

**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**

**§ 790. Definitions and Abbreviations.**

Unless the context requires otherwise, the following definitions shall govern the construction of this subdivision and implementation of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Government Code sections 8670.1-8670.95).

(a)(1) "ACP" see "Area Contingency Plan."

(a)(2) "Act" means the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 (statutes of 1990, chapter 1248) and amendments thereto.

(a)(3) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Government Code section 8670.4 or his or her designee.

(a)(4) "Adverse Weather" means the weather conditions that will be considered when determining the appropriate oil spill response systems and equipment for a particular operating environment. Factors that will be considered include wind, significant wave height, temperature, weather-related visibility, and the tides and currents within the response area in which the equipment is intended to function.

(a)(5) "Affiliated Person" or "Person Affiliated", whether singular or plural, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, another person or entity. This does not include volunteers as described in subsections 820.01(e)(9.5) and 820.02(f)(8.5).

(a)(6) "Agent for Service of Process" means an individual who resides in California, or a corporation, designated to accept service of process. Agents shall have filed a certificate with the Secretary of State pursuant to Corporations Code section 1505.

(a)(7) "Anchorage" or "Anchorage Designation" means an area designated by the U.S. Army Corps of Engineers or the U.S. Coast Guard for the anchoring of vessels.

(a)(8) "Area Contingency Plan," commonly referred to as ACP, means an oil spill response plan required to be developed by federal area committees pursuant to section 1321(j)(4) of Title 33 of the United States Code. There are six area contingency plans corresponding to the following coastal zones of California:

(A) Area 1, North Coast: the Oregon border to the Mendocino/Sonoma County line;

(B) Area 2, San Francisco Bay and Delta: the Mendocino/Sonoma County line to the San Mateo/Santa Cruz County line, including San Francisco Bay and the portions of the Sacramento/San Joaquin Delta;

(C) Area 3, Central Coast: the San Mateo/Santa Cruz County line to the Monterey/San Luis Obispo County line;

(D) Area 4, LA/LB North: San Luis Obispo, Ventura and Santa Barbara Counties;

(E) Area 5, LA/LB South: Los Angeles and Orange Counties; and

(F) Area 6, San Diego: Orange/San Diego County line to the Mexico border.

(a)(9) "Assets," as defined by generally accepted accounting principles, means probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events.

(b)(1) "Balance of the Coast" means those areas of the California coast that are not designated as either a high volume port or as a facility transfer area.

(b)(2) "BAP" see "Best Achievable Protection."

(b)(3) "Barge" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(b)(4) "Barrel" means 42 United States gallons of oil at 60 degrees Fahrenheit.

(b)(5) "Best Achievable Protection" means:

(A) The highest level of protection which can be achieved through the use of both of the following:

1. The best achievable technology; and
2. Those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable.

(B) The Administrator's determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable natural resources and waters of the state, while also considering all of the following:

1. The protection provided by the measures;
2. The technological achievability of the measures; and
3. The cost of the measures.

(C) The Administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The Administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to historical and current prevention methods, historical and current improvements in technology, and response readiness. Additionally, the Administrator shall consider the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for the natural resources of the state.

(b)(6) "Best Achievable Technology" means technology which provides the greatest degree of protection taking into consideration, the following:

(A) Processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development; and

(B) Processes which are currently in use anywhere in the world, taking into account historical and current effectiveness provided by the measures already in place.

(C) In determining what is the best achievable technology, the Administrator shall consider the effectiveness and engineering feasibility of the technology and if there would be an improvement over the technology currently in place.

(b)(7) "Bollard Pull" means the force, in pounds, that a tug is capable of exerting against a stationary object. Bollard pull can be measured for either or both of the following:

(A) Astern force, which is the force applied when the tug is pushing or pulling astern;

(B) Ahead force, which is the force applied when the tug is pushing or pulling ahead.

(b)(8) "Braking Force" means astern bollard pull (at zero speed) for conventional tugs, and ahead bollard pull (at zero speed) for tractor tugs.

(b)(9) "Bulk" see "Oil in Bulk."

(b)(10) "Bunkering" or "Bunkering Operation" means the transfer of oil via hoses, pipelines, or loading arms for the purpose of providing fuel or lubricants to a tank vessel or nontank vessel. A bunkering operation includes all phases of the operation from the beginning of mooring activities between the transfer unit and the receiving unit to the departure of either the transfer unit or the receiving unit.

(b)(11) "Bunkering Oil" means that product used as fuel for a vessel's propulsion system.

(b)(12) "Business Days" see "Working Days."

(c)(1) "California Oil Spill Contingency Plan" means the Governor's state oil spill contingency plan prepared pursuant to article 3.5 of chapter 7 of the Government Code (commencing with section 8574.1).

(c)(2) "Cascading Response Personnel" means personnel designated to supplement or relieve the initial response personnel. Specific arrival times for cascading response personnel are required within this subdivision.

(c)(3) "Certificate of Financial Responsibility," also referred to as "certificate," means an official written acknowledgement issued by the Administrator that an owner or operator of a tank vessel, nontank vessel, vessel carrying oil as a secondary cargo, facility or the owner of the oil has demonstrated the financial ability to pay for costs and damages caused by an oil spill pursuant to the provisions of chapter 2 (Financial Responsibility).

(c)(4) "Cleaned-up" means spilled oil has been removed to the extent that it no longer poses a threat to human health and safety or the environment, as determined by either the state on-scene coordinator or an established unified command.

(c)(5) "Clearing House" means an individual, organization, corporation or agency designated by the Administrator to carry out responsibilities related to tug escort requirements for specific harbors in California.

(c)(6) "COLREGS" means the International Regulations for the Prevention of Collisions at Sea, 1972, published by the International Maritime Organization (IMO), which are navigation rules to be followed by ships and other vessels at sea to prevent collisions.

(c)(7) "Competitive Aspects" means the cost of materials, labor, services, property or other necessities required to carry out a recommendation of a harbor safety committee. These costs shall

be compared to other alternative costs for the same or similar requirements and may vary from port to port within a harbor area. Competitive aspects shall be addressed in any economic feasibility report or study made part of any such recommendation.

(c)(8) "Containment Area" means that area designated for the containment of any spilled oil with the intent of preventing the oil from reaching open water.

(c)(9) "Contingency Plan" see "Oil Spill Contingency Plan."

(c)(10) "Contract or Other Approved Means" includes either (A) or (B) below:

(A) A written, signed contract, or written certification of active membership between a plan holder and a rated oil spill response organization or certified spill management team. This contract shall identify and ensure the availability of the required response resources capable of responding to a spill within the response times as required by this subdivision.

1. The contract between a plan holder and an oil spill response organization shall not contain a provision requiring the plan holder to notify the oil spill response organization in advance, in order to guarantee response services for two hours and beyond for containment booming and on-water recovery services (as specified in subsection 819.04(b)(2) of this subchapter).

2. The contract may contain a requirement for vessel plan holders to notify the oil spill response organization 24 hours in advance before entering marine waters, to meet the 0-12 hour shoreline protection requirement for vessels that operate in those areas not identified as high volume ports.

3. For immediate (less than two hours) spill response coverage during vessel oil transfer operations, advance notice to the oil spill response organization is also allowed.

(B) Written certification that the response resources required by this subdivision are owned or operated by the plan holder and are available within the response times as required by this subdivision.

(c)(11) "Conventional Tug" means a tug with screws or propellers which are fixed to provide thrust either fore or aft, parallel to the keel or longitudinal axis of the tug.

(c)(12) "Crude Oil" means petroleum in an unrefined or natural state, including condensate and natural gasoline.

(c)(13) "Culturally Sensitive Sites" means locations which include, but are not limited to, historical and archaeological sites, and areas of cultural or economic significance to Native Americans.

(c)(14) "Current Assets," as defined by generally accepted accounting principles, means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash, or sold or consumed during the normal operating cycle of the business.

(c)(15) "Current Liabilities," as defined by generally accepted accounting principles, means those obligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

(d)(1) "Deadweight Tonnage" means the weight of the cargo, fuel, water, and stores necessary to submerge a vessel from its light draft to its load draft. This measurement shall be obtained from the following:

(A) The most current Lloyd's Register;

(B) From the country of registry;

(C) By documentation from a recognized classification society; or

(D) As reflected in the International Load Line Certificate posted on each vessel.

(d)(2) "Dedicated Response Resources" means response resources committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the time frames for which the equipment and personnel are rated.

(d)(3) "Department" means the California Department of Fish and Wildlife.

(d)(4) "Discharge" see "Spill."

(d)(5) "Discharge Container System" means any system designed to enclose or restrain spilled oil and prevent it from spreading further and/or reaching open water. Such a system may be fixed or portable, depending upon the application, and may involve specific equipment for certain applications.

(d)(6) "Displacement" means the total weight of water, as measured in long tons, displaced by a vessel at a given load level.

(e)(1) "Economically Sensitive Sites" means locations which include, but are not limited to, public beaches, parks, marinas, boat ramps, diving areas, industrial and drinking water intakes, power plants, salt pond intakes and other similarly situated underwater structures, intertidal and subtidal drilling leases, and major waterways and vessel traffic.

(e)(2) "EDRC" see "Effective Daily Recovery Capacity."

(e)(3) "Effective Daily Recovery Capacity," commonly referred to as EDRC, means a derated recovery capacity value for a piece of skimming equipment computed by taking the manufacturer's rating for the recovery capacity of a piece of skimming equipment and reducing (derating) that amount to reflect the real-world limitations of the response equipment's efficiency. Limitations on efficiency may be the result of such variables as weather, sea state, velocity of currents, hours of operation per day, or visibility. The effective daily recovery capacity for a skimmer shall be calculated as 20 percent of the manufacturer's rated skimming capacity (SC) for the equipment for a 24-hour period,  $[(SC \times 24 \text{ hours}) \times 20\% = \text{EDRC}]$ .

(e)(4) "Environmentally Sensitive Area" or "Environmentally Sensitive Site" means both environmentally sensitive sites and cultural and historical sites identified in area contingency plans or geographic response plans, or the California oil spill contingency plan.

(e)(5) "Equipment Deployment Drill" or "Drill" means the testing of oil spill response equipment identified in an oil spill contingency plan or an oil spill response organization application, through actual deployment and operation as it would be used in spill response efforts in an environment of similar habitat, water depth, current velocity, tidal range, and substrate, where the equipment may need to be used in an actual oil spill response.

(e)(6) "Escort Tug" means a tug that is designed primarily to influence the speed and direction of travel of a tank vessel in the event of a casualty, steering or propulsion failure. A tug is considered to

be designed for escort work whether or not it is involved in such activity if it meets the requirements of the applicable harbor.

(e)(7) "Escort Vessel" see "Escort Tug."

(f)(1) "Facility" means:

(A) Any of the following located in state waters or located where an oil spill may impact state waters:

1. A building, structure, installation, or equipment used in oil exploration, oil well drilling operations, oil production, oil refining, oil storage, oil gathering, oil processing, oil transfer, oil distribution, or oil transportation and is associated with the supply chain of oil.
2. A marine facility.
3. A marine terminal.
4. A small marine fueling facility.
5. A drill ship, semi-submersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.
6. A pipeline that transports oil.
7. An inland facility.
8. A railroad that transports oil in bulk.

(B) "Facility" does not include any of the following:

1. A vessel, except a vessel located and used for any purpose described in subsection (f)(1)(A)5. of this section.
2. Any aspect of a facility subject to chapter 6.67 (commencing with section 25270, aboveground petroleum storage tanks) or chapter 6.75 (commencing with section 25299.10, underground storage tanks) of division 20 of the Health and Safety Code, or an aboveground petroleum storage tank not associated with the supply chain of oil.
3. A small craft refueling dock.
4. Operations on a farm, nursery, logging site, or construction site that are either of the following:
  - a. Do not exceed 20,000 gallons in a single storage tank; or
  - b. Have a usable tank storage capacity not exceeding 75,000 gallons.

(f)(2) "Facility Transfer Area" means the area where oil or oil products are transferred within marine waters, excluding high volume ports.

(f)(3) "Facility Transfer Point" means a fixed location where oil or oil products are or can be transferred between a vessel and a facility.

(f)(4) "Federal Breakwater" means the line of demarcation as specified in 33 Code of Federal Regulations part 80.1114.

(f)(5) "Federal On-Scene Coordinator," commonly referred to as FOSC, means the federal official designated to coordinate response to an oil spill or hazardous substance release under the National Oil and Hazardous Substances Pollution Contingency Plan. For an oil spill the federal on-scene coordinator is an agent of either the U.S. Coast Guard or the U.S. Environmental Protection Agency, depending on where the incident occurs.

(f)(6) "Fiscal Year" means the period commencing on the first day of July and ending on June 30 of the following year.

(f)(7) "Full Scale Combination Exercise" means an exercise of an oil spill contingency plan involving both the spill management response efforts and the actual deployment and operation of oil spill response equipment as it would be used at a specific site.

(g)(1) "Generally Acceptable Accounting Principles," commonly referred to as GAAP, means the generally accepted accounting principles adopted by the United States.

(g)(2) "Geographic Region" means either one of six areas along the California coast covered by an area contingency plan, as defined at subsection (a)(8), or one of six response planning areas, as defined at subsection (r)(7).

(g)(3) "Geographic Response Area" means a subdivision of an area contingency plan, which is based on natural basins or other natural features, landmarks, or general planning demarcations as described in the appropriate area contingency plan.

(g)(4) "Geographic Response Plan" means a document addressing specific response strategies and tactics for specific areas with especially difficult or complex issues if impacted by an oil spill into waters of the state, and which is developed by the state or by the federal government and in coordination with other agencies and stakeholders.

(g)(5) "Gross Tons" means the measure of a tanker, tank barge, or nontank vessel's tonnage by volume.

(g)(6) "Group 1 Oil" see "Non-persistent Oil."

(h)(1) "Harbor Safety Committee" means a committee comprised of those individuals appointed by the Administrator pursuant to section 8670.23 of the Government Code, charged with planning the safe navigation and operation of vessels for the harbors of San Diego, Los Angeles/Long Beach, Port Hueneme, San Francisco/San Pablo/Suisun Bays, and Humboldt Bay.

(h)(2) "HAZWOPER" means the Hazardous Waste Operations and Emergency Response requirements of section 5192 of Title 8 of the Code of Regulations.

(h)(3) "High Volume Ports" means either of the following:

(A) For the San Francisco Bay/Sacramento-San Joaquin Delta; all California marine waters that are within a 50 nautical mile radius of the San Francisco Approach, Lighted Horn Buoy SF (LNB) (LLNR 360) [located at 37-45.0N, 122-41.6W] on the San Francisco Bay Chart #18645. This does not include the Ports of Stockton and Sacramento;

(B) For the Los Angeles/Long Beach Harbor; all California marine waters that are within a 50 nautical mile radius of the Approach Lighted Whistle Buoy LB (LLNR 3010) [33-42.1N, 118-11.0W] outside the

entrance to the Los Angeles/Long Beach Harbors on the Los Angeles and Long Beach Harbor Chart #18751.

(i)(1) "Incident Action Plan" means a document that contains objectives reflecting the overall incident strategy and specific tactical actions and supporting information for the next operational period. The incident action plan may be oral or written.

(i)(2) "Incident Command System," commonly referred to as ICS, means a formal structure or framework, for example the *Incident Management Handbook*, as defined in subsection (i)(3), used for managing a pollution incident or other type of emergency.

(i)(3) "Incident Management Handbook" means the U.S. Coast Guard Incident Management Handbook (2014) or the U.S. Environmental Protection Agency Incident Management Handbook (2016), incorporated by reference herein. These are guidance documents designed to assist response personnel in the use of the incident command system. They describe incident command system organizational principles, standard incident management processes, and the major responsibilities of the incident command system positions.

(i)(4) "Infrequent Transfer" means a transfer of oil or oil product that is conducted on the average of one time per month or not more than twelve times in a twelve month period.

(i)(5) "Initial Response Personnel" means personnel designated to deploy as soon as possible upon being notified of a spill to the initial incident command post or incident location. Specific arrival times for initial response personnel are required within this subdivision.

(i)(6) "Inland Facility" means a facility located in inland waters or where a spill may impact inland waters.

(i)(7) "Inland Waters" or "inland waters of the state" means waters of the state other than marine waters, but not including groundwater.

(i)(8) "Innocent Passage" means navigation through the territorial sea for the purpose of traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only insofar as the same are incidental to ordinary navigation or are rendered necessary by distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

(i)(9) "Intangible Assets" means assets, such as trademarks, goodwill, patents, organization costs, computer programs, etc., which lack physical substance.

(i)(10) "Involved Parties" means a responsible party, potentially responsible party, their agents and employees, including the operators of all tankers, tank barges, and nontank vessels docked at a marine facility or marine terminal which is the source of a spill, and all state and local agencies involved in a spill or spill response.

(j) (Reserved)

(k)(1) "Kips" means a thousand pounds of force.



(l)(2) “Liabilities,” as defined by generally accepted accounting principles, means probable future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(l)(3) “Linefill Capacity” means the volume of fluid in a pipeline or pipeline segment as determined by multiplying the cross-sectional area of the inside of the pipeline in square feet, times the length of the pipeline in feet, times 7.48 gallons per cubic foot. [Linefill capacity in gallons equals  $7.48(3.1416 r^2 * L)$  where 7.48 = gallons per cubic foot; 3.1416 is the constant, pi; r = inside radius in feet; \* = times; and L = length in feet].

(l)(4) “Line Haul Tug” means that tug that provides the primary power to push or pull a tank barge.

(l)(5) “Lightering” or “Lightering Operation” means the transfer of a cargo of oil in bulk from one vessel to another. Lightering includes all phases of the operation from the beginning of mooring activities between the transfer unit and the receiving unit to the departure of either the transfer unit or receiving unit. A lightering operation does not include bunkering.

(l)(6) “LOA” means the actual length overall of a vessel measured in meters. This is the length for each vessel as listed in Lloyd’s Register or with the country of registry.

(l)(7) “Local Government” means any chartered or general law city, chartered or general law county, or any city and county.

(l)(8) “Long Tons” means a unit of weight equal to 2,240 pounds avoirdupois.

(m)(1) “Marine Facility” means a facility located in marine waters or where a spill may impact marine waters.

(m)(2) “Marine Terminal” means any marine facility used for transferring oil to or from tankers or tank barges. This would include all piping not integrally connected to a tank facility as defined in section 25270.2 of the Health and Safety Code relating to above ground storage tanks.

(m)(3) “Marine Waters” means those waters subject to tidal influence and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.

(m)(4) “Master” means the master of the tug engaged in towing a tank barge or the master of a tanker or nontank vessel.

(m)(5) “Mobile Transfer Unit” means a vehicle, truck, or trailer, including all connecting hoses and piping, used for transferring oil at a location where a spill could impact waters of the state.

(m)(6) “Mobilization Time” means the time in which initial response personnel are able to begin movement of spill response resources to the site of an oil spill.

(n)(1) “Navigational Aid” means any device used by a tanker, tank barge or nontank vessel that is intended to assist a navigator in determining the tanker, tank barge or nontank vessel’s position or a safe course, or to warn of dangers or obstructions to navigation.

(n)(2) “Non-dedicated Response Resources” means those response resources identified by an oil spill response organization for oil spill response activities that are not dedicated response resources.

(n)(3) “Non-floating Oil”, means a Group 5 oil as defined in section 155.1020 of Title 33 of the Code of Federal Regulations, dated June 21, 2022, hereby incorporated by reference, and any Group 5 oil that is diluted with a diluent for transport.

(n)(4) “Non-persistent Oil,” also known as “Group 1 oil” means a petroleum-based oil, such as gasoline, diesel or jet fuel, which evaporates relatively quickly and at the time of shipment consists of hydrocarbon fractions that are:

(A) At least 50 percent of which, by volume, distills at a temperature of 340 degrees Celcius (645 degrees Fahrenheit); and

(B) At least 95 percent of which, by volume, distills at a temperature of 370 degrees Celcius (700 degrees Fahrenheit).

(n)(5) “Nontank Vessel” means a vessel of 300 gross tons or greater that carries oil, but does not carry oil as cargo.

(o)(1) “Office of Spill Prevention and Response” means the office headed by the Administrator, a Chief Deputy Director of the California Department of Fish and Wildlife, as established pursuant to the Act.

(o)(2) “Offshore” means the area of marine waters of the state beginning at the shoreline and extending seaward out to the state's western most marine boundaries as defined in Government Code sections 170, 171 and 172, excluding sheltered waters and shallow waters, as defined in this section.

(o)(3) “Offshore Marine Facility” means, but is not limited to, a drill ship, semi-submersible drilling platform, jack-up type drilling rig, facilities located on production piers, artificial islands and platforms, any floating or temporary drilling platform and any facility of any kind which is or was used for purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in, under, on, or above marine waters. This includes facilities in the process of abandonment, re-drilling, well maintenance and repairs.

(o)(4) “Oil” means any kind of petroleum, petroleum-based liquid hydrocarbons, petroleum products or any fraction or residues therefrom. This includes, but is not limited to: crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(o)(5) “Oil In Bulk” means any volume of oil carried in the cargo tanks of a vessel or in a tank car. Bulk oil does not include oil carried in packaged form, and does not include residue or clingage remaining in the tanks or tank car after the cargo oil has been offloaded. During a bunkering or lightering operation, bulk oil may also be that oil which is transferred to or from a marine portable tank or independent tank on board a vessel.

(o)(6) “Oil Pollution Risk Area” means a designated geographic location within a High Volume Port where an oil spill could occur. Oil pollution risk areas are identified by latitude and longitude coordinates.

(o)(7) “Oil Spill Contingency Plan” or “contingency plan” means a detailed oil spill response and removal plan prepared by the plan holder that addresses controlling, containing, and recovering an oil spill pursuant to subchapter 3 or subchapter 4 of chapter 3 of this subdivision.

(o)(8) "Oil Spill Response Organization," commonly referred to as OSRO, means an individual, organization, association, cooperative, or other entity that provides, or intends to provide equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

(A) An oil spill response organization can apply for a rating from the Administrator for a particular rating level or service established pursuant to section 819.01 of this subdivision.

(B) An oil spill response organization does not include an owner or operator with an oil spill contingency plan approved by the Administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(o)(9) "Oil Transfer System" means that system as described in 33 Code of Federal Regulations part 154(c).

(o)(10) "Operator" see "Owner or Operator."

(o)(11) "Operating" means, in terms of a tanker, tank barge, or nontank vessel, either:

(A) The transferring or transporting of oil; or

(B) That the tanker, tank barge, or nontank vessel is underway, or not at anchor, is not made fast to the shore or an anchored tanker, tank barge, or nontank vessel, or is not aground.

(o)(12) "Operating Environment" means the waters of the state such as sheltered waters, shallow waters, offshore, and inland waters.

(o)(13) "OSPR" see "Office of Spill Prevention and Response."

(o)(14) "OSRO" see "Oil Spill Response Organization."

(o)(15) "OSRO-Owned and Controlled Resources" means equipment owned by the oil spill response organization and personnel who are employed directly by the oil spill response organization.

(o)(16) "OSRO Rating Letter," commonly referred to as an ORL, means a written document issued by the Administrator to an oil spill response organization following verification, inspection, satisfactory performance in an announced and unannounced drill, and final review of the oil spill response organization's application for a rating.

(o)(17) "Owner or Operator" means any of the following:

(A) In the case of a tanker, tank barge, or nontank vessel, any person who owns, has ownership interest in, operates, charters by demise, or leases the tanker, tank barge, or nontank vessel;

(B) In the case of a facility, any person who owns, has an ownership interest in, or operates the facility;

(C) Except as provided in subsection (o)(17)(D) of this section, in the case of any tanker, tank barge, nontank vessel or facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means, to an entity of state or local government, the owner or operator is any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the tanker, tank barge, nontank vessel or facility immediately before the conveyance; or

(D) An entity of the state or local government which acquired ownership or control of a tanker, tank barge, nontank vessel or facility, when the entity of the state or local government has caused or contributed to a spill of oil into waters of the state.

(E) "Owner" or "Operator" does not include a person who, without participating in the management of a tanker, tank barge, nontank vessel or facility, holds indicia of ownership primarily to protect his or her security interest in the tanker, tank barge, nontank vessel or facility.

(F) "Operator" does not include any person who owns the land underlying a facility or the facility itself if the person is not involved in the operations of the facility.

(o)(18) "Owners' Equity," as defined by generally accepted accounting principles, means the difference between total assets and total liabilities.

(p)(1) "Persistent Oil" means a petroleum-based oil that does not meet the distillation criteria for a non-persistent oil. Persistent oils are further classified based on both specific and American Petroleum Institute observed gravities corrected to 60 degrees Fahrenheit, as follows:

(A) Group 2--specific gravity greater than or equal to 0.8000 and less than 0.8500. API gravity less than or equal to 45.0 and greater than 35.0;

(B) Group 3--specific gravity greater than or equal to 0.8500 and less than 0.9490. API gravity less than or equal to 35.0 and greater than 17.5;

(C) Group 4--specific gravity greater than or equal to 0.9490 and up to and including 1.0. API gravity less than or equal to 17.5 and greater than 10.0;

(D) Group 5--specific gravity equal to or greater than 1.0000. API gravity equal to or less than 10.0. Group 5 oils are also classified as non-floating oils, as defined in subsection (n)(3).

*NOTE:* Group 1 oils are classified as non-persistent oils, as defined in (n)(4).

(p)(2) "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. Also included is any city, county, city and county, district and the state or any department or agency thereof, and the federal government or any department or agency thereof, to the extent permitted by law.

(p)(3) "Pilot" means a person duly licensed by the U.S. Coast Guard as a Federal First Class Pilot authorized to serve as a pilot on tankers and nontank vessels transiting in specified harbors in California. This person may or may not be the "Master" as defined in this section.

(p)(4) "Pipeline" means any line or conduit used at any time to transport oil. A pipeline may be considered a facility if it is located in waters of the state or where a spill from the pipeline could impact waters of the state.

(p)(5) "Plan Holder" means the owner or operator of a facility, tank vessel, nontank vessel, small marine fueling facility, or vessel carrying oil as secondary cargo; or other person or entity, responsible for the development, submittal, update, maintenance of, and compliance with the oil spill contingency plan required under this subdivision.

(p)(6) "Plan Recipient" means a receiving agency and any other entity that has been designated in this subdivision to receive a copy of an oil spill contingency plan.

(p)(7) "Point of Transfer" means a position either physically located on the receiving or transferring tanker, tank barge, or nontank vessel, or in the case of a response vessel, located within one-half (1/2) mile of the actual oil transfer operation.

(p)(8) "Port Authority" means the person, governmental agency or civilian organization responsible for the operation, control and administration of a port or harbor area.

(p)(9) "Production Facility" means any equipment attendant to onshore oil production or injection operations extending to the lease automatic custody transfer unit or other oil custody transfer point, including but not limited to, tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, production safety systems, separators, manifolds, and pipelines, and which is not under the jurisdiction of the State Fire Marshal pursuant to section 51010 of the Government Code.

(p)(10) "Production Pier" means a structure supported above marine waters by pilings, columns or caissons which is connected to land and upon which is situated an oil and gas production operation.

(p)(11) "Protection and Indemnity Club," commonly referred to as P&I Club, means a mutual insurance organization formed by a group of ship owners or operators in order to secure cover for various risks of tanker, tank barge, or nontank vessel operation, including oil spill costs, not covered by normal hull insurance.

(q)(1) "Qualified Individual," commonly referred to as QI, means a shore-based representative of a tanker, tank barge, nontank vessel or facility owner or operator. The qualified individual can be an individual or company that provides qualified individual services. The qualified individual must be fluent in English, located in the continental United States, available on a 24-hour basis, and have full written authority to implement the tanker, tank barge, nontank vessel or facility's contingency plan. A person stationed on a fixed, offshore platform is considered to be shore-based for purposes of this definition. A qualified individual is not necessarily the responsible party unless otherwise considered a responsible party as defined in this chapter. The duties of the qualified individual shall include:

(A) Activating and engaging with rated oil spill response organizations, certified spill management teams, or other response resources;

(B) Coordinating with, and following the orders of, the state on-scene coordinator or federal on-scene coordinator through the unified command during all phases of spill response. This would include the ability to make changes to the contingency plan when so ordered by the Administrator or the federal on-scene coordinator;

(C) Obligating, either directly or through prearranged contracts, any funds necessary to carry out all required or directed oil spill response activities detailed in the tanker, tank barge, nontank vessel or facility's contingency plan or specified by order of the state on-scene coordinator or federal on-scene coordinator.

(r)(1) "Railroad" means a railroad, railway, rail car, rolling stock, or train that carries oil in bulk. A railroad may be considered a facility if it meets the definition of facility within this section.

(r)(2) "Rated Oil Spill Response Organization" means an oil spill response organization that has received a satisfactory rating from the Administrator for a particular rating level or service established pursuant to section 819.01.

(r)(3) “Reasonable Worst Case Spill” means a volume of oil measured in barrels as defined and determined in chapter 3 of this subdivision: Marine Facility - subsection 817.02(d); Small Marine Fueling Facility - subsection 817.03(d); Tank Vessel - subsection 818.02(e); Vessel Carrying Oil As Secondary Cargo - subsection 818.03(e); Inland Facility - subsection 817.04(j); and Nontank Vessel – subsection 827.02(h).

(r)(4) “Regional Response Team” means the federal, interagency organization that is responsible for granting approval for the use of cleanup agents during an oil spill response. The regional response team was established pursuant to the Federal Oil Pollution Act of 1990 and is composed of representatives of the federal agencies enumerated in 40 Code of Federal Regulations, part 300.175(b), as well as state and local representatives.

(r)(5) “Remove” or “Removal” means the extraction of oil from the water and shorelines, or taking other action as necessary to minimize or mitigate oil-related damage to the environment, or to safeguard the public health or welfare.

(r)(6) “Response Area” means the area in which spill response activities are occurring. This shall include the designated routes that response vessels will transit to and from temporary storage facilities or other locations as specified by the Administrator and/or the federal on-scene coordinator during the course of an oil spill incident.

(r)(7) “Response Planning Area (RPA)” means the boundaries that are used for oil spill contingency plans and oil spill response organization ratings. These boundaries are the same as the California Office of Emergency Services Mutual Aid Regions and the boundaries of the Local Emergency Planning Committee Regions established by the State Emergency Response Commission. These boundaries are separate, but closely coincide with the U.S. Coast Guard Captain of the port area contingency plan regions that are used for marine facility and vessel contingency plans. The response planning area numbering and county boundaries are described below:

(A) RPA I – Counties of Los Angeles, Orange, San Luis Obispo, Santa Barbara, and Ventura.

(B) RPA II – Counties of Humboldt, Del Norte, Mendocino, Lake, Sonoma, Marin, Napa, Solano, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, San Benito, Santa Cruz and Monterey.

(C) RPA III – Counties of Butte, Colusa, Glenn, Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba.

(D) RPA IV – Counties of Alpine, Amador, Calaveras, El Dorado, Nevada, Placer, Sacramento, San Joaquin, Stanislaus, Tuolumne, and Yolo.

(E) RPA V – Counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, and Tulare.

(F) RPA VI – Counties of Imperial, Inyo, Mono, Riverside, San Bernardino, San Diego.

(r)(8) “Response Resources” means all the personnel, equipment, supplies, and services necessary to perform oil spill response activities.

(r)(9) “Response Vessel” means any vessel used in the course of response activities during an oil spill incident.

(r)(10) "Responsible Party" means any of the following:

(A) The owner or transporter of oil or a person or entity accepting responsibility for the oil;

(B) The owner, operator or lessee of, or person who charters by demise, any tanker, tank barge, nontank vessel, or facility;

(C) A person or entity who accepts responsibility for vessel or facility; or

(D) The person who fulfills the role of the qualified individual during spill response only if that person is also one of the individuals as described in subsections (A) through (C) above.

(r)(11) "Risk and Hazard Analysis" means a study in which process hazards and potential operating problems that could lead to oil spills are identified using systematic methods recommended by the American Institute of Chemical Engineers, or other means approved by the Administrator. This is the study referred to as the Hazard and Operability Study in section 8670.28 of the Government Code.

(r)(12) "Risk Zone" means one of the areas along the California coast that has been differentiated by the relative risk of an oil spill occurring in that area. The areas so designated shall be termed: high volume ports; facility transfer areas; or the balance of the coast; and are further defined in this chapter.

(s)(1) "Santa Barbara Channel Area" see "Facility Transfer Area."

(s)(2) "Sensitive Site Strategy Evaluation Program" means the Administrator's announced exercise program to test and evaluate the effectiveness of the response strategies developed in area contingency plans or geographic response plans and Shoreline Protection Tables to protect the environmentally sensitive areas or sites.

(s)(3) "Shallow-Draft Vessel" means:

(A) For purposes of boom deployment, a vessel that must be able to operate in water depths of two feet or less; and

(B) For purposes of skimming operations, a vessel and attendant skimming system that must be able to operate in water depths of three feet or less.

(s)(4) "Shallow Waters" means marine waters of the state landward of the mouth of a bay or breakwater that are six feet deep or less at mean low tide excluding offshore and sheltered waters.

(s)(5) "Sheltered Waters" means marine waters of the state landward of the mouth of a bay or breakwater that are greater than six feet deep at mean low tide, excluding offshore and shallow waters.

(s)(6) "Shifting" means to move or transfer a tanker, tank barge, or nontank vessel from one place or position in the harbor to another place or position in the harbor.

(s)(7) "Shoreline Protection Tables" commonly referred to as "SP Tables," means the tables dated August 2013, incorporated by reference herein, developed by the Office of Spill Prevention and Response and posted on its website. These tables outline the shoreline protection requirements for California's coastal areas and apply to all vessels of 300 gross tons or greater. Small Harbor Tables are included to describe the shoreline protection requirements for vessels that operate in the small

harbors as listed. The SP Tables are updated periodically through the regular rulemaking process of the Administrative Procedure Act.

(s)(8) "Short Ton" means a unit of weight equal to 2,000 pounds, avoirdupois.

(s)(9) "Small Craft" means any vessel, other than a tanker or tank barge, which is less than 65 feet, 7-1/2 inches (20 meters) in length.

(s)(10) "Small Craft Refueling Dock" means a waterside operation that dispenses only non-persistent oil in bulk and small amounts of persistent lubrication oil in sealed containers, primarily to small craft, and meets both of the following criteria:

(A) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment; and

(B) Has a total useable tank storage capacity not exceeding 75,000 gallons.

(s)(11) "Small Marine Fueling Facility" means either of the following:

(A) A mobile transfer unit, or

(B) A fixed facility that is not a marine terminal, which dispenses primarily non-persistent oil, and may dispense small amounts of persistent oil, primarily to small craft, and meets all of the following criteria:

1. Has tank storage capacity greater than 20,000 gallons but not exceeding 40,000 gallons in any single storage tank or storage tank compartment;

2. Has total usable tank storage capacity not exceeding 75,000 gallons; and

3. Had an annual throughput volume of over-the-water transfer of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(s)(12) "Small Vessel" see "Small Craft."

(s)(13) "Spill" or "discharge" or "oil spill" means any release of oil which impacts waters of the state that is not authorized by a federal, state, or local governmental entity.

(s)(14) "Spill Management Team," commonly referred to as SMT or incident management team, means personnel and associated equipment that staff the organizational structure for managing some or all aspects of response, containment, and cleanup of a spill, utilizing an incident command or unified command structure.

(s)(15) "Staff" means the Administrator or any personnel within the Office of Spill Prevention and Response or the California Department of Fish and Wildlife authorized to act on behalf of the Administrator.

(s)(16) "State Fiscal Year" see "Fiscal Year."

(s)(17) "State Liaison Officer" means that person responsible for the coordination of information between the state on-scene coordinator or federal on-scene coordinator and other state and local government representatives. The state liaison officer is a function within the incident command system.



(s)(18) “State On-Scene Coordinator,” commonly referred to as SOSC, means a representative of the Administrator who implements the Administrator’s authority for managing an oil spill, consistent with the standardized emergency management system required by section 8607 of the Government Code.

(s)(19) “State Waters” see “Waters of the State.”

(s)(20) “Static Bollard Pull” see “Bollard Pull.”

(s)(21) “Supply Chain of Oil” means oil exploration, oil well drilling operations, oil production, oil refining, oil storage, oil gathering, oil processing, oil transfer, oil distribution, or oil transportation associated with producing oil and delivering processed or refined oil to an end user. An end user is a person that is not part of the supply chain, who receives the oil to ultimately use or consume the oil and not to resell or redistribute the oil.

(s)(22) “Systems Approach” means an assessment of the infrastructure and the support resources that an oil spill response organization must have to mobilize, transport, deploy, sustain, and support the equipment resources necessary for the level of response for which it is rated.

(t)(1) “Tabletop Exercise” or “Exercise” means an exercise of an oil spill contingency plan and the spill management response efforts without the actual deployment of response equipment. A tabletop exercise usually involves discussion and roleplaying within an incident command for response to a simulated spill.

(t)(2) “Tank Barge” see “Barge.”

(t)(3) “Tank Ship” see “Tanker.”

(t)(4) “Tank Vessel” means any tanker or tank barge that carries oil in commercial quantities as cargo.

(t)(5) “Tanker” means any self-propelled, waterborne vessel, constructed or adapted to transport oil in bulk or in commercial quantities as cargo.

(t)(6) “Terminal” see “Marine Terminal.”

(t)(7) “Tractor Tug” means a tug which is propelled by blades or screws which may be manipulated or rotated to provide propulsive thrust to any part of a 360 degree arc relative to the keel or longitudinal axis of the tug.

(t)(8) “Transmission Pipeline” means a pipeline used to transport oil or petroleum products that is located on the downstream side of a lease automatic custody transfer unit (LACT unit) or other custody transfer location. A transmission pipeline does not include piping within a production facility or an in-plant pipeline system.

(t)(9) “Transporting Oil in Bulk” see “Oil in Bulk.”

(t)(10) “Tug” or “Tug Escort” see “Escort Tug.”

(u)(1) “Unannounced Drill” or “Unannounced Exercise” means an equipment deployment drill or tabletop exercise of an oil spill contingency plan or an oil spill response organization, initiated by the Office of Spill Prevention and Response without prior notice to the plan holder or oil spill response organization.

(u)(2) “Unified Command” means the federal on-scene coordinator, the state on-scene coordinator, and a representative of the responsible party, if designated, who collectively manage a spill and agree upon an incident command system.

(v)(1) “Vessel” means any watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

(v)(2) “Vessel Carrying Oil as Secondary Cargo” means any vessel that does not carry oil as a primary cargo, but does carry oil in bulk as cargo.

(v)(3) “Vessel of Opportunity” means any vessel engaged in spill response activities that is otherwise not normally and substantially involved in spill response activities.

(v)(4) “Vessel Traffic Service System,” commonly referred to as VTS, means the system authorized pursuant to 33 Code of Federal Regulations part 161, or Government Code section 8670.21.

(w)(1) “Waters of the State” or “State Waters” means any surface water, including saline waters, marine waters, and freshwaters, within the boundaries of the state, but does not include groundwater.

(w)(2) “Working Capital,” as defined by generally accepted accounting principles, means current assets minus current liabilities.

(w)(3) “Working Days” means those days of the week that are not State of California or federal holidays, weekends, or days that State of California offices are ordered to be closed by the Governor.

Note: Authority cited: Sections 8670.7.5, 8670.13.1, 8670.13.2, 8670.17.2, 8670.23.1, 8670.28, 8670.29, and 8670.35, Government Code. Reference: Sections 8670.3, 8670.7, 8670.13, 8670.13.2, 8670.17.2, 8670.21, 8670.23.1, 8670.28, 8670.29, 8670.31, 8670.32 and 8670.35, Government Code.

### **§ 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.