

**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 885.2 and 885.3 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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SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE
CHAPTER 8. RESPONSE TECHNOLOGY
SUBCHAPTER 1. LICENSING AND USE OF OIL SPILL CLEANUP AGENTS
ARTICLE 2. LICENSING OIL SPILL CLEANUP AGENTS

§ 885.2. Exemption, License and Renewal Applications and Fees.

(a) Exemption Petition, (form #1958, as found in the Guidance Document):

(1) a manufacturer must petition for an exemption to the licensing process for any product that might be used in response to an oil spill that could be considered exempt under section 885.1.

(A) the following materials will automatically be considered exempt, though the manufacturer must still submit an exemption request form in order to establish the product as available for use in California;

1. cellulose fibers, other than peat moss or products derived from peat moss,
2. vermiculite or zeolite,
3. polypropylene,
4. polyethylene,
5. polyurethane,
6. polyester.

(2) the request for exemption must be submitted using the Petition for Exemption, form #1958. This form shall be available from the Administrator upon request.

(3) a petition for exemption shall be accompanied by a filing fee, as follows:

(A) \$100 for a petition for an inert agent such as those listed in subsection 885.2(a)(1)(A) above;

(B) \$250 for a petition for any other type of agent.

(C) The fee shall be used to cover costs incurred by the Administrator in processing the application.

(D) The fee shall be counted toward the cost of the license application if the exemption request is denied.

(4) Review process:

(A) within 14 days of receipt, the Administrator will issue a letter of acknowledgment notifying the applicant that the petition has been received;

(B) within 30 days of submittal, the applicant will be notified in writing if the petition is not complete, and will be informed of any additional information required. The petition will not be considered complete until all additional information has been submitted;

(C) the Administrator shall approve or deny the exemption request within 60 days of receiving a complete petition;

1. the exemption shall be approved if the manufacturer can demonstrate that the OSCA is not toxic and does not pose a hazard to the aquatic environment;

2. the applicant shall be notified in writing of the Administrator's determination and the reasons for the decision.

(b) License Application, (form #1959 as found in the Guidance Document):

(1) the applicant shall apply for a license for an OSCA using a License Application, form #1959. This form shall be available from the Administrator upon request.

(2) the license shall be valid for a period not to exceed 5 years, and must be renewed prior to the expiration date if the manufacturer wants to continue to have the agent considered available for use during an oil spill.

(3) each application for a license shall be accompanied by a filing fee of one thousand dollars (\$1000). These fees shall be used to cover the costs incurred by the Administrator in processing the application.

(4) Review process:

(A) within 14 days of receipt, the Administrator will issue a letter of acknowledgment notifying the applicant that the petition has been received;

(B) within 30 days of submittal, the applicant will be notified in writing if the petition is not complete, and will be informed of any additional information required. The petition will not be considered complete until all additional information has been submitted;

(C) the Administrator shall approve or deny the exemption request within 60 days of receiving a complete application;

1. the license shall be approved if the manufacturer can demonstrate the efficacy of the product as an oil spill cleanup agent, and if the product meets all the licensing requirements of this subchapter;

2. the applicant shall be notified in writing of the Administrator's determination and the reasons for the decision.

(c) License Term and Renewal, (form #1967 as found in the Guidance Document):

(1) The term of a license shall not exceed five years. There is no grace period for renewal. An OSCA may not be used after the expiration of the license.

(2) The manufacturer must apply for renewal of the license using the License Renewal Form #1967. The renewal forms shall be available from the Administrator upon request;

(3) Each application for renewal shall be accompanied by a filing fee of \$100. This fee shall be used to cover costs incurred by the Administrator in processing the renewal.

(4) Review process:

(A) within 14 days of receipt, the Administrator will issue a letter of acknowledgment notifying the applicant that the renewal application has been received. If the renewal application is not complete, the letter of acknowledgment will include a list of any additional information that may be required. The application will not be considered complete until all additional information has been submitted;

(B) the Administrator shall approve or deny the request for renewal within 30 days of receiving a complete application;

(C) the license shall be renewed if:

1. the license has not previously been revoked for cause; and
2. the product formulations have not changed or, if changed, the modified formulation has been approved by the Administrator; and
3. the applicant submits a complete application and provides sufficient information to establish that the product meets current licensing criteria.

(D) the applicant shall be notified in writing of the Administrator's determination and the reasons for the decision.

(d) ~~Appeals~~ Request for Reconsideration.

~~(4)~~ An applicant may ~~appeal~~ request reconsideration of the Administrator's revocation of a license, or denial of an application for exemption, license or renewal; by following the process described in section 790.5 of chapter 1.

~~(A) an appeal must be filed in writing within 15 working days of the date the notice of denial was mailed.~~

~~(B) the appeal must include the applicant's reason(s) for disputing the Administrator's decision. The applicant may include additional test data or other information regarding the OSCA that could be used by the Administrator to reconsider the initial decision.~~

~~(C) the Administrator will respond to an appeal within 30 days of receipt of the applicant's request for reconsideration.~~

Note: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

§ 885.3. Revoking a License.

(a) The Administrator may revoke a license for the following reasons:

- (1) the OSCA does not perform as expected when applied to spilled oil;
- (2) the formulation of the OSCA is changed;

(3) information becomes available that demonstrates that the OSCA is more toxic than previously determined, or has adverse effects in the aquatic environment not previously known or anticipated;

(4) information on the license or renewal applications is found to be incorrect, incomplete or inaccurate.

(b) ~~Appeals~~ Request for Reconsideration.

~~(1) A manufacturer may appeal~~ request reconsideration of the Administrator's revocation of a license using by following the process specified in s885.2 of this subchapter described in section 790.5 of chapter 1.

Note: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.