

**CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH AND GAME
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE**

ILLUSTRATION OF CHANGES

The Office of Spill Prevention and Response is proposing changes to the regulatory text of sections 791.7, 796, 797, and 798 of Title 14 of the California Code of Regulations. Those changes are illustrated as follows:

The original proposed express terms is illustrated with single underline for added text and ~~single strikethrough~~ for deleted text.

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TITLE 14. NATURAL RESOURCES
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH & GAME
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE
CHAPTER 2. FINANCIAL RESPONSIBILITY**

§ 791.7. Procedures for Application for California Certificate of Financial Responsibility.

(a) The following application forms shall be used to obtain a certificate:

(1) Application for Certificate of Financial Responsibility for Operators or Owners of Tank Vessels, form DFW 1925 (8/14). Vessels carrying oil as secondary cargo shall use DFW 1925 to obtain a certificate of financial responsibility.

(2) Application for Certificate of Financial Responsibility for Owners or Operators of Nontank Vessels, form DFW 1972 (Rev. 07/21).

(3) Application for Certificate of Financial Responsibility for Marine Facilities, form DFW 1924 (8/14).

(4) Application for Certificate of Financial Responsibility for Owners of Oil, form DFW 1947 (8/14).

(5) Application for Certificate of Financial Responsibility for Mobile Transfer Units, form DFW 1946 (8/14).

(6) Application for Certificate of Financial Responsibility for Inland Facilities, form DFW 1932 (NEW 06/21/17).

(b) These forms shall collectively be referred to as applications and are incorporated by reference herein.

(1) The application forms may be found on the website of the Office of Spill Prevention and Response, and upon completion, submitted to the following:

Courier Service:

Department of Fish and Wildlife
Office of Spill Prevention and Response (OSPR)
1010 Riverside Parkway
West Sacramento, CA 95605

U.S. Mail:

Department of Fish and Wildlife
Office of Spill Prevention and Response
Post Office Box 944209
Sacramento, CA 94244-2090

E-mail:

For facilities - cacofr-facilities@wildlife.ca.gov

For tank vessels or vessels with oil as cargo - cacofr-tank@wildlife.ca.gov

For nontank vessels - cacofr-nontank@wildlife.ca.gov

(c) General Application Content and Procedures.

(1) All applications and supporting documents shall be prepared in English and all monetary terms shall be in U.S. currency.

(2) All spaces on the application shall be completed with either the requested information or the phrase "Not applicable."

(3) All applications shall be signed by an authorized representative of the owner or operator applicant whose title shall be indicated in the space provided on the application.

(4) If the application is submitted by an agent on behalf of the owner or operator (e.g. a consultant), the Administrator may request a written delegation of authority authorizing the agent to submit the application on behalf of the owner or operator.

(5) Each applicant shall provide the name, address, telephone number and e-mail of an agent for service of process designated to receive legal documents on behalf of the applicant. The agent shall be located in California. If the applicant contracts for this service, the Administrator may request documentation that the agent for service of process acknowledges this capacity.

(6) An owner or operator of a nontank vessel shall submit a nonrefundable fee for each nontank vessel with each new or renewal application. The fee is set by section 870.17 of this subdivision. The owner or operator shall not deduct any processing charges from the fee. The fee amounts are as follows:

(A) For a nontank vessel that has a carrying capacity of over 6,500 barrels of fuel, or a carrying capacity of over 7,500 barrels of fuel if the vessel is owned and operated by California or a federal agency, a fee of \$3,750 per vessel, or;

(B) For a nontank vessel that has a carrying capacity greater than 500 barrels of fuel but less than or equal to 6,500 barrels of fuel, or a carrying capacity greater than 500 barrels of fuel but less than or equal to 7,500 barrels of fuel if owned and operated by California or a federal agency, a fee of \$2,250 per vessel, or;

(C) For a nontank vessel that has a carrying capacity of 500 barrels of fuel or less, a fee of \$750 per vessel.

(7) If, prior to certificate issuance, an applicant becomes aware of a material change in any of the facts contained in the application or supporting documents, the applicant shall, within seven calendar days of becoming aware of any change, notify the Administrator in writing of the change.

(d) For new or renewal applications for vessels only, any evidence submitted to demonstrate financial responsibility, and any applicable nontank vessel fees, shall be received by the Office of Spill Prevention and Response at least 10 calendar days prior

to operating where a spill may impact waters of the state. After expiration of any of the methods of evidence used to demonstrate financial responsibility, documentation of the financial responsibility renewal shall be provided at least 10 calendar days before operating where a spill may impact waters of the state.

(e)(1) Applications and evidence of financial responsibility submitted by applicants will be reviewed within 30 calendar days of receipt by the Office of Spill Prevention and Response. Certificates will be issued within that period provided that the following has been received: (1) adequate information was furnished in the application, (2) acceptable evidence of financial responsibility, and (3) receipt of the nontank vessel fee if applicable.

(2) If the information contained in the application, evidence of financial responsibility, or any supplemental information provided is insufficient, the Administrator shall notify the applicant of the nature of the insufficiency. The applicant shall then have 30 calendar days from the date of notification to provide the missing information or additional evidence.

(3) Certificates will be issued within 15 calendar days of receipt of sufficient additional evidence or supplemental information. In the event that acceptable evidence or adequate information is not received, the Administrator may deny the application by providing written notice specifying the reasons for the denial.

(f) Each certificate issued by the Administrator shall be valid for two years except for the following:

(1) The Administrator may issue a certificate for a facility for a period of no longer than three years if the Administrator finds that:

(A) Continued operation is necessary to finance abandonment of the facility; and

(B) The financial resources the applicant is able to demonstrate are reasonably sufficient to cover any spill-related damages from the facility.

(2) A certificate for a mobile transfer unit shall be valid for one year.

(g) Financial Responsibility Amounts for Tankers, Nontank Vessels, Large Tank Barges, and Owners of Oil.

(1) The amounts of financial responsibility that must be demonstrated are as follows:

(A) Owners or operators of tankers, large tank barges, or owners of, or persons accepting responsibility for the oil shall demonstrate their current financial ability to pay at least \$1 billion (\$1,000,000,000).

(B) Except as provided in (C) of this section below, owners or operators of nontank vessels shall demonstrate their current financial ability to pay at least \$300 million (\$300,000,000).

(C) Owners or operators of nontank vessels that have a carrying capacity of 6,500 barrels of fuel or less, or a carrying capacity of 7,500 barrels of fuel or less for nontank vessels owned and operated by California or a federal agency, shall demonstrate their current financial ability to pay the following amount of financial responsibility:

1. \$2 million (\$2,000,000) for those that have a carrying capacity from less than 1 to not more than 10 barrels;
2. \$5 million (\$5,000,000) for those that have a carrying capacity greater than 10 to not more than 50 barrels;
3. \$10 million (\$10,000,000) for those that have a carrying capacity greater than 50 to not more than 500 barrels;
4. \$18.9 million (\$18,900,000) for those that have a carrying capacity greater than 500 to not more than 1,000 barrels.
5. For nontank vessels that have a carrying capacity greater than 1,000 barrels of fuel to a carrying capacity of not more than 6,500 barrels of fuel, or 7,500 barrels of fuel for nontank vessels owned and operated by California or a federal agency, the amount of financial responsibility shall be calculated as follows: subtract 1,000 barrels from the total carrying capacity of fuel of the nontank vessel; multiply this amount by \$5,670 (which represents 30 percent of the per barrel clean-up and damage cost of spilled oil of \$18,900); then add \$18.9 million (\$18,900,000).
6. The amount of financial responsibility shall not exceed the amount required for nontank vessels as set forth in section 8670.37.58 of the Government Code.
7. Certificates of financial responsibility are not required for non-self propelled nontank vessels that do not carry any fuel.

(2) The amounts in this subsection are in effect unless amended by section 8670.37.53, 8670.37.58, or 8670.41 of the Government Code.

(h) Financial Responsibility Amounts for Marine Facilities, Inland Facilities, Small Marine Fueling Facilities, Mobile Transfer Units, Small Tank Barges, and Vessels Carrying Oil As Secondary Cargo.

(1) The Administrator shall determine the amount of financial responsibility that must be demonstrated as follows:

(A) For small tank barges:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times 30 percent of the maximum cargo capacity, as measured in barrels, of the small tank barge.
2. The amount of financial responsibility shall not exceed the minimum amount required for tankers as set forth in section 8670.37.53 of the Government Code. Currently this is \$1 billion (\$1,000,000,000).
3. The amount of financial responsibility required for small tank barges used exclusively to transfer, transport, store, or mechanically treat oily waste water may be reduced if allowed by the Administrator following the reconsideration pursuant to the procedures established process described in subsection (j) of this section 790.5 of chapter 1. If a reduced financial responsibility amount is allowed, it shall be based on: \$12,500 times

30 percent of the maximum concentration of oil found in the oily waste water, as measured in barrels.

4. In no case will the amount of financial responsibility be reduced below the minimum of \$1 million (\$1,000,000).

(B) For marine facilities (except for offshore marine facilities, small marine fueling facilities, and mobile transfer units addressed under subsections (C), (D), and (E), respectively):

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times the reasonable worst case spill volume, as measured in barrels, calculated in the applicant's oil spill contingency plan, in accordance with subsections 817.02(d)(1)(A), (B), (C), and (E) of this subdivision.

2. The amount determined pursuant to paragraph (1) above shall not be less than \$1 million (\$1,000,000) or in excess of \$300 million (\$300,000,000), unless otherwise determined by the Administrator following the reconsideration pursuant to subsection (j) of this process described in section 790.5 of chapter 1.

(C) For offshore marine facilities engaged in drilling operations which may have the potential for resulting in an uncontrolled release of oil from the reservoir into marine waters:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times the reasonable worst case spill volume, as measured in barrels. This volume is based on calculations and parameters proposed by the offshore marine facility in the applicant's oil spill contingency plan, in accordance with subsection 817.02(d)(1)(C) or (D) of this subdivision, plus:

2. The amount determined pursuant to paragraph (1) above shall not be less than \$10 million (\$10,000,000) or in excess of \$300 million (\$300,000,000), unless otherwise determined by the Administrator following the reconsideration pursuant to subsection (j) of this process described in section 790.5 of chapter 1.

(D) For small marine fueling facilities (except for mobile transfer units):

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times the reasonable worst case spill volume, as measured in barrels, calculated in the applicant's oil spill contingency plan, in accordance with subsection 817.03(d)(1)(A).

(E) For Mobile Transfer Units:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times 30 percent of the maximum cargo capacity, as measured in barrels, of the mobile transfer unit.

2. The amount of financial responsibility required for mobile transfer units used exclusively to transport oil-water mixture may be reduced if allowed by the Administrator

following the reconsideration pursuant to the procedures established in subsection (j) of this process described in section 790.5 of chapter 1. If a reduced financial responsibility amount is allowed, it shall be based on \$12,500 times 30 percent of the maximum concentration of oil found in the oily waste water, as measured in barrels.

(F) For Vessels Carrying Oil As Secondary Cargo:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times 30 percent of the maximum oil cargo capacity, as measured in barrels, of the vessel.
2. The amount of financial responsibility shall not exceed the minimum amount required for tankers as set forth in section 8670.37.53 of the Government Code.
3. The amount of financial responsibility shall at least be a minimum of \$1 million (\$1,000,000).

(G) For Inland Facilities (including railroads):

1. If the applicant only poses a risk to inland waters designated as intermittent or ephemeral in the National Hydrography Dataset and the statewide quarter mile buffer data layer (as depicted in the Southwest Environmental Response Management Application, on the National Oceanic and Atmospheric Administration's website, the required financial responsibility is the product of the reasonable worst case spill volume in barrels (as determined in the applicant's oil spill contingency plan pursuant to subsection 817.04(k)(3) of this subdivision) multiplied by \$6,000.
2. If the applicant poses a risk to inland waters designated as perennial in the National Hydrography Dataset, the required financial responsibility is the product of the reasonable worst case spill volume in barrels (as determined in the applicant's oil spill contingency plan pursuant to subsection 817.04(k)(3) of this subdivision) multiplied by \$10,000.
3. The maximum financial responsibility that may be required for an inland facility is \$100 million (\$100,000,000).

(i) Application renewals.

(1) Certificate renewal applications are sent by the Administrator to the certificant approximately 45 calendar days prior to the expiration of the existing certificate. However, failure to receive this renewal notice does not relieve the certificant of the obligation to timely renew the certificate. In order to renew a certificate, renewal applications must be submitted prior to the expiration date.

(2) If at any time after a certificate has been issued, a certificant becomes aware of a material change in any facts contained in the application or supporting documents, which includes, but is not limited to the certificant ceasing to be the owner or operator, or that the method of demonstrating financial responsibility will be terminated, or any coverage thereunder will cease, then the certificant shall notify the Administrator, in writing, within seven calendar days of becoming aware of the material change. If there

is a change in applicant name, or vessel name change, or if the certificate expires, a new certificate will be necessary.

(3) If the method of demonstrating financial responsibility, as provided in the certificant's application is about to expire, the certificant shall submit to the Administrator, prior to expiration, proof of renewal or change in the method of demonstrating financial responsibility. As applicable, see subsection 795(a) Insurance, (b) Self-insurance, (c) Surety Bond, (d) Letter of Credit, (e) Guaranty, or (f) Protection and Indemnity Clubs; these sections describe the expiration and renewal process, and time frame for submission of renewal information.

(4) Owners or operators of nontank vessels renewing a certificate shall submit the nonrefundable fee per vessel, as set forth in subsection (c)(6).

(j) Requests for Reconsideration.

(4) Applicants and certificants may submit a written request to the Administrator requesting reconsideration of the amount of financial responsibility that the owner or operator must demonstrate to obtain a certificate, or any decision by the Administrator to deny issuance of a certificate or a renewal certificate. Requests must be submitted ~~within 15 business days from the date that the applicant or certificant receives notice of denial or of the amount of financial responsibility to be demonstrated. The Administrator may waive the 15-day period for submitting a request by following the process described in section 790.5 of chapter 1.~~

~~(2) The request must contain the basis for requesting reconsideration and, if applicable, provide evidence which rebuts the basis for the Administrator's financial responsibility determination, the denial of the application, or the denial of a renewal application.~~

~~(3) Within 15 business days following receipt of the request for reconsideration, the Administrator will send the applicant or certificant either a notice that the Administrator shall adhere to his or her earlier decision (i.e., deny the request for reconsideration); or a certificate shall be issued; or a revised notice of financial responsibility shall be issued.~~

Note: Authority cited: Sections 8670.7.5, 8670.37.53, and 8670.41, Government Code. Reference: Sections 8670.37.53, 8670.37.54, 8670.37.58 and 8670.41, Government Code.

§ 796. Certificate Revocation.

(a) A certificate may be revoked immediately with concurrent written notice by the Administrator to the certificant for any of the following reasons:

(1) Making a false material statement in connection with an application for, or renewal of, a certificate;

(2) Failure to establish or maintain evidence of financial responsibility as required by this chapter;

(3) When the certificant is no longer the owner or operator of the vessel or facility, or the owner of the oil in question; or

(4) When the certificant did not provide evidence of financial responsibility within the time frames specified by this chapter.

(b) A certificate is invalid if the evidence of financial responsibility required under section 795 of this chapter lapses or is otherwise no longer in effect.

(c) Requests for Reconsideration.

~~(1) A certificant may submit a written request to the Administrator requesting reconsideration of any decision to revoke or suspend a certificate. Requests must be submitted within 15 business days from the date the applicant or certificant receives notice of revocation. The Administrator may waive the 15 business day period for submitting a request by following the process described in section 790.5 of chapter 1.~~

~~(2) The request must contain the basis for requesting reconsideration and, if applicable, provide evidence which rebuts the basis for the Administrator's revocation or suspension of the certificate. The certificate shall remain valid while the request for reconsideration is being reviewed.~~

~~(3) If the Administrator grants the request for reconsideration, then no later than 15 business days following receipt of the request for reconsideration, the Administrator will issue the certificant a final notice of determination.~~

~~(4) If the Administrator denies reconsideration (i.e., revokes or suspends the certificate), a new application, and fee, if applicable, are required.~~

Note: Authority cited: Sections 8670.7.5, 8670.37.53, 8670.37.54, 8670.37.56 and 8670.37.58, Government Code. Reference: Sections 8670.37.54, 8670.37.55 and 8670.37.56, Government Code.

§ 797. Reporting And Suspension.

(a) The certificant shall provide written notification to the Administrator of an event or situation which could produce a material change that affects the certificant's ability to comply with the financial responsibility requirements. Such events include, but are not limited to, a spill occurring within or outside of California for which the certificant may be liable for damages, bankruptcy or insolvency, or some other significant action against the certificant. Additionally, the certificant must notify the Administrator in writing of any other potential liability that could produce a material change that affects the certificant's ability to comply with the financial responsibility requirements. Written notification must be submitted within 10 calendar days of knowledge of the incident or knowledge of sufficient facts which would lead a reasonably prudent person to investigate the situation. For purposes of this subsection, "material change" means an event or action which could cause the certificant to be liable for damages in an amount exceeding five percent of the total financial resources reflected by the certificate or, if owners' equity

exceeds the total amount of financial resources reflected by the certificate, five percent of the owners' equity.

(b) Upon notification to the Administrator of a spill or other situation or potential liability, as required by subsection (a) above, the Administrator shall reevaluate the validity of the certificate of financial responsibility.

(c) Upon a determination by the Administrator that the certificant lacks sufficient financial resources to assume financial responsibility for both the current spill or liability and also have adequate resources remaining available to meet the requirements of this chapter, the Administrator shall suspend the certificate following 10 calendar days written notice to the certificant.

(d) Suspension of the certificate shall continue until the certificant demonstrates, to the satisfaction of the Administrator, that the certificant has the financial resources needed to meet the requirements of this chapter.

(e) Request for Reconsideration.

Certificants may submit a request for reconsideration of the Administrator's decision to suspend the certificate, ~~pursuant to the request for reconsideration~~ by following the process described in ~~subsection 796(c)~~ section 790.5 of this chapter 1.

Note: Authority cited: Sections 8670.7.5, 8670.37.53, 8670.37.54, 8670.37.56 and 8670.37.58, Government Code. Reference: Sections 8670.37.54, 8670.37.55 and 8670.37.56, Government Code.

~~§ 798. Severability.~~

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

~~Note: Authority cited: Sections 8670.5.5 and 8670.7.5, Government Code. Reference: Sections 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.54, 8670.37.55, 8670.37.56, 8670.37.57 and 8670.37.58, Government Code.~~