

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

**TITLE 14. CALIFORNIA CODE OF REGULATIONS  
ENVIRONMENTAL SENSITIVE SITE PROTECTION**

**NOTICE OF PROPOSED RULEMAKING**

Notice is hereby given that the Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR) proposes to adopt subchapter 4.1 and section 828.1 into subdivision 4 of title 14 of the California Code of Regulations. This rulemaking action pertains to Environmental Sensitive Site Protection. Additionally, OSPR proposes conforming amendments to sections 790, 815.01, 815.03, 815.07, 816.06, 817.01, 817.02, 817.03, 818.01, 818.02, 818.03, 819, 819.01, 819.02, 819.03, 819.04, 820.1, 825.01, 825.03, 825.07, 827.01, 827.02, 873.5. The following are proposed for repeal : the Shoreline Protection Tables (August 2013), and sections 815.05 and 825.05 of title 14 of the California Code of Regulations.

OSPR invites interested persons to present comments, statements, or arguments with respect to the regulations during the written comment period identified below.

**SUBMISSION OF WRITTEN COMMENTS**

Any interested person or his or her authorized representative may submit to OSPR written comments relevant to the proposed regulatory action. **The written comment period closes at 8:00 a.m. (Pacific Time) on Tuesday, November 26, 2024.** All written comments must be received by OSPR by then to be considered. Written comments may be submitted by mail or e-mail, as follows:

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

*OSPR requests that comments be prepared on a separate document, rather than as digital markups or digital notes inserted into copies of the rulemaking documents.*

**PUBLIC HEARING**

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

## **AUTHORITY AND REFERENCE**

Authority: Government Code sections 8574.7, 8670.7.5, 8670.28, 8670.29, and 8670.30. Reference: Government Code sections 8574.7, 8670.28, 8670.29, and 8670.30.

## **INFORMATIVE DIGEST & POLICY STATEMENT OVERVIEW**

### *Summary of Existing Laws and Objectives of the Proposed Action*

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 1248, Statutes of 1990) (the “Act”) created a comprehensive state oil spill program for the protection of California’s natural resources. Among its many provisions, it required the adoption of regulations requiring oil spill contingency plans by owners or operators whose operations pose an oil spill threats to marine waters of the state. These plans are to be used in the response effort in the event of a spill of oil into marine waters of the state.

The Act authorizes the Administrator of OSPR to require that all necessary prevention measures are taken, and that sufficient response resources and capability is available. Additionally, the Administrator is required to establish regulations and guidelines that provide for the best achievable protection of the coastal and marine resources and ensure that all areas of the coast are protected by prevention, response, containment and cleanup equipment, personnel and operations.

The proposed Environmental Sensitive Site Protection regulations and associated Site Protection Table (Table) provide a standard for the statutorily mandated best achievable protection of coastal resources, as required by Government Code sections 8670.28 and 8670.29. The Table identifies certain environmentally sensitive sites in the coastal regions of California, the hour by which they must be protected, and the necessary equipment to be utilized in the event of an oil spill to California’s coastal waters and natural resources.

Adoption of these regulations will replace the existing Shoreline Protection Tables (2013), a document incorporated by reference in a number of OSPR’s regulations. Additionally, it serves to codify sensitive site protection requirements within the California Code of Regulations.

### *Anticipated Benefits of the Proposed Action*

The benefits of the proposed regulations will update and improve upon the existing dataset (Shoreline Protection Tables [2013]); will make the requirements more easily accessible by codifying it in the official California Code of Regulations; will lessen the requirements on those subject to the regulations; and will streamline the updating process moving forward.

### *Evaluation of Inconsistency or Incompatibility with Existing State Regulations*

The proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any state regulation or statute that would relate to or affect this topic, OSPR has concluded that these are the only regulations dealing with requirements for sensitive site protection in California.

### **DETERMINATIONS REGARDING THE PROPOSED ACTION**

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

- (a) Mandate upon local agencies and school districts: None*
- (b) Costs or savings to any state agency: None*
- (c) Costs or savings to any local agency: None*
- (d) Costs or savings to any local agency or school districts which must be reimbursed in accordance with part 7, division 4 (commencing with section 17500) of the Government Code: None*
- (e) Other non-discretionary costs or savings imposed upon local agencies: None*
- (f) Costs or savings in federal funding to the state: None*
- (g) Significant effect on housing costs: None.*
- (h) Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:*

The proposed action will not have a significant statewide adverse economic impact directly affecting business or affect the ability of California businesses to compete with businesses in other states. These proposed regulations serve to update, streamline, and make clearer the requirements those subject to them already comply with.

- (i) Cost a representative private person or business would necessarily incur in reasonable compliance:*

OSPR is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. The proposed regulations do not impact individuals. The bulk of the costs will be incurred by oil spill response organizations (OSRO) who voluntarily choose to provide spill remediation services of environmentally sensitive sites to plan holders. OSROs are not required to be rated by the Office of Spill Prevention and Response (OSPR).

### **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

Regarding the proposed regulations, OSPR makes the following determinations:

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

These regulations are not considered “major regulations” as we estimate the cost to comply with the requirements to be less than \$50 million annually.

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

It is estimated that less than 50 jobs may be created by these regulations. No jobs will be eliminated.

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

OSPR has determined that the proposed regulations will neither create nor eliminate businesses in the State of California. The changes being proposed to the existing regulatory requirements will not lead to new entities entering the market.

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

There is potential for businesses currently operating within California to expand. Oil spill response organizations that currently do not provide sensitive site protection services along some portions of California’s coast may have an opportunity to expand their services with the improvements and greater flexibility created by these regulations.

- *Benefits of the regulation to the health and welfare of California residents, worker safety, or to the State’s environment:*

OSPR’s contingency plan regulations must provide best achievable protection of natural resources and state waters. The proposed regulations will provide benefits to the health and welfare of California residents, worker safety, and the state’s environment by ensuring that adequate sensitive site protection response resources are available in the time frames required, in turn mitigating the impacts of an oil spill to California’s environmental sensitive sites and shoreline environment.

- *Business Reporting Requirement:*

The proposed regulations do not impose regular reporting requirements; only a one-time cost to update existing plans.

- *Effect on small business:*

This regulatory action will not affect small business. None of the businesses affected are small businesses as described and defined by section 11346.3(b)(4)(A) and (B) or section 11342.610 of the Government Code.

### **CONSIDERATION OF ALTERNATIVES**

In an effort to solicit broader feedback and potentially improve upon the proposed regulations prior to commencing formal rulemaking, OSPR engaged interested stakeholders and those that may be subject to these regulations in a number of informal meetings and scoping sessions. The scoping sessions were held in-person in both Northern and Southern California. A discussion of the alternatives considered can be found in the Initial Statement of Reasons.

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

OSPR could identify no other alternatives to the proposed regulations submitted with this Notice that would:

- Meet statutory mandates.
- Have the same desired regulatory effect.
- Meet the same goals for identifying sensitive site protection strategies and provide sufficient protection.
- Improve upon the existing dataset.
- Reduce requirements on those subject to these regulations.
- Streamline the updating process.

OSPR invites interested persons to present reasonable alternatives to the proposed regulations during the 45-day formal written comment period identified on page one of this notice.

### **AVAILABILITY OF DOCUMENTS / OSPR CONTACT PERSON**

OSPR will have the entire rulemaking file available for inspection and copying at its office at the address below. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the text (“express terms”) of the regulations proposed for adoption, the text of the regulations proposed for amendment, the Initial Statement of Reasons, any documents relied upon, and the Economic and Fiscal Impact Statement (STD 399).

Please direct inquiries concerning the regulatory process, or requests for copies of any documents comprising the rulemaking file to the following:

Department of Fish and Wildlife  
Office of Spill Prevention and Response  
Attention: Christine Kluge  
P.O. Box 944209  
Sacramento, CA 94244-2090  
Phone: (916) 827-6553  
Email: [Christine.Kluge@wildlife.ca.gov](mailto:Christine.Kluge@wildlife.ca.gov)

The backup contact for this proposed action is:

Department of Fish and Wildlife  
Office of Spill Prevention and Response  
Attention: Mia Roberts  
P.O. Box 944209  
Sacramento, CA 94244-2090  
Phone: (661) 361-6256  
Email: [Mia.Roberts@wildlife.ca.gov](mailto:Mia.Roberts@wildlife.ca.gov)

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

This notice and related rulemaking documents identified above can also be accessed at on OSPR's website at <https://wildlife.ca.gov/OSPR/Legal/Rulemakings/Sensitive-Site-Protection>.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

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

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

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

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