

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
CHAPTER 1. GENERAL DEFINITIONS AND PROVISIONS

Effective October 1, 2022

§ 790.1. Severability.

If any provision of this subdivision 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 the subdivision that can be given effect without the invalid provision or application, and to this end the provisions of this subdivision are severable.

Note: Authority cited: Sections 8670.5.5 and 8670.7.5, Government Code. Reference: Sections 8670.5.5 and 8670.7.5, Government Code.

§ 790.3. Confidentiality of Submitted Documents and Information.

(a) A person submitting a document pursuant to this subdivision for review and approval by the Administrator, including applications, reports, and studies, may designate information in the submitted document that the person or entity believes to be exempt from public disclosure based on trade secret, proprietary, confidentiality, privilege, the California Public Records Act, or some other applicable law. Examples of such documents include but are not limited to an oil spill contingency plan, application for a certificate of financial responsibility, application for an oil spill response organization rating, application for a spill management team certification, application for independent drill monitor certification, or application for license of an oil spill cleanup agent.

(b) The person must assert a claim of exemption from disclosure at the time the information is submitted to the Administrator. The person must clearly and distinctly identify each paragraph, sentence, number, data, map, photograph, or other item, and provide the specific legal authority for *each item* that the person believes should be withheld from public disclosure. Clear labeling and citation to specific legal authority as to *each item* will greatly assist with appropriate redaction. Generic non-specific labeling of an entire section of a document or the entire document itself is not sufficient designation of information to be withheld and is not sufficient assertion or preservation of the justification for withholding information from public release and will not be considered.

(c) If a person designates information as exempt from public disclosure, then two different copies of the document must be submitted as follows:

(1) One copy shall contain the sensitive information. This document will be utilized by the Administrator in the review and approval process.

(2) One copy shall be submitted depicting the sensitive information as redacted, with the justification indicated.

(3) Any document submitted to any state agency for review, as required by this subdivision, must include all sensitive information.

(d) The Administrator will decide whether the designated information is exempt from disclosure, unless directed otherwise by a Court order.

Note: Authority cited: Section 8670.7.5, Government Code. Reference: Section 8670.7.5, Government Code.

§ 790.5. Request for Reconsideration & Hearing.

(a) An owner, operator, or applicant who has submitted a document for or applied for approval from the Administrator pursuant to a provision of this subdivision and received notice of a denial of approval or a modified approval, or has received notice of a modification, suspension, or revocation of an existing approval from the Administrator pursuant to this subdivision, may request a reconsideration of the Administrator's decision.

(b) The request for reconsideration must be written, signed by the owner, operator, applicant, or their legal representative, including their contact information, and must contain the basis for requesting reconsideration. The request must include evidence, data, or new information or facts pertinent to the issues, offered to rebut the basis for the Administrator's decision and support a different result. This request may be submitted by email or mail.

(c) Requests for reconsideration must be received by the Administrator within 15 business days from the date the owner or operator, or applicant received the notice of the Administrator's decision. The request may also include a request to meet with the Administrator.

(1) If no meeting is requested, then within 15 business days from the date the request for reconsideration is received, the Administrator will notify the owner, operator, applicant, or their legal representative in writing of his or her decision after reconsideration.

(2) If a meeting is requested, the meeting shall be held within 15 business days of the request. Within 15 business days after the meeting the Administrator will notify the owner, operator, applicant, or their legal representative in writing of his or her decision after reconsideration.

(d) Hearing Request

(1) Within 15 business days after receipt of notice that reconsideration has been denied or that the Administrator's original decision is upheld, the owner, operator, applicant, or their legal representative may request a hearing in writing.

(2) 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).

(3) 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.

(e) This section does not apply to administrative enforcement actions pursuant to section 8670.68 of the Government Code or actions pursuant to chapter 7 of this subdivision (commencing with section 873 et seq.)

Note: Authority cited: Section 8670.7.5, Government Code. Reference: Section 8670.7.5, Government Code.