

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

Title 14, California Code of Regulations

Adopt Section 828.1

Amend 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.

Repeal sections 815.05 and 825.05, and the Shoreline Protection Tables (vers. 2013).

FINAL STATEMENT OF REASONS

I. Dates of Statements of Reasons

Initial Statement of Reasons: October 1, 2024

Final Statement of Reasons: July 11, 2025

II. Update to the Initial Statement of Reasons

The Office of Spill Prevention and Response (OSPR) has adopted regulations pertaining to requirements for vessels and marine facilities to plan for the protection of environmental sensitive sites from potential oil spills into state waters. The regulations repeal the Shoreline Protection Tables (2013), replacing it with the adoption of a new section 828.1 in Title 14 of the California Code of Regulations. Additionally, OSPR has made related revisions to several other existing regulations for consistency.

Public Comment Periods

The initially proposed regulations were noticed for a 45-day public comment period starting October 12, 2024 and ending November 26, 2024 (California Regulatory Notice Register No. Z2024-1001-01). No public hearing was held or requested.

In consideration of public comments received from the 45-day public comment period, OSPR made modifications and noticed the public with an additional 15-day public comment period starting May 20, 2025 and ending June 3, 2025. Shortly thereafter, a markup illustration error was identified prompting the need for another 15-day public comment period starting June 10, 2025 and ending June 24, 2025.

Summaries and responses to public comments are included as Attachment A to this Final Statement of Reasons.

First 15-Day Continuation of Public Comment Period: Changes to Text of Proposed Regulation, and Revised Economic and Fiscal Impact Statement (STD Form 399)

Following consideration of public comments received from the 45-day public comment period, OSPR determined that modifications were necessary and noticed the public with a 15-day continuation notice (comment period) for the period starting May 20, 2025 and

ending June 3, 2025. The 15-day continuation notice was sent by electronic mail on May 19, 2025 to each category of persons specified in subsections (a)(1) through (4) of Section 44 of Title 1 of the California Code of Regulations, and Government Code section 11347.1(b).

Modifications were made to the express terms of the of the regulations as well as the Economic and Fiscal Impact Statement (STD 399). No modifications were made to section 790 (Definitions and Abbreviations) or to section 873.5 (Administrative Compliance Actions).

The following sets forth a discussion of the changes made for the first 15-day public comment period. Note: the following does not include nonsubstantive spelling or grammatical revisions.

Section 828.1. Environmental Sensitive Site Protection

An introductory sentence was added to provide context for the proposed new regulation.

Subsection (a)(1)

A provision was added to subsection (a)(1) to clarify that while mobile transfer units are not required by existing regulation to develop an offsite consequence analysis, as mentioned in this subsection, they are subject to the requirement to use the applicable area contingency plans for protection of environmental sensitive sites. Mobile transfer units are exempt from the minimum boom and response timelines proposed by these regulations and identified in the *Site Protection Table* (see subsection (b)).

Subsection (b)

Corrected a citation reference. Added language clarifying that plan holders only need a contract with an oil spill response organization rated for environmental sensitive site protection for the areas (geographic response areas) that the plan holder's operations may pose an oil spill risk.

Subsections (c)(1) and (c)(4)

Public comment suggested that "full deployment" was not only ambiguous, but inconsistent with the deployment requirements stated elsewhere in section 828.1 and in other existing OSPR regulations. It was further suggested that a one hour full deployment and operable standard could pose safety concerns for response personnel. As stated in the response to comments in Attachment A, OSPR accepted this comment and made revisions removing the word "full" in (c)(1) and removed the requirement to have all response resources deployed and operable within one hour in (c)(4).

Subsection (d)(3)

After consideration of public comment, this subsection was revised to allow the minimum dedicated boom to be stored within the State of California as opposed to the tighter boundaries of an area contingency plan. The subsection was also revised to allow the non-dedicated boom to be stored outside of California. Both are contingent upon the

ability to meet the required protection times identified in the *Site Protection Table*, as clearly stated in 828.1(c)(4).

Table - Site Protection Table: Column 2, Protection Hour 2 and Column 3, Protection Hour 4

OSPR re-evaluated the operational feasibility and economic impact of a 2-hour protection time in ACP 2, GRA 4 and ACP 5, GRA 2 illustrated in column two of the Site Protection Table within section 828.1. OSPR has removed this requirement and shifted the response resources required by the 2-hour protection time to the 4-hour protection time. OSPR believes these changes still meet the equipment requirements for these high risk GRAs, and the protection hours are more consistent with the timeline of an actual spill response and priorities.

Columns 3 through 8 – Protection Hours 4, 6, 12, Cumulative at 12 Hours, and Minimum Dedicated Swamp and Harbor Boom at 6 Hours

For consistency with the Area Contingency Plans (defined in section 790), OSPR adjusted the equipment requirements in certain GRAs where the initially stated required boom amounts exceeded the amount of boom listed in the ACPs.

Section 817.02 – Marine Facility Plan Content (Except For Those Small Marine Fueling Facilities Addressed In Section 817.03 Of This Subchapter)

Subsection (k)

For clarity, the subtitle was revised to reflect the full name of the terms – “drills” to “equipment deployment drills” and “exercises” to “tabletop exercises”. These terms and their definitions can be found in section 790. For consistency, this change was also made at subsections 817.03(k), 818.02(l), 818.03(l), and 827.02(m).

Subsection (k)(3)

For clarity, corrected “exercises” to “drills” consistent with the definition at subsection 790(e)(5).

Subsection (k)(4)

Public comment suggested that the changes made to this subsection during the 45-day comment period caused confusion as to whether or not additional drills would be required. Language was revised and added to clarify for plan holders that choose to provide their own response resources for environmental sensitive site protection rather than contract with an oil spill response organization they would be subject to a drill once every three years. For consistency, this change was also made at subsections 817.03(k)(3), 818.02(l)(4), 818.03(l)(3), and 827.02(m)(4).

Section 817.03 – Small Marine Fueling Facility Plan Content

Subsection (k)

For clarity, the subtitle was revised to reflect the full name of the terms – “drills” to

“equipment deployment drills” and “exercises” to “tabletop exercises”. These terms and their definitions can be found in section 790. For consistency, this change was also made at subsections 817.02(k), 818.02(l), 818.03(l), and 827.02(m).

Subsection (k)(3)

Public comment suggested that the changes made to this subsection during the 45-day comment period caused confusion as to whether or not additional drills would be required. Language was revised and added to clarify for plan holders that choose to provide their own response resources for environmental sensitive site protection rather than contract with an oil spill response organization they would be subject to a drill once every three years. For consistency, this change was also made at subsections 817.02(k)(4), 818.02(l)(4), 818.03(l)(3), and 827.02(m)(4).

Section 818.02 – Tank Vessel Plan Content (Except For Those Vessels Carrying Oil As Secondary Cargo Addressed In Section 818.03 Of This Subchapter)

Subsection (l)

For clarity, the subtitle was revised to reflect the full name of the terms – “drills” to “equipment deployment drills” and “exercises” to “tabletop exercises”. These terms and their definitions can be found in section 790. For consistency, this change was also made at subsections 817.02(k), 817.03(k), 818.03(l), and 827.02(m).

Subsection (l)(4)

Public comment suggested that the changes made to this subsection during the 45-day comment period caused confusion as to whether or not additional drills would be required. Language was revised and added to clarify for plan holders that choose to provide their own response resources for environmental sensitive site protection rather than contract with an oil spill response organization they would be subject to a drill once every three years. For consistency, this change was also made at subsections 817.02(k)(4), 817.03(k)(3), 818.03(l)(3), and 827.02(m)(4).

Section 818.03 – Vessels Carrying Oil As Secondary Cargo (VCOASC) Plan Content

Subsections (f)(1) and (f)(1)(A)

Edits made to correct administrative errors made during the 45-day comment period – “SP Tables” and “shoreline protection” were intended to be illustrated in ~~strikeout~~.

Subsection (l)

For clarity, the subtitle was revised to reflect the full name of the terms – “drills” to “equipment deployment drills” and “exercises” to “tabletop exercises”. These terms and their definitions can be found in section 790. For consistency, this change was also made at subsections 817.02(k), 817.03(k), 818.02(l), and 827.02(m).

Subsection (l)(3)

Public comment suggested that the changes made to this subsection during the 45-day

comment period caused confusion as to whether or not additional drills would be required. Language was revised and added to clarify for plan holders that choose to provide their own response resources for environmental sensitive site protection rather than contract with an oil spill response organization they would be subject to a drill once every three years. For consistency, this change was also made at subsections 817.02(k)(4), 817.03(k)(3), 818.02(l)(4), and 827.02(m)(4).

Section 819.03, Chapter 3 – Application Review, Verification and Drills

Subsection (d)(2)(B)2.

Made a nonsubstantive edit to italicize ‘Site Protection Table’ for consistency throughout.

Section 819.04, Chapter 3 – Oil Spill Response Organization Rating Standards, Updates, and Renewals

Subsection (b)(2) - new

Moved the content initially added to (c)(3)(A)2. during the 45-day comment period here. The subject of the added language is more appropriately placed under the heading of ‘Updates’ rather than where it had been initially placed under the heading ‘Renewals’.

Subsection (b)(3) - new

Former subsection (b)(2) is renumbered as (b)(3) for uniformity, with no other edits.

Subsection (c)(3)(A)1. and 2.

Deleted subsection number [1.] for uniformity with the above edits, and moved the content initially added to (c)(3)(A)2. during the 45-day comment period to subsection (b)(2). See above.

Section 820.1, Chapter 3 – Drills and Exercises – Facilities, Vessels, and Mobile Transfer Units

Subsection (b)(5)

Revisions were made to clarify for plan holders that choose to provide their own response resources for environmental sensitive site protection rather than contract with an oil spill response organization that they may be subject to a drill in addition to those required by section 820.1 and pursuant to relevant cited contingency plan regulations. For consistency, a similar change was also made at subsections 817.02(k)(4), 817.03(k)(3), 818.02(l)(4), 818.03(l)(3), and 827.02(m)(4).

Section 827.02 – Nontank Vessel Plan Content

Subsection (a)(1)(G)

Edits made to correct administrative errors made during the 45-day comment period – “OSRO(s)” was intended to be illustrated in strike out; “oil spill response organization” was intended to be illustrated in underline; the capital “R” in “Rating” was intended to be illustrated in strikeout; and the lower case “r” in “rating” was intended to be illustrated in

underline.

Subsection (m)

For clarity, the subtitle was revised to reflect the full name of the terms – “drills” to “equipment deployment drills” and “exercises” to “tabletop exercises”. These terms and their definitions can be found in section 790. For consistency, this change was also made at subsections 817.02(k), 817.03(k), 818.02(l), and 818.03(l)(3).

Subsection (m)(4)

Public comment suggested that the changes made to this subsection during the 45-day comment period caused confusion as to whether or not additional drills would be required. Language was revised and added to clarify for plan holders that choose to provide their own response resources for environmental sensitive site protection rather than contract with an oil spill response organization they would be subject to a drill once every three years. For consistency, this change was also made at subsections 817.02(k)(4), 817.03(k)(3), 818.02(l)(4), and 818.03(l)(3).

Second 15-Day Continuation of Public Comment Period: Changes to Text of Proposed Regulation

After the first 15-day public comment period, OSPR identified an error in proper illustration of changes, in accordance with the rules of the Administrative Procedure Act. A section of the 2013 Shoreline Protection Tables intended for repeal (the Small Harbor Table portion) was not depicted in strikeout denoting its deletion/repeal. Accordingly, OSPR noticed the public with a second 15-day comment period starting June 10, 2025 and ending June 24, 2025, with the proper strikeout illustration. The 15-day continuation notice was sent by electronic mail on June 9, 2025 to each category of persons specified in subsections (a)(1) through (4) of Section 44 of Title 1 of the California Code of Regulations, and Government Code section 11347.1(b).

No additional modifications were made.

III. Consideration of Alternatives

No Change Alternative: The proposed alternative to take no action to update the requirements for environmental sensitive site protection (formerly known as shoreline protection) was rejected because doing so:

- Would continue to allow marine facilities who pose an oil spill risk to not plan for, and be held to, sensitive site table requirements for the protection of environmentally sensitive sites.
- Would not provide clarity and a more standardized approach to identifying the response resources necessary to protect environmental sensitive sites and the hour by which those resources must be on-scene.
- Status quo would perpetuate the need for annual rulemaking actions to keep the required response resources and protection times current with the staggered updates of the ACPs.

- Would not be consistent with meeting best achievable protection of waters of the state in accordance with the *Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act)*. The Administrator of OSPR is required to establish a state Oil Spill Contingency Plan that provides for the best achievable protection of waters of the state, and includes a “coastal protection element” and an “environmentally and ecologically sensitive areas element”. [Ref. Gov. C. § 8574.7]

No alternatives have been proposed that would lessen any adverse impact on small business.

In accordance with Government Code section 11346.9, subdivision (a)(4), OSPR has determined that no reasonable alternative it considered, or that has otherwise been identified or brought to its attention would be more effective in carrying out the purpose for which the action is proposed, as effective and less burdensome to affected private persons than the proposed action, or more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The proposed regulations implement, interpret, and add specificity to the provisions of Government Code sections 8574.7, 8670.28, 8670.29, and 8670.30. This proposed regulatory action is necessary to provide specificity not found in the *Lempert-Keene-Seastrand Oil Spill Prevention and Response Act*.

IV. Local Mandate Determination

The proposed regulations do not impose any mandate on local agencies or school districts.

V. Small Business Impact

No alternatives were proposed that would lessen any adverse economic impact on small businesses.

ATTACHMENT A

Consideration of Public Comments

The Office of Spill Prevention and Response (OSPR) thanks all those who provided feedback and submitted comments during the rulemaking process.

The following provides a summary of the comments received during three public comment periods and OSPR's responses to same. The first comment period (45-day) was held from October 12, 2024 through November 26, 2024. The second comment period (15-day) was from May 20, 2025 through June 3, 2025. And the third comment period (15-day) was from June 10, 2025 through June 24, 2025. OSPR received comments during the first two comment periods. No comments were received during the third comment period.

The following summaries and responses are organized by the topic or subsection the commenter identified. Where the section or subsection was not specified by the commenter, OSPR made every effort to catalog the comment where it felt it most applied. Comments from multiple commenters on the same subsection or topic are consolidated and summarized. Comments to other associated rulemaking documents, general non-specific comments, and irrelevant and untimely comments are aggregated in separate tables at the end of each comment period.

A list is provided of the people or organizations who submitted written comments. Each is assigned a numerical identifier. At the end of each comment is the assigned numerical identifier and a letter corresponding to the letter marked (by OSPR) on the copies of the written comment letters.

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I. List of Commenters

The following provided written comments during the 45-day comment period (October 12, 2024 through November 26, 2024).

Identifier	Commenter
1	Patriot Environmental Services, letter 11/15/24
2	Marine Spill Response Corporation (MSRC), letter 11/18/24
3	Pacific Tugboat Service, email 11/22/24
4	San Francisco Bay Conservation and Development Commission (BCDC), letter 11/22/24
5	Amergent Techs, letter 11/25/24
6	NRC/Republic Services, email 11/25/24
7	Surfrider Foundation, letter 11/25/24
8	Western States Petroleum Association (WSPA), letter 11/26/24

The following provided written comments during the first 15-day comment period (May 20, 2025 through June 3, 2025).

Identifier	Commenter
9	Patriot Environmental Services, letter 5/20/25
10	Marine Spill Response Corporation (MSRC), email 5/30/25
11	Carl Jochums, letter 6/3/25

No comments were received during the second 15-day comment period (June 10, 2025 – June 24, 2025).

II. Comments

Public comments received are summarized and responded to below.

List of Acronyms Used

ACP	Area Contingency Plan
GRA	Geographic Response Area
OSPR	Office of Spill Prevention and Response
OSRO	Oil Spill Response Organization
USCG	United States Coast Guard

First Comment Period (45-Day)

The following consist of comments received during the 45-day comment period, October 12, 2024 through November 26, 2024.

Section 828.1 – Environmental Sensitive Site Protection

Subsection (c)

- Lack of Justification for Additional Boom Requirements. The proposed regulations require significant investments in boom staging despite no demonstrated need for increased boom availability. Requiring millions of dollars to stage additional boom imposes unnecessary costs on OSROs and plan holders without providing meaningful environmental protection benefits. Suggestion: Reevaluate the necessity of additional boom requirements and consider alternative approaches that leverage existing resources and agreements to meet response needs without imposing undue financial burdens. [Commenter 5a]

OSPR Response: OSPR disagrees with this comment. As shown in the table below, the comparison of existing shoreline protection requirements [Ref. 2013 Shoreline Protection Table] with that of the proposed new requirements [Ref. Site Protection Table in §828.1] illustrates an overall decrease in the amount of boom required.

Comparing Current Shoreline Protection (sensitive site) Requirements to Proposed

	Current 12-hour Harbor & Swamp Boom Combined	Proposed 12-hour Harbor & Swamp Boom Combined
ACP 1	22,100 ft	24,000 ft
ACP 2	144,160 ft	78,000 ft
ACP 3	20,600 ft	36,000 ft
ACP 4	22,100 ft	52,250 ft
ACP 5	15,100 ft	27,500 ft
ACP 6	24,400 ft	28,000 ft
Total	248,460	245,750

However, in response to this and other comments and upon re-evaluation, the boom amounts proposed in this rulemaking were further reduced in geographic response areas (GRAs) where required boom amounts exceeded the amount of boom listed in the area

contingency plan (ACP). Additionally, a change was made allowing for dedicated boom to be stored anywhere in the state of California [828.1(d)(3)]. These changes were noticed for an additional 15-day comment period.

Subsections (c)(1), (c)(1)(B), (c)(4)

- Within § 828.1(c), various references to boom deployment contain different verbiage that can lead to inconsistent interpretations. Some verbiage, such as the language in § 828.1(c)(1)(B), appears to require that the resources be on scene and “capable” of deployment (i.e., fully mobilized, but not necessarily 100% deployed) by the protection hour. Other verbiage, such as the language in § 828.1(c)(4), appears to require 100% deployment (“full deployment”) by the protection hour. A full deployment standard introduces safety concerns. Commenter suggests that OSPR change the language in these sections to emphasize full mobilization instead of full deployment. Thus:
 - (c)(1) Plan holders must ensure that at least the minimum amount of protective boom can arrive and be fully mobilized ~~capable of full deployment~~ to implement the appropriate strategy for an environmental sensitive site by the identified protection hour. The boom amounts and protection hours are specified in the *Site Protection Table* below. This boom is in addition to containment boom required by subchapter 3 and subchapter 4 of this chapter.
 - (c)(1)(B) For purposes of this section, protection hour means the time, as designated in the *Site Protection Table* below, after discovery of or receiving notification of a spill or threatened spill by which the response resources must arrive at a sensitive site within a geographic response area and be ~~capable of being deployed~~ fully mobilized.
 - (c)(4) All response resources necessary to accomplish a strategy must arrive ~~in time for full deployment and implementation to occur by the protection hour. All response resources must be capable of being deployed and operable within one hour of arrival but no later than the protection hour.~~ and be fully mobilized by the protection hour.
[Commenters 2a, 8a]

OSPR Response: OSPR partially agrees and partially disagrees with this comment. The proposed regulations are a planning standard (see 828.1(c)(2)). It is the expectation to be met if there are no extenuating circumstances otherwise affecting mobilization and deployment. OSPR agrees with the commenter’s suggestion to remove “capable of being deployed and operable within one hour of arrival”. Revisions to 828.1(c)(1) and (c)(4) were noticed for an additional 15-day comment period. OSPR disagrees with commenter’s suggestion to substitute “fully mobilized” for “capable of deployment.”

Subsection (d)(1) and the Site Protection Table, Cumulative Total column

- [A]mounts of “cumulative” boom as listed in the table exceeds required footage totals of GRA’s within the ACP’s. [Commenter 1e]

OSPR Response: OSPR acknowledges and agrees with this comment. Revisions were made to the Site Protection Table and noticed for an additional 15-day comment period.

Subsections (d)(3) and Site Protection Table

- Listing “minimum dedicated boom” in the regulation again will call for a substantial financial impact. Having the minimum dedicated boom within the ACP will require a substantial financial impact. [Commenter 1d]

OSPR Response: OSPR disagrees with this comment. This comment does not explain how differences between the current dedicated equipment requirements and the proposed dedicated equipment requirements would generate costs for industry. Dedicated response equipment is already a requirement for a shoreline protection (sensitive site) rating. Four of the six ACPs have dedicated equipment requirements. See the table in the OSRO rating regulations at Title 14, California Code of Regulations, section 819.04(a)(2)(B) Dedicated shoreline protection equipment must be listed in the rating application. See section 819.02(e)(4)(D). OSRO response resources for the first six hours must be dedicated. But OSPR may establish a lesser requirement for shoreline protection (sensitive sites) I the first six hours. See California Gov. Code section 8670.30(f)(5). No changes were made.

- Geographic Restriction on Dedicated Boom Storage. Sensitive sites near the borders of ACPs may be better served by boom staged outside the ACP but closer to the site. Minimum dedicated boom should be able to cascade into the ACP within the 6-hours. Commenters suggest allowing flexibility in boom storage locations based on proximity to sensitive sites rather than ACP boundaries. [Commenters 1f, 5d]

OSPR Response: OSPR agrees with these comments and has revised the regulation at 828.1(d)(3). Minimum dedicated boom may now be located or stored within the State of California rather than within the boundaries of an ACP. The regulation was also revised to allow the nondedicated boom to be located or stored outside of California. This change was noticed for an additional 15-day comment period.

- Commenter’s main concern is the new dedicated boom minimums established for each ACP, particularly ACP’s 2, 3 & 4. If the proposed regulations are adopted commenter would be looking at a significant financial decision to purchase additional boom and trailers, particularly swamp boom, in order to meet the minimums in each ACP, as well as obtaining places to store this additional boom. Commenter suggests if harbor boom could be substituted for swamp boom for these dedicated minimums it would present less of an issue. [Commenter 6a]

OSPR Response: OSPR partially agrees and partially disagrees with this comment.

Regarding harbor boom in ACPs 2, 3, and 4:

1. *Presently, ACP 2 has shoreline protection harbor boom requirements through 24 hours, totaling a possible 123,700 feet of harbor boom for all GRAs combined. Of that, 46,000 feet must be available within 6 hours, depending on the location. Currently, 75% of that should be dedicated, i.e. 34,500 feet. [Ref. 2013 Shoreline Protection Table; 14 CCR § 819.04(a)(2)(B) table] The proposed new requirement is 17,500 feet of dedicated harbor boom within six hours for all of ACP 2.*
2. *Presently, ACP 3 has shoreline protection harbor boom requirements through 24*

hours, totaling a possible 18,600 feet of harbor boom for all GRAs. Of that, 14,100 feet must be available within 6 hours, depending on the location. None of that must be dedicated. The proposed new requirement is 4,000 feet of dedicated harbor boom within six hours for all of ACP 3.

3. Presently, ACP 4 has harbor boom requirements through 9 hours, totaling a possible 7,400 feet of harbor boom for all GRAs. Of that, 5,400 feet must be available within 6 hours, depending on the location. Currently, 75% of that should be dedicated, i.e. 4,050 feet. The proposed new requirement is 2,500 feet of dedicated harbor boom within six hours for all of ACP 4.

Regarding swamp boom in ACPs 2, 3, and 4:

1. Presently, ACP 2 has shoreline protection swamp boom requirements through 24 hours, totaling a possible 45,180 feet of swamp boom for all GRAs combined. Of that, 4,950 feet must be available within 6 hours, depending on the location. Currently, 75% of that should be dedicated, i.e. 3,712 feet. [Ref. 2013 Shoreline Protection Table; 14 CCR § 819.04(a)(2)(B) table] The proposed requirement is 2,000 feet of dedicated swamp boom for all of ACP 2, i.e. only in GRA 2.
2. Presently, ACP 3 has shoreline protection swamp boom requirements through 19 hours, totaling a possible 5,200 feet of swamp boom for all GRAs. Of that, 1,000 feet must be available within 6 hours, depending on the location. None of that must be dedicated. The proposed requirement is 3,000 feet of dedicated swamp boom for all of ACP 3.
3. Presently, ACP 4 has shoreline protection swamp boom requirements through 19 hours, totaling a possible 5,600 feet of swamp boom for all GRAs. Of that, 400 feet must be available within 6 hours, depending on the location. None of that must be dedicated. The proposed requirement is 8,570 feet of dedicated swamp boom for all of ACP 4.

OSPR has revised the minimum dedicated swamp boom amount for all of ACP 3 from 3,000 feet to 1,500 feet. See column 7 of the Site Protection Table. Additionally, OSPR has revised the requirement that minimum dedicated boom (harbor and swamp) must be located or stored anywhere within the State of California rather than within the ACP. See subsection 828.1(c)(4). It is anticipated these changes will alleviate the commenter's concerns. These changes were noticed for an additional 15-day comment period.

Site Protection Table

- Only two ACP areas have concerns with contractors and state alike and that is ACP 2 & 5. With this comment, OSRO's may not apply for up to half the GRA's listed in these ACP's. [Commenter 1i]

OSPR Response: OSPR disagrees with this comment; it is unclear. The proposed environmental site protection regulations cover the entire coast of California. The OSRO program is voluntary and some GRAs may not have coverage unless there is a financial incentive for OSROs. No changes were made.

- Commenters understand OSPR wishes to define Central San Francisco Bay and Long Beach Harbor as higher risk areas. Commenters states that applying the same (more stringent) requirements to sensitive site protection will force OSROs to have fewer initial

response resources and personnel available to maximize containment and recovery. Commenters recommend deletion of Protection Hour 2 in the Site Protection Table and increasing the Protection Hour 4 requirement to 4,000 feet in Central San Francisco Bay and Long Beach Harbor in this proposed regulation. [Commenter 2b, 8c]

OSPR Response: OSPR accepts this comment. Revisions to columns two and three of the Site Protection Table were noticed for an additional 15-day comment period.

Section 790 –Definitions and Abbreviations

Subsection (g)(3)

- Geographic Response Area Terminology. USCG is undergoing a nationwide Area Contingency Plan (ACP) harmonization similar to OSPR's efforts to harmonize OSPR regulations. It is commenter's understanding that the USCG harmonization will change all ACP subdivisions into GRS [Geographic Response Strategies] and that said change could conflict with the GRA references in the current draft regulations. Commenter recommends that OSPR include a reference to Geographic Response Strategies in the definition of Geographic Response Area at section 790(g)(3) so references to GRA can also apply to GRS if needed. [Commenters 2c, 8d]

OSPR Response: OSPR disagrees with this comment and suggestion. The new USCG ACP framework utilizes the term Geographic Response Strategy (GRS) to replace the term Site Protection strategy. Geographic Response Areas (GRAs), which are subdivision of Area Contingency Plans, are still utilized in the new framework. No changes were made.

Sections 817.02 - 818.03, Tank Vessel and Marine Facility Oil Spill Contingency Plans

Subsections 817.02(k)(4), 817.03(k)(3), 818.02(l)(4), 818.03(l)(3)

- Commenter provides the following: New Boom Deployment Paragraph in "Drills and Exercises" Subsections. The preexisting "Drills and Exercises" subsections identified...contain regulations pertaining to Spill Management Drills and Exercises more commonly known as "Tabletop Drills." These plan holder Tabletop Drills do not require actual deployment of boom. The proposed new paragraph adds a boom deployment requirement and represents a step backward from the efficiencies experienced under the existing Tabletop Drills approach. Commenter recommends OSPR strike the newly added paragraph from the above-referenced provisions as inconsistent with the current Tabletop Drill approach. [Commenters 2d, 8b]

OSPR Response: OSPR partially agrees and partially disagrees with this comment. These referenced contingency plan sections have always applied to equipment deployment drill and tabletop exercise mandates. (Note, terms defined in section 790) The contingency plan must account for both drills and exercises. It is true that equipment requirements are often met through the contracts plan holders have with rated OSROs, and exercise objectives are met with the assistance of the certified Spill Management Team retained by the plan holder. OSPR has always had the authority to require a drill to test equipment capabilities, including for sensitive site equipment deployment. This rulemaking does make

revisions and clarifications regarding testing equipment for sensitive site strategies. An equipment deployment drill will be a prerequisite for a new or renewed OSRO rating for sensitive site protection capability. This rulemaking actually clarifies the maximum amount of equipment that could be required for a sensitive site drill. Revisions were made for clarity and noticed for an additional 15-day comment period.

Section 819.03, Chapter 3 – Application Review, Verification and Drills

Subsection (d)(2)(B)

- Proposing unannounced drills for Sensitive Site Protection ratings same time as OSRO Rating drills will cause again will cause a substantial financial impact causing OSRO's not to apply for ratings. [Commenter 1g]

OSPR Response: OSPR disagrees with this comment. If an OSRO applies for containment and recovery rating and environmental site protection rating, then OSPR needs the ability to test that the OSRO can execute those capabilities simultaneously. The ability to call a single drill that evaluates the two rating types simultaneously was specifically suggested by one or more OSROs during pre-rulemaking feedback. No changes were made.

General or Non-Specific Comments

- [T]he regulation as written is excessive. [Commenter 1a]

OSPR Response: The commenter is not specific with respect to how/why the regulation is excessive. Therefore, OSPR cannot provide a detailed response to this comment. No changes were made.

- Commenters assert there was insufficient outreach to the regulated community, subject matter experts, and interested parties to gather comprehensive feedback on cost impacts and operational feasibility, and recommends OSPR host additional stakeholder engagement sessions. [Commenters 1b, 5h]

OSPR Response: OSPR disagrees with these comments. OSPR did consider recommendations from interested parties and subject matter experts prior to commencing formal rulemaking. OSPR held multiple meetings with industry members and contractors, conducted two pre-rulemaking scoping sessions to which many industry members and contractors were invited, and solicited feedback via emails, with the specific intent on gathering feedback on the draft proposed regulations, operational feasibility, and economic impacts. At least one of these commenters participated in all of the above and provided pre-rulemaking feedback. Formal rulemaking notice issued to over 700 persons including, but not limited to, plan holders, contractors, consultants, OSROs, non-governmental organizations. This opens up the opportunity for all to submit comments and suggestions.

- How the regulation is written will add a substantial financial impact to the OSRO's. As private/public companies, the absorption of the financial impact is great and will be difficult to finance. The Administration will see current OSRO' "Not" Apply for Sensitive Site Protection ratings. [Commenter 1c]

OSPR Response: OSPR disagrees with this comment. This comment does not specifically explain how the proposed regulation will generate costs for industry, or why OSRO's may not apply for sensitive site protection ratings. Not enough information is provided for evaluation for this specific comment, although other comments by this commenter do. See elsewhere for those comments and responses.

- With a financial impact causing difficulties in the industry which most likely will not be able to overcome, and with OSRO's not applying for ratings, is the Administration prepared to answer industry as to why they cannot contract OSRO's to cover the requirements per regulation? Is the administration prepared for "Administrative Hearing's" filed by industry? [Commenter 1h]

OSPR Response: OSPR disagrees with this comment. This comment does not explain how the proposed regulations would generate costs to industry. Not enough information is provided for evaluation. No changes were made.

- Commenter supports the proposed updates to the regulations, which will clear up the grammar and increase the readability of the standards. The new proposed single table is easier to read and more streamlined than the previous table. [Commenter 4a]

OSPR Response: OSPR appreciates the support for this proposal.

- Barriers to OSRO Participation and Potential Industry Monopolization. The high costs associated with compliance - including requirements for dedicated boom storage and shorter response times - may discourage both new OSROs from entering the market and existing OSROs from maintaining their ratings. Meeting these requirements requires significant investment in equipment, personnel, and staging resources, particularly in high-risk areas like ACP 2 GRA 4 and ACP 5 GRA 2. Suggestion: OSPR should adopt measures to encourage OSRO participation, including:
 - Alternative Compliance Options: Permit OSROs to certify access to required resources through contracts (e.g., MOUs or MOAs with other OSROs), allowing shared use of personnel and equipment to meet compliance requirements.
 - Phased Implementation: Gradual rollout of requirements to allow OSROs time to meet new standards without sacrificing participation.
 - Subsidies or Grants: Financial support for compliance costs to both new and existing OSROs.

[Commenter 5b]

OSPR Response: OSPR partially agrees and partially disagrees with this comment and suggestions. It is not clear what new requirements the commenter believes are cost prohibitive. For example, presently in ACP 2, GRA 4 (Central S.F Bay) the Shoreline Protection Table (2013) lists a potential requirement for 12,900 feet of harbor boom in twelve hours. [Ref. 2013 Shoreline Protection Table] The proposal is 12,000 feet within twelve hours, which is nearly identical to the present requirement. And, in ACP 5, GRA 2 (including Bolsa Chica), for example, presently 9,600 feet of harbor boom is required within 12 hours. The proposal would require 8,000 feet of boom. This is a 16% decrease in the boom requirement. OSROs can choose which ACP/GRAs they want to provide services and there is no requirement to apply for all GRAs in an ACP. This allows flexibility for an

OSRO to apply for ratings they can support with their existing response resources, if that is in alignment with their business plan.

- *Alternative Compliance Options: OSROs currently have the ability to subcontract resources to meet rating requirements.*
 - *Phased Implementation: Changes made to the originally proposed regulations reduced the initial cost estimates significantly such that the need for a phased implementation would be eliminated. These changes were noticed for an additional 15-day comment period.*
 - *Subsidies or Grants: OSPR does not have authority for a grant program to plan holders or OSROs for equipment.*
- **Consideration of Existing Infrastructure and Resources.** The risk analysis underpinning these regulations appears to overlook existing infrastructure, which could mitigate some identified risks. ACP 2 GRA 4 and ACP 5 GRA 2, identified as high-risk areas, already have extensive response infrastructure, resources, and personnel in place. Requiring OSROs to purchase and store redundant equipment results in unnecessary costs for OSROs and plan holders without meaningfully improving response capabilities. Suggestion: Revise the regulations to account for existing response infrastructure when determining equipment requirements, ensuring resources are allocated effectively and reducing unnecessary financial burdens. [Commenter 5e]

OSPR Response: OSPR disagrees with this comment and suggestion. The risk of an oil spill is not mitigated by the ability to respond to it. It is unclear in this comment what “extensive response infrastructure, resources and personnel” that are in place that are not already associated with an OSRO rating requirement. For example, the boom required by this rulemaking is not redundant to boom used for on-water recovery; environmental sensitive site protection is a separate rating with distinct equipment requirements. No changes were made.

- **Potential for Plan Holders to Assume OSRO Responsibilities.** If compliance costs result in lack of availability of rated OSROs, plan holders may be forced to maintain and exercise sensitive site protection resources themselves, raising significant regulatory and operational challenges. Requiring plan holders to take on these responsibilities would create a dual burden: the financial and operational costs of acquiring resources, and the complexities of navigating OSRO-level regulatory requirements. Suggestion: OSPR should prioritize supporting OSROs to maintain their role as primary responders. This could include offering financial incentives, allowing alternative compliance mechanisms (e.g., shared resources through regional agreements), and providing regulatory flexibility to ensure OSRO participation in all Geographic Response Areas (GRAs). [Commenter 5f]

OSPR Response: OSPR disagrees with this comment and suggestion. Environmental Sensitive Site Protection is a plan holder requirement and plan holders have the option to provide their own response resources to meet the regulatory requirements. [Gov C. § 8670.28 (a)(9); Gov. C. § 8670.29 (b)(5)] Alternatively, plan holders can contract OSRO resources. OSROs have the ability to subcontract resources. No changes were made.

- Potential for Reduced Environmental Benefits. The operational and financial burdens created by the proposed regulations may inadvertently reduce the capacity of plan holders and OSROs to focus on preventive measures and effective spill response. A shift in focus from prevention to compliance increases the likelihood and severity of oil spills, contradicting the primary goal of these regulations to protect sensitive sites. Suggestion: Establish incentives for plan holders and OSROs that prioritize proactive investment in prevention and response infrastructure. Financial incentives or reduced regulatory burdens for proactive measures would better achieve the goals of the regulations. [Commenter 5g]

OSPR Response: OSPR disagrees with this comment and suggestion. Other agencies - state and federal - have far greater prevention authority than OSPR. With this rulemaking OSPR is focusing on standardizing response capability to protect sites that have been identified as sensitive and needing particular protection. OSPR is a regulatory agency that has always utilized compliance to ensure plan holders are meeting requirements. This is not a shift in focus, but an update of the shoreline protection tables already in place in an effort to standardize response capability and ensure best achievable protection. OSPR does not have authority to offer financial incentives to plan holders or OSROs. No changes were made.

- Commenter states by modifying the requirements for vessel and marine facility contingency plan holders and oil spill response organizations, and applying a blanket approach rather than worst case scenario planning, the proposed action will leave California's coast more vulnerable to the negative impacts of the next major oil spill. The proposal by OSPR will significantly reduce the state's preparedness for major oil spill events. Such action is contrary to the public interest, particularly given California's outstanding coastal and marine resources, and the extensive crude oil and natural gas production in the state. [Commenter 7a]

OSPR Response: OSPR disagrees with this comment. This comment does not specify which "modifications" or "reductions" are of concern. Thus, OSPR cannot evaluate this comment. Plan holders are required to utilize the reasonable worst case spill volume in the risk and hazard operability study and offsite consequence analysis. See Title 14, California Code of Regulations, sections 817.02, 817.03. This rulemaking adds specific time requirements for marine facilities, which were not required before. Thus, the proposed rulemaking increases preparedness for marine facilities. The current shoreline protection table does not provide coverage for the entire shoreline of California, only specific environmental sensitive sites. The proposed updated table and associated regulations will provide measurable coverage for all environmental sensitive sites along the entire California shoreline in the marine environment. No changes were made.

Comments on Associated Rulemaking Documents

Initial Statement of Reasons

- OSPR's Initial Statement of Reasons asserts that no alternatives could achieve the same regulatory goals. Allowing OSROs to leverage existing agreements to share personnel and equipment (e.g., MOUs or MOAs) would accomplish the same objective of ensuring adequate response resources while minimizing financial strain. This is already an accepted

and relied-upon industry-wide practice and has successfully benefited response efforts on a large-scale as recently as the Beta spill in 2021. Suggestion: Incorporate provisions for OSROs to certify shared resource agreements as part of their compliance strategy, reducing undue financial burden while maintaining robust sensitive site protection. [Commenter 5c]

OSPR Response: OSPR disagrees with this comment and suggestion. There is no limitation on OSROs in creating co-ops or entering into MOUs or MOAs. OSROs already have the ability to enter into subcontracts to meet response requirements. Subcontracts were used at the 2021 Amplify (Beta) spill to meet the response resource demands. No changes were made.

Economic and Fiscal Impact Statement (STD form 399)

- Burden on Plan Holders Balancing Compliance Costs Across Regulations. OSPR's impact statement estimates that each OSRO will incur \$3,000,000 annually to comply with these regulations, costs that will likely be passed on to plan holders. These increased fees could divert funds from critical priorities like training, exercises, personnel development, equipment upgrades, and maintenance. Suggestion: Implement phased compliance timelines and provide grants or subsidies to offset rising OSRO fees, ensuring that plan holders can adequately fund all regulatory requirements. [Commenter 5i]

OSPR Response: OSPR partially agrees and partially disagrees with this comment and suggestion. OSPR revised the high-risk protection hour requirements from which the \$3M initial cost estimate was calculated. This change will allow more flexibility in staffing and OSRO resource management and will significantly reduce initial and annual costs. These changes made to the Site Protection Table were noticed for an additional 15-day comment period. Regarding the suggestion to implement phased compliance, changes made to the originally proposed regulations reduced the initial cost estimates significantly such that the need for a phased implementation would be eliminated. Regarding the suggestion that OSPR provide financial support, OSPR does not have authority for a grant program to plan holders or OSROs for equipment.

Irrelevant Comments

The following comments are considered irrelevant as they are not germane to the proposed regulations or procedures. As such, OSPR summarily rejects these comments.

Section 827.01 – Applicability.

Subsection (b)(1)

- Commenter requested clarification on whether the exemption provision is applicable to vessels carrying oil for the purpose of operating, or only applicable for the transportation of oil as cargo for consideration? [Commenter 3a]

OSPR Response: OSPR acknowledges this comment. The inquiry pertains to a subsection that does not have any proposed amendments, therefore is considered irrelevant to this rulemaking. However, OSPR did contact the commenter to address the inquiry.

Sections 817.02 and 817.03 – Marine Facility Plan Content (Except SMFF), and Small Marine Fueling Facility Plan Content

Subsections (c)(3)(B)1.

- Commenter makes recommendation that OSPR include consideration of public access in incident mapping with the following added language: “public access pathways, trails, and/or areas”. The commenter states communication with the public during an incident is necessary, and proper care should be taken for their protection, and doing so at the incident location is frequently cited as an area of improvement for future responses. [Commenter 4b]

OSPR Response: OSPR disagrees with this comment and suggestion. It is not relevant to any amendments proposed in this rulemaking action. No changes were made.

Untimely Comments

Comments received by commenter with identifier ‘8’ were untimely by a couple of hours. However, given that the comments were duplicative of others, OSPR cataloged the comments and responses with that of the others.

Second Comment Period (15-Day)

After consideration of the comments received from the first comment period, OSPR made revisions to the proposed regulations and noticed the public with a 15-day comment period from May 20, 2025 through June 3, 2025. The following consist of comments received during that comment period.

General or Non-Specific Comments

Comments received by commenter with identifier ‘9’ are not specifically directed to any of the changes made for the 15-day comment period. With the exception of two deleted comments, the comments received from this commenter during the 15-day comment period are identical to those received during the 45-day comment period, and to which OSPR provided responses. Refer to comments identified from ‘Commenter 1’ beginning on page 12 of this document.

- Commenter thanks OSPR for the tremendous amount of work in generating these proposed changes. Commenter has no additional comments. [Commenter 10a]

OSPR Response: OSPR appreciates the support for this proposal.

- These proposed regulation changes...are neither needed nor justified. They strip down the response resource tables which were based on specific requirements of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 (LKS) to arbitrary amounts. Propose[d] replacements are not justified nor explained how such figures were derived. “Need” for change has not been addressed at all as far as I can see. [Commenter 11a]

OSPR Response: OSPR disagrees with this comment. Section III of the Initial Statement of Reasons explains the new approach. The amounts are not arbitrary; they are explained and justified. Section II of the Initial Statement of Reasons explains the need for the change. And specifically, this rulemaking closes an apparent gap - facilities have not been

held to the current shoreline protection tables. However, with this rulemaking both vessels and facilities (including railroads) would be held to the sensitive site protection table. No changes were made.

- The current reg proposal will reduce preparedness to mediocrity, maybe just ahead of what things were back in 1989. It is also in violation of the letter and intent of the LKS.

[Commenter 11b]

OSPR Response: OSPR disagrees with this comment. The commenter does not provide support for the claim that the proposed regulations are “in violation of the letter and intent of the LKS.” This rulemaking adds specific time requirements for marine facilities, which were not required before. Thus, the proposed rulemaking increases preparedness for marine facilities. The current shoreline protection table (vers. 2013) does not provide coverage for the entire shoreline of California, only specific environmental sensitive sites. The proposed updated table and associated regulations will provide measurable coverage for all environmental sensitive sites along the entire California shoreline in the marine environment. No changes were made.

- [S]imply stating minimal amounts of response resources staged here or there is not scenario and activity based and not contextualized in adverse conditions and consequences. No scenarios or trajectories or modeling was done to justify the current proposed response preparedness; no conditions driving these preparedness levels are identified. This is in opposition to LKS. [Commenter 11c]

OSPR Response: OSPR disagrees with this comment. The commenter essentially asserts that the sensitive site protection methodology must use spill models based on specific navigation hazards, and that another approach is not reasonable. The law does not require this. As has been stated, the current shoreline protection tables only apply to vessels. The new sensitive site protection requirements being established by this rulemaking will now also apply to facilities. Vessel navigation hazards are not relevant to a spill from a facility; facilities have different hazards and different spill causes. Thus, this new approach is broader than just shipping scenarios, and focuses on risks to an entire GRA from both vessels and facilities. No changes were made.

- By CA law, every regulation proposal, including changes must have justifications. Among the current justifications for the regulation modifications, most are untrue, exaggerated, or straw men. In my opinion, there is insufficient reason to justify the regulation change. [Commenter 11d]

OSPR Response: OSPR disagrees with this comment. As required by the Administrative Procedure Act, for each regulation proposed for adoption, amendment, and repeal in this rulemaking action OSPR has included a statement of the specific purpose of each adoption, amendment, and repeal; the problem OSPR intends to address; and the rationale for the determination by OSPR that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. See Initial Statement of Reasons. No changes were made.

- [A]ny change must by the letter and intent of LKS be based and demonstrated on “worst case” and “adverse” conditions, tides and currents trajectories. Without these, no change can be justified. [T]he original shoreline protection tables have worked well for California for about 20 years and their generative trajectories are so thorough and have not been improved upon. This proposed change requires demonstration how it addresses “best achievable protection.” It has not. [Commenter 11e]

OSPR Response: OSPR disagrees with this comment. A vessel or facility contingency plan must address the reasonable worst-case scenario. More specifically, the plan must identify the measures to be taken to protect the recreational and environmentally sensitive areas that would be threatened by a reasonable worst case oil spill scenario. [Gov. C. 8670.28(a)(4)(9)] For facilities, OSPR contingency plan regulations require the facility to do trajectory modeling from the facility, based on the reasonable worst-case spill volume. For nontank vessels, the statute specifically sets the worst-case spill volume of the nontank vessel as its largest fuel tank. [Gov. C. § 8670.28(a)(10)] For tank vessels, the reasonable worst-case spill volume is a percentage of cargo. The current/original shoreline protection tables were based on “scenarios” premised upon specific chosen navigational hazards only for vessels. But vessels could have an incident anywhere along their route. And the current/original SPTs are not required of facilities. Additionally, the current/original SPTs did not cover spills from railroads; but since 2014 OSPR’s jurisdiction includes potential railroad spills. Thus, the current/original SPTs can no longer be premised on a handful of hazards to vessels. The new sensitive site protection table addresses spills within an entire Area Contingency Plan – for both shore-based and water-based spill incidents. No changes were made.

Third Comment Period (15-Day)

OSPR noticed the public with an additional 15-day public comment period starting June 10, 2025 and ending June 24, 2025. OSPR did not receive any comments during this third comment period.