

**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 819.02 and 819.07 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 AND GAME
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE
CHAPTER 3. OIL SPILL PREVENTION AND RESPONSE PLANNING
SUBCHAPTER 3.5. OIL SPILL RESPONSE ORGANIZATION RATINGS

§ 819.02. Oil Spill Response Organization Rating Application Content.

(a) An individual or entity may apply for consideration as a rated oil spill response organization to provide oil spill response services and capabilities to plan holders. A written application meeting all of the applicable requirements of this section shall be delivered ~~in person, by mail, or by e-mail~~ to the following:

Department of Fish and Wildlife
Office of Spill Prevention and Response (OSPR)
Attn: Preparedness Branch
~~1700 K Street, Suite 250~~ P.O. Box 944209
Sacramento, CA ~~95811~~ 94244-2090
E-mail: osro@wildlife.ca.gov

(b) All applicable information in this subsection and subsections (c), (d), (e) and (f) is required before an application will be considered complete and reviewed by the Administrator:

(1) The oil spill response organization's name, contact person, mailing and physical address, e-mail address, facsimile and telephone numbers;

(2) All subcontractor company names (if applicable), contact person, mailing and physical addresses, e-mail address, facsimile and telephone numbers;

(3) List of plan holders contracted with;

(4) For the previous two years from the date of the application, documentation of California oil spills responded to or California equipment deployment drills participated in, including personnel and equipment used;

(5) An organizational diagram depicting the oil spill response organization's response organization and management or command structure;

(6) A description of the roles, responsibilities and method to integrate the oil spill response organization with an incident command system or a unified command as required by Title 8, California Code of Regulations, section 5192(q)(3)(A);

(7) For each type of service, identify the types of oil to which the oil spill response organization is willing and able to respond; and

(8) A description of the oil spill response organization's communications equipment, to include:

- (A) The amount and type of equipment;
 - (B) The frequencies to be used; and
 - (C) The number of certified operators.
- (c) Response Resources - Equipment and Personnel

The application shall include the applicable information for each area contingency plan or response planning area. The application shall indicate whether the response resources are OSRO-owned and controlled (as defined in section 790) or subcontracted (including subcontractor's name). The application shall also indicate whether the response resources are dedicated or non-dedicated (as defined in section 790 and described in 819.04(a)). The application shall include the following information for on-water and terrestrial response resources, as applicable, including the stored location for each item, but not limited to:

- (1) A description of the boom to include:
 - (A) Total lengths of boom by type;
 - (B) Manufacturer name and model;
 - (C) Freeboard and draft;
 - (D) Connector type;
 - (E) Intended operating environments; and
 - (F) Associated anchoring systems.
- (2) A description of the skimmers or skimming system, to include:
 - (A) Total number of skimmers by type;
 - (B) Skimmer manufacturer name and model;
 - (C) Intended skimmer operating environments, including water current;
 - (D) Skimmer type by design (i.e., stationary, advancing, self-propelled, stationary/advancing);
 - (E) Compatibility of the skimmer, pump, power source, and hoses;
 - (F) Skimmer manufacturer's nameplate capacity;
 - (G) Effective Daily Recovery Capacity (EDRC);
 - (H) Storage capacity of the skimming system (e.g., dracones, tank barges, portable liquid storage tanks, etc.), and pump rate for off-loading on-board storage;
 - (I) For each vessel with built-in or on-board skimming capability, provide the details outlined above in (A) thru (H), as applicable; and

(J) For each vacuum truck, provide the details outlined above in (A) thru (H), as applicable, as well as the license number of the truck.

(3) A description of all vessels used for response efforts, to include:

(A) Vessel name, registration number, and International Maritime Organization (IMO) number, as applicable;

(B) Vessel length, width, and draft;

(C) Vessel type by design;

(D) Intended response use or purpose for the vessel, and the operating environments;

(E) Towing capability and capacity;

(F) Horsepower;

(G) Amount of boom on board;

(H) Amount of on-board storage for recovered liquids;

(I) Pump rate for off-loading on-board storage; and

(J) Applicable design limits, including suitability for different types of oils, operating environments as related to adverse weather, and draft.

(4) A description of any barge and its on-board portable or fixed tanks, to store recovered oil and liquids, to include:

(A) Vessel name;

(B) Official number;

(C) Length/beam/draft; and

(D) Maximum capacity.

(5) For terrestrial containment and recovery, a description of all equipment including, but not limited to:

(A) Backhoes;

(B) Bulldozers;

(C) Vacuum trucks, including size and storage capacity;

(D) Portable or fixed storage tanks, including maximum capacity;

(E) Hydraulic cranes including manufacturer name, size and type; and

(F) Pumps including size, type and pump rate.

(6) For shoreline protection, a description of the boom, anchoring systems, vessels, skimmers, special equipment, trained personnel, and other response resources identified for each site or strategy in the "Protect by Hour" time frames in the Shoreline

Protection Tables (as defined in section 790, and posted on the Office of Spill Prevention and Response website).

(7) Equipment inspections and maintenance must be documented and the records maintained for three years. The location of the records must be noted in the application, and all records must be available for review during verification inspections conducted by the Office of Spill Prevention and Response.

(8) For any equipment not located within the area contingency plan or response planning area for which a rating is sought, the applicant shall provide attestation that the equipment is transportable and available for use within the rating time period.

(9) Equipment shall be listed only if it is in fully operable condition. Future equipment, ordered but not yet delivered and fully operable, may be listed, but it must be listed and identified separately with its date of availability indicated.

(10) Personnel

For all personnel identified as a response resource, the application shall include the following for each area contingency plan or response planning area in which a rating is requested:

(A) The number of personnel that are to be utilized for response efforts within the first six hours of a spill, their assignments during spill response, whether they are dedicated or non-dedicated response resources, and whether they are OSRO-owned and controlled or are subcontracted personnel. A list matching trained personnel by name to the equipment type and the response services offered shall be made available for review during verification inspections by the Office of Spill Prevention and Response;

(B) The plan for mobilization of personnel including cascading additional personnel, and estimated time of mobilization;

(C) A list of the training and qualifications required for each spill response assignment including:

1. All appropriate state and federal safety and training requirements, including the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal-OSHA) requirements for Hazardous Operations and Emergency Response, and the requirements under Title 8, California Code of Regulations, section 5192;
2. The number of trained supervisors and laborers, and the types of training received;
3. The procedures for training personnel;
4. The timelines for mobilizing and training additional response personnel not under contract; and
5. A statement by the oil spill response organization certifying that all personnel within a job category or for specific equipment use have the requisite training and qualifications for their assignment during spill response.

(D) Documentation of training and qualifications shall be maintained by the oil spill response organization and shall be made available to the Administrator upon request.

(d) Subcontracted Response Resources

If response resources that form the basis for a rating are under contract from another party, and if the information required in this subsection is not listed elsewhere, the following information is required in the application:

(1) On-scene deployment time frames by area contingency plan or response planning area, as applicable, and operating environments.

(2) Evidence of a valid contract from each company that is providing the contracted resources. The evidence shall include, but not be limited to, the following:

(A) The name of the company providing the resources (subcontractor);

(B) A complete listing and storage location of the specific resources being provided;

(C) The time frame for which the agreement is valid;

(D) Any limits on the availability of resources; and

(E) A signed letter from the subcontractor by an authorized individual, to the oil spill response organization stating the following:

“The information provided regarding [subcontractor] response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow Office of Spill Prevention and Response personnel access to my facility and records for the purpose of verifying the information contained in the rating application in which my assets are listed. I agree to participate in announced and unannounced drills as set forth in section 819.03 of Title 14 of the California Code of Regulations, to verify any or all of the information regarding the response resources contained in my rating application.”

(3) Any drill or inspection of subcontracted response resources shall be coordinated with the oil spill response organization whose application contains the subcontracted response resources.

(4) If any on-water subcontracted response resources are relied upon for the first six hours, then those subcontracted response resources must be dedicated response resources, and indicated as subcontracted dedicated response resources in the application pursuant to subsection (c).

(e) Service-Specific Information

The application for a rating must include the following:

(1) A list of the area contingency plans or response planning areas within which response services are being offered. Include for each area:

(A) The response services being offered (i.e., containment, on-water or terrestrial recovery, storage, and shoreline protection);

(B) Estimated time frames to deploy response resources on-scene for each service;

(C) The operating environments for the response services, as applicable, minimum operating depth, and currents or flow for vessels, skimmers, and containment boom; and

(D) The requested rating, as described in subsection 819.04(a).

(2) For each rating (as described in section 819.04) and for each response service offered, a written plan of operations or a narrative describing the call-out of the response resources within each area contingency plan or response planning area of response coverage. The plan of operations or narrative may be limited to the time frames described in section 819.04(a)(1). The description shall account for seasonal environmental conditions that may be reasonably anticipated that would hinder response efforts.

In addition, the application may include a written general plan to acquire response resources beyond these time frames.

(3) A description of the systems approach (as defined in section 790) for the response services offered in a narrative format for the equipment listed in subsection (b) of this section. The narrative shall include, but not be limited to:

(A) For all boom or containment:

1. A description of how containment equipment, including boom, is transported and the method of deployment.

(B) For all skimmers (including vacuum trucks and vessel of opportunity skimming systems):

1. A description of how the skimmer is deployed and operated.

2. A description of how the skimmer is transported.

(C) For all vessels (oil spill response organization owned vessels, and subcontracted vessels):

1. A description of how the vessel is transported.

2. A description of the type of spill response service the vessel is primarily to be used for (e.g., skimming, towing boom, boom deployment).

(D) For all recovered oil and liquid storage:

1. A description of how recovered oil is transported to and from storage.

(E) For heavy equipment:

1. A description of how the equipment is transported and deployed, if applicable.

(4) For shoreline protection services, the following information shall be submitted with the application:

- (A) Sensitive site name and its strategy or site number, or plan holder identified site;
- (B) The "Protect by Hour" time frames in the Shoreline Protection Tables, for the site for which the rating is sought (expected time of impact);
- (C) Expected time of arrival and deployment of response resources; and
- (D) The minimum amount of boom, anchoring systems, vessels, skimmers, special equipment, trained personnel, and other resources identified for each site or strategy in the "Protect by Hour" time frames in the Shoreline Protection Tables. Dedicated equipment must be identified.
- (E) A description of how the shoreline protection response resources are transported and deployed.

(f) Attestation

The application shall contain the following language, signed and dated by an authorized representative of the oil spill response organization:

"The information provided regarding response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow Office of Spill Prevention and Response personnel access to my facility and equipment, prior and subsequent to receiving a rating, for the purpose of verifying the information contained in this application. I understand that all response resources identified for rating purposes are subject to verification visits. I agree to participate in announced and unannounced drills as set forth in section 819.03 of Title 14 of the California Code of Regulations, to verify any or all of the information contained in this application, prior and subsequent to receiving a rating."

(g) Confidentiality

~~(1) An oil spill response organization rating applicant may designate proprietary information in the application to be kept confidential. Additionally, an oil spill response organization rating applicant may designate, including any reports or studies prepared or submitted pursuant to any oil spill response organization rating requirements as proprietary information, by following the process described in section 790.3 of chapter 1.~~

~~(2) Each instance of information designated as confidential must be clearly identified as proprietary, and cite the specific legal authority for each designation. Generic assertions or nonspecific designations will not be accepted or recognized. The Administrator will make a determination regarding which information may be considered confidential and redacted from any copy of the application that is made available for public review.~~

~~(3) If an oil spill response organization rating applicant designates information as confidential, two different copies of the application must be submitted as follows:~~

~~(A) One copy must contain the confidential information. This application will be utilized~~

~~in the review and rating process; and~~

~~(B) One copy must be submitted with the confidential information redacted. This copy will be available for public review. This application must contain sufficient information in place of the redacted information so that any individual reviewing the application will understand all the elements of the application.~~

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.10, 8670.19, 8670.28 and 8670.30, Government Code.

§ 819.07. Reconsideration and Hearing Procedures.

(a) Request for Reconsideration Procedures

(1) A person may request reconsideration of a modification, suspension, revocation, or denial if that person is one of the following:

(A) An applicant for an oil spill response organization rating or renewal who has received written notice of denial; or

(B) An oil spill response organization who has had a rating modified, suspended, or revoked.

(2) A request for reconsideration shall ~~meet the following criteria:~~ follow the process described in section 790.5 of chapter 1.

~~(A) Any request for reconsideration must be in writing, signed by the person requesting reconsideration or by a legal representative of that person, and must be submitted to the Administrator.~~

~~(B) The request for reconsideration must be received by the Administrator within 15 business days of the date of notification of the decision.~~

~~(C) The request for reconsideration shall state the reasons for the reconsideration, including presenting any new information or facts pertinent to the issues raised by the request for reconsideration.~~

~~(3) The Administrator shall notify the oil spill response organization of his or her decision within 15 business days of the receipt of the request for reconsideration. This notification shall be in writing and shall state the reasons for the decision. The notification shall also provide information concerning the right to a hearing and the procedures for requesting a hearing.~~

(b) Hearing Procedures

~~The oil spill response organization may, within 15 business days after receipt of notice that reconsideration has been denied, request a hearing in writing.~~

~~(1) Any hearing required under this subchapter shall be conducted by an independent hearing officer according to the procedures specified in Government Code section 11500 et. seq. (Administrative Adjudication: Formal Hearing) and shall be scheduled as expeditiously as possible.~~

~~(2) The hearing officer shall issue a written decision within 30 calendar days after conducting the hearing. The decision of the hearing officer shall constitute the final administrative decision.~~

Note: Authority cited: Sections 8670.7.5, 8670.28 and 8670.30, Government Code.
Reference: Sections 8670.28 and 8670.30, Government Code.