

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

**SECOND 15-DAY COMMENT PERIOD
ILLUSTRATION OF CHANGES**

Changes to section 820.01 of title 14 of the California Code of Regulations were approved by the Office of Administrative Law in a separate, concurrent rulemaking action (OAL Matter No. 2022-0525-04SR) on July 5, 2022, and will become effective on October 1, 2022. For this second additional 15-day public comment period, text is illustrated as follows:

- **bold single underline** is used to denote text added in OAL Matter No. 2022-0525-04SR that is not being changed in this action;
- ~~**bold single strikeout**~~ is used to denote deleted text in OAL Matter No. 2022-0525-04SR that has not been noticed to the public for repeal and is not being further changed in this action; and
- ~~**bold single underline and double strikeout**~~ is used to denote text added in OAL Matter No. 2022-0525-04SR that is proposed for deletion in this action.

The changes to section 820.01 noticed in the drills and exercises harmonization rulemaking action for the original 45-day public comment period also remain present as follows: added text is illustrated in single underline; deleted text in ~~single strikethrough~~.

**CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH & 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**

~~§ 820.01. Drills and Exercises.~~

~~(a) Drills and Exercises shall be designed to exercise either portions of the contingency plans or the entire plan. The plan(s) shall be available and used at all required drills and exercises. The required drills and exercises are described below:~~

~~(1) For marine facilities:~~

~~(A) 1. A tabletop exercise, announced or unannounced, of the Spill Management Team(s) shall be conducted annually.~~

~~2. Any number of objectives may be tested during the required exercises.~~

~~3. Over a 3 year period, all objectives as described in Subsection (e) are to be tested to comply with this section.~~

~~4. For those objectives not successfully tested, the Administrator may require an additional exercise within 6 months of the drill/exercise's completion.~~

~~(B) Notification procedures shall be exercised quarterly for the Qualified Individual (QI), marine facility personnel, the Oil Spill Response Organization (OSRO) and the Spill Management Team (SMT).~~

~~(C) Semi-annual equipment deployment drills shall be conducted to test the deployment of facility owned equipment, which shall include immediate containment strategies, as outlined in the contingency plan. See Subsection (g) for the objectives for Equipment Deployment Drills.~~

~~The drills shall be conducted on a pass/fail basis. The equipment deployment drill shall take place in the first six months of the calendar year. If the drill fails, a second drill shall be required in the second six months of the calendar year.~~

~~(D) Shoreline protection strategies shall be exercised as described in Subsection 820.01(b) below.~~

~~(E) An OSRO field equipment deployment drill for on-water recovery shall each be conducted at least once every three years.~~

~~(F) The Plan Holder shall maintain adequate records of drills and exercises, for a period of three years, to include records of any drills and exercises of the facility and resources identified in the contingency plan. These records shall be maintained at the marine facility and shall be available for inspection by the Administrator.~~

~~(G) All other local, state, and federal laws, regulations and permitting requirements must be complied with as part of the drill planning and implementation.~~

~~(2) For Tank vessels and nontank vessels:~~

~~(A) 1. A shore-based Spill Management Team tabletop exercise shall be conducted annually. Any number of objectives may be tested during the required exercises.~~

~~2. Additionally, in a single drill, all the objectives as described in Subsection (e) shall be tested once every three years in California, through role playing as would actually occur during a real incident. The scenario used shall include an oil spill of sufficient size to adequately test all of the objectives, taking into account the Reasonable Worst Case Spill volume for the vessel, as defined in Title 14, Subchapter 3, Sections 818.02(e)(1) and 825.05(1).~~

~~3. For those objectives not successfully tested, the Administrator may require an additional exercise within 6 months of the exercise's completion.~~

~~(B) Notifications and onboard emergency procedure drills shall be conducted quarterly, or 72 hours prior to entering marine waters, whichever is less often. The Plan Holder is required to notify the Qualified Individual (QI); after initial notification to the QI, the QI may make the other required notifications as outlined in the contingency plan regulations (California Code of Regulations, Title 14, Subchapter 3).~~

~~(C) Oil spill response organization field equipment deployment drills for on-water recovery shall each be conducted at least once every three years.~~

~~(D) The vessel Plan Holder shall maintain adequate records of all drills and exercises conducted for a period of at least three years. These records shall be maintained at the United States location of either the Qualified Individual or the vessel Plan Holder. Contingency plans should indicate the location of these records. All drills/exercises conducted aboard the vessel shall be documented in the vessel's log. All such documentation shall be made available to the Administrator upon request.~~

~~(E) All other local, state, and federal laws, regulations and permitting requirements must be complied with as part of the drill planning and implementation.~~

~~(3) For Small Marine Fueling Facilities, Mobile Transfer Units and Vessels Carrying Oil As Secondary Cargo:~~

~~(A) 1. A tabletop exercise, announced or unannounced, of the Spill Management Team(s) shall be conducted annually. Any number of objectives may be tested during the required exercises. Over a 3 year period, all objectives as described in Subsection (f) are to be tested to comply with these regulations.~~

~~2. For those objectives not successfully tested, the Administrator may require an additional exercise within 6 months of the exercise completion.~~

~~(B) Notification procedures shall be tested quarterly for the Qualified Individual (QI), marine facility personnel, the Oil Spill Response Organization (OSRO) and the Spill Management Team (SMT).~~

~~(C) For Small Marine fueling facilities and Mobile Transfer Units that own spill response equipment, semi-annual equipment deployment drills shall be conducted to test facility-owned equipment, which shall include immediate containment strategies, as outlined in the contingency plan. See Subsection (g) for the objectives for Equipment Deployment Drills.~~

~~The drills shall be conducted on a pass/fail basis. The equipment deployment drill shall take place in the first six months of the calendar year. If the drill fails, a second drill shall be required in the second six months of the calendar year.~~

~~(b) Shoreline Protection Strategies for Sensitive Sites~~

~~(1) Marine facility Plan Holders are required to drill shoreline protection response strategies for the ACP-listed sensitive sites within the area identified in their Contingency Plan as impacted.~~

~~(2) Vessel Plan Holders are required to drill the shoreline protection response strategies that are identified in the applicable Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website).~~

~~(3) Plan Holders are required to demonstrate to the Administrator that these areas have been drilled, either with Plan Holder owned equipment or through an OSRO Rated for Shoreline Protection services under contract with the Plan Holder. To be Rated for Shoreline Protection Services, OSROs are required to participate in the OSPR Sensitive Site Strategy Evaluation Program (as described in S. 819.02 of this subchapter).~~

~~(c) The Administrator, in addition to the requirements contained in this Section, may call a drill or exercise, or conduct an inspection, to validate all or part of a contingency plan. This drill, exercise or inspection may be announced or unannounced.~~

~~(d) To receive credit from the Office of Spill Prevention and Response (OSPR) for an exercise, the following requirements must be met:~~

~~(1) The Plan Holder shall invite the Administrator to participate in both the equipment deployment drills and the Spill Management Team tabletop exercises by submitting written notice to the Administrator. The Plan Holder shall use the OSPR Exercise Notification Form DFW 1964, (04/01/14) located at: www.dfg.ca.gov/ospr, incorporated by reference, for this purpose. Incomplete forms will not be accepted and will be returned for re-submittal. Notice may be made via letter, e-mail, or fax and sent to:~~

~~DRILLS AND EXERCISES PROGRAM
DEPARTMENT OF FISH & WILDLIFE/OSPR
POST OFFICE BOX 944209
SACRAMENTO, CA 94244-2090
E-MAIL: OSPRDRILLS@WILDLIFE.CA.GOV~~

FAX: DRILLS AND EXERCISES PROGRAM
CDFW/OSPR, (916) 327-0907

~~(2) The Administrator shall be provided an opportunity to help design, attend and evaluate all equipment deployment drills and tabletop exercises. To ensure this, Plan Holders shall give advance notice of a minimum of 30 days for equipment deployment drills and 60 days for all other in-state drills and exercises. Notification timeframes for out-of-state drills and exercises can be found in Subsection (k)(2) of this section.~~

~~(3) To schedule a drill or exercise, Plan Holders shall consult the Drills and Exercises Calendar to check for date availability, at the following link:
www.dfg.ca.gov/ospr/calendars.aspx.~~

~~(4) For in-state scheduling and attendance purposes, OSPR divides California into north and south regions at the Monterey/San Luis Obispo county line. OSPR will allow only two tabletop exercises to be scheduled per week within the same region. The Administrator may allow additional drills/exercises to be scheduled on a case-by-case basis.~~

~~Only drills and exercises on the Drills and Exercises Calendar are eligible to receive credit from the Administrator.~~

~~(5) In-state drills/exercises shall not be scheduled on dates that conflict with previously scheduled drills/exercises and/or activities on the OSPR calendar (e.g., Area Contingency Planning meetings).~~

~~(6) If the Plan Holder needs to reschedule a drill/exercise that has already been placed on the calendar, OSPR shall be notified as soon as possible.~~

~~(7) The Administrator shall determine whether the objectives were adequately tested, commensurate with the drill/exercise scenario and scope.~~

~~The Administrator shall give credit for all exercise objectives successfully tested during the exercise. For those objectives not successfully tested, the Administrator may require an additional drill/exercise within 6 months of the drill/exercise's completion.~~

~~(e) Tank Vessels, Nontank Vessels and Marine Facilities Tabletop Exercise Objectives.~~

~~Tabletop exercise objectives for Tank Vessels, Nontank Vessels and Marine Facilities shall be tested and staffed to a degree that is commensurate with the drill/exercise scenario and scope and shall include, but not be limited to, the following:~~

~~(1) Notifications: Actual notifications shall be made to the Plan Holder's Oil Spill Response Organization and Qualified Individual, the California Office of Emergency Services and the National Response Center, and shall be initiated and documented at the start of the drill/exercise.~~

~~(2) Staff mobilization: Assemble the Spill Management Team (SMT) identified in the contingency plan.~~

~~(3) Incident Command System: Organize the SMT to operate under the framework of the Incident Command System (ICS), as outlined in the U.S. Coast Guard Incident Management Handbook. This shall include implementation of the operational planning cycle (Planning "P").~~

~~(4) Unified Command: Form a Unified Command (UC) consisting of Federal, State, and Responsible Party representation. Local Representation may be included as appropriate. The UC shall develop the Incident Objectives (ICS 202), set response priorities, and identify any limitations and constraints.~~

~~(5) Public Information Officer (PIO): Provide an interface between the UC and the media/public. Develop and issue at least one written fact sheet and one press release during each operational period.~~

~~(6) Liaison Officer: Initiate contact with stakeholders, and assess their needs and available resources. Monitor the arrival of Agency Representatives at the Incident Command Post, and keep them informed of the incident status.~~

~~(7) Safety Officer: Conduct an initial site safety assessment and develop a Site Safety Plan (ICS 208). Monitor operations to ensure compliance with the Site Safety Plan.~~

~~(8) Operations: Coordinate and manage field operations with facility-owned resources and/or a Rated Oil Spill Response Organization (OSRO) in accordance with UC objectives and/or action plans. Field operations include, but are not limited to, facilitation of overflights, containment of spill, and on-water and shore-based recovery. Provide a list of available facility and/or OSRO resources and deployment timeframes.~~

~~(8.1) Source Control: Locate the source of the spill and initiate emergency shut down procedures according to the contingency plan.~~

~~(8.2) Assessment: Provide an estimate of the quantity and extent of the discharge and an initial trajectory. Develop a process for long term assessment of field operations and provide updates to the Planning Section Chief on the effectiveness of tactical operations.~~

~~(8.3) Vessel Emergency Services: Notify the contracted vessel emergency services provider identified in the contingency plan and develop a salvage plan, as appropriate.~~

~~(8.4) Lightering: Request lightering services identified in the contingency plan and develop a lightering plan, as appropriate.~~

~~(8.5) Firefighting: Identify and make notifications to the firefighting resources identified in the contingency plan, as appropriate.~~

~~(8.6) Shoreline Protection: Evaluate and identify sufficient resources to effectively implement the protective booming strategies contained in the Area Contingency Plan (ACP) and the respective industry contingency plan for the identified resources at risk.~~

~~(8.7) Wildlife Recovery and Rehabilitation: Initiate proper wildlife protection procedures by making actual notifications to Oiled Wildlife Care Network as soon as the threat to wildlife is identified.~~

~~(8.8) Safety of Responders and Public: Identify health hazards associated with the discharged product (use Safety Data Sheet) and, as appropriate, work with local emergency agencies to identify and alert populations at risk from these hazards.~~

~~(9) Planning: Develop strategies and tactics based on the UC Objectives and in coordination with other ICS sections, for inclusion in an ICS 201 Form or an Incident Action Plan (IAP).~~

~~(9.1) Situation Unit: Collect, organize, and disseminate information about the current status of the spill. At a minimum, display the following: the name of the incident; a chart/map of incident; an organization chart (ICS 207); information on current and forecasted weather, tides and currents; a meeting schedule (ICS 230); and an Incident Status Summary (ICS 209).~~

~~(9.2) Resource Unit: Maintain the status and location of all incident resources, and establish a process for resource ordering, tracking, and demobilization in coordination with Logistics and Finance. Maintain, update and distribute the organization assignment list/incident organization chart (ICS 203/207) and Check-in List (ICS 211).~~

~~(9.3) Environmental Unit: Gather environmental data including weather, tides, and currents. Generate an initial ICS 232 identifying environmental, economic, and other resources at risk, based on sensitive sites identified in the ACPs and trajectory data.~~

~~(9.3.1) Waste Management: Properly manage the recovered product and develop a Waste Management Plan for approval by the UC. The plan will include appropriate procedures for obtaining permits and/or waivers, waste segregation, characterization, minimization, quantification, overall waste management and final disposition, as appropriate.~~

~~(9.3.2) Applied Response Technology (ART): Assist the ART Team Lead Technical Specialist, National Oceanic and Atmospheric Administration Scientific Support Coordinator, and/or other designated and trained natural resource trustee or response agency personnel, in evaluating the opportunities to use on-water response methods including chemical dispersants and in-situ burning, and/or shore-based oil spill clean-up methods including bioremediation and chemical shoreline cleaning agents, utilizing the state and federal policies and procedures adopted in the Region IX Regional Contingency Plan and the Federal ACPs.~~

~~(9.4) Documentation: Collect, maintain, organize, and disseminate, as appropriate, all documents generated during the drill/exercise. Adequate documentation services shall be provided for all other sections. These documents shall be provided to the Administrator upon request.~~

~~(9.5) Volunteer Management: The Plan Holder will identify and coordinate with the appropriate emergency volunteer management program that has authority to screen, register, train and manage affiliated and/or unaffiliated volunteers.~~

~~(10) Logistics: Identify and provide necessary personnel, facilities, services and materials to support the incident response.~~

~~(10.1) Communications: Establish an intra-organization communications system and establish communications between the administrative functions and the field units. Develop an Incident Communications Plan (ICS 205) for the response organization.~~

~~(10.2) Personnel Support: Identify and provide the necessary support of all personnel associated with the response including lodging, food services, transportation, operational/administrative spaces, security and a Medical Plan (ICS 206), as appropriate.~~

~~(10.3) Incident Command Post (ICP) Equipment and Support: Provide and support equipment necessary for the ICP infrastructure including internet service, telecommunication service, printers, copiers, and scanner/fax machines.~~

~~(11) Finance: Authorize and/or administer procurement of response resources including trained and qualified personnel, and response and support equipment (e.g., printers, copiers). Document and track daily expenditures and provide cost estimates for continuing operations. Establish and disseminate third party claims procedures to the PIO, Liaison and Situation Unit.~~

~~(f) Small Marine Fueling Facilities, Mobile Transfer Units and Vessels Carrying Oil As Secondary Cargo Tabletop Exercise Objectives~~

~~Tabletop exercise objectives for Small Marine Fueling Facilities, Mobile Transfer Units and Vessels Carrying Oil As Secondary Cargo shall be tested and staffed to a degree that is commensurate with the exercise scenario and scope and shall include, but not be limited to, the following:~~

~~(1) Notifications: Actual notifications shall be made to the Plan Holder's Oil Spill Response Organization and Qualified Individual, the California Office of Emergency Services and the National Response Center, and shall be initiated and documented at the start of the drill/exercise.~~

~~(2) Staff mobilization: Assemble the Spill Management Team on-site at the Command Post identified in the contingency plan.~~

~~(3) Incident Command System: Organize the initial responders to operate under the framework of the Incident Command System (ICS), as outlined in the U.S. Coast Guard's Incident Management Handbook. This shall include implementation of the initial response phase of the operational planning cycle (Planning "P").~~

~~(4) Unified Command: Identify and form a Unified Command. The Unified Command shall develop initial objectives and priorities for the response.~~

- ~~(5) Public Information: Provide the necessary interface between the Unified Command and the media/public. Develop and issue at least one written fact sheet and/or one press release.~~
- ~~(6) Liaison: Identify relevant stakeholders and initiate contact as appropriate.~~
- ~~(7) Safety: Conduct an initial site safety assessment, identify hazards using the Safety Data Sheet (SDS) and conduct a safety briefing. As appropriate, work with the local emergency agencies to identify and alert populations at risk from these hazards.~~
- ~~(8) Operations: Coordinate and manage field operations with a Rated OSRO on-site, in accordance with initial UC objectives and priorities.~~
- ~~(8.1) Source Control and Assessment: Locate the source and initiate emergency shut down procedures according to the contingency plan. Provide an estimate of the quantity and extent of the discharge and an initial trajectory.~~
- ~~(8.2) Firefighting: Identify and make notifications to the firefighting resources identified in the contingency plan, as appropriate.~~
- ~~(8.3) Containment: Describe procedures to deploy spill response resources immediately available, as identified in the contingency plan.~~
- ~~(8.4) Wildlife Recovery and Rehabilitation: To initiate proper wildlife protection procedures, make actual notifications to the Oiled Wildlife Care Network.~~
- ~~(9) Planning: Develop strategies and tactics based on the initial objectives and priorities, for inclusion in an ICS 201 Form.~~
- ~~(9.1) Situation Unit: Collect, organize, and display information about the current status of the spill. At a minimum this would include the following: the name of incident; chart/map of incident; an organization chart (ICS 207); and information on current and forecasted weather, tides and currents.~~
- ~~(9.2) Resource Unit: Maintain the status and location of all incident resources and establish a Check-in List (ICS 211).~~
- ~~(9.3) Environmental Unit: Gather environmental data including weather, tides, currents, and resources at risk (initial ICS 232) based on environmentally sensitive sites identified in the ACPs.~~
- ~~(9.4) Waste Management and Disposal: Gather information and discuss elements of a waste management plan, including procedures for waste segregation, characterization, minimization, quantification, overall waste management and final disposition, as appropriate.~~
- ~~(9.5) Documentation: Collect, maintain and organize all documents generated during the drill/exercise. These documents shall be provided to the Administrator upon request.~~
- ~~(10) Logistics: Provide necessary incident support in terms of personnel, facilities, and services.~~

~~(10.1) Personnel and Facility Support: Identify and provide the necessary support of all personnel associated with the response including lodging, food services, transportation, communication, and operational/administrative space and services.~~

~~(11) Finance: Provide the necessary support for cost tracking and processing third party claims.~~

~~(g) Equipment Deployment Drill Objectives:~~

~~(1) Notifications: Actual notifications shall be made to the California Office of Emergency Services and shall be initiated and documented at the start of the drill.~~

~~(2) Staff mobilization: Assemble sufficient staff to safely and effectively deploy the spill response equipment.~~

~~(3) Safety: A safety briefing shall be conducted prior to deployment.~~

~~(4) Equipment Deployment: Equipment shall be deployed to meet the immediate containment strategies outlined in the Plan Holder's contingency plan.~~

~~(5) Communication: Appropriate communications shall be provided to direct operations.~~

~~The drills shall be conducted on a pass/fail basis. The equipment deployment drill shall take place in the first six months of the calendar year. If the drill fails, a second drill shall be required in the second six months of the calendar year.~~

~~(h) Drill/Exercise Documentation:~~

~~(1) The Plan Holder shall provide written (hard copy or electronic) documentation in order to receive credit from OSPR for any drill/exercise conducted. All documentation is subject to verification by the Administrator, including confirmation of participation of personnel listed.~~

~~OSPR's Request for Drill/Exercise Credit Form DFW 1967 (04/01/14) located at: www.dfg.ca.gov/ospr, incorporated by reference, shall be used to provide this documentation, and shall include documentation supporting the objectives tested, such as the Site Safety Plan, Incident Action Plan, Waste Management Plan, Communications Plan, etc., as appropriate.~~

~~The documentation shall be submitted to the Drills and Exercises Program within 60 days after completion of the drill/exercise. If the information submitted is insufficient, the Plan Holder will be notified and shall have 15 calendar days to send in the completed documentation or the request for credit will be denied.~~

~~For Equipment Deployment Drills only, the Equipment Deployment Evaluation Form DFW 1965, (04/01/14) located at: www.dfg.ca.gov/ospr, incorporated by reference, shall be submitted to provide documentation for drill credit.~~

~~(2) Additionally, the Plan Holder shall include information on any recommendations for suggested action or improvement to Area Contingency Plans, Harbor Safety Plans, marine facilities and vessel plans, OSROs, federal agencies, state agencies, local~~

agencies, training or exercise programs. These “lessons learned” should be incorporated into future exercises. This information shall be kept by the Plan Holder for 3 years.

~~(i) Drill/Exercise Credit~~

~~After receipt of the documentation outlined in Subsection (h), the Administrator shall issue an exercise credit letter to the Plan Holder. The Administrator will issue credit for objectives met during the exercise within 90 days from the date of the credit request if the following three conditions are met:~~

~~(1) the appropriate notification timeframes were met as outlined in Subsection (d) (2), and;~~

~~(2) the drill/exercise was on the OSPR Drills and Exercises Calendar, as outlined in Subsections (d) (3) through (6), and;~~

~~(3) all proper documentation was submitted, as outlined in Subsection (h).~~

~~Any inadequacies noted in the Administrator's report must be addressed in writing by the Plan Holder within 60 days of the receipt of the Administrator's report. Remedies to the noted inadequacies may include, but not be limited to, any necessary changes to the plan, any changes in contracted or owned response resources, changes in or additions to training, and/or the need for additional drills or exercises. The Administrator may audit all drill/exercise documentation to verify that the drill/exercise was done in accordance with the credit request.~~

~~(j) Request for Reconsideration and Hearing Procedures~~

~~(1) Request for reconsideration. The Plan Holder may request reconsideration of a/an drill/exercise report and any noted deficiencies or denial of credit by following the process described in section 790.5 of chapter 1.~~

~~(2) Any Plan Holder requesting reconsideration of an action must comply with the following criteria:~~

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

~~(B) The request for reconsideration must be received by the Administrator within 20 calendar days of the date of the drill/exercise report.~~

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

~~(3) The Administrator shall notify the Plan Holder of the decision within 15 calendar 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.~~

~~(4) Hearing. The Plan Holder may, within 15 calendar days after receipt of notice that reconsideration has been denied, request a hearing in writing.~~

~~(A) Any hearing required under this subchapter shall be conducted by an independent hearing officer according to the procedures specified in Government Code Section 11400 et seq. (The Administrative Procedure Act) and shall be scheduled as expeditiously as possible.~~

~~(B) After conducting any hearing pursuant to this section, the hearing officer, within 30 calendar days after the hearing is held, shall issue a written decision. The decision of the hearing officer shall constitute the final administrative decision.~~

~~(k) Substitution~~

~~(1) In-State Exercises~~

~~In substitution for the exercises required by Subsection (a) above, the Administrator may accept an exercise conducted by the marine facility or vessel, and called by an agency other than the OSPR, if all of the following conditions are met:~~

~~(A) the exercise tests one or more of the following: the marine facility or vessel's Spill Management Team, and OSRO, deployment of the facility's response equipment, or deployment of other response resources identified in the contingency plan; and~~

~~(B) the exercise is conducted with the U. S. Coast Guard, or another local, state or federal agency and the OSPR has been invited with the minimum notification required in Section 820.01(d)(2). For unannounced drills called by the U.S. Coast Guard, or a local, state, or federal agency, this notification timeframe is waived; and~~

~~(C) except for the unannounced drills described in (k)(1)(B) above, the Plan Holder has received prior approval for the exercise substitution from the Administrator; and~~

~~(D) the Administrator finds the plan objectives tested and evaluation criteria equal to or exceeding those of the OSPR.~~

~~(2) Out-of-State Exercises~~

~~(A) The only exercise that can be substituted under this Subsection is the annual tabletop exercise required by Subsection (a) of the Spill Management Team that would be responsible for responding to a spill in California.~~

~~(B) To receive credit for a Spill Management Team tabletop exercise conducted out-of-state, OSPR must be notified and invited to an exercise conducted out-of-state at least 45 days prior to the exercise, and at least 30 days prior to an exercise conducted out-of-country. The Administrator must also find that the exercise objectives and evaluation criteria are equal to or exceeding the criteria required by OSPR for an in-state exercise. This can be met by utilizing one of the following options:~~

~~1. The United States Coast Guard or other qualified agency, such as a member of the Pacific States/British Columbia Task Force or other agency acceptable to the Administrator, has participated in the drill and evaluation; or~~

~~2. If United States Coast Guard or other qualified agency, such as a member of the Pacific States/British Columbia Task Force or other agency acceptable to the Administrator, has not participated and evaluated an out-of-state drill, the Plan Holder shall use and submit all the documentation in Subsection (h) of this section, as appropriate; or~~

~~3. An approved Independent Drill Monitor (IDM) provides the evaluation. The approval process for an IDM is specified in Subsection (3), below.~~

~~(3) Independent Drill Monitors~~

~~(A) IDM Application Content~~

~~1. The IDM applicant's name, mailing address, facsimile and telephone number(s).~~

~~2. A copy of at least one drill evaluation in which the applicant has participated.~~

~~3. A minimum of three (3) written letters of recommendation by individuals familiar with the applicant's performance at drills.~~

~~4. The following attestation language, signed and dated by the applicant:~~

~~"The information provided regarding my experience, qualifications, and dates of employment is factual and correct to the best of my knowledge and belief. Upon request of the Administrator, I agree to participate in announced drills as set forth in Section 820 of this subchapter to verify any or all of the information contained in this application, prior and/or subsequent to receiving approval."~~

~~(B) Qualifications for Application~~

~~An individual or entity may apply for consideration as an Independent Drill Monitor (IDM) for oil spill exercise evaluation outside of the State of California. OSPR will approve IDMs based on experience, training, and knowledge of California's regulatory requirements.~~

~~An application for an IDM must document the following minimum qualifications:~~

~~1. At least five (5) years of job experience in spill response and drills, with experience specific to California.~~

~~2. Documentation of training in the Incident Command System (ICS) (ICS 100, 200, 300, 400 and IS 700 and 800, Federal Emergency Management Agency) and Enhanced Exercise Design and Evaluation (California Specialized Training Institute, California Office of Emergency Services), the Homeland Security Exercise Evaluation Program training session or equivalent.~~

~~3. An IDM cannot currently be employed by the Plan Holder or the Spill Management Team of the drill being evaluated.~~

~~(C) Application Filing Requirements and Fee~~

~~1. Applications must be filed with the Administrator of the Office of Spill Prevention and Response. Applications shall either be delivered in person or sent by registered mail with return receipt requested, or other means as approved by the Administrator, to the Drills and Exercises Program of OSPR.~~

~~2. Application Fee~~

~~Each IDM applicant shall submit a nonrefundable USD \$1,000 fee to cover OSPR's costs to implement this program.~~

~~(D) Application Confidentiality~~

~~1. An applicant may request that proprietary information be kept confidential by following the process described in section 790.3 of chapter 1. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the application that is made available for public review.~~

~~2. Any information designated as confidential must be clearly identified as proprietary.~~

~~3. If an 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 process;~~

~~b. one copy must be submitted with the confidential information removed. This copy will be available for public review. This application must contain sufficient information in place of the confidential information so that any individual reviewing the application will understand all the elements of the application.~~

~~(D) Application Confidentiality~~

~~1. An applicant may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the application that is made available for public review.~~

~~2. Any information designated as confidential must be clearly identified as proprietary.~~

~~3. If an 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 process;~~

~~b. one copy must be submitted with the confidential information removed. This copy will be available for public review. This application must contain sufficient information in~~

~~place of the confidential information so that any individual reviewing the application will understand all the elements of the application.~~

~~(E) Application Review~~

~~An application will be reviewed within 90 calendar days of receipt by OSPR. If the application requirements are not met, applicant will be contacted regarding any missing documentation or qualifications. Deficiencies noted in the application review may result in denial of the application.~~

~~(F) Interview~~

~~If the application requirements are determined to have been met, the applicant will be contacted for an interview. During the interview, the applicant must demonstrate the following:~~

- ~~1. the ability to communicate effectively;~~
- ~~2. related experience in drill evaluation; and,~~
- ~~3. knowledge and understanding of California Drills and Exercises regulations.~~

~~Deficiencies noted during the interview may result in denial of the application.~~

~~(G) Participation in California Drills~~

~~Upon request of the Administrator, the applicant may be required, at their own expense, to participate in a California drill under observation by an OSPR Drills and Exercises Program Drill Coordinator.~~

~~(H) IDM Approval and Renewal Procedure~~

~~1. Approval of an IDM Application~~

~~a. Upon satisfactorily meeting the requirements of this subchapter the applicant will receive a Letter of Approval. The Letter may not be assigned, transferred, or assumed. The Letter will remain valid unless suspended or revoked, and shall be deemed to meet the requirements of this section for three years from the date of the Letter's issuance.~~

~~b. OSPR's Drills and Exercises Program will maintain a list of all approved IDMs for use by out-of-state drill conductors.~~

~~2. Renewal~~

~~a. Approval will be granted for a period of three years unless suspended or revoked by the Administrator. An IDM shall file an application for renewal at least 90 calendar days prior to the expiration of the Letter of Approval.~~

~~b. The Administrator may require an earlier renewal. The IDM will be notified in writing if an earlier renewal is required. The notice will include an explanation of the reason(s) for the earlier approval renewal. The circumstances that would warrant an earlier renewal include, but are not limited to, a change in regulations or statute.~~

~~(I) Denial of IDM Application.~~

~~The Administrator may deny the application if the applicant has failed to provide the information required in the application as set forth in Section 820.01(k)(3) or has failed to satisfy the application review or interview criteria. If the Administrator decides to deny an IDM application, the Administrator shall issue a written statement of the basis for the denial. After receiving the written statement of denial from the Administrator, the applicant shall wait 90 calendar days before submitting a new application. The written statement shall identify the reason(s) for the denial, and inform the IDM of the right to request reconsideration of the denial.~~

~~(J) Procedure for Revocation of an IDM Application.~~

~~When the Administrator believes there are valid grounds for revoking an existing Letter of Approval, the IDM shall be notified in writing of the revocation by certified or registered mail. A proposed revocation notice shall be issued after a period of 60 days. The notice shall identify the reason(s) for the revocation, and inform the IDM of the right to request reconsideration of the revocation. The Administrator may amend any notice of revocation at any time.~~

~~(K) IDM Exercise Participation Process~~

- ~~1. An approved IDM will utilize OSPR's standard evaluation forms, or forms that contain the same information, to document those drills (see CCR Section 820.01(h)).~~
- ~~2. Within 14 days of the out of state exercises specified in subsection (k)(2), the IDM shall submit a preliminary evaluation and supporting documentation of the tested objectives to OSPR; finalized information is to be submitted within 60 days of the completion of the exercise.~~
- ~~3. The exercise evaluation shall include a description of how all tested objectives were met, including supporting documentation such as the site safety plan, incident action plan, disposal plan, communications plan, etc.~~

~~(4) OSRO Drills~~

~~A drill of an OSRO's services may fulfill the equipment deployment drill requirement of Subsection (a)(1) above for any marine facility, or Subsection (a)(2) above for any vessel, or Subsection (a)(3) for any small marine fueling facility, mobile transfer unit, or vessel carrying oil as secondary cargo, that utilizes the OSRO's plan to fulfill the response requirements of the facility's or vessel's own plan. These drills will not fulfill the semi-annual equipment deployment drill requirement of marine facility-owned equipment pursuant to Subsection (a)(1)(C). OSROs who participate in the OSPR Sensitive Site Strategy Evaluation program (as defined in Section 790) shall meet the shoreline protection exercise requirement of Subsection (b).~~

~~(5) Unannounced Exercises~~

~~An unannounced exercise may be used to satisfy the annual SMT exercise requirements of this section under the following conditions:~~

~~(A) The Plan Holders shall submit a written request to the administrator within 60 days after the unannounced exercise is conducted asking that the exercise be considered in substitution for one or more of the required exercises; and~~

~~(B) the exercise tests one or more of the following: the marine facility's or vessel's Spill Management Team, deployment of the facility's or vessel's response equipment, or deployment of other response resources identified in the facility's or vessel's plan.~~

~~(6) Actual Spill~~

~~(A) Actions taken in response to an actual spill in California may be considered for exercise credit. Credit may be granted upon request of the Plan Holder if all of the following conditions are met:~~

- ~~1. OSPR receives the documentation, as appropriate, outlined in Section 820.01(f) within 60 days of the conclusion of the response; and~~
- ~~2. OSPR receives documentation of the California Office of Emergency Services oil spill notification, and the Plan Holder provides all the information required on the OSPR Notification Form (CDFW 1964 (4/2013)); and~~
- ~~3. activation of the Spill Management Team is successfully accomplished; and~~
- ~~4. an OSPR representative responds to the spill. For equipment deployment credit, an OSPR representative must observe and verify deployed equipment; and~~
- ~~5. credit shall be granted only for objectives successfully met in the spill. Credit may only be granted for one spill every three years; and~~
- ~~6. the response was carried out in accordance with an approved contingency plan, the appropriate Area Contingency Plan, and/or in accordance with the directions of the Administrator or Federal On-Scene Coordinator.~~

~~Note: Authority cited: Sections 8670.10 and 8670.29, Government Code. Reference: Sections 8670.7, 8670.10, 8670.28, 8670.29, 8670.30 and 8670.31, Government Code.~~