

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

**THIRD ADDENDUM TO
INITIAL STATEMENT OF REASONS**

Date of Initial Statement of Reasons: July 21, 2020

Date of Addendum to Initial Statement of Reasons: January 15, 2021

Date of Second Addendum to Initial Statement of Reasons: February 26, 2021

Date of this Third Addendum to Initial Statement of Reasons: August 9, 2021

Modifications have been made to the proposed regulations since last noticed to the public on February 26, 2021. These changes follow compliance with the requirements of the Administrative Procedures Act to satisfy the standards of consistency, clarity, necessity, non-duplication, authority, and reference. This Third Addendum to the Initial Statement of Reasons (ISOR) provides statements of necessity for new regulatory provisions and other clarifying statements only for those changes made since the last public comment period, from February 27, 2021, through March 15, 2021.

Pursuant to Government Code sections 11346.8(c) and (d) and 11347.1, and section 44 of Title 1 of the California Code of Regulations, OSPR is providing public notice of changes to the regulatory text of the Spill Management Team Certification regulations, Definition and Abbreviations regulations, and Oil Spill Contingency Plan regulations within Title 14 of the California Code of Regulations. Changes were also made to the Application for Certification of Plan Holder Spill Management Team (DFW form 1005) and Application for Certification of External Spill Management Team (DFW form 1006). Additional Documents Incorporated by Reference and Documents Relied Upon were also added including this Third Addendum to the ISOR. Non-substantive edits to spelling or punctuation that do not change the meaning or intent of the regulations are not included here.

Revisions to Section 830.1 – Purpose, Scope, and Applicability

Subsection (a)(1)

In this subsection and throughout the proposed regulations, “must” is changed to “shall” for consistent expression of mandatory provisions; this wording aligns with existing regulatory text.

Subsection (a)(2)

In this subsection and throughout the proposed regulations, “geographic area(s)” is reworded to “geographic region(s).” The initially proposed regulations used the term “geographic area,” an undefined term, to refer to either area contingency plan areas and/or response planning areas. This term was selected because “geographic region” is defined in section 790 as referring to area plan zones covered by the area contingency plans. To improve clarity and consistency, the definition of “geographic region” is revised in section 790 so that the term refers to either the area contingency plans or the

response planning areas. References to “geographic area” are updated to “geographic region” throughout the proposed regulations. Concurrent changes are made to the definitions of “area contingency plan” and “geographic region” in section 790.

Subsection (b)

Subsection (b) is updated to further clarify the required time frames for submission of applications for certification. Subsection (b)(1) previously stated that contingency plan holders and persons providing spill management team services to plan holders shall apply for certification within 90 calendar days after the effective date of the proposed spill management team certification regulations. However, it was advised that this provision did not clearly outline the process for applying for certification after the 90 calendar day period has passed. To remedy this lack of clarity, subsection (b) is expanded to more clearly describe required time frames for submitting an application for spill management team certification.

Subsection (b)(1) is reworded to address existing plan holders only; it no longer addresses persons providing spill management team services to plan holders, such as consultants or contractors.

Subsection (b)(2) is added to address future contingency plan holders, specifying that an owner or operator who is required to have a contingency plan shall submit an application for spill management team certification at the time of submission of a contingency plan. Collateral changes are made to the contingency plan regulations (see subsections 815.07(a)(2)(D) and (E), 817.04(e)(1)(C)1. and 2., and 825.07(a)(2)(D) and (E)).

Subsection (b)(3) is added to address the time frame for persons providing spill management team services to plan holders, such as consultants or contractors. It specifies that these persons shall have obtained either an interim or a full certification prior to being listed in a plan holder’s contingency plan. This certification is optional for people or companies that provide incident management team services in California; however, certification is required if they intend to provide personnel for a plan holder’s certified spill management team. The addition of subsection (b)(3) reflects the distinction between contingency plan holders and spill management teams providing services to plan holders, and it clarifies the process for the latter.

Authority and Reference

Government Code sections 8670.3, 8670.19, and 8670.30 are removed.

Revisions to Section 830.2 – Certification Requirements

Subsection (a)

Subsection (a) is reworded to clarify what is required for a person to do to obtain a “full” certification. The adjective “full” is added to improve clarity. Further, “must” is replaced with “shall” for consistency.

Subsection (b)

As in subsection (a) above, “full” is added to modify “certification” for clarity, and “must” is replaced with “shall” for consistency.

Authority and Reference

Government Code sections 8670.19 and 8670.30 are removed.

Revisions to Section 830.3 – Spill Management Team Classifications

Subsection (a)

“Must” is replaced with “shall” for consistency.

Subsection (b)

The subsection is reworded to clarify that a spill management team shall request certification in each geographic region in which certification is requested. The phrase “area contingency planning or response planning area” is reworded to “geographic region” to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (c)(3)(C)

For consistency with phrasing used on the application forms for spill management team certification, the phrase “with any reasonable worst-case spill volume” is added to the regulatory provision that specifies spill management teams providing services to mobile transfer units are in the Tier III classification.

Authority and Reference

Government Code section 8670.19 is removed.

Revisions to Section 830.4 – On-Scene Requirements

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

References to required training described in these subsections are updated to include the training described in 830.5(d), reverting to the original express terms of these subsections. The references were removed after the 45-day public comment period because comments received indicated that referencing 830.5(d) along with other training requirements caused confusion regarding the substance of that subsection. However, in OAL’s view removing these references created new clarity issues regarding whether and when health and safety training is required. Therefore, the original express terms of these provisions are restored. The terms of subsection 830.5(d) were updated after the 45-day comment period to clarify its substance, so the confusion of those commenters should be adequately addressed.

Subsections (a)(1)(C)1., (a)(2)(C)1., and (c)

“Must” and “should” are replaced with “shall” for consistent expression of mandatory provisions.

Authority and Reference

Government Code sections 8670.19 and 8670.30 are removed.

Revisions to Section 830.5 – Training and Experience Requirements

Subsection (a)

At subsection (a)(1), references to the Federal Emergency Management Agency and United States Coast Guard training standards are updated. The source for Federal Emergency Management Agency’s training standards is updated to the National Preparedness Course Catalog because the agency now issues any updates to training course standards in this catalog rather than in a formal document. The course catalog has been downloaded into PDF format and incorporated by reference. The course catalog can be accessed on FEMA’s website at <https://www.firstrespondertraining.gov/frts/npccatalog?catalog=EMI>.

Subsection (b)

At subsection (b)(1), the phrase “as described in subsection (a)” is added to the referenced equivalent training courses to improve clarity, since subsection (a) describes the criteria for an equivalent course. Similar updates are made throughout section 830.5.

At (b)(2), “of receipt” is added for clarity.

Subsection (c)

The reference to subsection 830.5(d) is reinstated, as explained above at subsection 830.5(b)(1).

Subsection (e)

In subsection (e)(1), “must” is replaced with “shall” for consistency.

In subsection (e)(2), the word “by” is deleted to make the consecutive clauses in the sentence consistent; the phrase “as described in subsection (a)” is added to the referenced equivalent training courses to improve clarity, since subsection (a) describes the criteria for an equivalent course; and language is added to clarify that informal review of the incident command system is conducted internally by a spill management team; and the reference to subsection 830.5(a) is added as further explained above at subsection 830.5(b)(1).

Subsection (f)

The reference to subsection 830.5(a) is added at (f)(1), as explained above at subsection 830.5(b)(1). “Must” is replaced with “shall” at (f)(1) and (f)(2). At (f)(2), the word “and” is removed and a punctuation change is made to correct a previous copy-editing error. Also at (f)(1) and (f)(2), the phrase “as described in subsection (a)” is added to the referenced equivalent training courses to improve clarity, since subsection (a) describes the criteria for an equivalent course.

Subsection (g)

The reference to subsection 830.5(d) is reinstated, as explained above at subsection 830.5(b)(1); “must” is replaced with “shall” at (g)(1) and (g)(2) for consistency; and at (g)(2), the word “and” is removed and a punctuation change is made to correct a previous copy-editing error. At both (g)(1) and (g)(2), the phrase “as described in subsection (a)” is added to the referenced equivalent training courses to improve clarity, since subsection (a) describes the criteria for an equivalent course.

Subsection (h)

The reference to subsection 830.5(d) is reinstated, as explained above at subsection 830.5(b)(1); “must” is replaced with “shall” at subsections (h)(1) through (h)(4); and at (h)(4), the word “and” is removed and a punctuation change is made to correct a previous copy-editing error. At (h)(1) through (h)(4), the phrase “as described in subsection (a)” is added to the referenced equivalent training courses to improve clarity, since subsection (a) describes the criteria for an equivalent course.

Subsection (i)

At subsection (i)(1), “must” is replaced with “shall” for consistency; and “area” is replaced with “geographic region” to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (i)(2) is revised to cite an alternate reference, the *Incident Management Handbook*, for the capabilities that cascading personnel must be able to independently demonstrate. The reference is updated because the *Incident Management Handbook* is a more practical reference than the Federal Emergency Management Agency’s (FEMA) National Qualification System position task books. The *Incident Management Handbook* is used for all oil spill responses in California, thus spill management teams and contingency plan holders are familiar with it, and it is referenced in OSPR’s existing regulations. Furthermore, information regarding the functions of all required incident command system positions is combined in one document, as opposed to separate task books associated with each position. The FEMA task books were originally selected as a reference because they are the most comprehensive standard sources that describe the required duties and capabilities for each incident command system position. The provision allowed for equivalent task books, because some spill management teams have qualification systems that include bespoke position task books. Upon its review of the proposed regulations, OAL recommended that OSPR include a definition of “an equivalent task book used by the spill management team.” However, not all spill management teams use task books, and it was not OSPR’s intent to require spill

management personnel to actually complete position task books, which involves participation in multiple exercises and/or responses and signoff on tasks by an evaluating officer. The position task books were referenced because they are documents that include information regarding the capabilities of incident command system positions that personnel must possess. OSPR considered adding a definition for an equivalent task book but determined that doing so would reinforce a misconception that the proposed regulations are requiring personnel to complete task books. For these reasons, OSPR has determined that the *Incident Management Handbook* is a better reference to meet the intent of the provision.

The new provision specifies that personnel must demonstrate the “major responsibilities,” rather than the “competencies, behaviors, and tasks,” for consistency with the terminology used in the *Incident Management Handbook*. Language is also added specifying that personnel shall perform these responsibilities in accordance with incident-specific policies established by the Unified Command during a spill response or an exercise. This change is made in recognition that each incident is unique, and the Unified Command has the authority to determine policies and procedures for a specific incident.

At subsection (i)(3), the phrase “as described in subsection (a)” is added to the referenced equivalent training courses to improve clarity, since subsection (a) describes the criteria for an equivalent course.

At subsection (i)(4), the word “by” is deleted to make the consecutive clauses in the sentence consistent, in addition reference to subsection 830.5(a) is added as explained above at subsection 830.5(b)(1); and language is added to clarify that informal review of the incident command system is conducted internally by a spill management team.

Subsection (j)

At subsections (j)(1)(A), (j)(2)(A), (j)(3)(A), (j)(4)(A), (j)(5)(A), (j)(6)(A), (j)(7)(A), and (j)(8)(A), the reference to subsection 830.5(a) is added for clarity, as further explained above at subsection 830.5(b)(1). Non-substantive punctuation edits are also made.

At (j)(1)(A)1., (j)(1)(A)2., (j)(2)(A)1., (j)(2)(A)2., (j)(3)(A)1., (j)(3)(A)2., (j)(4)(A)1., (j)(4)(A)2., (j)(5)(A)1., (j)(5)(A)2., (j)(6)(A)1., (j)(6)(A)2., (j)(7)(A)1., (j)(7)(A)2., (j)(8)(A)1., and (j)(8)(A)2., the word “successful” is removed. OSPR will verify that participation occurred, but it is not feasible to determine whether or not an individual’s participation was successful at an exercise and/or response conducted outside of California.

Subsection (k)

At (k)(1)(A), (k)(2)(A), (k)(3)(A), (k)(4)(A), (k)(5)(A), (k)(6)(A), (k)(7)(A), and (k)(8)(A), the reference to subsection 830.5(a) is added for clarity, as explained above at subsection 830.5(b)(1). Non-substantive punctuation edits are also made.

At (k)(1)(A)1., (k)(1)(A)2., (k)(2)(A)1., (k)(2)(A)2., (k)(3)(A)1., (k)(3)(A)2., (k)(4)(A)1., (k)(4)(A)2., (k)(5)(A)1., (k)(5)(A)2., (k)(6)(A)1., (k)(6)(A)2., (k)(7)(A)1., (k)(7)(A)2., (k)(8)(A)1., and (k)(8)(A)2., the word “successful” is removed, as further explained above at subsection 830.5(j)(1).

Subsection (l)

At (l)(1)(A)1., (l)(1)(A)2., (l)(2)(A)1., (l)(2)(A)2., (l)(3)(A)1., (l)(3)(A)2., (l)(4)(A)1., (l)(4)(A)2., (l)(5)(A)1., (l)(5)(A)2., (l)(6)(A)1., (l)(6)(A)2., (l)(7)(A)1., (l)(7)(A)2., (l)(8)(A)1., and (l)(8)(A)2., the word “successful” is removed, as further explained above at subsection 830.5(j)(1).

Subsection (n)

The word “geographic” is removed.

Authority and Reference

Government Code section 8670.19 is removed.

Revisions to Section 830.6 – Exercise Objectives Required for Full Certification

Subsection (a)

At subsection (a), the description of spill volumes used in an exercise or spill for which a spill management team requests credit for certification is reworded. The original terms of this subsection specified that the spill volume shall be the largest reasonable worst-case spill volume listed in plans for which a team provides services, or 31,250 barrels, whichever is smaller. However, OAL pointed out a clarity issue in that it did not address spill volumes for Tiers II and III. The reworded provision remedies this by specifying that the spill volume shall be consistent with the certification sought and referencing subsection 830.3(c), where the tier classifications are defined. The revision also clarifies that the reference to 31,250 barrels only applies to Tier I certification exercises.

Additionally, “must” is replaced with “shall” in (a) and (a)(1) for consistency. At (a)(1)(A), “spill management team” is added for clarity.

Former subsection (a)(2)(A) is subsumed into (a)(2). This change is made because the previous (a)(2)(A) was repetitive of (a)(2), and (a)(2)(A) was not descriptive of the criteria. Additionally, “conditions” is replaced with “criteria” in the new (a)(2).

Subsections (a)(2)(B) through (a)(2)(F) are renumbered to (a)(2)(A) through (a)(2)(E), accordingly.

At subsection (a)(3), “must” is replaced with “shall” for consistency.

Subsection (b)

At (b)(1) “must” is replaced with “shall” for consistency.

At (b)(1)(B), language is added to clarify what is meant by “provide support for air monitoring and sampling.” Additionally, the citation for the Reference Exposure Levels (REL) established by the California Office of Environmental Health Hazard Assessment is expanded to include Chronic levels. This change is made for consistency with the REL program cited.

At subsections (b)(2) and (b)(3), “must” is replaced with “shall” for consistency.

At subsection (c)(2)(A), a citation reference is updated for further clarity.

Authority and Reference

Government Code section 8670.19 is removed.

Revisions to Section 830.7 – Application Submission and Review

Subsection (a)

At subsections (a)(1) and (a)(2), “must” is replaced with “shall” for consistency. In (a)(1), the last sentence is deleted as superfluous to that which has now been clearly outlined in 830.1(b).

Subsection (b)

At subsections (b)(1)(A), the phrase “area contingency planning or response planning area” is reworded to “geographic region,” to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (c)

At subsection (c)(1), the phrase “area contingency planning or response planning area” is reworded to “geographic region,” to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

At (c)(2), “must” is replaced with “shall” for consistency.

Subsection (d)

At subsection (d)(3), “team” is added after “spill management” for further clarity.

Subsection (f)

At subsections (f)(2), (f)(3), and (f)(3)(C), “must” is replaced with “shall” for consistency.

Subsection (f)(4) is deleted because it is not necessary. There is no obligation under the California Public Records Act for the Administrator to notify the SMT upon a request for a copy of an SMT’s public information/records prior to the release of the information/records. There may be situations where it may not be in the best interest to provide such notice. And although deleted, deletion does not preclude the Administrator from providing notice if a situation warranted.

At subsection (f)(5), this is deleted because it merely states the obvious – it is what agencies do every day addressing requests for access to public records, they interpret the “publicness” of a document or record; there is no regulatory value for (f)(5).

Authority and Reference

Government Code sections 8670.19 and 8670.30 are removed.

Revisions to Section 830.8 – Certification Revision Requests, Renewals, and Updates

Subsection (a)

In subsection (a)(1), “area” is replaced with “region” to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (b)

At (b)(1), language is added to clarify that the three calendar year time period for which a full certification is valid begins on the date of issuance of the full certification, as opposed to issuance of an interim certification.

At (b)(2), “must” is replaced with “shall” for consistency.

Authority and Reference

Government Code sections 8670.19 and 8670.30 are removed.

Revisions to Section 830.9 – Significant Change in Spill Management Team Resources

Authority and Reference

Government Code section 8670.19 is removed.

Revisions to Section 830.10 – Certification Modification, Suspension, or Revocation

Subsection (b)

At subsection (b)(1)(A), citation to subsection 830.7(a)(3) is provided for guidance as to how and where an application after a modification of certification may be submitted.

At subsection (b)(1)(C), language is added to clarify that the 30 calendar day period that a spill management team has to reply to a revocation begins on the date of receipt of the revocation.

Authority and Reference

Government Code section 8670.19 is removed.

Revisions to Section 830.11 – Reconsideration and Hearing Procedures

Subsection (a)

At subsections (a)(2)(A) and (B), “must” is replaced with “shall” for consistency. At subsection (a)(3), “the” is removed at (a)(3)(C).

Authority and Reference

Government Code section 8670.19 is removed.

Amend Section 790 of Chapter 1, and Sections 815.07, 817.02, 817.03, 818.02, 818.03, 817.04, 825.07, and 827.02 of Chapter 3

Amend Section 790 of Chapter 1 – General Definitions and Abbreviations

In subsection (a)(8) “Area Contingency Plan,” the reference to federal agencies is made specific to area committees, and the federal statutory citation for area contingency plans and area committees is provided. The six area contingency plan areas are added; this list is moved here from the definition of “Geographic Region”. This list is more germane to the definition of “Area Contingency Plan” than to “Geographic Region.”

Subsection (c)(6) “Coast Guard Designated Area” is deleted. Removal avoids any confusion with the amendments to the definition of “Geographic Region.” Additionally, this term is not otherwise used in OSPR’s regulations.

Former subsections (c)(7) through (c)(16) are renumbered (c)(6) through (c)(15) because of the deletion of (c)(6).

Subsection (g)(2) “Geographic Region” is revised to mean either Area Contingency Plans or Response Planning Areas. These two terms are defined at (a)(8) and (r)(7), respectively. A plan holder, spill management team, or oil spill response organization will know whether they operate within an area covered by an area contingency plan, or a response planning area; this is common knowledge for these entities. The list of the U.S. Coast Guard federal area plan zones in this definition is moved to the definition of “Area Contingency Plan” at subsection (a)(8) as explained above.

New subsection (i)(3), “Incident Management Handbook” is added. This handbook is used by the state and federal governments for oil spill response. Plan holders and spill management teams are expected to be familiar with the handbook.

Former subsections (i)(3) through (i)(9) are renumbered (i)(4) through (i)(10) because of the addition of new (i)(3).

Subsection (q)(1)(A) has a typographical error correction.

Amend Section 815.05 of Subchapter 3 of Chapter 3 – Definitions

In section 815.05, subsections (c) through (o) are renumbered (b) through (n), respectively because subsection (b) was deleted. And subsections (q) through (s) are renumbered (o) through (q), respectively because subsection (p) was deleted. This was a copy-edit oversight that should have occurred during the 45-day comment period.

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

Subsection (a)

In subsection (a)(2)(B), “areas” is replaced with “regions” for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsections (a)(2)(D) and (E) have edits consistent with those made in the Spill Management Team Certification regulations; refer to further explanation at 830.1(b) above.

Subsection (a)(2)(D) is reworded to address existing plan holders only. This is consistent with the edits made to the Spill Management Team Certification regulations at 830.1(b)(1). The language specifying that plan holders shall indicate whether they are partially or entirely relying on a contracted spill management team is removed. The language is not necessary because form DFW 1005 (new 11/12/20) and section 830.7 of the Spill Management Team Certification regulations are cited in the provision. Both the required form DFW 1005 and section 830.7 clearly describe what should be indicated on the form.

New subsection (a)(2)(E) is added to address future contingency plan holders, specifying that an owner or operator who is required to have a contingency plan shall submit an application for spill management team certification at the time of submission of a contingency plan.

Authority and Reference

Non-substantive grammar and punctuation edits are made.

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)

Subsection (a)

At subsection (a)(4)(B), “areas” is replaced with “regions” for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (b)

At subsections (b)(2)(E), and (d)(1)(B)1., “area” is replaced with “region” for consistency.

Subsection (i)

At subsection (i)(2), “geographic area” is revised to “geographic region” for consistency; and including a non-substantive edit to capitalization.

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

Subsection (a)

At (a)(4)(B), “areas” is replaced with “regions” for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (i)

At subsection (i)(2), “area” is revised to “region” for consistency; and includes a non-substantive edit to the capitalization of “geographic.”

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)

Subsection (a)

At subsection (a)(4)(B), “areas” is replaced with “regions” for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (e)

At subsection (e) edits are made for consistency with the concurrent definition change to “geographic region” in section 790, as further explained above in subsection 830.1(a)(2). Further revisions add specificity that the plan must address potential spills in the coastal zone(s) identified in the definition of Area Contingency Plan in section 790.

Subsection (f)

At subsection (f)(1), the column heading in the table is revised to align with the concurrent definition change of “Geographic Region” in section 790 and to make more specific it refers to the coastal zones identified in the definition of Area Contingency Plan (ACP).

Subsection (j)

At subsection (j)(2), “area” is revised to “region” for consistency; and includes a non-substantive edit to the capitalization of “geographic.”

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

Subsection (a)

At subsection (a)(4)(B), “areas” is replaced with “regions” for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (j)

At subsection (j)(2), “area” is revised to “region” for consistency; and includes a non-substantive edit to the capitalization of “geographic”.

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

Subsection (e)

New subsection (e)(1)(C)1. is added to address future contingency plan holders, specifying that an owner or operator who is required to have a contingency plan shall submit an application for spill management team certification at the time of submission of a contingency plan. This is consistent with the edits made to the Spill Management Team Certification regulations at 830.1(b)(2).

Former subsection (e)(1)(C) is renumbered (e)(1)(C)2. and revised to address existing plan holders only. This is consistent with the edits made to the Spill Management Team Certification regulations at 830.1(b)(1). The language specifying that plan holders shall indicate whether they are partially or entirely relying on a contracted spill management team is removed. The language is not necessary because form DFW 1005 (new 11/12/20) and section 830.7 of the Spill Management Team Certification regulations are cited in the provision. Both the required form DFW 1005 and section 830.7 clearly describe what should be indicated on the form.

At subsection (e)(2), the subheading title is changed from 'Future Operations Coverage' to 'Acquisitions and Ownership Changes' to more clearly distinguish the obligations of plan holders that become subject to the regulations as a consequence of acquiring a facility or a change in ownership, from the obligations of new plan holders that are subject to the regulations.

At subsection (e)(2), the subsection heading is revised to more clearly be a "heads-up" to entities who will be acquiring a facility or where there will be a significant change in ownership. In these situations, there should already be an approved contingency plan, but the new owner/operator or new acquirer must submit the information listed in (A)(2) to ensure smooth transition and continued operation. Brand new facilities, what is implied by "future", must comply with (e)(1) – submit a full plan as a "facility to which this section applies".

At subsection (h)(3)(B) "areas" is replaced with "regions" for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Amend Section 825.05 of Subchapter 3 of Chapter 3 – Definitions

In section 825.05, subsections (b) through (m) are renumbered (a) through (l), respectively because subsection (a) was deleted. And subsections (o) and (p) are renumbered (m) and (n), respectively because subsection (n) was deleted. This was a copy-edit oversight that should have occurred during the 45-day comment period.

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

Subsection (a)

At subsection (a)(2)(B), "areas" is replaced with "regions" for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsections (a)(2)(D) and (E) have edits consistent with those made in the Spill Management Team Certification regulations; refer to further explanation at 830.1(b) above.

Subsection (a)(2)(D) is reworded to address existing plan holders only. This is consistent with the edits made to the Spill Management Team Certification regulations at 830.1(b)(1). The language specifying that plan holders shall indicate whether they are partially or entirely relying on a contracted spill management team is removed. The language is not necessary because form DFW 1005 (new 11/12/20) and section 830.7 of the Spill Management Team Certification regulations are cited in the provision. Both the required form DFW 1005 and section 830.7 clearly describe what should be indicated on the form.

New subsection (a)(2)(E) is added to address future contingency plan holders, specifying that an owner or operator who is required to have a contingency plan shall submit an application for spill management team certification at the time of submission of a contingency plan.

Authority and Reference

Non-substantive grammar and punctuation edits are made.

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

Subsection (a)

At subsection (a)(4)(C), “areas” is replaced with “regions” for consistency with edits throughout and to align with the concurrent definition change in section 790, as further explained above in subsection 830.1(a)(2).

Subsection (i)

At subsection (i)(1), the column heading in the table is revised to align with the concurrent definition change of “Geographic Region” in section 790 and to make more specific it refers to the coastal zones identified in the definition of Area Contingency Plan (ACP).

Documents Incorporated by Reference

The following additional documents incorporated by reference in the Spill Management Team Certification regulations (Sections 830.1 – 830.11, Title 14, California Code of Regulations) are added to the proposed regulation text and are available on OSPR’s web page and upon request.

- [National Preparedness Course Catalog \(7/01/2021\), Federal Emergency Management Agency.](#)
- [Incident Command System Training Guide \(1/29/2016\), United States Coast Guard.](#)
- [Exercise Notification form DFW 1964 \(04/01/14\)](#)

The following additional documents incorporated by reference in the Definitions and Abbreviations regulations (Section 790, Title 14, California Code of Regulations) are added to the proposed regulation text and are available on OSPR's web page and upon request.

- Incident Management Handbook (2014), United States Coast Guard. Accessible from the [website](#) of the U.S. Coast Guard.
- Incident Management Handbook (2016), U.S. Environmental Protection Agency. Accessible from the [website](#) of the U.S. EPA.

Attachment to Third Addendum to Initial Statement of Reasons

Addendum to Purpose and Necessity Statements for
Application for Certification of Plan Holder Spill Management Team
Form DFW 1005 (new 11/12/20)

Modifications were made to the form DFW 1005 last noticed to the public during the first 15-day public comment period. Only those modifications are discussed here.

Page 1

B. Plan Holder Applicant Information

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

“Or” or is replaced with “of” in the subheading 2. for clarity.

Page 2

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

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

“Area contingency planning (ACP) and/or response planning area(s) (RPA)” is replaced with “geographic region(s)” in the text below the heading for consistency with updates to the definition of “geographic area” in Title 14, California Code of Regulations section 790, as well as in the text of the proposed regulations (sections 830.1-830.11).

Page 3

D. Basis For Certification

1. Initial Response Personnel

Reference to subsection 830.5(d), which generally requires that spill management personnel have health and safety training required by law, is added back in. The reference is also added to subsequent sections of this form.

“Should” is replaced with “shall” for consistency with the proposed regulatory text.

Page 4

D. Basis For Certification (continued from page 3)

2. Cascading Response Personnel

Reference to subsection 830.5(d) is added back in, as described above.

“Should” is replaced with “shall” for consistency with the proposed regulatory text.

Page 6

D. Basis For Certification (continued from page 5)

3. Certification or renewal exercise.

“Full” is added to the description of the year by which a certification exercise must take place after issuance of an interim certification. This update is made for consistency with the language in the proposed regulations.

Language is added instructing the applicant to indicate the method and anticipated date or year of the certification exercise. The corresponding form field below the text is also updated for consistency.

E. Mobilization Plan

“Area contingency planning/response planning area(s)” is replaced with “geographic region(s).”

Page 8

Section D

References to subsection 830.5(d) are added back in as described above. The language instructing applicants what to do if personnel need training is reworded for clarity.

Attachment to Third Addendum to Initial Statement of Reasons

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

Modifications were made to the form DFW 1006 last noticed to the public during the first 15-day public comment period were made. Only those modifications are discussed here.

Page 1

B. Applicant Information

2. Address or principal place of business of applicant if different from above:
“Or” or is replaced with “of” in the subheading 2. for clarity.

Page 2

C. Description of Spill Management Team Services

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

“Area(s)” is replaced with “region(s)” in the subheading 3. for consistency with updates to the definition of “geographic area” in Title 14, California Code of Regulations section 790, as well as in the text of the proposed regulations (sections 830.1-830.11).

“Area planning (ACP) and/or response planning area(s) (RPA)” is replaced with “geographic region(s)” in the text below the heading for consistency.

Page 3

D. Basis For Certification

“Areas” is replaced with “regions” and “area” is replaced with “region” in the text below the heading.

1. Initial Response Personnel

In the text below the heading, a reference to subsection 830.5(d), which generally requires that spill management personnel have health and safety training required by law, is added. The reference was included in the original express terms of the proposed regulations and it was removed after the 45-day comment period. It was also added to subsequent sections of this form.

“Should” is replaced with “shall” for consistency with the proposed regulatory text.

In the text regarding applicants indicating Initial Response Personnel – all positions, “section C” is updated to “section C.2” for clarity.

Page 4

D. Basis For Certification (continued from page 3)

2. Cascading Response Personnel

Reference to subsection 830.5(d), is added back in, as described above.

“Should” is replaced with “shall” for consistency with the proposed regulatory text.

In the text regarding applicants indicating Cascading Response Personnel – all positions, “section C” is updated to “section C.2” for clarity.

Page 5

D. Basis For Certification (continued from page 4)

3. *Certification or renewal exercise.*

In the text underneath the heading, “full” is added to the description of the year by which a certification exercise must take place after issuance of an interim certification. This update is made for consistency with the language in the proposed regulations.

Language is added instructing the applicant to indicate the method and anticipated date or year of the certification exercise in the text underneath the heading. The form field below the text is also updated for consistency.

E. Mobilization Plan

“Area contingency planning/response planning area(s)” is replaced with “geographic region(s).”

Page 7

2. *If the applicant is requesting different tiers*

“Areas” is replaced with “regions” and “area” is replaced with “region.”

Section D

References to subsection 830.5(d) are added back in as described above. The language instructing applicants what to do if personnel need training is reworded for clarity.

Attachment to Third Addendum to the Initial Statement of Reasons

Purpose and Necessity Statements for Exercise Notification Form DFW 1964 (04/01/14)

Subsection 830.6(a)(1)(A) incorporates by reference the Exercise Notification form DFW 1964. However, it was not discovered until recently that the 4/01/14 version of the form that was noticed during the 15-day comment period (January 16, 2021 – February 1, 2021) was not the latest version filed with the Office of Administrative Law (OAL). As such, OSPR is required to withdraw that version and replace it with the last version approved by OAL (also dated 4/01/14). Only minor edits are made to this older version, however, in order to eliminate confusion and interference with a separate rulemaking action within the coming months that may more significantly revise or entirely eliminate this form.

The following details only the revisions made to this form.

Form Header

Purpose: The purpose of the form header is to provide identifying title, form number and version date, and OSPR contact information for the user. An edit is made here to update the Office of Spill Prevention and Response's current phone number.

Type of Exercise

Purpose: This section provides the user options to identify what type of exercise they are providing notice. This information is necessary to schedule a drill or exercise pursuant to 14 CCR 820.01. Providing the drill or exercise type is not a new requirement.

An edit is made here to add the option for the user to select if the type of exercise is a spill management team certification exercise to facilitate the scheduling of certification exercises. This addition is consistent with the requirements of the proposed Spill Management Team Certification regulations at 830.6(a)(1)(A) implementing changes to Government Code section 8670.32.

Attachment to Third Addendum to the Initial Statement of Reasons

Purpose and Necessity for Documents Incorporated by Reference

The following documents have been incorporated by reference, pursuant to the requirements of Section 20 of Title 1 of the California Code of Regulations, because the proposed regulations require the use of these documents.

[Incident Typing Characteristics table \(U.S. Coast Guard *Incident Management Handbook* \(2014\)\)](#)

Purpose: This table describes the criteria for assigning types to incidents. It is part of the U.S. Coast Guard Incident Management Handbook.

Necessity: It is necessary to incorporate this table by reference because it contains criteria that qualify experience that may substitute for formal training courses required by subsections 830.5(j) through (l) of the proposed regulations.

[ICS Form 201 \(United States Coast Guard rev. 06/13 or United States Environmental Protection Agency rev. 05/18\)](#)

Purpose: The ICS Form 201 is used to document the current situation, initial objectives, current and planned actions, organizational structure, and resources related to an incident.

Necessity: It is necessary to incorporate this form by reference because it is an essential form used to document the information described above for an incident that is managed under the incident command system. The ICS 201 serves as the primary record of the incident activities during the early stages of an incident, and it is used as the basis for briefing incoming agencies and responders, as well as stakeholders and the public. Both the United States Coast Guard's and the United States Environmental Protection Agency's forms are incorporated because either agency will serve as the federal on-scene coordinator in the event of an oil spill, depending on the location of the incident. Additionally, OSPR considers either form to be acceptable.

[Exercise Notification form DFW 1964 \(04/01/14\)](#)

Purpose: This form is used by plan holders to schedule an exercise or drill in accordance with OSPR's Drills and Exercises program (Title 14, California Code of Regulations sections 820.01 and 820.02). The proposed regulations require the use of this form by spill management teams choosing to conduct a certification exercise in coordination with an exercise of an approved contingency plan through Drills and Exercises.

Necessity: Subsection 830.6(a) describes how spill management teams should schedule a certification exercise. Teams have the option to either conduct a certification through OSPR's Drills and Exercises program (830.6(a)(1)(A)), or to contact OSPR to design and schedule a certification exercise (830.6(a)(1)(B)). When choosing the former

option, teams must submit a form DFW 1964 indicating this by indicating the newly added “spill management team certification exercise” option.

OSPR expects that most spill management teams will opt to conduct certification exercises in conjunction with Drills and Exercises, since plan holders already conduct exercises to comply with sections 820.01 and 820.02. It is therefore necessary to incorporate this form by reference to facilitate the scheduling of certification exercises.

[Application for Certification of Plan Holder Spill Management Team form DFW 1005 \(new 11/12/20\) and Application for Certification of External Spill Management Team form 1006 \(new 07/13/20\)](#)

Purpose: Forms DFW 1005 and 1006 are used by plan holders and external spill management teams, respectively, to apply for spill management team certification.

Necessity: Because the proposed regulations require applicants to use these forms, they are incorporated by reference. The forms are included in the current rule making.

[Federal Emergency Management Agency’s National Preparedness Course Catalog \(7/1/21\)](#)

Purpose: The National Preparedness Catalog is an online reference that houses the standards for the Federal Emergency Management Agency’s (FEMA) training courses that are listed as required courses in the proposed regulations. The document that is incorporated by reference in the proposed regulations is a collection of catalog entries for the required training courses that was compiled during this rule making.

Necessity: The proposed regulations require spill management team personnel to complete specific training courses. These courses are part of the National Incident Management System (NIMS) qualification system for incident management personnel and are offered by FEMA and the United States Coast Guard (USCG). Personnel can either complete the courses offered by FEMA or USCG, or they can take equivalent courses. The proposed regulations specify that equivalent courses deliver the same learning objectives, over the same number of hours, as the courses offered by FEMA or USCG, so it is necessary to incorporate FEMA’s standard by reference. The document was compiled from individual catalog entries because the agency now issues any updates to training course standards in this catalog rather than in a formal document. The course catalog can be accessed on FEMA’s website at <https://www.firstrespondertraining.gov/frts/npccatalog?catalog=EMI>.

[United States Coast Guard’s Incident Command System Training Guide \(1/29/16\)](#)

Purpose: The Incident Command System Training Guide is a document that describes standards for USCG’s Incident Command System training courses that are listed as required courses in the proposed regulations.

Necessity: As described above, the proposed regulations require spill management team personnel to complete specific training courses that are either offered by FEMA or USCG, or equivalent courses. The proposed regulations specify that equivalent courses deliver the same learning objectives, over the same number of hours, as the courses

offered by FEMA or USCG, so it is necessary to incorporate USCG's standard by reference.