presumed public records unless there is a reason for withholding them from public view. The burden is on the spill management team applicant to properly identify and support a claim of confidentiality. Information designated as confidential must be redacted, not removed, from the confidential application. The Administrator's determination as to what information may be considered confidential and is entitled to be withheld from public inspection will be based on a compliance with the Public Records Act (Government Code section 6250, et. seq.), clear designation or delineation of confidentiality per subsection (g)(1), and whether the cited legal authority justifies withholding.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.8 – Certification Revision Requests, Renewals, and Updates

Subsection (a)

Purpose: Subsection (a) explains that a certified spill management team may request revision of its certification and how to request same.

Necessity: This subsection is needed to allow changes. Reasons for revising a certification may be, but not limited to, the following: a change in the geographic area for which the spill management team provides services, a new contract with a plan holder with a reasonable worst-case spill volume different from that which the spill

management team is currently certified, or a change in trained personnel capable of responding.

Subsection (b)

Purpose: Subsection (b) provides the process for a spill management team to renew its full certification.

Necessity: This subsection is needed to explain how renewals occur. Certifications are valid for only three years (Government Code section 8670.32(d)), and therefore must be renewed. The time frame in subsection (b)(3) for achieving objectives for renewal within 90 calendar days of certification expiration is to allow for scheduling an exercise through OSPR's Drills and Exercises program to which plan holders are already accustomed.

Subsection (c)

Purpose: Subsection (c) explains the process for a spill management team to update its certification. It also identifies what qualifies as a non-significant change. Significant changes are addressed in section 830.9.

Necessity: This subsection is needed to allow updates. It is important that OSPR has the most updated information on a spill management team it certifies, and which is responsible for the management of an oil spill response. The 30-calendar day period provides clarity for when non-significant changes must be reported to OSPR and is consistent with similar reporting requirements in other OSPR regulations.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.9 – Significant Change in Spill Management Team Resources

Subsection (a)

Purpose: Subsection (a) requires that significant changes must be reported to the Administrator and provide the process for updating the Administrator with information that is considered a significant change.

Necessity: It is important that OSPR has the most updated information on a spill management team it certifies, and which is responsible for the management of an oil spill response. This is necessary so that OSPR can evaluate any ramifications for plan holders. The 15-calendar day period is similar to reporting requirements in other OSPR regulations, such as the oil spill response organization regulations (sections 819.01-819.07).

Subsection (b)

Purpose: Subsection (b) informs that significant changes can result in a modification, suspension, or revocation of a spill management team's certification.

Necessity: Government Code section 8670.32(d) provides that certifications may be modified, suspended, or revoked. It is necessary to inform spill management teams of this and direct them to the process and remedy for such action.

Subsection (c)

Purpose: Subsection (c) provides clarity for what is considered a significant change.

Necessity: To differentiate from what is considered non-significant which comes with a different set of requirements. Non-significant changes are addressed in subsection 830.8(c).

Subsection (d)

For ease of reference, subsection (d) simply provides citation for information about non-significant changes.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.10 – Certification Modification, Suspension, or Revocation

Government Code section 8670.32(d) provides that certifications may be modified, suspended, or revoked. Section 830.10 explains the criteria for each action and the process to remedy each.

Subsections (a)(1), (a)(2), and (a)(3)

Purpose: The purpose of these subsections is to provide examples of reasons a modification, suspension, or revocation of a spill management team's certification may issue.

Necessity: This is important to make clear for transparency purposes and to explain that services a spill management team provides may be impacted by modification, suspension, or revocation of its certification. That impact can range from a limitation on services provided to a complete restriction of all services until such time as the spill management team resolves identified deficiencies.

Subsection (b)(1)

Subsection (b)(1) explains the notice by the Administrator of modification, suspension, and revocation.

Subsections (b)(1)(A), (b)(1)(B), and (b)(1)(C)

Purpose: The purpose of these subsections is to inform that there are remedies a spill management team may take in response to a notice of modification, suspension, or revocation of its certification.

Necessity: It is important that the spill management team know the procedures to restore certification. Fifteen calendar days is a reasonable time for the spill management team to submit the required documentation in response to a modification or suspension, as well as for the Administrator to issue a determination thereafter. Thirty days for a spill management team to submit a response objecting to a revocation is a reasonable time. These time frames are consistent with similar requirements for oil spill response organization ratings (14 CCR 819.06).

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Section 830.11 – Reconsideration and Hearing Procedures

Subsection (a)

Purpose: Subsection (a) describes the process for requesting reconsideration of a determination by the Administrator of a deficient tabletop exercise, or modification, suspension, or revocation of a spill management team's certification, or a denial of an application for certification, either in part or in its entirety.

Necessity: This subsection allows a spill management team to contest a determination the Administrator has made while assuring that any request for reconsideration is received and responded to by the Administrator expeditiously. An appeal process is necessary to provide due process. The time frames provide sufficient time for a spill management team and the Administrator to process reconsideration requests. The time frames are consistent with the reconsideration time frames in other regulations within this subdivision. In this section business days are used instead of calendar days to be consistent with other submissions of the like.

Subsection (b)

Purpose: Subsection (b) describes the process for requesting a hearing.

Necessity: This subsection provides hearing procedures in the event of a decision to deny reconsideration.

Authority and Reference

The Authority cited includes the following sections of the Government Code: 8670.5, 8670.29 and 8670.32.

The References cited includes the following sections of the Government Code: 8670.10, 8670.19, 8670.28, 8670.29 and 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Amend Section 790 of Chapter 1, and Sections 815.07, 817.02, 817.03, 818.03, 817.04, 825.05, 825.07, and 827.02 of Chapter 3

In accordance with the rules, regulations, and policies established by the Administrator, an owner or operator of a vessel, marine facility, or inland facility while operating in waters of the state or where a spill could impact waters of the state, must have an oil spill contingency plan. An oil spill contingency plan shall identify at least one certified spill management team. (Gov. Code sections 8670.29, 8670.32)

For consistency with the mandates of Government Code sections 8670.29 and 8670.32, conforming revisions to sections 790 (Definitions and Abbreviations), 815.05, 815.07, 816.02, 817.02, 817.03, 817.04, 818.02, 818.03, 825.05, 825.07, 826.02, 826.03 and 827.02 (Oil Spill Contingency Plans) are included in this rulemaking. Throughout these sections, the term spill management team is prefaced with “certified” and, where relevant, the inclusion of “certified spill management team” is added.

The conforming revisions to these sections are limited to only those necessary to implement the mandates of Government Code sections 8670.29 and 8670.32. Overall changes to punctuation, grammar, spelling, capitalization, typography, etc., are not made with this rulemaking; instead they will be addressed in the future with a larger, more comprehensive rulemaking action.

The sections below set forth a discussion of the specific purpose for each regulatory provision to be amended and/or adopted and why each regulatory provision amended/adopted is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The revisions to these sections are to be read as a companion to the proposed new regulations (sections 830.1 through 830.11), however, for the readers’ ease due to the length of the text of some sections, it is not inserted in its entirety herein.

Amend Section 790 of Chapter 1 – General Definitions and Abbreviations

Subsections (a)(1) through (a)(4) – No change.

New subsection (a)(5) “Affiliated Person” or “Person Affiliated” is added to provide clarity for the use of the term in the proposed spill management team certification regulations (Title 14, California Code of Regulations sections 830.1 through 830.11) and

elsewhere in OSPR's regulations except where the term is used in reference to volunteers. Plan holders may assemble a spill management team from their own staff, from staff affiliated with the plan holder company, by contract, or any combination of these.

Former subsections (a)(5) through (a)(8) are renumbered (a)(6) through (a)(9), respectively, to account for the new definition at (a)(5).

Subsections (b)(1) through (c)(1) – No change.

New subsection (c)(2) "Cascading Response Personnel" is added to define the spill management team personnel required to successively arrive at an incident command post or incident location as a spill response progresses. This definition is differentiated from "Initial Response Personnel" at (i)(4). Spill management team personnel are divided into the Initial Response Personnel (see below) and Cascading Response Personnel groups to allow for a full team to mobilize and integrate into an incident management structure. The categorizing of personnel into Initial and Cascading designations is responsive to input from industry and other stakeholders.

Former subsections (c)(2) through (c)(9) are renumbered (c)(3) through (c)(10), respectively, to account for the new definition at (c)(2).

Former subsection (c)(10) "Conventional Tug" is renumbered (c)(12), to place it in proper alphabetical order. No changes are made to the definition.

Subsection (c)(11) "Contract or Other Approved Means" is revised to allow for inclusion of those contracts plan holders may have not only with oil spill response organizations but contracted certified spill management teams, consistent with Government Code sections 8670.29 and 8670.32. An additional edit is made at (c)(11)(B) to correct a reference to the regulatory hierarchy.

Subsection (c)(12) "Conventional Tug" has been moved here from (c)(10) to place it in proper alphabetical order. No changes are made to the definition.

Former subsections (c)(12) through (c)(15) are renumbered (c)(13) through (c)(16), respectively, to account for the renumbering of (c)(10).

Subsections (d)(1) through (i)(3) – No change.

New subsection (i)(4) "Initial Response Personnel" is added to define the spill management team personnel required to arrive at an incident command post or incident location within the first several hours of report of a spill. This definition is differentiated from "Cascading Response Personnel" at (c)(2). Spill management team personnel are divided into the Initial Response Personnel and Cascading Response Personnel groups to allow for a full team to mobilize and integrate into an incident management structure. The categorizing of personnel into Initial and Cascading designations is in response to input from industry and other stakeholders.

Former subsections (i)(4) through (i)(8) are renumbered (i)(5) through (i)(9), respectively, to account for the new definition at (i)(4).

Subsections (j) through (q)(1) – No change.

Subsection (q)(1)(A) is revised to specify that a Qualified Individual must activate a “certified” spill management team. Qualified Individuals have always had activation of the spill management team as one of their duties. This amendment reflects that now spill management teams must be certified. This is consistent with Government Code sections 8670.29 and 8670.32. The requirement to contract is eliminated; this is more the obligation of the plan holder rather than the qualified individual.

Subsections (q)(1)(B) through (w)(3) – No change.

Authority and Reference

The Reference cited is amended to include section 8670.32 of the Government Code to which the proposed regulations implement, interpret, and add specificity.

Amend Section 815.05 of Subchapter 3 of Chapter 3 – Definitions

Introductory paragraph and subsection (a) – No change.

Subsection (b) “Contract or Other Approved Means” is deleted. This definition is in the Definitions and Abbreviations section 790 with edits for consistency with Government Code sections 8670.29 and 8670.32. It is unnecessary for a defined term to be duplicated elsewhere. Doing so potentially creates possible inconsistency resulting from the same term being accidentally defined differently in multiple sections.

Subsections (c) through (o)(2) – No change.

Subsection (p) “Spill Management Team” is deleted. This definition is outdated, the most recent of which was revised in section 790 of chapter 1 in a previous rulemaking, consistent with Government Code section 8670.3(ae). Therefore, this definition is deleted. It is unnecessary for a defined term to be duplicated elsewhere. Doing so potentially creates possible inconsistency resulting from the same term being accidentally defined differently in multiple sections.

Subsections (q) through (s) – No change.

Amend Section 815.07 of Subchapter 3 of Chapter 3 – General Requirements

Subsection (a) has revisions in formatting and numbering for improved readability and consistency with other OSPR contingency plan regulations.

The revision in (a)(1) provides restatement and clarification that an owner or operator must identify and ensure by contract or other approved means an oil spill response organization that has been rated by OSPR. This revision does not substantively change the content or requirement. These edits are consistent with other OSPR contingency plan regulations.

New subsection (a)(2) is added to implement the mandates of Government Code sections 8670.29 and 8670.32. Certification of spill management teams are issued in one or more of three tiered classifications. The tier classifications specify the minimum

personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (a)(2)(A) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed herein, to achieve a full certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the three-year process is complete, therefore, OSPR allows for a spill management team with an interim certification to be listed in a plan holder's contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c).

New subsection (a)(2)(B) establishes a requirement, including a time frame, for owners and operators to apply to have their spill management team certified by OSPR. Thirty days is a reasonable time for plan holders to assess their internal and potential external sources of spill management team personnel since they are already required to identify a spill management team in their contingency plans. The application process is consistent with proposed section 830.7, filed herein, to implement the mandates of Government Code section 8670.32.

Subsections (b) through (f) – No change.

Authority and Reference

The Authority and Reference cited is amended to include section 8670.32 of the Government Code which grants the Administrator the authority to adopt regulations to certify these teams and to which the proposed regulations implement, interpret, and add specificity.

Amend Section 816.02 of Subchapter 3 of Chapter 3 – Plan Format

Introductory paragraphs one and two – No change.

Paragraph three of the introductory content changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other contingency plan regulations, herein. Additionally, a revision to make clearer the contracts referred to is a defined term (Contract or Other Approved Means) and adds the requirement to include evidence of the contract or other approved means with a certified spill management team. (Gov. Code sections 8670.29 and 8670.32)

Subsections (a) through (c)(3)(B) – No change.

Subsection (c)(3)(C) has a number of revisions. Consistent with the revision in paragraph three of the introductory content as well as other OSPR contingency plan regulations, the first edit changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. There is a non-substantive edit changing the section number where the definition of “contract or other approved means” may be found consistent with the revision in section 815.05, herein. The final revision adds the requirement to include evidence of the contract or other approved means with a certified spill management team, to implement the mandates of Government Code sections 8670.29 and 8670.32.

Authority and Reference

The Authority cited is amended to include sections 8670.29 and 8670.32 of the Government Code which requires contingency plan holders identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

The Reference cited is amended to include section 8670.32 which support the authority for the adoption of and guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Amend Section 817.02 of Subchapter 3 of Chapter 3 – Marine Facility Plan Content (Except For Those Small Marine Fueling Facilities Addressed In Section 817.03 Of This Subchapter)

Introductory content through subsection (a)(3) – No change.

Subsections (a)(4) and (a)(4)(B) are formed out of former (a)(4). They have edits similar to those throughout OSPR’s contingency plan regulations, filed herein. These edits are to implement the mandates of Government Code sections 8670.29 and 8670.32. Certification of spill management teams are issued in one or more of three tiered classifications. The tier classifications specify the minimum personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (a)(4)(A) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed herein, to achieve a full certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the three-year process is complete, therefore, OSPR allows for a spill management team with an interim certification to be listed in a plan holder’s contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c) as well as similar revisions made throughout other OSPR contingency plan regulations, filed herein.

Edits in subsection (a)(5) changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other contingency plan regulations, filed herein. There is also a non-substantive edit changing the section number where the definition of “contract or other approved means” may be found consistent with the revision in section 815.05, filed herein.

Subsections (b) through (d)(5) – No change.

Subsection (d)(5)(A) has non-substantive edits changing the section number where the definition of “contract or other approved means” may be found consistent with the revision in section 815.05, filed herein.

Subsections (d)(5)(B) through (d)(5)(B)11.iv – No change.

Subsection (d)(5)(C) is revised to reflect the current practices of OSPR which is that the plan holder need only identify its spill management team(s) in its contingency plan. Required details of the spill management team, training, and experience are covered in the new proposed spill management team certification regulations, filed herein. These details are required to be submitted in an Application for Certification.

Subsections (d)(5)(D) through (e)(1)(C)2. – No change.

Subsection (e)(2) has non-substantive edits for consistency.

Subsection (e)(2)(A) through (f) – No change.

Subsection (f)(1) has a revision to implement the mandates of Government Code sections 8670.29 and 8670.32; one grammatical edit for consistency with similar language in other OSPR regulations; and a non-substantive conforming edit to correct a regulatory citation consistent with other OSPR regulations.

Subsections (f)(1)(A) through (k)(3) – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

Amend Section 817.03 of Subchapter 3 of Chapter 3 – Small Marine Fueling Facility Plan Content

Introductory paragraph through (a)(3) – No change.

Subsections (a)(4) and (a)(4)(B) are formed out of former (a)(4). They have edits similar to those throughout OSPR’s contingency plan regulations, filed herein. These edits are to implement the mandates of Government Code sections 8670.29 and 8670.32. Certification of spill management teams are issued in one or more of three tiered

classifications. The tier classifications specify the minimum personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (a)(4)(A) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed herein, to achieve a full certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the three-year process is complete, therefore, OSPR allows for a spill management team with an interim certification to be listed in a plan holder's contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c) as well as similar revisions made throughout other OSPR contingency plan regulations, filed herein.

An edit in subsection (a)(5) changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other contingency plan regulations, filed herein. There is also a non-substantive edit changing the section number where the definition of "contract or other approved means" may be found consistent with the revision in section 815.05, filed herein.

Subsections (b) through (d)(5) – No change.

Subsection (d)(5)(A) has non-substantive edits changing the section number where the definition of "contract or other approved means" may be found consistent with the revision in section 815.05, filed herein.

Subsections (d)(5)(B) through (f) – No change.

Subsection (f)(1) has a revision to implement the mandates of Government Code sections 8670.29 and 8670.32; one grammatical edit for consistency with similar language in other OSPR regulations; and a non-substantive conforming edit to correct a regulatory citation consistent with other OSPR regulations.

Subsections (f)(1)(A) through (k)(2) – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

Amend Section 817.04 of Subchapter 3 of Chapter 3 – Inland Facility Oil Spill Contingency Plans

Subsections (a) through (d)(2)(D) – No change.

Subsection (d)(2)(E) has a revision similar to those throughout OSPR's other contingency plan regulations, filed herein. These edits are to implement the mandates of Government Code sections 8670.29 and 8670.32.

Subsections (d)(3) through (e)(1) – No change.

New subsections (e)(1)(A) and (e)(1)(B) are formed out of (e)(1) with non-substantive punctuation changes. This restructuring is necessary to include new (e)(1)(C).

New subsection (e)(1)(C) establishes a requirement of owners and operators to apply to have their spill management team certified by OSPR. The application process is consistent with proposed section 830.7, filed herein, to implement the mandates of Government Code section 8670.32.

Subsections (e)(2) through (e)(2)(A)3. – No change.

Subsection (e)(2)(A)4. edits are consistent with the mandates of Government Code sections 8670.29 and 8670.32, which require plan holders and owners and operators of facilities and vessels to produce evidence of a contract or other approved means with spill management teams that are certified by OSPR.

Subsections (e)(2)(A)5. through (g)(1)(B) – No change.

Subsection (g)(1)(C) has a conforming edit.

Subsections (g)(1)(D) through (h)(2) – No change.

Subsection (h)(3) revisions include the requirement that the plan holder must contract with or ensure by other approved means a spill management team that has been certified by OSPR. These edits implement the mandates of Government Code sections 8670.29 and 8670.32 and are consistent with revisions made in other OSPR contingency plan regulations, filed herein. Certification of spill management teams are issued in one or more of three tiered classifications. The tier classifications specify the minimum personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (h)(3)(A) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed herein, to achieve a full certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the three-year process is complete, therefore, OSPR allows for a

spill management team with an interim certification to be listed in a plan holder's contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c) as well as similar revisions made throughout other OSPR contingency plan regulations, filed herein.

Subsection (h)(3)(B) has non-substantive typography edits for better readability.

An edit in subsection (h)(4) changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other OSPR contingency plan regulations, filed concurrently.

Subsections (h)(5) through (m) – No change.

An edit in subsection (m)(1)(A) changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other OSPR contingency plan regulations, filed herein.

Subsections (m)(1)(B) through (u)(3) – No change.

Subsection (u)(3)(A) has an edit to include a change in the certification of a spill management team considered as a significant change. Just as OSPR would consider a decline in response equipment, changes to a rated oil spill response organization, or financial coverage availability, OSPR would be equally concerned with and consider it a significant change if a certified spill management team's ability to manage a spill response were to change.

Subsections (u)(3)(B) through (u)(5)(F) – No change.

Subsection (u)(5)(G) is revised to include a change in the certification of a spill management team as a circumstance that may warrant a contingency plan to be resubmitted.

Subsections (u)(5)(H) through (w) – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

Amend Section 818.02 of Subchapter 3 of Chapter 3 – Tank Vessel Plan Content (Except For Those Vessels Carrying Oil As Secondary Cargo Addressed In Section 818.03 Of This Subchapter)

Introductory paragraph through (a)(3) – No change.

Subsections (a)(4) and (a)(4)(B) are formed out of former (a)(4). They have edits similar to those throughout OSPR's contingency plan regulations, filed herein. These edits are to implement the mandates of Government Code sections 8670.29 and 8670.32. Certification of spill management teams are issued in one or more of three tiered classifications. The tier classifications specify the minimum personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (a)(4)(A) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed herein, to achieve a full certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the three-year process is complete, therefore, OSPR allows for a spill management team with an interim certification to be listed in a plan holder's contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c) as well as similar revisions made throughout other OSPR contingency plan regulations, filed herein.

An edit in subsection (a)(5) changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other contingency plan regulations, filed herein. There is also a non-substantive edit changing the section number where the definition of "contract or other approved means" may be found consistent with the revision in section 815.05, filed herein.

Subsections (b) through (e)(5) – No change.

Subsection (e)(5)(A) has non-substantive edits for consistency.

Subsection (e)(5)(B) through (e)(5)(C) is deleted.

Subsection (e)(5)(D) through (g) – No change.

Subsection (g)(1) has an edit to implement the mandates of Government Code sections 8670.29 and 8670.32 and one non-substantive grammatical edit for consistency with similar language in other OSPR regulations; and a non-substantive conforming edit to correct a regulatory citation consistent with other OSPR regulations.

Subsections (g)(1)(A) through (m)(2)(B)(v.) – No change.

Subsection (m)(2)(B)(2) has a non-substantive cleanup of a subsection number. Overall review and cleanup of such necessary changes is intended to occur as a larger rulemaking sometime in the future.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

Amend Section 818.03 of Subchapter 3 of Chapter 3 – Vessels Carrying Oil As Secondary Cargo (VCOASC) Plan Content

Introductory paragraph through (a)(3) – No change.

Subsections (a)(4) and (a)(4)(B) are formed out of former (a)(4). They have edits similar to those throughout OSPR's contingency plan regulations, filed herein. These edits are to implement the mandates of Government Code sections 8670.29 and 8670.32. Certification of spill management teams are issued in one or more of three tiered classifications. The tier classifications specify the minimum personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (a)(4)(A) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed concurrently herein, to achieve a full certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the three-year process is complete, therefore, OSPR allows for a spill management team with an interim certification to be listed in a plan holder's contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c) as well as similar revisions made throughout other OSPR contingency plan regulations, filed herein.

An edit in subsection (a)(5) changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other contingency plan regulations, filed herein. There is also a non-substantive edit changing the section number where the definition of "contract or other approved means" is found. Section 818.05 does not exist and never has; this was a typographical error that was a reference to 815.05

Subsections (b) through (e)(5) – No change.

Subsection (e)(5)(A) has non-substantive edits changing the section number where the definition of "contract or other approved means" may be found consistent with the revision in section 815.05, filed herein.

Subsections (e)(5)(B) through (g) – No change.

Subsection (g)(1) has an edit for consistency and to implement the mandates of Government Code sections 8670.29 and 8670.32.

Subsections (g)(1)(A) through (l)(2) – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

Amend Section 825.05 of Subchapter 4 of Chapter 3 – Definitions

Introductory paragraph – No change.

Subsection (a) “Contract or Other Approved Means” is deleted. This definition is in the Definitions and Abbreviations section 790 with edits for consistency with Government Code sections 8670.29 and 8670.32.

Subsections (b) through (m)(2) – No change.

Subsection (n) “Spill Management Team” is deleted. This definition is outdated, the most recent of which was redefined in section 790 in an earlier rulemaking, consistent with Government Code section 8670.3(ae).

Subsections (o) through (p) – No change.

Amend Section 825.07 of Subchapter 4 of Chapter 3 – General Requirements

Subsection (a) has revisions in formatting and numbering for improved readability and consistency with other OSPR contingency plan regulations.

The revision in (a)(1) provides restatement and clarification that an owner or operator must identify and ensure by contract or other approved means an oil spill response organization that has been rated by OSPR. This revision does not substantively change the content or requirement. These edits are consistent with other OSPR contingency plan regulations.

New subsection (a)(2) is added to implement the mandates of Government Code sections 8670.29 and 8670.32. Certification of spill management teams are issued in one or more of three tiered classifications. The tier classifications specify the minimum personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (a)(2)(A) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed herein, to achieve a full

certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the three-year process is complete, therefore, OSPR allows for a spill management team with an interim certification to be listed in a plan holder's contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c).

New subsection (a)(2)(B) establishes a requirement, including a time frame, for owners and operators to apply to have their spill management team certified by OSPR. Thirty days is a reasonable time for plan holders to assess their internal and potential external sources of spill management team personnel since they are already required to identify a spill management team in their contingency plans. The application process is consistent with proposed section 830.7, filed herein, to implement the mandates of Government Code section 8670.32.

New subsection (a)(4) is added to emphasize the time frame plan holders must comply with the requirement to secure a certified spill management team. The three-year period corresponds to an existing requirement for vessel plans to be exercised in California and corresponds to the three-year drill and exercise cycle that many facility plan holders already follow to comply with federal regulations requiring reasonable worst-case spill scenarios pursuant to the federal NPREP protocols.

Subsections (b) through (e) – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

Amend Section 826.02 of Subchapter 4 of Chapter 3 – Plan Format

Paragraph three of the introductory content changes the requirement of the plan holder to provide an actual contract of contracted resources to instead provide only evidence of the contract. This aligns with the current practice of OSPR; an actual contract is no longer required. This change is made throughout other contingency plan regulations, filed herein. Additionally, a revision to make clearer the contracts referred to is a defined term (Contract or Other Approved Means) and adds the requirement to include evidence of the contract or other approved means with a certified spill management team. (Gov. Code sections 8670.29 and 8670.32)

Subsections (a) through (c)(1) – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which grants the Administrator the authority to adopt regulations and

guidelines for the certification of spill management teams and to which the proposed regulations implement, interpret, and add specificity.

Amend Section 826.03 of Subchapter 4 of Chapter 3 – Plan Review and Approval

Subsections (a) through (a)(1) – No change.

Subsection (a)(2) has non-substantive edits changing the section number where the definition of “contract or other approved means” may be found consistent with the revision in section 825.05, filed herein. An additional revision is made to include the requirement to provide evidence of a contract or other approved means of a certified spill management team. This is consistent with the mandates of Government Code sections 8670.29 and 8670.32.

Subsections (a)(3) through (i) – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

Amend Section 827.02 of Subchapter 4 of Chapter 3 – Nontank Vessel Plan Content

Introductory paragraph through subsection (a)(1)(F) – No change.

Subsection (a)(1)(G) has non-substantive edits changing the section number where the definition of “contract or other approved means” may be found consistent with the revision in section 825.05, filed herein.

Subsections (a)(1)(H) through (a)(3) – No change.

New subsection (4)(A) is added to include the requirement that the plan holder must contract with or ensure by other approved means a spill management team that has been certified by OSPR. These edits implement the mandates of Government Code sections 8670.29 and 8670.32 and are consistent with revisions made in other OSPR contingency plan regulations, filed herein. Certification of spill management teams are issued in one or more of three tiered classifications. The tier classifications specify the minimum personnel for staffing the incident command structure, the hour by which they must be able to arrive on-scene, training requirements, and the time frames for objectives they must achieve during a successful tabletop exercise or spill response, as described in proposed section 830.3 of chapter 5, filed herein.

New subsection (4)(B) provides that plan holders may identify in their contingency plans a spill management team that is in the process of securing a full certification, while maintaining an interim certification. As described in the new proposed spill management team regulations (sections 830.1 – 830.11), filed herein, to achieve a full certification a spill management team must successfully complete all training and an exercise with specific objectives within three years of receiving an interim certification. It is necessary for plan holders to be able to contract with and be in a state of preparedness before the

three-year process is complete, therefore, OSPR allows for a spill management team with an interim certification to be listed in a plan holder's contingency plan for purposes of satisfying contingency plan requirements. This is also consistent with proposed section 830.7(c) as well as similar revisions made throughout other OSPR contingency plan regulations, filed herein.

Subsections (b) through (h)(1) – No change.

The second paragraph of subsection (h)(1) has non-substantive edits changing the section number where the definition of “contract or other approved means” may be found consistent with the revision in section 825.05, filed herein.

Subsections (h)(2) through (h)(3) – No change.

Subsection (h)(3)(A) has non-substantive edits changing the section number where the definition of “contract or other approved means” may be found consistent with the revision in section 825.05, filed herein.

Subsections (h)(3)(B) through (h)(3)(B)10. – No change.

Subsection (h)(3)(B)10.i. is revised to reflect the current practices of OSPR which is that the plan holder need only identify its spill management team(s) in its contingency plan. Required details of the spill management team, training, and experience are covered in the new proposed spill management team certification regulations, filed herein. These details are required to be submitted in an Application for Certification.

Subsections (h)(3)(B)10.ii. through (h)(3)(C)4. – No change.

Subsection (h)(3)(D) is deleted as duplicative of subsection (h)(3)(B)10.i. of this section.

Former subsections (h)(3)(E), (F), (G) and (H) are renumbered (h)(3)(D), (E), (F) and (G), respectively. There are no edits to the content of these subsections.

Subsections (i) through (j) – No change.

Subsection (j)(1) has edits consistent with the mandates of Government Code sections 8670.29 and 8670.32 requiring that spill management teams now be certified, and that the contingency plan ensures a contract or other approved means with a certified spill management team. Other edits change reference to the subchapter which provides regulations pertaining to spill management team certification.

Subsections (j)(1)(A) through (n)(2)(B)2.ii. – No change.

Authority and Reference

The Authority and Reference cited are amended to include section 8670.32 of the Government Code which requires contingency plans identify a certified spill management team and grants the Administrator the authority to adopt regulations to certify these teams.

IV. Economic Impact Assessment [Gov. C. section 11346.2(b)(2)(A),(5);

11346.3(a)]

The proposed regulations add new sections 830.1 through 830.11, and make conforming amendments as detailed above. The regulations implement, interpret, and add specificity to the provisions of Government Code sections 8670.29 and 8670.32.

(a) What is the evidence supporting a finding of No Significant Statewide Adverse Economic Impact directly affecting business, including the ability of California businesses to compete with businesses in other states?

These regulations will not have a significant statewide adverse economic impact. Less than 1,300 companies are subject to these requirements. For all combined (oil producers and transporters of oil), the total expected costs are estimated to be \$12.078 million.

These are not considered “major regulations” because the economic impact assessment concludes that the impacts, summing both costs and benefits, will be considerably less than \$50 million dollars annually.

Costs

Spill management teams (SMT) may be external companies under contract, in-house staff, staff affiliated with plan holder-related companies, or any combination thereof. Certifications are voluntary in that external SMTs may offer their services regardless of whether they are certified. However, owners and operators that are required to have contingency plans must specify a certified SMT in their contingency plans. Hiring a certified external SMT and/or providing training for in-house staff are potential costs to a plan holder.

For the purposes of evaluating private sector cost impacts, we focus on new costs associated with training requirements, as the SMTs should already be participating in equipment deployment drills and tabletop exercises for contingency plan holders under the current regulations (14 CCR 820.01 and 14 CCR 820.02). Note that most plan holders already have SMTs, whether internal or external, as part of their oil spill contingency plan and most of these SMTs already have some level of training and experience. This proposed regulation would require all SMTs to become certified, primarily through training and drills.

External (contracted) SMTs will initially bear the cost of meeting the certification requirements. This is essentially an investment on their part in that becoming a certified SMT will create business opportunities. Additionally, some out of state SMTs may hire additional staff in California to meet the increased demand from plan holders wanting to maintain compliance with the regulations. These costs will then be passed on as retainer fee increases to their clients who are the plan holders.

As of 2019, approximately 101 facility SMTs and 18 vessel SMT's operate in California. These SMTs were contacted by OSPR as part of a survey to ascertain their expected costs from these proposed regulatory requirements. In total, five consultant/contractor spill management teams responded to OSPR's inquiry. Based on discussions with

industry representatives in 2018, the cost of maintaining an SMT contract for a contingency plan holder is approximately \$5,000/year.

The impacted plan holders are involved in oil production, oil transport, oil refining, and oil distribution within the state. California receives about two-thirds of its oil from out of state (mostly via tankers coming from Alaska or overseas), and a third of its oil from domestic production within California. Most of the domestic production is from inland facilities. Nearly all of the oil consumed in California is refined in the state and then distributed for sale throughout the state. Approximately 51 oil producers qualify as small businesses with fewer than 100 employees and annual gross receipts of \$15 million or less, or about 4% of the 1,255 potentially impacted plan holders.

In general, businesses from outside of California do not compete with California refineries or transporters (although facilities within California may be owned by a larger corporation based outside of California). Inland producers do compete on the global market with all oil producers worldwide; however, because they are located locally, they have a strong economic advantage over out-of-state competitors due to minimal transportation costs. All domestic California oil production is consumed within California.

For context, the increased costs incurred by these companies associated with the 2018 statewide regulations for contingency plans, drills and exercises, financial responsibility, and oil spill response organizations (14 CCR 817.04; 14 CCR 820.02; 14 CCR 791 through 798; and 14 CCR 819 through 819.07, respectively) did little to affect their ability to compete with businesses from outside the state. While OSPR does not have data at the individual company level, we can examine the impact across the industry as a whole. Annual California crude production was approximately 170 million barrels in 2018 (U.S. Energy Information Administration, Annual Crude Oil Production 2018). Assuming a market value of \$66.77/barrel based on the average 2018 value for a barrel of California Midway-Sunset (U.S. Energy Information Administration, California Midway-Sunset Price Data), the value of this annual production was approximately \$11.35 billion. The estimated total cost of complying with the 2018 regulations, across all facilities and companies, was \$4,090,297 for initial implementation and \$2,045,417/year thereafter.

Assuming the costs of initial implementation were all incurred in the first year, this was 0.036% of the total revenues of oil production in 2018. The ongoing annual cost of \$2.045 million would represent about 0.018% of the total revenues of oil production in 2018. If applied to the cost of production, these costs would add \$0.024 (about two cents) to the price of a barrel of oil in the first year and \$0.012 (about a penny) to the price of a barrel of oil thereafter. Given the normal variability in the price of oil, and the transport price advantage that producers in California have over their overseas competitors (several dollars per barrel), the cost of implementing the 2018 regulations was unlikely to affect their ability to compete with other producers from out of state.

Using similar analysis for the implementation of these proposed SMT certification regulations, we anticipate that the cost of implementation will be passed along from the SMTs to the plan holders. Tables 1 and 2 below reflect the total number of inland oil-producing plan holders who could potentially be required to comply with these regulations and separates them into categories based upon their average annual production from 2018 to provide a more robust analysis. As a result of this

overestimation, our analysis should be considered a robust ceiling for the potential effects of the cost increase.

These production categories allow for more accurate cost estimation for the larger producers who have their own in-house SMTs, while the smaller firms retain outside SMTs as part of their contingency plans. Since a vast majority of the plan holders produce over 9,000 barrels a year, the smallest category begins at 10,000 barrels a year, while the largest category is over 10 million barrels a year. Revenues are calculated using a price of \$40 per barrel based on the most recent forecast for the 2021 per barrel value of California Midway-Sunset in order to account for the economic downturn caused by the coronavirus pandemic (U.S. Energy Information Administration, Short-Term Energy Outlook). It is important to note that this estimate is lower than the forecasted price of oil for 2022, which the U.S. Energy Information Administration estimates will rise to approximately \$50 per barrel.

The figures presented in Table 2 are based upon the limited feedback OSPR received from industry members in a 2019 survey and reflect the estimated cost increase that plan holders will face from either SMT retainer fee increases or from hiring certified SMT staff. The cost of an SMT retainer includes the compensation for the training that SMTs must undergo, as well as the cost for participating in required drills and exercises. Costs are expected to be higher for the top three production categories as they either have in-house SMTs or a combination of in-house and external SMTs, and thus are directly paying for labor costs for certified SMT staff.

Table 1: Estimated Revenues Based on Production

Annual Production in Barrels	Number of Firms	Average Production	Total Average Revenue	Average Revenue
Greater than 10 million	2	27,090,210	\$2,167,216,800	\$1,083,608,400
Greater than 1 million	7	4,190,012	\$1,173,203,360	\$167,600,480
Greater than 500,000	9	651,537	\$234,553,320	\$26,061,480
Greater than 100,000	14	218,585	\$122,407,600	\$8,743,400
Greater than 50,000	5	69,464	\$13,892,800	\$2,778,560
Greater than 10,000	39	23,792	\$37,115,520	\$951,680
Total	79		\$3,748,389,400	

Table 2: Estimated Cost Increase from proposed SMT Regulations

Annual Production in Barrels	Number of Firms	SMT Cost/Retainer Increase	Total Cost Increase	Average Cost Increase as % of Average Revenue	Cost per Barrel
Greater than 10 million	2	\$410,000	\$820,000	0.038%	\$0.015
Greater than 1 million	7	\$130,000	\$780,000	0.078%	\$0.031
Greater than 500,000	9	\$12,000	\$108,000	0.046%	\$0.018
Greater than 100,000	14	\$2,000	\$28,000	0.023%	\$0.009
Greater than 50,000	5	\$2,000	\$10,000	0.072%	\$0.029
Greater than 10,000	39	\$2,000	\$78,000	0.210%	\$0.084
Total	79		\$1,824,000	0.049%	

For the purpose of this analysis, based upon survey results, we assume that the smaller SMTs could transfer their increased costs from additional training and staff to meet the proposed requirements for incident command system certification to plan holders by increasing their retainer rates from \$5,000/year to \$7,000/year. Larger facilities that maintain their own SMTs may see increased costs associated with additional staffing requirements for Cascading Response Personnel. Table 2 presents the average estimated cost increase for each production category, which is used to estimate the total costs for the industry at about \$1.824 million.

While we have no information on the costs of production, we can estimate gross revenues by multiplying the annual production of crude oil by the price of crude oil. We then assumed that all of the costs of the regulations are borne by each company and not passed on to consumers. We compared those costs to the estimated annual revenues to provide a measure of the economic burden of complying with the regulations (Table 2).

For all but the smallest plan holders, the impact of the estimated cost increase of regulatory compliance is less than 0.1% of their average revenues. The smallest producers would experience a cost increase of 0.21% of their average revenue. The additional cost for most plan holders is probably less than that described here, as this analysis assumes only high-end cost estimates. Additionally, plan holders with in-house SMTs may decide to reduce their costs by moving to external SMTs, which eliminates the need to maintain certified SMT personnel and thus eliminates the associated labor costs.

We also compared these cost increases to the natural volatility in the market that oil producers experience. For all plan holders, the effect of a \$1 per barrel change in the price of crude oil (e.g. from \$40 per barrel to \$39 per barrel) would have a greater impact than the total maximum estimate of the costs of regulatory compliance (Table 2). To calculate the impact on plan holders, we divide the cost increases in Table 2 by the

average production in Table 1 to calculate the per barrel effect. For plan holders in the top five production categories the cost of regulatory compliance is equal to or smaller than the impact of a 3-cent drop in the price of a barrel of crude oil, while plan holders in the lowest category would potentially face an impact similar to that of an 8-cent drop in the price of a barrel of crude oil. This is well within the daily average variability in the price of crude oil and thus unlikely to affect business decisions.

Pipeline operators, refineries, railroads, and tank vessels would face similar cost increases from their in-house SMT training and personnel requirements or from increased SMT retainer costs. As most of these companies are large and have revenues comparable to, if not higher than, those of inland producers, it is reasonable to assume that the impacts from their increased SMT costs would be similarly miniscule. An estimation of their cost increases and the impact of those costs on their revenue is presented in Table 3.

Table 3: Estimated Revenue, Cost Increases, and Impact for Rail, Pipeline, and Vessel Operators

Industry	Number of Firms	Average Revenue	Average Cost Increase	Cost Increase as % of Revenue
Class 1 Rail	2	\$23,000,000,000	\$410,000	0.002%
Class 3 Rail	3	\$31,900,000	\$2,000	0.006%
Large Pipeline	6	\$30,000,000,000	\$410,000	0.001%
Medium Pipeline	1	\$5,000,000,000	\$2,000	0.00008%
Small Pipeline	5	\$30,000,000	\$2,000	0.007%
Vessel Owner	1159	\$472,105,000	\$6,000	0.00127%
Totals		\$748,415,395,000	\$10,254,000	0.00132%

As seen in Table 3, the impact of the expected costs on average revenues is not expected to exceed 0.01% for each operator type. The total expected cost to all rail, pipeline, and tanker vessel operators is \$10.254 million. Combined with the total expected cost of \$1.824 million for oil producers from Table 2, the total expected costs across all impacted plan holders is estimated to be \$12.078 million.

Assuming that plan holders decide to pass the cost of compliance with the proposed regulations to the consumer, the likely outcome would be an increase in gasoline prices, which would primarily impact automobile drivers. To apply this total to the annual cost of driving a car, we assume that the average vehicle is driven 12,000 miles/year, gets 17.5 miles per gallon, and thus requires 686 gallons of gasoline/year. The annual crude production in California was estimated at 170 million barrels in 2018 (U.S. Energy Information Administration, Annual Crude Oil Production 2018). Applying the total cost to producers to the estimated production of 170 million barrels yields a per barrel increase of \$0.07/barrel (7 cents a barrel). A price increase of \$0.07/barrel translates to \$0.0017/gallon (1 barrel = 42 gallons). Applied to the 686 gallons needed to drive for a year, this would add \$1.14 to the annual gas budget for the vehicle.

(b) Will there be any effects of the regulation on the creation or elimination of jobs within the State?

By creating a certification program for spill management teams, OSPR is creating a stable market opportunity in which companies may participate and provide a service defined and approved by OSPR. This will likely lead to more spill management teams and more associated jobs than without the regulations.

(c) Will there be any effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State?

See the answer above. By creating a spill management team certification program, implementing the provisions of Assembly Bill 1197, OSPR is defining a service that businesses may provide and likely lead to the creation of more business than would otherwise exist without the regulations.

(d) Will there be any effects of the regulation on the expansion of businesses currently doing business within the State?

Plan holders with in-house spill management teams may hire more personnel to fill certain staff requirements. External (contracted) spill management teams may hire additional staff to meet increased demand.

Cumulative Impact

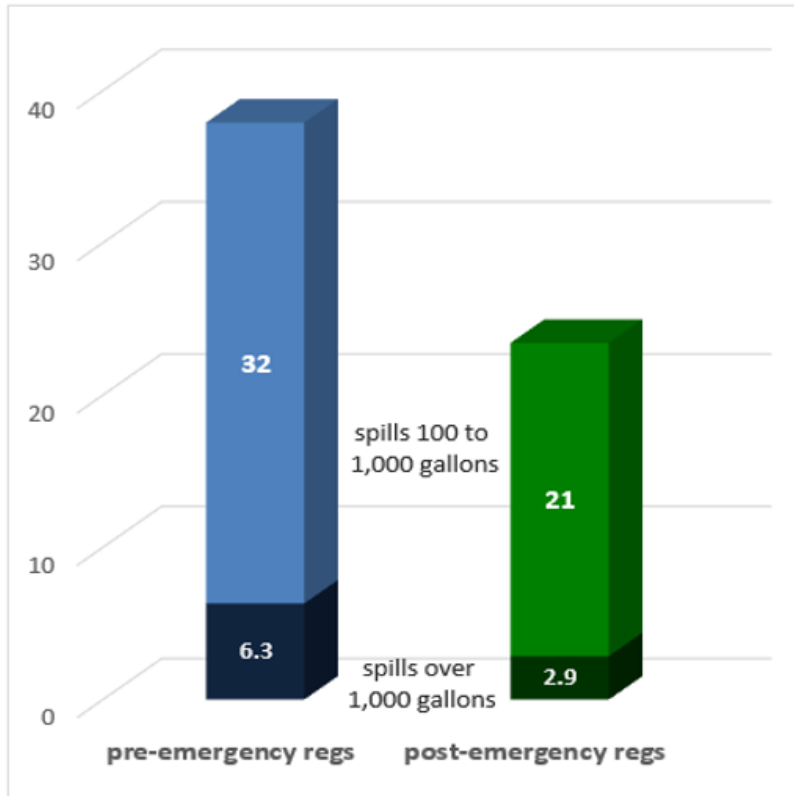
These regulations build upon the OSPR's preparedness and response program, which already include regulations for contingency planning, drills and exercises for plan holders, financial responsibility, and rating of oil spill response organizations. These programs have a proven track record of reducing the number of spills, both large and small, as well as the size of spills. As SMTs are part of these programs, it is expected that these proposed SMT regulations will contribute to this trend through the creation of a certification process to ensure consistent capabilities for SMTs responding to an oil spill.

To provide context for how the proposed SMT regulations will further reduce the number of spills and the volume spilled in the absence of immediate data, we rely on the analysis used in the 2018 statewide regulations (14 CCR 817.04; 14 CCR 820.02; 14 CCR 791 through 798; and 14 CCR 819 through 819.07), which used spill data collected during the emergency regulations phase (2014-2015) when OSPR's mandate was extended to the inland environment. We recap the analysis below to provide an example of how improved spill preparedness benefits the state.

OSPR has a database of spills, based on reports from the California Office of Emergency Services. Smaller spills happen on a regular basis, allowing us to compare spill data since the initiation of the emergency regulations in September 2015, which extended regulations to inland facilities. OSPR examined data regarding inland oil spills to water, comparing the 21 months (September 2015 through April 2017) under the emergency regulations to the previous 38 months (July 2012 through August 2015) before the implementation of the emergency regulations. We included all spills of 10 gallons or more.

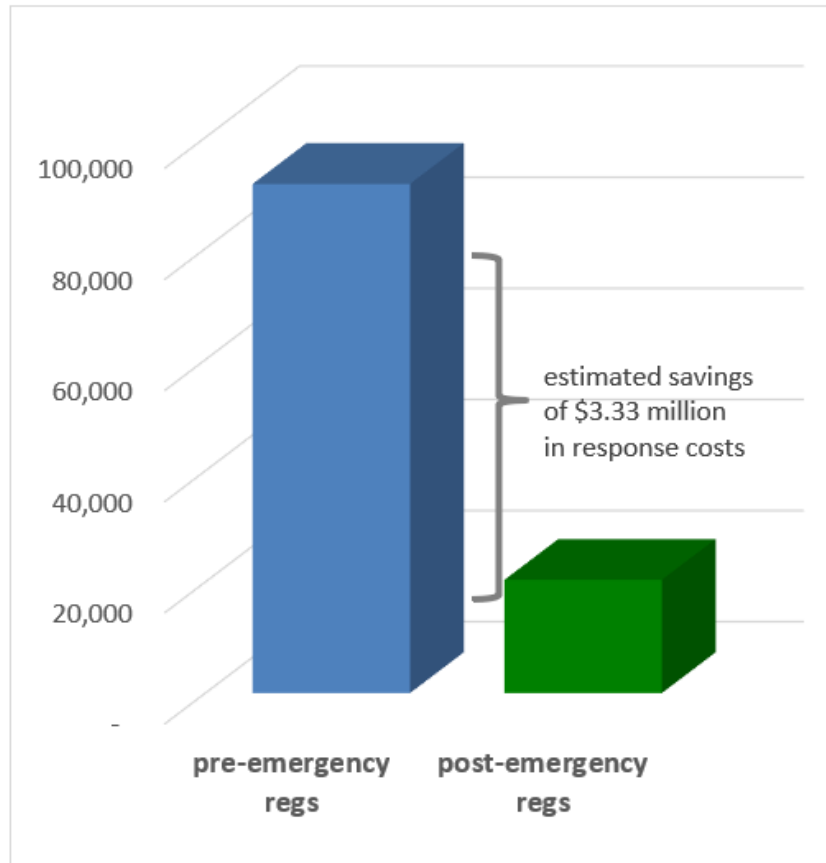
Normalizing to a 12-month period to use comparable annual figures, the total number of inland oil spills to water (of 10 gallons or more) stayed about the same (123/year before the emergency regulations went into effect and 135/year after). However, the spills became smaller after the emergency regulations. The number of spills from 100 to 999 gallons fell a third (from 32 to 21/year), while the number of spills of 1,000 gallons or more dropped in half (from 6.3 to 2.9/year) and (Figure 2).

Figure 2: Number of Inland Oil Spills to Water



More significantly, the volume of oil spilled declined dramatically, from about 90,000 gallons per year before the establishment of the emergency regulations to 20,000 gallons per year after (Figure 3). Based on an average response cost of \$2,000 per barrel (California Oil Spill Response Cost Study, November 2019), or about \$47.62 per gallon, this represented an annual savings of just over \$3.33 million per year. This response cost, provided to OSPR by a group of oil facilities who conducted their own internal survey, is intended to include cleanup costs as well as third party claims and natural resource damages

Figure 3: Gallons Spilled Per Year (Inland Oil Spills to Water)



The proposed SMT regulations should have health benefits for both response workers and the public. By reducing the volume spilled through improved spill management, these proposed regulations will reduce the exposure of the public and response workers to the harmful effects of exposure to oil, which vary by the type of oil. According to the National Institutes of Health (NIH), these effects on human health can include skin and eye irritation, as well as neurologic and breathing problems. However, there is currently not much data about the long-term effects of an oil spill on human health, making it difficult to fully quantify and predict overall health benefits.

Summary of Benefits

These proposed SMT regulations add to the 2018 approved regulations (Title 14 California Code of Regulations section 817.04, 820.02, 791 through 798, and 819 through 819.07) by requiring SMTs be certified by OSPR before being listed in a contingency plan. Thus, it is likely that these proposed regulations will contribute further to the reduction of spills both in number and size. Given the \$3.33 million in savings from the reduction of small inland spills to water based on an average response cost of \$2,000/barrel (Figure 3), we assume that a similar benefit occurs with the reduction of the amount oil spilled to marine waters, which is roughly the same volume as the amount spilled to inland waters. Thus, the combined expected benefit from the reduction of small marine and inland spills to water is \$6.66 million.

(e) Will there be any benefits to the health and welfare of California residents, worker safety, and the State's environment?

OSPR anticipates benefits to the health and welfare of California residents and the State's environment by ensuring strategies for effective and efficient management of spill response, thus benefiting the communities affected by a spill, enhancing worker safety, and better protecting the environment. The proposed regulations should have health benefits for both response workers and the public. By reducing the volume spilled through improved spill management, these proposed regulations will reduce the exposure of the public and response workers to the harmful effects of exposure to oil, which vary by the type of oil. According to the National Institutes of Health (NIH), these effects on human health can include skin and eye irritation, as well as neurologic and breathing problems. However, there is currently not much data about the long-term effects of an oil spill on human health, making it difficult to fully quantify and predict overall health benefits.

(f) Will there be any other benefits of the regulations?

This regulation will help move oil spill response towards the best achievable protection of the State's natural resources through advancing spill response preparedness by ensuring improved and standardized levels of training, resources, and staffing of spill management teams.

V. Studies, Reports, or Documents Relied Upon [Government Code section 11346.2(b)(3)]

The following are the technical, theoretical, and/or empirical studies, reports, or documents that OSPR has relied upon during this rulemaking process. These documents are linked to the sources to the extent that they are available online. All documents are available from OSPR upon request.

- Assembly Bill 1197 (2017), Limón
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1197
- California Annual Crude Oil Production (2018), U.S. Energy Information Administration. <https://www.eia.gov/opendata/qb.php?sdid=PET.MCRFPCA1.A>
- California Midway-Sunset Price Data (March 2020), U.S. Energy Information Administration.
<https://www.eia.gov/opendata/qb.php?sdid=PET.F005006143.M>
- [California Oil Spill Response Cost Study](#) (Nov. 2019), Catalyst Environmental Solutions, Environmental Research Consulting, Greene Economics.
- Characteristics of Response Strategies: A Guide for Spill Response Planning in Marine Environments (2010), National Oceanic and Atmospheric Administration. https://response.restoration.noaa.gov/sites/default/files/Characteristics_Response_Strategies.pdf

- Incident Command System Training Program (2016), United States Coast Guard. <https://homeport.uscg.mil/Lists/Content/DispForm.aspx?ID=2915&Source=/Lists/Content/DispForm.aspx?ID=2915>
- National Incident Management System Training Program (Sept 2011), Federal Emergency Management Agency, Homeland Security. https://www.fema.gov/pdf/emergency/nims/nims_training_program.pdf
- National Qualification System Position Task Books (2017), Federal Emergency Management Agency. <https://www.fema.gov/media-library/assets/documents/144534>
- Short-Term Energy Outlook (June 2020), U.S. Energy Information Administration. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=180657>

VI. Reasonable Alternatives to Regulatory Action [Government Code section 11346.2(b)(4)(A)(B)]

The obligation to certify spill management teams comes directly from statute. (Government Code section 8670.32). No alternatives were identified that would have the same regulatory effect.

VII. Specific Technology or Equipment Required by Regulatory Adoption [Government Code section 11346.2(b)(1)]

None. Although the regulations establish minimum response times, personnel, training, and capabilities, the regulations do not require specific technology or equipment to accomplish the requirements.

VIII. Duplication or Conflict with Federal Regulations [Government Code section 11346.2(b)(6)]

The proposed regulations do not duplicate or conflict with federal regulations. Currently, federal regulations do not provide a certification process to verify an SMT's capabilities.

IX. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

Attachment to Initial Statement of Reasons

Purpose and Necessity Statements for Application for Certification of Plan Holder Spill Management Team Form DFW 1005 (new 07/14/20)

Page 1

Title of Form

Purpose: The title includes department name, form title, form number, and logo.

Necessity: To comply with the State Administrative Manual and DGS policies and guidelines for Department-created and approved forms.

Statement Immediately under Title

Purpose: To request that the applicant completes the application in English and to provide the location of the instructions for completing this form.

Necessity: OSPR staff responsible for processing applications are not required to be bilingual. Applications submitted in English minimize delays in processing. Providing the location of the instructions on the first page saves the applicant from preventable errors while preparing and submitting the application.

“Purpose” provision

Purpose: This provision provides a brief explanation as to the purpose of the form and which persons should fill it out. It adds context and instructions on completing the form in a briefer format than the full instructions on page 8.

Necessity: This provision is necessary to establish the audience for this form (contingency plan holders). The inclusion of this provision at the top of the form is to allow a reader to ascertain the audience and purpose of the form without having to proceed to page 8.

This provision explains that a plan holder should complete the form regardless of whether the spill management team identified is comprised of personnel employed by a plan holder, a parent company or affiliate, and/or of contracted spill management team, and it indicates where on the form the intended providers of personnel shall be indicated. It also explains that a plan holder having multiple contingency plans can use one form to identify and request spill management team certification, provided the spill management team is the same for each plan.

A. Application Type

Purpose: The purpose of this section is to identify whether the applicant is submitting a new application, or a revision, renewal, or update of an existing certification.

Necessity: This section is necessary so that OSPR staff can recognize the application type and take the appropriate actions to process and review the application. This section points the applicant to the relevant sections of subchapter 5 the applicant should consult regarding the circumstances under which the application should be labeled as a revision, update, or renewal.

B. Plan Holder Applicant Information

1. *Legal company name and/or name of applicant*

Purpose: To request the name and contact information of the person identifying and requesting certification of a plan holder spill management team.

Necessity: To process and verify an application, OSPR staff must know the name and contact information of the person submitting an application.

2. *Address or principal place of business of applicant if different from above*

Purpose: To request the address to which OSPR staff can send correspondence related to an application if it differs from the address provided in B.1.

Necessity: To send correspondence regarding an application, OSPR staff must know the address to which it should be sent.

3. *Contact Name*

Purpose: To request the name and contact information of the person to whom correspondence regarding an application should be directed.

Necessity: To address questions and correspond regarding an application, OSPR staff must know the specific contact to whom questions and other correspondence should be directed and how to reach them by mail, telephone, and email.

C. Description of Spill Management Team Services

1. Indicate the personnel the plan holder will use to meet the minimum spill management team requirements described in Title 14, California Code of Regulations, section 830.4 (check all that apply).

Purpose: To request that the applicant identifies the types of providers of spill management personnel included in the spill management team that the applicant is identifying and requesting certification.

Necessity: All persons providing personnel as part of a certified spill management team listed in a contingency plan must apply for certification (section 830.7(a)(1)). Having the applicant indicate which types of service providers are included in the applicant's spill management team allows OSPR staff to track whether an application for a plan holder spill management team will require approval of a DFW form 1006 submitted by an external provider of spill management personnel in order for the plan holder application to be verified as described in section 830.7(b).

Page 2

C. Description of Spill Management Team Services (continued from page 1)

1. Indicate the contingency plan(s) for which the applicant is requesting certification.

Purpose: To request that the applicant provide the contingency plan number(s), and the appropriate tier (as described in section 830.3) and geographic region(s) corresponding to the contingency plans for which the applicant is requesting certification. Applicants can list more than one plan number of the spill management team is the same for each plan listed.

Necessity: To process an application for a plan holder spill management team, OSPR staff must know which contingency plan(s) for which the applicant is requesting certification. Spill management team certifications are issued by tier and geographic region, as described in section 830.3, so this information is needed by OSPR staff in processing an application and assessing whether it is adequate for the appropriate tier and geographic region(s).

Content under Table

Purpose: To provide a quick reference to applicants for the tiers and geographic regions as defined in sections 830.3 and 790.

Necessity: The tiers are defined in section 830.3(c), while the area contingency planning and response planning areas are defined in sections 790(a)(7), (g)(2), and (r)(7). The definitions of the tiers and geographic regions is provided on the form to assist applicants in filling in the information without having to consult multiple chapters of CCR, Title 14.

Page 3

D. Basis For Certification

1. *Initial Response Personnel*

Purpose: To request that the applicant provide the number personnel filling initial response positions and meeting the requirements described in sections 830.4 and 830.5, and the providers of the personnel if the personnel are not employed by the applicant.

Necessity: This information is essential for OSPR staff to review an application. The applicant attests to the number of personnel meeting the requirements appropriate to the plan holder's tier. After OSPR staff determines that an application accounts for the required personnel, the information will be verified as described in 830.7(b). For applicants enlisting personnel not employed by the applicant, the provider of personnel is required so OSPR staff can ensure that all persons comprising a certified spill management submit a completed DFW form 1006 requesting certification.

Page 4

D. Basis For Certification (continued from page 3)

2. *Cascading Response Personnel*

To request that the applicant provide the number personnel filling cascading response positions and meeting the requirements described in sections 830.4 and 830.5, and the providers of the personnel if the personnel are not employed by the applicant.

Necessity: This information is essential for OSPR staff to review an application. The applicant attests to the number of personnel meeting the requirements appropriate to the plan holder's tier. After OSPR staff determines that an application accounts for the required personnel, the information will be verified as described in 830.7(b). For applicants enlisting personnel not employed by the applicant, the provider of personnel is required so OSPR staff can ensure that all persons comprising a certified spill management submit a completed DFW form 1006 requesting certification.

Page 5

Table continued from page 4

Purpose: To provide space for an applicant to enter the information described above.

Necessity: The table cannot fit on one page.

Page 6

D. Basis For Certification (continued from page 3)

3. Certification or renewal exercise

Purpose: To request that the applicant provide information about when they intend to complete the objectives required for a full certification, as described in section 830.6, and whether the exercise will be combined with an exercise of a contingency plan as described in sections 820.01-02, or whether the applicant will contact OSPR to conduct a separate exercise. An applicant can provide the exact date or the year the exercise will be held.

Necessity: To assist OSPR staff with scheduling and planning exercises requiring evaluation for spill management team certification. Because an interim certification is valid for three years (section 830.7(c)), applicants can indicate the year the exercise will occur. OSPR requires 60 days' notice of an exercise held for a spill management team certification (section 830.6(a)(1)).

E. Mobilization Plan

Purpose: To request that an applicant describe how personnel will mobilize to the geographic regions indicated on page 2 of this form as appropriate to the tier for which the applicant is requesting certification.

Necessity: To enable OSPR staff to assess whether an applicant has plans in place to meet the on-scene requirements described in section 830.4. This information will be verified by OSPR during an unannounced exercise, as described in section 830.7(b).

Page 7

F. Attestation

Purpose: To request that an applicant attest to the facts presented in the application and their intent to comply with the procedures for verifying an application and achieving objectives for certification, as described in sections 830.6 and 830.7.

Necessity: For OSPR staff to move forward with reviewing, processing, and verifying an application, it is necessary to include a formal confirmation of the accuracy of facts presented on an application, and the applicant's intent to comply with the requisite procedures for application verification and approval.

Page 8

Instructions

Purpose: To assist an applicant by clarifying the purpose of the form, where the form can be found, which sections of the regulations to which it pertains, and how an applicant can submit an application to OSPR.

Necessity: To prevent excessive time spent by OSPR staff answering questions regarding how to complete the form, an instructions page is necessary to inform an applicant about how to complete and submit an application.

1. Submit application

Purpose: To indicate how an applicant may submit the form (mail or email) and the respective addresses to which a form should be sent.

Necessity: The form serves no function until it is sent to OSPR for processing, review, and verification. It is necessary to provide guidance regarding how and to which addresses an applicant may submit the form.

2. Miscellaneous instructions

Purpose: To assist an applicant in completing the form by providing guidance on how to complete the form, what to do if the form has insufficient space for an applicant's entry, and where to find information on confidentiality.

Necessity: The bullet list of miscellaneous instructions contains questions that were anticipated to be commonly asked; it is necessary to include this guidance as a courtesy and to promote efficient application review and processing.

Section C

Purpose: To provide an explanation of the form fields in Section C.

Necessity: Both Section C of the form and the regulations with which the form is associated are complex, so an applicant could experience confusion regarding how to complete this section. Proactive basic instructions are needed to prevent confusion and excessive staff time spent corresponding regarding an application.

Section D

Purpose: To provide an explanation of the form fields in Section D.

Necessity: Both Section D of the form and the regulations with which the form is associated are complex, so an applicant could experience confusion regarding how to complete this section. Proactive basic instructions are needed to prevent confusion and excessive staff time spent corresponding regarding an application.

Attachment to Initial Statement of Reasons

Purpose and Necessity Statements for Application for Certification of External Spill Management Team Form DFW 1006 (new 07/13/20)

Page 1

Title of Form

Purpose: The title includes department name, form title, form number, and logo.

Necessity: To comply with the State Administrative Manual and DGS policies and guidelines for Department-created and approved forms.

Statement Immediately under Title

Purpose: To request that the applicant completes the application in English and to provide the location of the instructions for completing this form.

Necessity: OSPR staff responsible for processing applications are not required to be bilingual. Applications submitted in English minimize delays in processing. Providing the location of the instructions on the first page saves the applicant from preventable errors while preparing and submitting the application.

“Purpose” provision

Purpose: This provision provides a brief explanation as to the purpose of the form and which persons should fill it out. It adds context and instructions on completing the form in a briefer format than the full instructions on page 7.

Necessity: This provision is necessary to establish the audience for this form (persons offering spill management services to plan holders). The inclusion of this provision at the top of the form is needed to allow a reader to ascertain the audience and purpose of the form without having to proceed to page 7. This provision explains that persons providing personnel to a plan holder as part of the plan holder’s certified spill management team shall apply for certification using this form.

A. Application Type

Purpose: The purpose of this section is to indicate whether the application is a new application, or if the application is for a revision, renewal, or update of an existing certification.

Necessity: This section is necessary so that OSPR staff can recognize the application type and take the appropriate actions to process and review the application. This section points the applicant to the relevant sections of subchapter 5 the applicant should consult regarding the circumstances under which the application should be labeled as a revision, update, or renewal.

B. Applicant Information

1. *Legal company name and/or name of applicant*

Purpose: To request the name and contact information of the person requesting certification.

Necessity: To process and verify an application, OSPR staff must know the name and contact information of the person submitting an application.

2. Address or principal place of business of applicant if different from above

Purpose: To request the address to which OSPR staff can send correspondence related to an application if it differs from the address provided in B.1.

Necessity: To send correspondence regarding an application, OSPR staff must know the address to which it should be sent.

3. Contact Name

Purpose: To request the name and contact information of the person to whom correspondence regarding an application should be directed.

Necessity: To address questions and correspond regarding an application, OSPR staff must know the specific contact to whom questions and other correspondence should be directed and how to reach them by mail, telephone, and email.

4. Agent for Service of Process.

Purpose: To request the name and contact information for the person to whom legal proceedings should be delivered.

Necessity: To ensure that OSPR can deliver legal proceedings to a spill management team regarding a certification.

Page 2

C. Description of Spill Management Team Services

1. The applicant is a spill management team that is (check all that apply)

Purpose: To request that the applicant identifies the types spill management services for which the applicant is requesting certification.

Necessity: All persons providing personnel as part of a certified spill management team listed in a contingency plan must apply for certification (section 830.7(a)(1)). OSPR staff must ensure that listed providers of personnel listed by a plan holder on a DFW form 1005, as well as subcontractors listed as providers of personnel on another applicant's DFW form 1006 apply for certification using this form. It is necessary to request this information to facilitate OSPR's processing and tracking of applications.

2. Type(s) of services the spill management team will provide

Purpose: To request that an applicant indicate the services for which certification is requested, as described in section 830.4.

Necessity: A certified spill management team must meet requirements for the availability and qualifications of initial and cascading response personnel, which are dependent on tier. A person providing spill management personnel for a plan holder's certified spill management team can range from a single person qualified to perform one or more incident command system positions to a comprehensive team fulfilling all requirements. It is necessary for an applicant to indicate the services to be provided to a plan holder so that OSPR can evaluate the application accordingly.

3. Indicate geographic area(s) and tier(s)

Purpose: To request that an applicant indicate the geographic area(s) and tier(s) for which certification is being requested.

Necessity: Tiers determine the requirements for personnel availability and qualifications. Initial and cascading personnel have requirements regarding their ability to arrive on-scene to a geographic area within specific time frames, described in section 830.4. This information is necessary so that OSPR can apply the appropriate standards when evaluating an application.

Content under Table

Purpose: To provide a quick reference to applicants for the tiers and geographic regions as defined in sections 830.3 and 790.

Necessity: The tiers are defined in section 830.3(c), while the area contingency planning and response planning areas are defined in sections 790(a)(7), (g)(2), and (r)(7). The definitions of the tiers and geographic regions is provided on the form to assist applicants in filling in the information without having to consult multiple chapters of CCR, Title 14.

Page 3

D. Basis For Certification

Purpose: To request that the applicant provide information supporting the tier and geographic areas for which certification is requested and direct the applicant which information to supply if certification for multiple tiers and/or geographic regions is requested.

Necessity: The requirements for number of available personnel and their qualifications differ by tier, with Tier I having the most robust requirements for personnel numbers and training/experience. This text is needed because it clarifies that the applicant should provide information for the tier representing the greatest reasonable worst-case spill volume. An applicant may request certifications for different tiers in geographic regions, depending on the availability of trained personnel in different regions. This text is needed to provide guidance to an applicant requesting certification in more than one tier and/or geographic area.

1. Initial Response Personnel

Purpose: To request that the applicant provide the number personnel filling initial response positions and meeting the requirements described in sections 830.4 and 830.5, and the providers of any subcontracted personnel not employed by the applicant.

Necessity: This information is essential for OSPR staff to review an application. The applicant attests to the number of personnel meeting the requirements appropriate to the tier(s) for which certification is requested. After OSPR staff determines that an application accounts for the required personnel, the information will be verified as described in 830.7(b). For applicants enlisting subcontracted personnel not employed by the applicant, the provider of personnel is required so OSPR staff can ensure that all persons comprising a certified spill management submit a completed DFW form 1006 requesting certification.

D. Basis For Certification (continued from page 3)

2. Cascading Response Personnel

Purpose: To request that the applicant provide the number personnel filling cascading response positions and meeting the requirements described in sections 830.4 and 830.5, and the providers of any subcontracted personnel not employed by the applicant.

Necessity: This information is essential for OSPR staff to review an application. The applicant attests to the number of personnel meeting the requirements appropriate to the tier(s) for which certification is requested. After OSPR staff determines that an application accounts for the required personnel, the information will be verified as described in 830.7(b). For applicants enlisting subcontracted personnel not employed by the applicant, the provider of personnel is required so OSPR staff can ensure that all persons comprising a certified spill management submit a completed DFW form 1006 requesting certification.

Table continued from page 4

Purpose: To provide space for an applicant to enter the information described above.

Necessity: The table cannot fit on one page.

3. Certification or renewal exercise

Purpose: To request that the applicant provide information about when they intend to complete the objectives required for a full certification, as described in section 830.6, and whether the exercise will be combined with an exercise of a contingency plan as described in sections 820.01-02, or whether the applicant will contact OSPR to conduct a separate exercise. An applicant can provide the exact date or the year the exercise will be held.

Necessity: To assist OSPR staff with scheduling and planning exercises requiring evaluation for spill management team certification. Because an interim certification is valid for three years (section 830.7(c)), applicants can indicate the year the exercise will occur. OSPR requires 60 days' notice of an exercise held for a spill management team certification (section 830.6(a)(1)).

E. Mobilization Plan

Purpose: To request that an applicant describe how personnel will mobilize to the geographic regions indicated on page 2 of this form as appropriate to the tier for which the applicant is requesting certification.

Necessity: To enable OSPR staff to assess whether an applicant has plans in place to meet the on-scene requirements described in section 830.4. This information will be verified by OSPR during an unannounced exercise, as described in section 830.7(b).

F. Attestation

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Purpose: To provide an explanation of the form fields in Section C.

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Attachment to Initial Statement of Reasons

Purpose and Necessity Statements for Revisions to Exercise Notification form DFW 1964 (Rev. 07/15/20)

Page 1

Title of Form

In the header, the latest version date of this form is updated, and an updated format for the page numbering is also revised. This content is also carried over to page 2.

Objectives box

The underlining of the text “California Code of Regulations, Title 14, Section 820.01 (e-g)” is removed as it is unnecessary; it is not a hyperlink and therefore does not comply with ADA requirements.

Content in Footer

In the footer, the phone number is updated with the most current as a result of a recent move of OSPR’s headquarters office. This content is also carried over to the footer on page 2.