

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

**TITLE 14. CALIFORNIA CODE OF REGULATIONS
DRILLS AND EXERCISES
(Section 820.1)**

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the Department of Fish and Wildlife, Office of Spill Prevention and Response (OSPR) proposes to adopt section 820.1, amend sections 815.01, 817.02, 817.03, 817.04, 818.02, 818.03, 819.03, 827.02, 830.6, and repeal sections 820.01 and 820.02 of subdivision 4 of title 14 of the California Code of Regulations. This rulemaking pertains to the harmonization of marine and inland drills and exercises requirements. OSPR invites interested persons to present comments, statements, or arguments with respect to the regulations during the written comment period.

PUBLIC HEARING

OSPR has not scheduled a public hearing on this proposed action. However, pursuant to Government Code section 11346.8, OSPR will hold a public hearing if a written request is received at the address below from any interested person or his or her authorized representative no later than fifteen (15) calendar days before the end of the 45-day comment period.

SUBMISSION OF WRITTEN COMMENTS

Any interested person or his or her authorized representative may submit to OSPR written comments relevant to the proposed regulatory action. **The written comment period closes at 11:59:59 p.m. (Pacific Standard Time) on Monday, March 21, 2022.** All written comments must be received by OSPR by then in order to be considered. Written comments may be submitted by mail or e-mail, as follows:

Department of Fish and Wildlife
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, CA 94244-2090
E-mail: OSPRRegulations@wildlife.ca.gov

AUTHORITY AND REFERENCE

Government Code sections 8670.10 and 8670.29 grant the Administrator of OSPR the authority to adopt regulations and guidelines for the proposed regulations and the authority to carry out announced and unannounced drills and exercises to test the

elements of an oil spill contingency plan. The proposed regulations implement, interpret and make specific Government Code sections 8670.10, 8670.28, 8670.29, 8670.30, and 8670.31.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Existing Law

The *Lempert-Keene-Seastrand Oil Spill Prevention & Response Act* (Act) requires every owner or operator of a facility or vessel with an oil spill contingency plan to participate in tabletop exercises and equipment deployment drills to test the elements of their oil spill contingency plan. (Government Code section 8670.29(b)(9)) These exercises and drills prepare them for response to oil spill threats they potentially pose to waters of the state. OSPR currently has requirements for tabletop exercises and equipment deployment drills for vessels, marine and inland facilities, and mobile transfer units (Title 14, CCR sections 820.01 and 820.02).

Policy Statement Overview and Anticipated Benefits of the Proposed Action

These proposed regulations will consolidate two regulations with similar requirements - the marine drills and exercise regulations (section 820.01) and the inland drills and exercise regulations (section 820.02). The goal in harmonizing these regulations into one section is to: make it easier for the public to locate and navigate the regulations, streamline and make clearer the requirements, remove subjectivity and vagueness, provide clarity, standardize language and consistency, and integrate lessons learned from drills and exercises OSPR has evaluated over the years. This rulemaking also includes reducing and redesigned the required forms to increase efficiency and clarity.

Evaluation of Inconsistency or Incompatibility with Existing Regulations

OSPR has determined that this proposed regulation is not inconsistent or incompatible with existing state or federal regulations or statutes. After conducting a review for any state or federal regulations or statutes that would relate to drills and exercises requirements, OSPR has concluded that these are the only regulations that concern these regulations in California.

Document(s) Incorporated by Reference

The following documents are hereby incorporated by reference in the proposed Drills and Exercises regulations, section 820.1, and are available on OSPR's website at <https://wildlife.ca.gov/OSPR/Legal/Rulemakings/Drills-Exercises> and upon request.

- Drills and Exercises Notification form DFW 1954 (Rev. 03/24/21)
- Drills and Exercises Credit Request form DFW 1955 (Rev. 11/08/21)

ICS Forms Incorporated by Reference (in numerical order):

- Incident Briefing, ICS Form 201 (U.S. Coast Guard, rev. 06/13; and U.S. Environmental Protection Agency, rev. 05/18)
- Incident Objectives, ICS Form 202 (U.S. Coast Guard, rev. 04/04; and U.S. Environmental Protection Agency, rev. 05/18)
- Incident Radio Communications Plan, ICS Form 205 (U.S. Coast Guard, rev. 09/13; and U.S. Environmental Protection Agency, rev. 05/18)
- Incident Communications Plan, ICS Form 205a (U.S. Environmental Protection Agency, rev. 05/18)
- Medical Plan, ICS Form 206 (U.S. Coast Guard, rev. 07/04; and U.S. Environmental Protection Agency, rev. 05/18)
- Incident Organization Chart, ICS Form 207 (U.S. Coast Guard, rev. 01/07)
- Hazardous Materials Site Safety and Control Plan, ICS Form 208 (U.S. Environmental Protection Agency, rev. 05/18)
- Incident Status Summary, ICS Form 209 (U.S. Coast Guard, rev. 06/05)
- Resources Request Message, ICS Form 213RR (U.S. Coast Guard, rev. 02/07; U.S. Environmental Protection Agency, rev. 05/18)
- Operational Planning Worksheet, ICS Form 215 (U.S. Coast Guard, rev. 12/02; U.S. Environmental Protection Agency, rev. 05/18)
- Incident Action Plan Safety Analysis, ICS Form 215a (U.S. Coast Guard, rev. 02/15; and U.S. Environmental Protection Agency, rev. 05/18)
- Daily Meeting Schedule, ICS Form 230 (U.S. Coast Guard, rev. 07/04; and U.S. Environmental Protection Agency, rev. 05/18)
- Resources at Risk Summary, ICS Form 232 (U.S. Coast Guard, rev. 07/04; and U.S. Environmental Protection Agency, rev. 05/18)
- Open Action Tracker, ICS Form 233 (U.S. Coast Guard, rev. 07/12)
- Work Analysis Matrix, ICS Form 234 (U.S. Coast Guard, rev. 11/12; and U.S. Environmental Protection Agency, rev. 05/18)

DETERMINATIONS REGARDING THE PROPOSED ACTION

OSPR has made the following determinations, as required by Government Code section 11346.5(a)(5), (6), (7), (9) and State Administrative Manual section 6601:

(a) Mandate upon local agencies and school districts: None

(b) Costs or savings to any state agency: None

(c) Costs or savings to any local agency: None

- (d) *Costs or savings to any local agency or school districts which must be reimbursed in accordance with part 7, division 4 (commencing with section 17500) of the Government Code:* None
- (e) *Other non-discretionary costs or savings imposed upon local agencies:* None
- (f) *Costs or savings in federal funding to the state:* None
- (g) *Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:*
 These proposed regulations will not have a significant statewide adverse economic impact. They serve to harmonize existing marine plan holder and inland plan holder drill and exercise requirements into a single set of regulations, remove inconsistencies, clarify and reorganize requirements, reduce the number of required forms, and streamline the report process.
- (h) *Cost a representative private person or business would necessarily incur in reasonable compliance:* The proposed regulations will not result in costs to any representative private person. The proposed regulations will require facility contingency plan holders to conduct quarterly notifications within each OSPR region the plan holder operates in, which a single facility in each region will be able to fulfill. OSPR estimates only half a dozen facility plan holders will experience an increase in the number of quarterly notifications they are required to conduct and document resulting in insignificant costs.
- (i) *Significant effect on housing costs:* None

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Pursuant to Government Code sections 11346.2 and 11346.3, and State Administrative Manual section 6601, with regard to the proposed regulations, OSPR determines the following

- *Whether this is a “major regulation”, having an economic impact on businesses and individuals exceeding \$50,000,000 in any 12-month period between the date the regulation is estimated to be filed with the Secretary of the State through 12 months after the regulation is fully implemented.*

These are not considered “major regulations” because the economic impact assessment concludes that the impacts, summing both costs and benefits, will be considerably less than \$50 million dollars annually.

- *Effects of the regulation on the creation or elimination of jobs within the State of California.*

None.

- *Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State of California.*

None.

- *Effects of the regulation on the expansion of businesses currently doing business within the State of California.*

None.

- *Benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment.*

None.

- *Business Reporting Requirement*

OSPR finds that it is necessary for the health, safety, or welfare of the people of this state that proposed regulation section 820.1, which requires a report, apply to businesses. The report requirements have been updated, streamlined, and require less time to populate and submit.

- *Effect on small business*

This rulemaking action will have limited effect on small business. Based on the definition of small business in subsection 11346.3(b)(4)(A) of the Government Code, OSPR has identified less than 5% of the estimated total number of businesses impacted by these regulations are considered small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), OSPR must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of OSPR, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

OSPR could identify no alternatives that would have the same desired regulatory effect or would meet the same goals for harmonizing, streamlining, and clarifying existing drill and exercise requirements.

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

AVAILABILITY OF DOCUMENTS / OSPR CONTACT PERSON

OSPR will have the entire rulemaking file available for inspection and copying at its office at the address below. As of the date this notice is published in the California Notice Register, the rulemaking file consists of this notice, the proposed text (“express terms”) of the regulations, modified text of regulations, documents incorporated by reference as identified in this notice, and the Initial Statement of Reasons. Please direct inquiries concerning the regulatory process or requests for copies of any of these documents, or other information upon which the rulemaking is based, to the following:

Department of Fish and Wildlife
Office of Spill Prevention and Response
Attention: Christine Kluge
1010 Riverside Parkway
West Sacramento, CA 95605
Phone: (916) 375-4676
Email: christine.kluge@wildlife.ca.gov

The backup contact person is: Ryan Todd at (916) 375-2077, or Ryan.Todd@wildlife.ca.gov.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

This notice and related rulemaking documents identified above can be accessed on OSPR’s website at <https://wildlife.ca.gov/ospr/legal/rulemakings/drills-exercises>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

At the close of the 45-day comment period, and considering all timely and relevant comments received, OSPR may adopt the proposed regulations substantially as described in this notice. If OSPR makes modifications which are sufficiently related to the originally proposed text, the modified text (with the changes clearly indicated) shall be made available to the public for at least 15 days before OSPR adopts the regulations as revised. Any such modifications will also be posted on OSPR’s website. Please send requests for copies of any modified regulations to the attention of the contact person(s) as indicated above. OSPR will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available on OSPR’s website noted above and may be requested from the contact person(s) named in this notice.

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