

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

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

Title 14, California Code of Regulations
Amend Section 870.17
to Administration Fund Fee
and
Amend Sections 791.7 and 793
to Financial Responsibility

Date of this Initial Statement of Reasons: December 29, 2020

I. Description of Regulatory Action

The California Department of Fish and Wildlife, Office of Spill Prevention and Response (OSPR) is proposing to adopt, through this regular rulemaking, revisions to regulations regarding collection of the Oil Spill Prevention and Administration Fund (OSPAF) fee from non-tank vessels.

(a) General Background

The *Lempert-Keene-Seastrand Oil Spill Prevention and Response Act* (Act) (Chapter 1248, Statutes of 1990) created a comprehensive state oil spill program including the establishment of the Office of Spill Prevention and Response (OSPR). The Act requires the Administrator to establish regulations that provide for the best achievable protection of the state's natural resources.

Since 1991, the Act has required, in part, that an owner or operator of a vessel required to have an oil spill contingency plan pursuant to chapter 3 of this subdivision, while operating in California, shall demonstrate the financial ability to pay for cleanup costs and damages associated with potential oil spills to marine waters; this is known as financial responsibility. A vessel owner or operator must apply for and obtain a certificate of financial responsibility issued by the OSPR Administrator. A certificate of financial responsibility is conclusive evidence that the person or entity holding the certificate is the party responsible for the specified facility or vessel for purposes of determining liability for an oil spill. (Government Code §8670.37.51 through 8670.31.58) In 1999, these requirements also became applicable to non-tank vessels over 300 gross tons.

Additionally, the Administrator must establish a barrel fee assessed against tank vessels and a fee assessed against non-tank vessels. Each fee is deposited into the Oil Spill Prevention and Administration Fund (OSPAF) as required by article 6, chapter 7.4, division 1, title 2 of the Government Code (commencing with section 8670.38).

The OSPAF is funded by a fee on each barrel of oil and petroleum product received at California marine terminals by tank vessels and transported through marine pipelines. In 2014, the per-barrel fee also became applicable to oil received at California refineries regardless of the mode of delivery. In addition to this per-barrel fee assessed against tank vessels, the Administrator is authorized to establish a non-tank vessel fee to be collected with each application to obtain a certificate of financial responsibility and every two years thereafter with the certificate renewal. The amount is based upon the costs to implement requirements related to the non-tank vessel program. (Government Code section 8670.41)

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

Non-tank vessels do not transport oil or petroleum products as cargo, yet oil spills from non-tank vessels pose a serious threat to California's marine environment. Approximately 7,000 non-tank vessels arrive in California each year, with many making multiple visits, resulting in a significant portion of the OSPR's workload tracking their movements, and reviewing and processing oil spill contingency plans and certificates of financial responsibility.

Statute requires the Administrator to review and approve non-tank vessel oil spill contingency plans and provide certification of financial responsibility. Non-tank vessels must also meet requirements under OSPR's drills and exercises program. In order to continue to maintain a comprehensive non-tank vessel program and meet its statutory requirements pursuant to Government code section 8670.41, a number of program elements had to be enhanced including field support, vessel monitoring, drills and exercise requirements, maintenance of contingency plans and certificates of financial responsibility, and an accounting element to track and audit vessel arrivals.

The proposed 15.4% increase to the fee for non-tank vessels (last raised in 2012) is intended to account for inflation and to address mandates which have not been adequately funded. The non-tank fee increase will also help equitably balance out the fee paid by non-tank vessels with those paid by tank vessels and facilities on each barrel of oil and petroleum products brought into California.

If the non-tank vessel fee is not increased, there will be an adverse impact on the environment and all users of the OSPAF, which includes the public and local and state governmental entities that depend upon OSPAF-supported programs. Impacted state governmental entities include the State Lands Commission (including their Mineral Resources Management Division, which oversees offshore production facilities and related infrastructure and their Marine Environmental Protection Division, which regulates and inspects all state marine oil terminals), the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the Office of Environmental Health Hazard Assessment, and the California Department of Tax and Fee Administration (formerly the Board of Equalization).

OSPR believes that the additional revenue generated from an increase in the non-tank vessel fee, adjusted for inflation, would more appropriately approximate the increased costs to fully implement a comprehensive non-tank vessel 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 8670.39 grants the Administrator of OSPR the authority to adopt regulations and guidelines regarding the OSPAF. Government Code section 8670.41 authorizes the Administrator to collect a fee from non-tank vessels and allows for a reduced fee for non-tank vessels which pose a reduced risk of pollution. The proposed regulations implement interpret and make specific Government Code sections 8670.39 through 8670.41 and are necessary to provide specificity not found in the statutes.

The proposed increase to the fee for non-tank vessels (last increased in 2012) is intended to compensate for 8 years of gradual decrease in real revenues due to inflation and to address mandates which have not been adequately funded. The non-tank fee increase will also help equitably balance the fee paid by non-tank vessels with those paid by tank vessels and facilities on each barrel of oil and petroleum products brought into California.

The proposed regulations amend Title 14, California Code of Regulations section 791.7 which addresses requirements for financial responsibility; and section 870.17 which deals with requirements for the Oil Spill Prevention and Administration Fund Fee (OSPAF). Corresponding amendments to the Application for Certificate of Financial Responsibility for Owners or Operators of Nontank Vessels have also been made.

The following set forth a discussion of the specific purpose for each regulatory provision to be adopted/amended, including explanation as to why each regulatory provision being adopted/amended is reasonably necessary to carry out the purpose and addresses the problem for which it is proposed.

Section 870.17 – Oil Spill Prevention and Administration Fund Fee

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

Subsections (b)(3)(A) and (b)(3)(B) have non-substantive revisions updating the name of the state agency responsible for collecting the barrel fee, specifically the California Department of Tax and Fee Administration (formerly the Board of Equalization). While this rulemaking has revisions as it relates only to the fee assessed against non-tank vessels (non-tank vessels do not pay the barrel fee assessed against tank vessels), OSPR is taking this opportunity to make this name change, which occurred in 2017, to the subsection that pertains to the per-barrel fee. It is important to note that the barrel fee itself is not being revised, only the non-tank vessel fee, as reflected in subsection (c) of section 870.17.

Subsection (b)(4) – No change.

Subsection (b)(5) includes a non-substantive revision to align with the name change of the Board of Equalization as further described in subsections (b)(3)(A) and (B) above.

Subsections (c)(1) through (c)(2) – No change.

Subsections (c)(2)(A), (B), (C), (D) and (E) are revised to reflect the proposed increase to the non-tank vessel fee of approximately 15% (rounded to the nearest dollar) for each of the three categories of non-tank vessels based on their fuel carrying capacity. Only the fee amount is revised in this rulemaking; the distinctions between the barrel capacities is not, nor is it new. The 15% proposed fee increase most closely approximates the amount of inflation that has occurred since the last fee increase in 2012, and thus the increased costs incurred by OSPR in administering its program.

Additional revisions to these subsections include non-substantive typography edits for better readability. For clarity, a clean-up edit is made changing the word “oil” to “fuel” to more accurately reflect that OSPR regulates the fuel in the tanks of non-tank vessels, not any oil products non-tank vessels may carry as cargo. (Government Code sections 8670.3 and 8670.28(a)(10)) This edit is also consistent with those made in the Financial Responsibility regulations, section 791.7, filed concurrently.

Subsection (c)(3) has a non-substantive correction to the citation of OSPR’s financial responsibility regulations.

Subsection (c)(4) and Authority and Reference – No change.

Sections 791.7 and 793 – Financial Responsibility

Section 791.7

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

Subsection (a)(2) has revisions to correct the current name of the application for certificate for non-tank vessels (form DFW 1972), and to update the version date of the form which has revisions. An itemization of the revisions made to this form are described at the end of this Initial Statement of Reasons.

Subsection (b) has revisions to direct the public to OSPR’s website for access to applications for certificate of financial responsibility. This change is for uniformity with language and instructions in other OSPR regulations. Additionally, the primary address for OSPR is updated; OSPR moved its headquarters to West Sacramento in December 2019. The general email address is deleted as unnecessary; only the email addresses to the Financial Responsibility Unit are important and those have edits to capitalization for consistency.

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

Subsection (c)(3) has a non-substantive punctuation edit striking out a comma after the word “applicant”.

Subsections (c)(4) and (c)(5) – No change.

Subsection (c)(6) has non-substantive grammatical revisions and an elimination of a sentence as superfluous to that which is stated earlier in this same subsection.

Subsections (c)(6)(A), (B) and (C) are revised to reflect the non-tank vessel fee increase proposed for adoption. Government Code section 8670.41 authorizes the Administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator’s costs in implementing this chapter relating to nontank vessels. This increase of approximately 15% for all non-tank vessels most closely approximates the amount of inflation that has occurred since the last fee increase (2012) and OSPR’s increased costs in administering the non-tank vessel program.

Additional revisions to these subsections include clean-up edits changing the word “oil” to “fuel”. This change is made for clarity and to more accurately reflect that OSPR regulates the fuel in the tanks of non-tank vessels, not any oil products non-tank vessels may carry as cargo. (Government Code sections 8670.3 and 8670.28(a)(10)) This edit is also consistent with those made in subsections 791.7(g)(1)(C), as well as in the companion section 870.17 of the Oil Spill Prevention and Administration Fund Fees regulations filed concurrently.

Subsections (c)(7) through (e)(1) – No change.

Subsection (e)(2) has non-substantive punctuation edit separating the paragraph into two sentences for improved readability.

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

Subsection (g)(1)(A) has a non-substantive punctuation edit striking out a comma after the word “oil”.

Subsections (g)(1)(B) and (g)(1)(B)1.– No change.

Subsections (g)(1)(C)1. through 4. – No change.

Subsections (g)(1)(C) and (g)(1)(C)5. include clean-up edits changing the word “oil” to “fuel”. This change is made for clarity and to more accurately reflect that OSPR regulates the fuel in the tanks of non-tank vessels, not any oil products non-tank vessels may carry as cargo. (Government Code sections 8670.3 and 8670.28(a)(10)) This edit is also consistent with the revisions made in subsections 791.7(c)(6)(A), (B), and (C), as well as in the companion section 870.17 of the Oil Spill Prevention and Administration Fund Fees regulations filed concurrently. Subsection (g)(1)(C)5. also has a non-substantive punctuation edit changing a colon to a semi-colon just before the formula.

Subsections (g)(1)(C)6. through (h)(1)(G) – No change.

Subsection (h)(1)(G)1. has a non-substantive punctuation edit hyphenating “quarter-mile”.

Subsections (h)(1)(G)2. through (j) – No change.

Subsection (j)(1) has a non-substantive punctuation edit.

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

Authority and Reference – No change.

Section 793

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

Subsection (f)(2) makes a non-substantive revision updating the name of state agency Geologic Energy Management Division of the California Department of Conservation (formerly the Division of Oil, Gas and Geothermal Resources) which became effective on January 1, 2020. There are no regulatory revisions in this rulemaking to procedures for owners or operators of offshore marine facilities engaged in drilling operations as described in subsection (f).

Authority and Reference – No change.

IV. Economic Impact Assessment [Government Code sections 11346.2(b); 11346.3(a)]

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 annually.

Costs

Section 8670.41 of the Government Code authorizes the Administrator to collect a reasonable fee from the owner or operator of a non-tank vessel based upon the costs to implement the statutory requirements of the non-tank vessel program. The fee is applied to non-tank vessels over 300 gross tons and is collected with every new application for a Certificate of Financial Responsibility (COFR) and every two years thereafter with the renewal of a COFR.

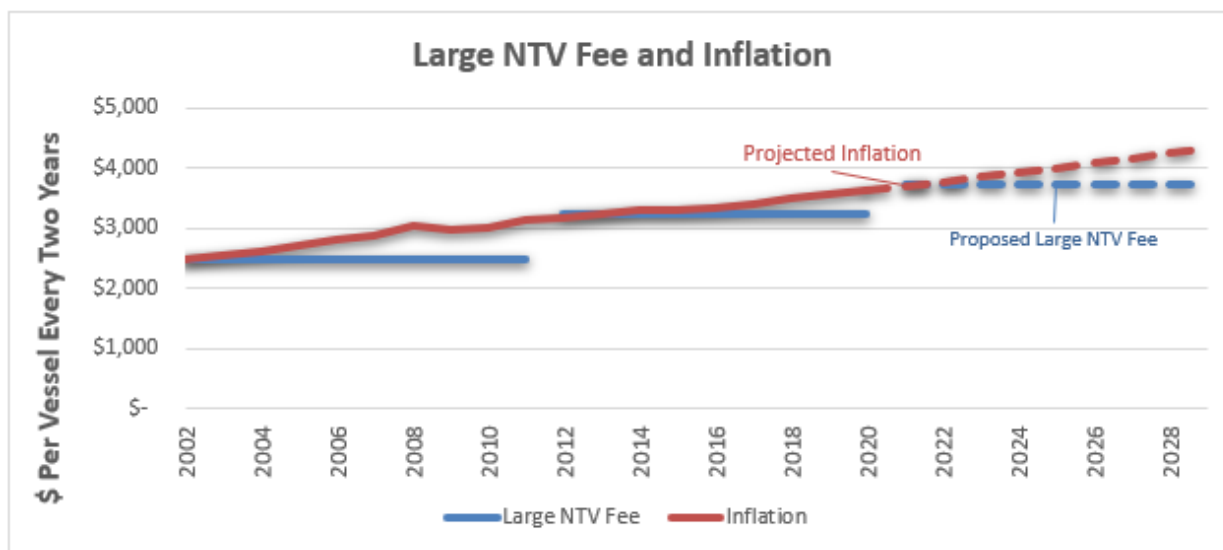
With a proposed 15.4% increase, nontank vessels with a carrying capacity of over 6,500 barrels (over 7,500 barrels if owned or operated by California or the federal government) will see a fee increase from \$3,250 to \$3,750 per vessel; nontank vessels with a carrying capacity over 500 barrels and less than 6,500 barrels (less than 7,500 barrels if owned or operated by California or the federal government) will see a fee increase from \$1,950 to \$2,250 per vessel; and nontank vessels with a carrying

capacity less than 500 barrels will see a fee increase from \$650 to \$750 per vessel. Over 90% of the vessels that pay the larger fee amount are those with the greatest carrying capacity. They would experience a fee increase of \$500 (from \$3,250 to \$3,750). Because the fee is paid every two years, this results in a net fee increase of \$250 per year.

There are approximately 7,000 non-tank vessel arrivals in California each year, with many making multiple visits to the state. For comparison, fees are collected from approximately 896 new COFR applications and 1,050 COFR renewals and each year. In 2018, approximately 91% of the larger fee was collected from the largest of the non-tank vessels (defined above). The fee for the largest non-tank vessels was originally established at \$2,500 in 2003 and was increased to \$3,250 in 2012 in order to adjust for inflation. OSPR is now seeking a similar increase in the non-tank vessel fee in order to adjust for inflation and be able to meet its statutory mandates for the administration of the non-tank vessel program pursuant to subdivision (a) of section 8670.41 of the Government Code. Adjusting the non-tank vessel fee for inflation would not change the risk assessment that the fee is based on.

Between 2012 (the last time the fees were increased) and 2020, there has been a 13% increase in inflation which has impacted the Administrator's ability to adequately fund the non-tank vessel program. Figure 1 shows inflation growth since the implementation of the original fee for non-tank vessels with the largest carrying capacity (identified above) in 2003 and tracks it with the previous fee increase from 2012 and the currently proposed 15.4% fee increase, which would take effect in fiscal year 2021-2022 and would continue the trend of adjusting for inflation approximately every ten years. Since approximately 91% of the collected fees come from non-tank vessels with the largest carrying capacity, the fee assessed them is used as a proxy to illustrate the fee adjustment over time, as represented by the blue lines in Figure 1. The Federal Reserve's target inflation rate for 2020-2029 is 2%, which is reflected by the dashed orange line in Figure 1 and is consistent with the historical inflation represented by the solid orange line.

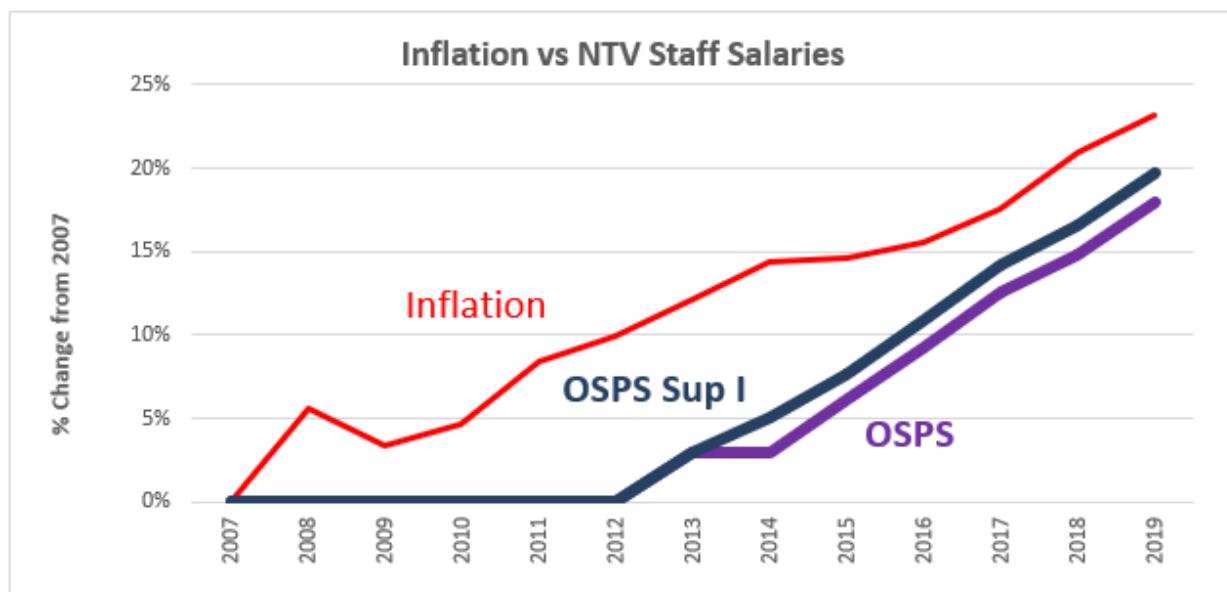
Figure 1: Large Non-Tank Vessel Fee and Inflation



The proposed non-tank vessel fee increase is expected to raise \$587,000 annually for the non-tank vessel program. It is not anticipated the proposed fee increase will significantly impact non-tank vessel owners or operators, as it is designed as an adjustment for inflation that has occurred since the fee was first implemented in 2003. Since the creation of the non-tank vessel program in 1999, and the implementation of the non-tank vessel fee in 2003, the fee has been adjusted for inflation once by 30% in fiscal year 2011-2012. Given the ten-year gap in between inflation adjustments, it can be reasonably assumed that the proposed fee increase would last for ten years before the non-tank vessel fee would need further adjustment to compensate for inflation. Assuming that the fee meets its projections and raises \$587,000 annually, it can be expected that the fee will cost the non-tank vessel industry \$5,870,000 over a ten-year span.

The annual revenue anticipated by the proposed non-tank vessel fee increase will be used for the purposes listed in subdivision (e) of section 8670.40 of the Government Code. This additional revenue will allow OSPR to keep up with the cost-of-living adjustments for staff administering the non-tank vessel program, as seen in the comparison of salary adjustments and inflation presented in Figure 2.

Figure 2: Inflation vs. Non-Tank Vessel Staff Salaries



The percent changes in Figure 2 reflect the changes in staff salaries for the non-tank vessel program, as well as the change in inflation since 2007. Salaries for staff administering the program are in the Oil Spill Prevention Specialist (OSPS) and Oil Spill Prevention Specialist Supervisor (OSPS Sup I) classifications and remained flat from the salary increase in 2007 until 2012. As seen in Figure 2, the salary increases from 2012 reflect a cost-of-living adjustment that attempts to match with inflation from 2007; however, the rate of change has not caught up to inflation. The proposed non-tank vessel fee increase would allow OSPR to continue to meet its regulatory requirements for administering the program and to continue to maintain cost of living adjustments for program staff salaries to keep up with inflation.

Benefits

The proposed 15.4% increase for inflation adjustment of the non-tank vessel fee will provide \$587,000 in additional annual revenue for administering the non-tank vessel program. The non-tank vessel fee funds OSPR's non-tank vessel program, which serves to protect the environment and the public from potential damages from oil spills. This is accomplished by requiring non-tank vessels to demonstrate the appropriate amount of financial ability to pay for the cleanup of an oil spill, and to participate in drills and exercises administered by OSPR, all of which requires regular review, evaluation, and participation by OSPR staff. The adjustment of the fee for inflation allows OSPR to meet the statutory requirements (Government Code section 8670.41) for administering the program and maintaining preparedness for an eventual spill from a non-tank vessel.

- (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?*

OSPR has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The additional \$500 every two years would have a minimal financial impact on affected businesses based on the size and scope on the non-tank vessel industry.

(b) Will there be any effects of the regulation on the creation or elimination of jobs within the State? No.

(c) Will there be any effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State? No.

(d) Will there be any effects of the regulation on the expansion of businesses currently doing business within the State? No.

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

The non-tank vessel fee funds the implementation of the non-tank vessel program which maintains preparedness and in turn protects the environment and the public from the potential effects of oil spills by ensuring that non-tank vessels have an oil spill contingency plan and certification of demonstration of financial responsibility.

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

The benefits anticipated from the regulatory action include non-monetary benefits including the protection of the environment, by providing increased funding for a comprehensive non-tank vessel program.

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

- Board of Governors of the Federal Reserve System, Federal Open Market Committee, Federal Reserve Press Release – Federal Reserve issues FOMC statement. 2010. (Available at: <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200610a.htm>)
- Federal Reserve Bank of St. Louis. Statement on Longer-Run Goals and Monetary Policy Strategy. 2016. (Available at: <https://www.stlouisfed.org/open-vault/2019/january/fed-inflation-target-2-percent>)

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

No reasonable alternative considered by OSPR or that has otherwise been identified and brought to the attention of OSPR would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The non-tank vessel fee is part of an existing program. The adjustment of the fee for inflation allows OSPR to meet the statutory requirements.

OSPR invites interested persons to present reasonable alternatives to the proposed regulations during the written comment period.

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

The regulations pertaining to the non-tank vessel fee increase do not conflict with federal statutes or regulations.

END

Attachment to Initial Statement of Reasons
Purpose and Necessity Statement
for proposed revisions to form DFW 1972
Application for Certificate of Financial Responsibility for
Owners or Operators of Nontank Vessels

Page 1

The version date of this form is updated to reflect the date revisions to the form's content are also revised.

Page 1 Introductory Content

The content at the top of the form identifies the purpose, submittal deadline, and other requirements. It asks that it be completed in English and provides direction to the instructions page for guidance in completing the form. This content is not new; it merely has non-substantive grammatical revisions and has been reformatted for improved readability.

Page 1, Section A. General Information

The title of Section A is revised, eliminating the word "Applicant" to more accurately reflect the data being requested, which consists of more than just information about the applicant.

Subtitle "Applicant Information" is added to make clearer to the preparer what information is being sought for this block. Content is non-substantially revised for better readability, and unnecessary content eliminated. "Operator or owner" is reversed to align with the form's title, and for consistency with other similar forms, as well as regulatory text. The addition of "nontank" is to state more clearly the category of vessel to which this form applies.

Subtitle "Vessel Owner" is added to make clearer to the preparer what information should be filled in this block. Text is added requiring English equivalent of legal name consistent with the requirement in the "Applicant Information" block above and other blocks in Section A. Text is deleted as superfluous to the content required to be entered below.

Page 2, Section A. General Information continued

Subtitle "Vessel Operator" is added to make clearer to the preparer what information should be filled in this block. Text is added requiring English equivalent of legal name consistent with the requirement in the "Applicant Information" block above and other blocks in Section A. Text is deleted as superfluous to the content required to be entered below.

Subtitle "Contact Person (Applicant or Designee)" is added to make clearer to the preparer what information should be filled in this block. Text is added requiring English equivalent of legal name consistent with the requirement in the "Applicant Information"

block above and other blocks in Section A. Text is deleted as superfluous to the content required to be entered below.

Subtitle “Certificate Delivery” is added to make clearer to the preparer what information should be filled in this block. “Or designee” is added as another option of individual to receive delivery of a certificate of financial responsibility issued by OSPR. Text is deleted as superfluous to the content required to be entered below. Text is added requiring English equivalent of legal name consistent with the requirement in the “Applicant Information” block above and other blocks in Section A.

Page 3, Section A. General Information continued

Subtitle “Agent For Service of Process” is moved here from page two, Section B, number 7. This is consistent with similar data being requested on other individuals identified in Section A. The content is unchanged.

The fee block has revisions consistent with the regulatory text to reflect the proposed increase to the non-tank vessel fee of approximately 15% (rounded to the nearest dollar) for each of the three categories of non-tank vessels based on their fuel carrying capacity, as described further in the instructions page of this form, as well as in the regulations. Non-substantive language is added to make clearer that the fee must be submitted with the application. Content in the parentheses below the fee amounts is moved above it.

Page 3, Section B. Vessel Data

Number 1. has an addition to capture a vessel’s previous name, in the event it has changed. This is necessary to prevent a duplicate certificate of financial responsibility being issued for the same vessel and for data cross-referencing purposes.

Number 2. is deleted. This content is irrelevant to users of this form (owners or operators of nontank vessels); it only applies to tank vessels; it should not be included on the form.

Renumbered 2. is moved here from page four, number 6. and is revised to add two check boxes for the applicant to identify which type of tonnage measurement system the vessel is using. This addition is important for OSPR in calculating and determining the appropriate level of financial responsibility and fees required.

Regulatory Measurement System

Some U.S. flagged vessels have been admeasured using the Regulatory (Standard) Measurement system. This is a legal, recognized admeasurement of gross tonnage consistent with federal law for use in domestic transport, manning of vessels, licensing of crewmembers, and vessel inspection. The State of California would be consistent with federal law if it recognized this gross tonnage value for U.S. flagged vessels on domestic voyages.

International Convention Measurement System

The Convention Measurement System is based on the International Maritime Organization (IMO) International Convention on Tonnage Measurement of Ships, 1969. As of July 14, 1994, all U.S. flagged vessels over 79 feet must be admeasured under the Convention Measurement System and may be optionally admeasured under the Regulatory Measurement System. The State of California would be consistent with federal law and international treaties if it recognized this tonnage value for U.S. flagged vessels on international voyages.

Page 4, Section B. Vessel Data continued

Number 3. – no changes.

Number 4. has a minor punctuation edit adding brackets around “bbls.” Added content includes a description of the purpose for the formula (also added) used by the applicant to calculate the financial responsibility of certain nontank vessels. This content, including the formula, is carried over from existing regulations implemented in 1999 in section 791.7 of Title 14 of the California Code of Regulations and provides a method in this application form to show how the applicant arrived at the amount of financial responsibility obligation. The prior version of this form had no space for this. A statement is added to direct applicants to another section of the form to identify financial responsibility amounts if the vessel has a different carrying capacity than that to which the above formula applies.

Number 5. – no changes.

Number 6. has been moved up and renumbered 2. in Section B for improved organization.

Number 7. has been moved up to page 3, Section A, for improved organization, without substantive changes.

Page 4, Section C. Financial Responsibility Amounts

The title of Section C is revised to more accurately reflect the content, which provides information to the applicant with regard to the amount of financial responsibility that must be demonstrated based on the carrying capacity of the non-tank vessel, as outlined in section 791.7 of Title 14 of the California Code of Regulations.

Paragraph 1. has a non-substantive punctuation revision; a grammatical revision to remove reference to U.S. dollars for consistency with the expression of dollars in other places in the form as well as regulatory text; and “of any kind” is removed as unnecessary.

In paragraph 2. “Operators or owners” is reversed to align with the form’s title, for consistency with other similar forms, and regulatory text.

The word “oil” is changed to “fuel” to align with the same revisions made to the regulatory text concurrently at sections 791.7 and 870.17 of Title 14 of the California

Code of Regulations. This change is made to more accurately reflect that OSPR regulates the fuel in the tanks of non-tank vessels, not any oil products non-tank vessels may carry as cargo. (Government Code sections 8670.3 and 8670.28(a)(10))

Page 5, Section C. Financial Responsibility Amounts continued

The content within the bulleted list within paragraph 2. have non-substantive typography edits. Financial responsibility amounts are unchanged. The content within the last bullet also has non-substantive typography edits for improved clarity and for consistency with the regulatory text at section 791.7 of Title 14 of the California Code of Regulations. Additionally, the word “oil” is changed to “fuel” consistent with those changes in paragraph 2. as well as the regulatory text changes being made concurrently.

Paragraphs 3. and 4. are essentially moved to the more appropriate location of Section D. about the various methods to demonstrate financial responsibility.

Page 5, Section D. Evidence of Financial Responsibility

The methods of financial responsibility which was included in Section C is a separate concept; therefore, Section D and a title has been formed. The content under the title is moved here from paragraphs 3. and 4. of Section C and restructured. The second sentence is added to provide added guidance to the applicant user.

The “Proof of entry” and “Protection and Indemnity Club” content has been moved to new number 2. of Section D. on page 6 without substantive changes.

Page 6, Section D. Evidence of Financial Responsibility continued

Number 1. “Insurance” and its content has been moved from under “Proof of entry” and “Protection and Indemnity Club” with some changes. In subparagraph (A), “for marine pollution liability” is added for clarity and because it appears it had been inadvertently dropped off the last version. In subparagraph (B), reference to California Endorsement form 1929 is replaced with the most recent version. Forms 1929 and 1962 were repealed and adopted, respectively, in 2018. The statement including a citation to the methods of financial responsibility in the regulations is moved under the title of Section D.

Number 2. “Protection and Indemnity Club” is moved here from Section D on page 5 with only nonsubstantive grammatical, punctuation, and spelling revisions.

Page 7, Section D. Evidence of Financial Responsibility continued

Number 3. “Other” includes an added list of additional approved methods of demonstrating financial responsibility, consistent with existing regulatory provisions in section 795 of Title 14, California Code of Regulations. This is provided for completeness and transparency. Only the regulatory citations are provided for these methods because while facilities use a variety of these methods, vessels most exclusively use insurance and membership in protection and indemnity clubs, thus more content is provided for those two methods in blocks 1. and 2. This application is specifically for use by nontank vessels.

Page 7, Section E. Declaration

The section “number” has been renumbered as a result of new Section D. The statement that this section must be completed by all applicants has been removed as superfluous; all sections must be completed by all applicants. No other changes have been made.

Page 8, Section F. Delegation of Authority by the Applicant

The section “letter” in the title has been renumbered for consistency. Nonsubstantive edits are made for improved clarity.

Page 9, Instructions

The Application for Certificate of Financial Responsibility for Owners or Operators of Nontank Vessels includes instructions for how to complete the application form. Instructions are necessary to reiterate information from the regulations, provide guidance to the applicant, and to avoid incomplete or insufficient applications to mitigate the delay of application review and approval.

The one sentence statement under the heading ‘Instructions’ is moved from 1. and simplified to cite the Government Code section which defines owner/operator.

The new content at instruction 1. is moved here from 4. and updated to include the addition of Section D.

New instruction 2. provides introduction of the content following it and is consistent with existing regulatory language at subsection 791.7(c) of Title 14, California Code of Regulations.

In paragraphs (A), (B), and (C) of instruction 2., “Operator or owner” is reversed to align with the form’s title, and for consistency with other similar forms, as well as regulatory text. Additionally, the fee amounts in (A), (B), and (C) are changed for consistency with the regulatory revisions concurrently in sections 791.7 and 870.17 of Title 14, California Code of Regulations, which is the subject of this rulemaking.

In instruction 3., there are nonsubstantive edits to clarify the process of submitting the nontank vessel fee identified in instruction 2.; an update of OSPR’s address and fax number since it moved in December of 2019; and inclusion of an alternative address if payment is not being delivered via courier service. There are nonsubstantive capitalization and grammatical edits in the ‘Warning’ statement.

Instruction 4. is moved to instruction 1.

Instruction 5. is renumbered to 4. The content at ‘a’ is removed as unnecessary. At paragraph (1) the number of days for application review is updated to align with existing regulatory provision at subsection 791.7(e) of Title 14, California Code of Regulations.

Instruction 6. is renumbered to 5. The time frame certificate renewal applications are sent to the applicant is updated to align with existing regulatory provision at subsection 791.7(i) of Title 14, California Code of Regulations.

Instruction 7. is moved to the bottom of the instructions page.

Instruction 8. is renumbered to 6. Nonsubstantive grammatical and stylistic changes are made for improved clarity. A statement is added to make clear that failing to submit the required fee with the application may delay the processing of the certificate of financial responsibility. This is in response to occasional fee shortages or omissions altogether and is also consistent with the provisions of section 791.7 of Title 14, California Code of Regulations. Applications will be reviewed within 30 calendar days provided the application is complete, evidence of financial responsibility has been provided, and the fee has been received. A certificate of financial responsibility is required before an owner or operator of a nontank vessel may operate in California. (Government Code section 8670.37.51)

Additional nonsubstantive edits to instruction 8. Include the following: grammatical edits; the inclusion of the delineation of domestic and international to distinguish between which codes to use for each; updated beneficiary name; deleted the account number as duplicative of it stated earlier in this instruction; duplicate beneficiary information is deleted from the "Reference" line; reference to CA Fish and Wildlife is updated to just "CDFW"; and added "required" after vessel name, to ensure it is captured on the wire transfer information line. The absence of the vessel name on the transaction text of the Bank of America reports proves difficult to match a wire transfer payment because the Bank of America wire transfer transactions only allows for 50 characters.

New instruction 7. is moved from earlier on the instructions page, without a number change. The only edit made to its content is the change in phone number as a consequence of a relocation of the Office of Spill Prevention and Response.