

Summary of changes to proposed spill management team certification regulations (14 CCR § 830.1- 830.11) made after the 45-day comment period

This document summarizes amendments made to the proposed regulatory package in response to comments received during the 45-day comment period from August 1 to September 14, 2020. The changes are organized by topic rather than the order they appear in the regulatory text. This document is not a comprehensive list of each change to the regulatory text. Instead, it focuses on adjustments and clarifications made in response to multiple comments. Please see the Addendum to the Initial Statement of Reasons on OSPR's Proposed Regulations [web site](#) for a full listing of amendments.

Application process

- **Application period.** We have extended the period for application submission from 30 to 90 days after the effective date of the regulations (subsections 830.1(b) and 830.7(a)(1)).
- **Applying for certification in multiple geographic areas.** In response to requests for clarification regarding how a plan holder may apply for certification across the geographical span of their operations, we added language clarifying that a plan holder may identify a single spill management team capable of responding in all geographic areas where the plan holder operates, and that a spill management team operating in multiple geographic areas may apply using a single application (subsection 830.1(a)(2)). Please refer to the application forms, which were designed to accommodate requests for certification in multiple geographic areas.
- **Combination SMTs.** Comments reflected confusion regarding how a plan holder forming a spill management team from various sources of personnel should apply for certification. We reiterated that plan holders can draw upon multiple sources of personnel to form a certified spill management team (subsection 830.7(a)(1)) and added language specifying that plan holders relying wholly or partially on external personnel to form a certified spill management must submit an application form DFW 1005 stating that (subsection 830.7(a)(2)). Please refer to the application form; it is designed to capture various sources of spill management personnel.
- **Mobile transfer units.** SMT tiers are based upon reasonable worst-case spill volumes listed in contingency plans for which services are provided. However, we have amended the Tier III classification to specify that SMTs providing services for mobile transfer unit plan holders are in Tier III (subsection 830.3(c)(3)(C)).

Training requirements

Many of the changes listed below have been made in consideration of the impacts to in-person gatherings posed by the Covid-19 pandemic.

- **Virtual training courses.** The previous regulatory package required equivalent training courses to be conducted in the same setting (classroom, online) as the FEMA or USCG courses. We amended the guidelines for equivalent courses allow for courses conducted in alternative settings, provided that they meet the minimum course lengths and learning objectives (subsection 830.5(a)(1)). The regulations previously allowed for equivalent courses for five of the eight position-specific courses to be conducted virtually if they are led by an instructor. The updated regulations allow for all position-specific courses to be led virtually by an instructor (subsection 830.5(a)(2)).
- **ICS refresher training.** In response to public comments, we reduced the ICS refresher training requirements for cascading response personnel from 16 hours to eight hours per year. Additionally, the requirement for participation in an exercises or response to occur in California to count toward the ICS refresher requirement (subsections 830.5(e)(2) and (i)(4)).
- **Health and safety training.** The proposed regulations include a provision requiring that personnel must have all health and safety training required by existing law (subsection 830.5(d)). There has been persistent confusion regarding whether this provision imposes additional specific health and safety training requirements. To clarify that it does not, we reworded subsection 830.5(d). Additionally, we removed references to the provision in sections 830.4 and 830.5 because we determined that these references contributed to this misconception.
- **Experience substituting for exercise participation.** Cascading personnel can achieve the required qualifications through a “training track,” whereby personnel become qualified by completing training courses and participation in an exercise, and an “experience track,” whereby personnel become qualified by performing their positions in actual responses. In response to requests for the exercise participation included on the “training track” to be substituted for performance in a real response, we established equivalent experience that may be substituted for exercise participation on the “training track,” quantified as number of hours performing incident command system positions during responses of specified complexity. These adjustments were implemented throughout subsections 83-.5 (j), (k), and (l).

Achieving objectives for certification

- **Exercise scenario volume cap.** The previous draft of the regulations included a cap of 78,125 barrels on scenario spill volumes both for Tier I certification exercises and required exercise participation for Tier I cascading response personnel. We reduced the volume cap to 31,250 barrels and clarified that spill volumes may be imminently threatened in an exercise scenario (subsections 830.6(a) and 830.5(j)).
- **Spill credits.** In response to comments requesting that SMTs be eligible to receive credit for achieving certification objectives while managing a response to

a spill of a volume smaller than the reasonable worst-case volume, we added language establishing criteria for a response for which credit may be requested (subsection 830.6(a)(2)).

Personnel requirements

- **Assistant Public Information Officer.** We received comments stating that spill management team providing services to plan holders by contract do not typically provide personnel to fill the Assistant Public Information Officer position because plan holders tend to rely on their own staff or a preferred public relations firm. To address these comments, we added a provision specifically exempting contracted spill management teams from providing this position (subsection 830.4(b)). This exemption was already incorporated into the external application form DFW 1006 because we received similar comments during pre-rulemaking. The provision was omitted from the regulations text in error and the insertion of subsection 830.5(b) corrects this error.
- **Changes in personnel.** There has been persistent confusion regarding whether personnel changes constitute either non-significant (see subsection 830.8(c)) or significant changes (see section 830.9) for which OSPR must be notified. To mitigate this misunderstanding, we reworded subsection 830.9(c) to clarify that only personnel changes that constrain an SMT's response capability are considered significant changes. Note that non-significant changes requiring notification apply only to information provided on an application. Because the applications forms do not solicit the names of personnel, changes to personnel names do not require notification. SMTs must maintain a list of personnel to be made available to the Administrator upon request (subsection 830.4(d)).
- **Minimum numbers of personnel.** Some comments indicated confusion about the minimum number of personnel required on a spill management team, so we made clarifications at subsections 830.4(a)(1)(D), (a)(2)(D), and (a)(3)(D). An explanation is included below to assist with comprehension.

The regulations include eight incident command system (ICS) positions: Incident Commander, Safety Officer, Operations Section Chief, Assistant Liaison Officer, Assistant Public Information Officer, Planning Section Chief, Logistics Section Chief, and Finance Section Chief. The on-scene requirements are divided into two groups: initial response personnel and cascading response personnel. The regulations specify that individuals can be counted toward both initial and cascading response positions if they meet the appropriate on-scene arrival and training requirements for each position.

Initial response personnel can arrive within eight hours to fill the first three positions listed above (plus one additional position for Tiers I and II). Cascading response personnel can arrive within 24 hours to fill all eight ICS positions. Initial response personnel have fewer training requirements than cascading response personnel, but they must be able to arrive more quickly. The on-scene requirements are divided this way because the regulated

community reported that they utilize different groups of personnel to perform initial response and ongoing spill management duties, and that highly trained personnel may be located out of state or outside the regions in which facilities are located. Some teams are more locally or regionally distributed, so that most or all members might be capable of arriving with eight hours. For these teams, we would expect to see overlap between personnel filling initial and cascading response positions.

Tier I and II spill management teams are required to have alternates for the eight cascading response positions, so that teams in Tiers I and II must account for a total of 18 and 16 “seats,” respectively. To allow teams to cross-train staff to meet these requirements, we established minimums of 12 personnel for Tier I and 10 personnel for Tier II teams. Tier III spill management teams are not required to retain alternates, but they must include at least eight personnel to fill the eight ICS positions.

As stated above, spill management teams may rely on the same personnel to fill initial and cascading response positions. Therefore, a Tier I spill management team for which all personnel who fill the initial response positions will also fill cascading response positions must include 12 people, while a Tier I team with no overlap between initial and cascading response personnel would include at least 16 people (the minimums of four initial personnel plus 12 cascading personnel). A Tier II spill management team with full overlap between initial and cascading response personnel must include 10 people, while a Tier II team with no overlap between initial and cascading response personnel would include at least 14 people (minimums of four initial plus 10 cascading personnel). A Tier III spill management team with full overlap between initial and cascading response personnel must include eight people, while a Tier I team with no overlap between initial and cascading response personnel would include at least 11 people (minimums of three initial plus eight cascading personnel). The actual number of personnel included on a spill management team will vary based on training regimes and the locations of personnel.