**Department of Fish and Wildlife**

**Office of Spill Prevention and Response**

**Guidance Document**

**For use in the preparation of**

**Preparation of an**

**Oil Spill Contingency Plan**

**Title 14, CCR Section 817.04**

**BACKGROUND**

The *Lempert-Keene-Seastrand Oil Spill Prevention & Response Act* [the Act; Gov. C. §8670.1 *et seq.*; significantly amended in 2014 by Senate Bill 861 (SB 861)] requires the Administrator for oil spill response, acting at the direction of the Governor, to ensure the State fully and adequately responds to all oil spills in state waters and to represent the State in any coordinated response efforts with the federal government. The goal and purpose of the Act is for the Administrator to provide for the best achievable protection of waters of the state from oil spills. This includes establishing and periodically revising a California Oil Spill Contingency Plan that provides integrated and effective coordination for state agencies to address the results of major oil spills.

The Administrator must implement activities relating to oil spill response, such as emergency drills for preparedness, oil spill containment and cleanup, and financial responsibility. This also specifically includes adopting and implementing regulations governing the adequacy of oil spill contingency plans that must be prepared and implemented by vessels and facilities that could spill oil into state waters.

The Administrator has the primary authority to direct prevention, removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any oil spill in waters of the state. This includes authority over the use of all response methods, such as *in situ* burning, dispersants, and other oil spill cleanup agents in connection with an oil discharge. The Administrator must cooperate with any federal on-scene coordinator, as specified in the National Contingency Plan.

The Administrator is required to establish a network of rescue and rehabilitation stations for wildlife injured by oil spills in waters of the state, including sea otters and other marine mammals. This network is known as the Oiled Wildlife Care Network (OWCN), and is administered through the Wildlife Health Center at the University of California, Davis. If a plan holder has a spill that injures wildlife, plan holders are encouraged to use a local OWCN facility if there is one in the area.

Owners or operators of facilities that have the potential to spill oil into state waters are required to prepare and submit an oil spill contingency plan (C-plan) to the Office of Spill Prevention and Response (OSPR) for approval. [Ref. CA Government Code §§8670.28, 8670.28.5, 8670.29, 8670.30.5, and 8670.31] Contingency plans are prepared and used for response activities in the event of an oil spill or threatened spill into waters of the state. The Act authorizes the Administrator to require that contingency plans provide for best achievable protection taken and that sufficient response resources are capable of arriving on-scene and equipment deployed within a certain timeframe for effective containment and response.

**DISCLAIMER**

The purpose of the guidance document is to assist owner/operators in complying with the oil spill contingency plan (C-plan), drills and exercises, financial responsibility and other requirements established by the Office of Spill Prevention and Response. C-plans are mandated for certain vessels and facilities by the *Lempert-Keene-Seastrand Oil Spill Prevention & Response Act* (the Act; Gov. C. §8670.1 *et seq.*), which was significantly amended in 2014 by Senate Bill 861 (SB 861).

This document does not contain specific requirements, nor does it replace any statutory requirements established by the Act, SB 861 amendments, or regulations promulgated to implement the Act and SB 861 amendments. This guidance document helps explain how to comply with the Act and the implementing regulations. However, all applicable laws and regulations should be read before using this guidance document for the preparation of C-plans.

All guidance documents can be obtained by visiting our website at <http://www.wildlife.ca.gov/OSPR/Preparedness/Inland-Facilities-Contingency-Plan>. Guidance documents may be updated periodically without notice, as necessary, to reflect any changes in applicable laws or regulations. Comments or questions regarding a guidance document should be addressed to the OSPR Branch listed on the specific guidance document.

**Oil Spill Contingency Plans**

**Applicability**

Inland facilities regulations generally apply to all railroad, inland pipeline, production facility, refinery, or similar owners and operators that are within ¼mile waters of the state and may impact state waters by an oil spill. The owners/operators of these facilities must submit an oil spill contingency plan to OSPR for review by January 1, 2016.

These oil spill planning requirements do not apply to:

* Facilities that are located more than ¼ mile of waters of the state.
* ***Production facilities*** where the largest producing well pumps less than 10 barrels a day.

If the requirements are ***not*** applicable to a particular facility, then nothing more is required from the owner or operator.

**Exemptions**

An owner/operator may be exempt from the oil spill planning requirements:

* Facilities within ¼ mile of waters of the state but where topography or other conditions would keep a spill from entering state waters.
* ***Distribution Pipelines:*** Owners or operators whose line sections are less than six and 5/8 inch outside diameter, less than 10 miles in length, **and** which would not impact waters of the state within 4 hours after initiation of discharge.
* Facilities regulated as an above ground or below ground storage tank pursuant to the Health & Safety Code.

Exemptions must be requested in writing to the Administrator and must provide specific, technical justification for the request.

The Administrator will provide written notification within 30 calendar days of receiving the exemption request. If a decision is made that the conditions for the exemption are not met, then the Inland Facility owner/operator must submit a contingency plan within 120 calendar days of receipt of the decision.

If a spill from a Facility does impact Waters of the State, those Facilities for which the requirements were previously considered inapplicable or that had received an exemption, the Facility will automatically be subject to the requirements and any exemption automatically revoked. The Facility owner/operators will have 120 calendar days in to submit a contingency plan and application for a Certificate of Financial Responsibility.

**Use of blanket plans**

The intent of the blanket plan is for the owner/operator to only submit one C-plan instead of numerous plans with the same or similar information.

Owners/operators who have substantially similar facilities may include those operations under one plan. Criteria for blanket plan submittal can be found in the regulations.

**Plan Format**

Oil Spill Contingency Plans shall be submitted in any electronic format. To be approved the information in the plan must be complete and address all applicable sections of the regulations. It should also be presented and organized in a way that an OSPR plan reviewer can easily locate required information, yet still be useful to the facility or vessel employees. For example, owners/operators may use hyperlinks in the table of contents to specific sections, or have it follow the lettering and numbering system of the regulation. Using the streamlined plan included as a link in this guidance document, along with any attachments (signed contracts, diagrams, etc) is another way of submitting a contingency plan.

Information required by regulations contained in other documents or sources such as a Division of Oil, Gas and Geothermal Resources (DOGGR) AB 1960 spill plan or a U.S. EPA Spill Prevention, Control, and Countermeasure (SPCC) plan may be referenced or submitted in lieu of re-creating the information.

Numerous companies provide oil spill contingency plan services. This is NOT an all-inclusive list and these companies are not endorsed or recommended by OSPR. They are generally familiar with OSPR regulations and the spill plan submitting process. Owners/operators may contact them directly and they may submit a plan on the behalf of owners/operators.

**Diagrams**
Diagrams must clearly identify features pertinent to an emergency response, such as large tanks, shut off valves and overall layout of the field and lines. General arrangements are only required. They must be in a scale that is clearly legible for review.

**Use of incident command system**

The Incident Command System (ICS) is a systematic tool used for the command, control, and coordination of emergency response. All State, Federal and Local agencies that respond to oil and hazardous materials spills use ICS. The FEMA website at [FEMA](https://www.fema.gov/incident-command-system-resources) is an excellent source for ICS training and resources.

**Oil spill cleanup contractor**

Oil spill cleanup contractors are often referred to as Oil Spill Response Organizations (OSRO). By law, each oil spill contingency plan must list at least one Rated OSRO under contract to the Inland Facility. Owners/operators can enter into a contact or agreements for services in which the OSRO can provide coverage that meets regulatory requirements. Designating a Rated OSRO under contract relieves one of the need to own or have the particular capability that the OSRO is providing. Usually, this can be accomplished by contacting or retaining at least one OSRO Rated by OSPR. The OSRO Rating program details can be found at <https://www.wildlife.ca.gov/OSPR/Science/OSRO>. A matrix listing of Statewide Rated OSRO’s will be available for review in October 2015. The owner/operator should contact the OSRO directly to retain their services in order to meet specific response times and daily recovery rates.

As an alternative, owners/operators who do not wish to contract with a Rated OSRO for Terrestrial cleanup services may apply for and get rated themselves; but this means owner/operators must agree to adhere to the OSRO Terrestrial rating requirements.

**Qualified Individual (QI)**

The Qualified Individual (QI) represents the facility, pipeline, or railroad during an incident. Some basic requirements for a QI include mastery of the English language, location in the US, 24 hour availability, knowledge of the contingency plan and full authority to implement it, including spending authority. Sometimes QI services and Spill Management Team services are the same company or individuals.

**Spill Management Teams (SMT)**

The Spill Management Team (SMT) is a group of trained personnel identified in a response plan to manage an incident using ICS. The SMT can either be staffed by Inland Facility personnel or be a contracted service. A list of plan consultants who also perform SMT duties for plan holders can be found on the [OSPR website](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=44308&inline=true). This is **not** an all inclusive list and Plan Holders must contact those companies directly to determine what services they provide. Inland Facility staff that are designated in the contingency plan with ICS roles at a spill (ie. the SMT) must be well versed in ICS and be capable of the tasks associated with their ICS position.

**Agent for service of process**The agent for service of process must be designated to receive legal documents on behalf of the Plan Holder. The agent or company shall be located in California.

**Reasonable Worst Case Spill volume (RCWS)**

Reasonable Worst Case Spill (RWCS) is a volume of oil used to determine the amount of equipment and services a plan holder must own or contract for. If a Plan Holder does not employ enough personnel or own the proper response equipment they must contract with at least one Rated OSRO in order to fulfill the regulatory requirements for their oil spill contingency plan. Plan Holders may need one or more OSRO’s to cover spill planning needs; they need not all be rated (see the OSRO matrix online). A list of Rated OSROs can be found at <https://www.wildlife.ca.gov/OSPR/Science/OSRO>

Owners/operators who have different types of facilities (pipeline and production facility) that impact the same county or Response Planning Area (RPA) need only use the largest RWCS for each RPA for which they pose risk. If largest RWCS only requires a terrestrial service and smaller risk areas are identified in RPA that required on-water services, owners/operators shall have the necessary response resources to response to both.

**Risk and Hazard Analysis and Oil Spill Consequences**

Once the RWCS has been determined, the owner/operator must identify an area, location, or hazard where the greatest risk of a spill could occur. With this volume, the plan must then identify the environmental consequences from a release of the RWCS using the most pessimistic water, air, and land dispersion. An oil spill modeling program can be used to create this trajectory.

Based on the trajectory, the plan must include an Oil Spill Consequence Analysis (OCA). This OCA must identify any habitat, and species to be affected, including rare, threatened, or endangered species. Additional environmental, economical, and commercial considerations for the OCA can be found in the regulations. If an Area Contingency Plan (ACP) or Geographic Response Plan (GRP) exists the owner/operator may point to this requirement. In no ACP or GRA exists, they shall then describe how they will protect those resources at risk.

**Response times for equipment arrival & minimum equipment requirements**

This involves personnel and equipment being on-scene at specific times with the right amount of equipment and trained personnel to deploy and operate it. Timeframes are indicated by number of hours after an incident that equipment will arrive on-scene, such as 6, 12 and 24 hours. Along with these on-scene times a certain amount of oil spill boom to contain the oil, skimming (on-water recovery), and storage for the oil skimmed is required. Terrestrial services require equipment such as backhoe, bulldozers, and storage bins. Once the equipment arrives on-scene it must be deployed within one hour.

**Shoreline clean-up**

Shoreline cleanup response resources are required by regulation but this is not a service necessarily provided by a Rate OSRO. The only services for which OSPR rates OSROs are Containment, On-water and Terrestrial recovery, Storage, and Shoreline Protection. Owners/operators who may impact shorelines need to ensure they own or have under contract adequate equipment and personnel to clean up their RWCS.

Shoreline protection strategies are identified in the ACP’s or GRP’s. Some inland GRP’s have been created and can be referenced in the contingency plan. If no booming strategies are identified in GRP’s or ACP’s in relevant areas, response strategies must be created and tested.

**Announced and unannounced drills**

Announced and unannounced drills may be called by the OSPR Administrator at any time to ensure the contingency plan will work in a spill. OSPR unannounced plan holder drills are coordinated with other Federal and State agencies to ensure an undue burden is not placed on industry. These types of drills may also include a facility owned equipment inspection.

Announced industry drills and exercises are addressed in a separate OSPR guidance document.

**Notification**It is recommended that the Inland Facility owner/operator place emergency notification numbers (State, Federal and local) on the first page or in the front of the plan. This will ensure personnel can make immediate notification without having to look for the numbers. All notifications must be made immediately or within 30 minutes after discovery of spill or threaten discharge.

**Links:**

California Department of Fish and Wildlife, Office of Spill Prevention and Response <https://www.wildlife.ca.gov/OSPR>

Contingency Plan Regulations: <https://www.wildlife.ca.gov/OSPR/Legal/OSPR-Regulations-Index>

Streamlined Contingency Plan: <https://www.wildlife.ca.gov/OSPR/Preparedness>