



January 14, 2021

CSI Client Advisory 2-2021

SUBJECT: Notice of Proposed Rulemaking: State of California Non-Tank Vessel Fee Increase

California Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR) is proposing to amend the California Code of Regulations (CCR) to increase the fee assessed against non-tank vessels to obtain a California Certificate of Financial Responsibility (CA COFR).

The proposed amendments can be found attached to this advisory and cover both the Oil Spill Prevention and Administration Fund Fee (14 CCR 870.17) as well as the Financial Responsibility (14 CCR 791.7 and 793). There are quite a few administrative changes to the text of the regulation as well as to the format of the CA COFR application. All documents associated with this rulemaking file can also be found on the [OSPR Non-Tank Vessel Fee web page](#).

Written Comment Period

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 1700 (Pacific Standard Time) on Monday, February 22, 2021. All written comments must be received by OSPR by then in order to be considered.

Written comments may be submitted by mail or email to the following:

Department of Fish and Wildlife
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, California 94244-2090

This Client Advisory, along with previously issued CSI Advisories, can be retrieved from our website, www.compliancesystemsinc.com. Should you have any questions regarding this advisory, please do not hesitate to contact our office at csi@compliancesystemsinc.com or +1-912-233-8181.

CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH & GAME
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE
CHAPTER 6. FUND ADMINISTRATION
SECTION 870.17

§ 870.17. Oil Spill Prevention and Administration Fund Fees.

(a) The Administrator shall establish a barrel fee and a nontank vessel fee. Each fee shall be deposited into the Oil Spill Prevention and Administration Fund, as required by article 6 of chapter 7.4, division 1, title 2 of the Government Code (commencing with Section 8670.38).

(b) Barrel Fee

(1) The barrel fee shall not exceed six and one-half cents (\$0.065) per barrel of crude oil or petroleum products, rounded to no more than four decimal places, received at a marine terminal or refinery, by any mode of delivery that passes over, across, under, or through waters of the state from within or outside the state. The owner of the crude oil or petroleum products shall pay the fee.

(2) The barrel fee is set at six and one-half cents (\$0.065) per barrel.

(3)(A) ~~The State Board of Equalization (Board)~~ California Department of Tax and Fee Administration shall collect the barrel fee, pursuant to part 24 of division 2 of the Revenue ~~&and~~ Taxation Code (commencing with section 46001), and deposit it into the Oil Spill Prevention and Administration Fund in the State Treasury. The ~~Board's~~ California Department of Tax and Fee Administration's regulations regarding collection of the barrel fee are found at chapter 4.5 of division 2 of title 18 of the California Code of Regulations (commencing with section 2231).

(B) Annually by October 1~~st~~, the Administrator will notify the ~~Board~~ California Department of Tax and Fee Administration of the fee rate for the next calendar year. After such notice if the Administrator determines that the barrel fee rate must be changed, the Administrator will notify the ~~Board~~ California Department of Tax and Fee Administration at least 90 days before the first day of the calendar quarter the adjusted rate is to be effective.

(4) The barrel fee shall only be imposed and collected upon the first delivery of each barrel of crude oil or petroleum products to a refinery or marine terminal, and not upon subsequent movement of that same barrel of crude oil or petroleum products, or upon petroleum products derived therefrom after that first delivery to a marine terminal or refinery. A marine terminal operator or a refinery operator receiving petroleum products derived from crude oil refined in the state may presume the fee has been previously collected. If there is a dispute regarding whether the fee has already been collected or paid, the burden is upon the marine terminal operator or refinery operator to establish that fact.

(5) Operators of refineries, marine terminals, and pipelines transporting crude oil or petroleum products shall register with the ~~Board~~ California Department of Tax and Fee Administration, pursuant to section 46101 of the Revenue and Taxation Code.

(c) Nontank Vessel Fee

(1) The nontank vessel fee shall be an amount that is based upon the Administrator's costs to implement requirements relating to nontank vessels, pursuant to section 8670.41 of the Government Code.

(2) The nontank vessel fee is set as follows:

(A) An operator or owner of a nontank vessel that has a carrying capacity of over 6,500 barrels of ~~oil~~ fuel, shall submit a nonrefundable ~~fee of \$3,250~~ fee of \$3,750 ~~fee~~ per nontank vessel.

(B) An operator or owner of a nontank vessel that has a carrying capacity greater than 500 barrels of ~~oil~~ fuel and less than or equal to 6,500 barrels of ~~oil~~ fuel, shall submit a nonrefundable ~~fee of \$1,950~~ fee of \$2,250 ~~fee~~ per nontank vessel.

(C) An operator or owner of a nontank vessel that has a carrying capacity of 500 barrels of ~~oil~~ fuel or less shall submit a nonrefundable ~~fee of \$650~~ fee of \$750 ~~fee~~ per nontank vessel.

(D) A nontank vessel owned and operated by the state of California or a federal agency that has a carrying capacity of over 7,500 barrels of ~~oil~~ fuel, shall submit a nonrefundable ~~fee of \$3,250~~ fee of \$3,750 ~~fee~~ per nontank vessel.

(E) A nontank vessel owned and operated by the state of California or a federal agency that has a carrying capacity greater than 500 barrels of ~~oil~~ fuel and less than or equal to 7,500 barrels of ~~oil~~ fuel, shall submit a nonrefundable ~~fee of \$1,950~~ fee of \$2,250 ~~fee~~ per nontank vessel.

(3) The nontank vessel fee shall be submitted for each vessel by the owner or operator of a nontank vessel at the same time the owner or operator submits to the Administrator a new or renewal application for a certificate of financial responsibility, pursuant to section 791.7 of chapter 2 of this subdivision.

(4) The owner or operator shall not deduct any processing fees from the amount submitted.

Note: Authority cited: Sections 8670.39, 8670.40 and 8670.41, Government Code.
Reference: Sections 8670.37.58, 8670.40 and 8670.41, Government Code; Assembly Bill 815 (Chapter 108, Statutes of 2015), Section 5 uncodified.

**CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 1. FISH AND GAME COMMISSION - DEPARTMENT OF FISH & GAME
SUBDIVISION 4. OFFICE OF SPILL PREVENTION AND RESPONSE
CHAPTER 2. FINANCIAL RESPONSIBILITY**

§ 791.7. Procedures for Application for California Certificate of Financial Responsibility.

(a) The following application forms shall be used to obtain a certificate:

(1) Application for Certificate of Financial Responsibility for Operators or Owners of Tank Vessels, form DFW 1925 (8/14). Vessels carrying oil as secondary cargo shall use DFW 1925 to obtain a certificate of financial responsibility.

(2) Application for Certificate of Financial Responsibility for ~~Operators or Owners or~~ Operators of Nontank Vessels, form DFW 1972 (~~8/14~~07/21).

(3) Application for Certificate of Financial Responsibility for Marine Facilities, form DFW 1924 (8/14).

(4) Application for Certificate of Financial Responsibility for Owners of Oil, form DFW 1947 (8/14).

(5) Application for Certificate of Financial Responsibility for Mobile Transfer Units, form DFW 1946 (8/14).

(6) Application for Certificate of Financial Responsibility for Inland Facilities, form DFW 1932 (NEW 06/21/17).

(b) These forms shall collectively be referred to as applications and are incorporated by reference herein. The application forms may be ~~obtained directly from the Administrator~~ or found on the website of the Office of Spill Prevention and Response, and, upon completion, submitted to the following:

Courier Service:

~~DEPARTMENT OF FISH AND WILDLIFE~~Department of Fish and Wildlife
~~OFFICE OF SPILL PREVENTION AND RESPONSE~~Office of Spill Prevention and Response (OSPR)
~~1700 K STREET, SUITE 250~~1010 Riverside Parkway
~~SACRAMENTO, CA 95811~~West Sacramento, CA 95605
<https://www.wildlife.ca.gov/OSPR>

U.S. Mail:

Department of Fish and Wildlife
Office of Spill Prevention and Response
Post Office Box 944209
Sacramento, CA 94244-2090

~~E-mail contacts:~~

For facilities - ~~CaCOFRcacofr-Ffacilities@Wwildlife.ca.gov~~

For tank vessels or vessels with oil as cargo - ~~CaCOFRcacofr-Ttank@Wwildlife.ca.gov~~

For nontank vessels - ~~CaCOFRcaofr-Nnontank@Wwildlife.ca.gov~~

(c) General Application Content and Procedures.

(1) All applications and supporting documents shall be prepared in English and all monetary terms shall be in U.S. currency.

(2) All spaces on the application shall be completed with either the requested information or the phrase "Not applicable."

(3) All applications shall be signed by an authorized representative of the owner or operator applicant, whose title shall be indicated in the space provided on the application.

(4) If the application is submitted by an agent on behalf of the owner or operator (e.g. a consultant), the Administrator may request a written delegation of authority authorizing the agent to submit the application on behalf of the owner or operator.

(5) Each applicant shall provide the name, address, telephone number and e-mail of an agent for service of process designated to receive legal documents on behalf of the applicant. The agent shall be located in California. If the applicant contracts for this service, the Administrator may request documentation that the agent for service of process acknowledges this capacity.

(6) An owner or operator of a nontank vessel shall submit a nonrefundable fee for each nontank vessel with each new or renewal application. The fee is, as set by section 870.17 of this subdivision. ~~Processing charges~~ The owner or operator shall not be deducted any processing charges from the fee. ~~The fee is due with each nontank vessel application renewal.~~ The fee amounts are as follows:

(A) For a nontank vessel that has a carrying capacity of over 6,500 barrels of oil-fuel, or a carrying capacity of over 7,500 barrels of oil-fuel if the vessel is owned and operated by California or a federal agency, a fee of ~~\$3,250~~ \$3,750 per vessel, or;

(B) For a nontank vessel that has a carrying capacity greater than 500 barrels of oil-fuel but less than or equal to 6,500 barrels of oil-fuel, or a carrying capacity greater than 500 barrels of oil-fuel but less than or equal to 7,500 barrels of oil-fuel if owned and operated by California or a federal agency, a fee of ~~\$1,950~~ \$2,250 per vessel, or;

(C) For a nontank vessel that has a carrying capacity of 500 barrels of oil-fuel or less, a fee of ~~\$650~~ \$750 per vessel.

(7) If, prior to certificate issuance, an applicant becomes aware of a material change in any of the facts contained in the application or supporting documents, the applicant shall, within seven calendar days of becoming aware of any change, notify the Administrator in writing of the change.

(d) For new or renewal applications for vessels only, any evidence submitted to demonstrate financial responsibility, and any applicable nontank vessel fees, shall be

received by the Office of Spill Prevention and Response at least 10 calendar days prior to operating where a spill may impact waters of the state. After expiration of any of the methods of evidence used to demonstrate financial responsibility, documentation of the financial responsibility renewal shall be provided at least 10 calendar days before operating where a spill may impact waters of the state.

(e)(1) Applications and evidence of financial responsibility submitted by applicants will be reviewed within 30 calendar days of receipt by the Office of Spill Prevention and Response. Certificates will be issued within that period provided that the following has been received: (1) adequate information was furnished in the application, (2) acceptable evidence of financial responsibility, and (3) receipt of the nontank vessel fee if applicable.

(2) If the information contained in the application, evidence of financial responsibility, or any supplemental information provided is insufficient, the Administrator shall notify the applicant of the nature of the insufficiency, and the applicant shall then have 30 calendar days from the date of notification to provide the missing information or additional evidence.

(3) Certificates will be issued within 15 calendar days of receipt of sufficient additional evidence or supplemental information. In the event that acceptable evidence or adequate information is not received, the Administrator may deny the application by providing written notice specifying the reasons for the denial.

(f) Each certificate issued by the Administrator shall be valid for two years except for the following:

(1) The Administrator may issue a certificate for a facility for a period of no longer than three years if the Administrator finds that:

(A) Continued operation is necessary to finance abandonment of the facility; and

(B) The financial resources the applicant is able to demonstrate are reasonably sufficient to cover any spill-related damages from the facility.

(2) A certificate for a mobile transfer unit shall be valid for one year.

(g) Financial Responsibility Amounts for Tankers, Nontank Vessels, Large Tank Barges, and Owners of Oil.

(1) The amounts of financial responsibility that must be demonstrated are as follows:

(A) Owners or operators of tankers, large tank barges, or owners of, or persons accepting responsibility for the oil, shall demonstrate their current financial ability to pay at least \$1 billion (\$1,000,000,000).

(B) Except as provided in (C) of this section below, owners or operators of nontank vessels shall demonstrate their current financial ability to pay at least \$300 million (\$300,000,000).

1. Certificates of financial responsibility are not required for non-self propelled nontank vessels that do not carry any oil.

(C) Owners or operators of nontank vessels that have a carrying capacity of 6,500 barrels of ~~oil~~fuel or less, or a carrying capacity of 7,500 barrels of ~~oil~~fuel or less for nontank vessels owned and operated by California or a federal agency, shall demonstrate their current financial ability to pay the following amount of financial responsibility:

1. \$2 million (\$2,000,000) for those that have a carrying capacity from less than 1 to not more than 10 barrels;
2. \$5 million (\$5,000,000) for those that have a carrying capacity greater than 10 to not more than 50 barrels;
3. \$10 million (\$10,000,000) for those that have a carrying capacity greater than 50 to not more than 500 barrels;
4. \$18.9 million (\$18,900,000) for those that have a carrying capacity greater than 500 to not more than 1,000 barrels.
5. For nontank vessels that have a carrying capacity greater than 1,000 barrels of fuel to a carrying capacity of not more than 6,500 barrels oil~~of fuel~~, or 7,500 barrels of fuel for nontank vessels owned and operated by California or a federal agency, the amount of financial responsibility shall be calculated as follows: subtract 1,000 barrels from the total carrying capacity of ~~oil~~fuel of the nontank vessel; multiply this amount by \$5,670 (which represents 30 percent of the per barrel clean-up and damage cost of spilled oil of \$18,900); then add \$18.9 million (\$18,900,000).
6. The amount of financial responsibility shall not exceed the amount required for nontank vessels as set forth in section 8670.37.58 of the Government Code.
7. Certificates of financial responsibility are not required for non-self propelled nontank vessels that do not carry any oil.

(2) The amounts in this subsection are in effect unless amended by section 8670.37.53, 8670.37.58, or 8670.41 of the Government Code.

(h) Financial Responsibility Amounts for Marine Facilities, Inland Facilities, Small Marine Fueling Facilities, Mobile Transfer Units, Small Tank Barges, and Vessels Carrying Oil As Secondary Cargo.

(1) The Administrator shall determine the amount of financial responsibility that must be demonstrated as follows:

(A) For small tank barges:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times 30 percent of the maximum cargo capacity, as measured in barrels, of the small tank barge.
2. The amount of financial responsibility shall not exceed the minimum amount required for tankers as set forth in section 8670.37.53 of the Government Code. Currently this is \$1 billion (\$1,000,000,000).

3. The amount of financial responsibility required for small tank barges used exclusively to transfer, transport, store, or mechanically treat oily waste water may be reduced if allowed by the Administrator following reconsideration pursuant to the procedures established in subsection (j) of this section. If a reduced financial responsibility amount is allowed, it shall be based on: \$12,500 times 30 percent of the maximum concentration of oil found in the oily waste water, as measured in barrels.

4. In no case will the amount of financial responsibility be reduced below the minimum of \$1 million (\$1,000,000).

(B) For marine facilities (except for offshore marine facilities, small marine fueling facilities, and mobile transfer units addressed under subsections (C), (D), and (E), respectively):

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times the reasonable worst case spill volume, as measured in barrels, calculated in the applicant's oil spill contingency plan, in accordance with subsections 817.02(d)(1)(A), (B), (C), and (E) of this subdivision.

2. The amount determined pursuant to paragraph (1) above shall not be less than \$1 million (\$1,000,000) or in excess of \$300 million (\$300,000,000), unless otherwise determined by the Administrator following reconsideration pursuant to subsection (j) of this section.

(C) For offshore marine facilities engaged in drilling operations which may have the potential for resulting in an uncontrolled release of oil from the reservoir into marine waters:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times the reasonable worst case spill volume, as measured in barrels. This volume is based on calculations and parameters proposed by the offshore marine facility in the applicant's oil spill contingency plan, in accordance with subsection 817.02(d)(1)(C) or (D) of this subdivision, plus:

2. The amount determined pursuant to paragraph (1) above shall not be less than \$10 million (\$10,000,000) or in excess of \$300 million (\$300,000,000), unless otherwise determined by the Administrator following reconsideration pursuant to subsection (j) of this section.

(D) For small marine fueling facilities (except for mobile transfer units):

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times the reasonable worst case spill volume, as measured in barrels, calculated in the applicant's oil spill contingency plan, in accordance with subsection 817.03(d)(1)(A).

(E) For Mobile Transfer Units:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times 30 percent of the maximum cargo capacity, as measured in barrels, of the mobile transfer unit.

2. The amount of financial responsibility required for mobile transfer units used exclusively to transport oil-water mixture may be reduced if allowed by the Administrator following reconsideration pursuant to the procedures established in subsection (j) of this section. If a reduced financial responsibility amount is allowed, it shall be based on \$12,500 times 30 percent of the maximum concentration of oil found in the oily waste water, as measured in barrels.

(F) For Vessels Carrying Oil As Secondary Cargo:

1. The product derived by multiplying the maximum per barrel clean-up and damage cost of spilled oil (\$12,500) times 30 percent of the maximum oil cargo capacity, as measured in barrels, of the vessel.

2. The amount of financial responsibility shall not exceed the minimum amount required for tankers as set forth in section 8670.37.53 of the Government Code.

3. The amount of financial responsibility shall at least be a minimum of \$1 million (\$1,000,000).

(G) For Inland Facilities (including railroads):

1. If the applicant only poses a risk to inland waters designated as intermittent or ephemeral in the National Hydrography Dataset and the statewide quarter-mile buffer data layer (as depicted in the Southwest Environmental Response Management Application, on the National Oceanic and Atmospheric Administration's website, the required financial responsibility is the product of the reasonable worst case spill volume in barrels (as determined in the applicant's oil spill contingency plan pursuant to subsection 817.04(k)(3) of this subdivision) multiplied by \$6,000.

2. If the applicant poses a risk to inland waters designated as perennial in the National Hydrography Dataset, the required financial responsibility is the product of the reasonable worst case spill volume in barrels (as determined in the applicant's oil spill contingency plan pursuant to subsection 817.04(k)(3) of this subdivision) multiplied by \$10,000.

3. The maximum financial responsibility that may be required for an inland facility is \$100 million (\$100,000,000).

(i) Application renewals.

(1) Certificate renewal applications are sent by the Administrator to the certificant approximately 45 calendar days prior to the expiration of the existing certificate. However, failure to receive this renewal notice does not relieve the certificant of the obligation to timely renew the certificate. In order to renew a certificate, renewal applications must be submitted prior to the expiration date.

(2) If at any time after a certificate has been issued, a certificant becomes aware of a material change in any facts contained in the application or supporting documents, which includes, but is not limited to the certificant ceasing to be the owner or operator, or that the method of demonstrating financial responsibility will be terminated, or any coverage thereunder will cease, then the certificant shall notify the Administrator, in

writing, within seven calendar days of becoming aware of the material change. If there is a change in applicant name, or vessel name change, or if the certificate expires, a new certificate will be necessary.

(3) If the method of demonstrating financial responsibility, as provided in the certificant's application is about to expire, the certificant shall submit to the Administrator, prior to expiration, proof of renewal or change in the method of demonstrating financial responsibility. As applicable, see subsection 795(a) Insurance, (b) Self-insurance, (c) Surety Bond, (d) Letter of Credit, (e) Guaranty, or (f) Protection and Indemnity Clubs; these sections describe the expiration and renewal process, and time-frame for submission of renewal information.

(4) Owners or operators of nontank vessels renewing a certificate shall submit the nonrefundable fee per vessel, as set forth in subsection (b)(6).

(j) Requests for Reconsideration.

(1) Applicants and certificants may submit a written request to the Administrator requesting reconsideration of the amount of financial responsibility that the owner or operator must demonstrate to obtain a certificate, or any decision by the Administrator to deny issuance of a certificate or a renewal certificate. Requests must be submitted within 15 business days from the date that the applicant or certificant receives notice of denial or of the amount of financial responsibility to be demonstrated. The Administrator may waive the ~~15~~-15-day period for submitting a request.

(2) The request must contain the basis for requesting reconsideration and, if applicable, provide evidence which rebuts the basis for the Administrator's financial responsibility determination, the denial of the application, or the denial of a renewal application.

(3) Within 15 business days following receipt of the request for reconsideration, the Administrator will send the applicant or certificant either a notice that the Administrator shall adhere to his or her earlier decision (i.e., deny the request for reconsideration); or a certificate shall be issued; or a revised notice of financial responsibility shall be issued.

Note: Authority cited: Sections 8670.7.5, 8670.37.53, and 8670.41, Government Code. Reference: Sections 8670.37.53, 8670.37.54, 8670.37.58 and 8670.41, Government Code.

§ 793. Certificate Requirements For Oil Transfers At Marine Terminals And Active Offshore Marine Facilities.

(a) Each owner or operator of a marine terminal within the state may only transfer oil to or from a tank vessel or vessel carrying oil as secondary cargo following receipt and verification of a copy of the certificate of financial responsibility issued by the Administrator to the owner or operator of the vessel, or from the owner or person accepting responsibility for all of the oil contained in the vessel, as well as all the oil to be transferred to or from the vessel.

(b) Each marine terminal owner or operator may only transfer oil to or from a vessel which is used for, or is intended to be used for, transferring oil as cargo to or from a

second vessel located within twelve miles of the California shoreline, following receipt and verification of a copy of the certificates issued for both vessels or all of the oil contained in both vessels, as well as all the oil to be transferred to or from both vessels.

(c) Each marine terminal owner or operator shall be determined to have met the verification requirements set forth in subsections (a) and (b) of this section, when, at the time of oil transfer, the marine terminal owner or operator has:

(1) Obtained verbal verification that all certificates are current and applicable to the vessels and, if applicable, to all of the oil contained in or to be transferred to or from the vessels from the persons responsible for the vessels, or from the persons responsible for the oil to be transferred to or from the affected vessels, or from persons authorized to provide this verification; and

(2) Visually inspected all relevant manifests or similar documentation (e.g., U.S. Customs Cargo Declarations) to confirm the information ascertained pursuant to (1); and

(3) Assured that the information contained in the certificates of financial responsibility is consistent with the information acquired pursuant to (1) and (2) above.

(d) The owner or operator of the marine terminal must retain a copy of the certificates obtained in accordance with (b) and (c) for a period of not less than one year.

(e) Owners or operators of mobile transfer units used exclusively to respond to, contain, and clean up oil spills shall be exempt from the financial responsibility requirements set forth in this subchapter, provided the responsible party or the Administrator agrees to indemnify the owner or operator, or the owner or operator is subject to the qualified immunity provisions set forth in Government Code section 8670.56.6.

(f) Special procedures for owners or operators of offshore marine facilities engaged in drilling operations:

(1) The owner or operator of any offshore marine facility from which drilling operations are being carried out, where the drilling operations may have the potential for resulting in an uncontrolled release of oil from the reservoir into marine waters, shall demonstrate the financial ability to pay for any damages resulting from the operations of the offshore marine facility during an oil spill from the facility or from the drilling operations. The amount shall be based on the procedures described in subsection 791.7(d)(1)(D) of this chapter.

(2) At such time as an offshore marine facility owner or operator submits an application to the California State Lands Commission or the ~~Division of Oil, Gas and Geothermal Resources~~ Geologic Energy Management Division of the California Department of Conservation, ~~s Geologic Energy Management Division in the Department of Conservation~~ for permission to carry out drilling operations which may have the potential for resulting in an uncontrolled release of oil from the reservoir into marine waters, that owner or operator shall apply for and obtain from the Administrator a new or amended certificate of financial responsibility to comply with the requirements of this chapter. The certificate shall no longer be required once the drilling operations are completed and any risk of spill abated.

Note: Authority cited: Sections 8670.7.5, 8670.37.51, 8670.37.53, 8670.37.54, 8670.37.56 and 8670.37.58, Government Code. Reference: Sections 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.54, 8670.37.55, 8670.37.56, 8670.37.57 and 8670.56.6, Government Code.



APPLICATION FOR CERTIFICATE OF FINANCIAL RESPONSIBILITY FOR OWNERS OR OPERATORS OF NONTANK VESSELS (300 GT OR GREATER)

This form and applicable fees must be received by the Office of Spill Prevention and Response (OSPR) at least 10 calendar days prior to operating in California waters. An oil spill contingency plan is also required, pursuant to Government Code section 8670.29.

~~Certificates of financial responsibility are not required for non-self propelled nontank vessels that do not carry oil of any kind.~~

WARNING: For security purposes all ZIP files transmitted to DFW/OSPR via email will be returned undeliverable.

~~NOTE: A Contingency Plan is also required, pursuant to Government Code Section 8670.29~~

~~Submit 10 days prior to entering California waters~~

Please type or print clearly in English when completing this application. Refer to pages 7 and 8 of this application for complete instructions. **WARNING: For security purposes all Zip files are NOT accepted.**

SECTION A. GENERAL INFORMATION – APPLICANT

APPLICANT INFORMATION

~~1. Company name of a Applicant (must be either the owner or operator or owner of the nontank vessel), and mailing address. Include English equivalent of legal name if customarily written in a language other than English.~~

Company Name:

Mailing Address:

Telephone Number:

Email address:

Applicant is either:

Owner

Operator

VESSEL OWNER

Include English equivalent of legal name if customarily written in a language other than English.

~~2. Company name, mailing address, telephone number, facsimile number, and email address of vessel owner.~~

Company Name:

Mailing Address:

Telephone number:

Facsimile number:

Email address:

VESSEL OPERATOR

Include English equivalent of legal name if customarily written in a language other than English.

~~3. Company name, mailing address, telephone number, facsimile number, and email address of vessel operator.~~

Company Name:

Mailing Address:

Telephone number:

Facsimile number:

Email address:

CONTACT PERSON (Applicant or Designee)

~~4. Company name, contact name, mailing address, telephone number, facsimile number, and email address of~~
~~person to contact if necessary to clarify this application. Include English equivalent of legal name if customarily~~
~~written in a language other than English.~~

Company Name:

Contact Name:

Mailing Address:

Telephone number:

Facsimile number:

Email address:

CERTIFICATE DELIVERY

~~5. Certificates (including correspondence) will be delivered to the applicant or designee at the following~~
~~address (no P.O. Boxes). Include telephone number, facsimile number, and email address. English equivalent of~~
~~legal name if customarily written in a language other than English.~~

Company Name:

Mailing Address:

Telephone number:

Facsimile number:

Email address:

AGENT FOR SERVICE OF PROCESS

Agent must provide California address. No P.O. Boxes.

Name:

Mailing Address:

Telephone number:

Email address:

Please indicate fee paid submitted with application. Refer to instructions on page 7, items 2. (A), (B), (C).

~~\$650~~750:

~~\$1,950~~2,250:

~~\$3,250~~3,750:

(NOTE: please see instructions on pages 7 and 8)

SECTION B. VESSEL DATA

1. Registered name of vessel, flag, registry number, radio call sign, Lloyd's Register number/IMO number.

a. Vessel Name:

Previous Name (if applicable):

b. Flag:

c. Registry Number:

d. Radio Call Sign:

e. Lloyd's Register Number/IMO Number:

2. Is the vessel "double hull" as described in 46 USC, Section 3703(a)?

Yes:

No:

2. Gross Tonnage:

Regulatory
(U.S. Only):

International
Convention:

Tonnage:

3. Type of nontank vessel (dry cargo, bulk carrier, containership, reefer, roll on-roll off, passenger, fishing, deck barge, LPG/LNG carrier, etc.)

Type:

[Redacted]

4. Total fuel tank capacity in U.S. barrels:

Fuel capacity (bbls):

[Redacted]

Financial Responsibility Calculation (for use only with total carrying capacities greater than 1,000 barrels to 6,500 barrels, or 7,500 if owned and operated by a California or Federal agency).

$$\underline{\hspace{10em} \text{(total carrying capacity) minus (-) 1,000 (bbls) = } \hspace{10em} \text{times (x) \$5,670 = } \hspace{10em}} \\ \underline{\$ \hspace{10em} \text{plus (+) \$18,900,000 = } \$ \hspace{10em}}$$

For financial responsibility amounts for carrying capacities other than the above, see Section C.

5. Owned and Operated by California or a Federal Agency?

Yes:

[Redacted]

No:

[Redacted]

6. Gross tonnage:

Tonnage:

[Redacted]

7. Agent for Service of Process. Agent must provide California address. No P.O. Boxes.

Name:

[Redacted]

Mailing Address:

[Redacted]

Telephone number:

[Redacted]

SECTION C. ~~EVIDENCE OF~~ FINANCIAL RESPONSIBILITY AMOUNTS

1. Except as provided in (2) below, owners or operators of nontank vessels (300 GT or greater) must demonstrate the financial ability to pay at least \$300 million ~~U.S. dollars (USD \$300,000,000)~~ for damages arising from an oil spill caused by a spill. Certificates of financial responsibility are not required for non-self propelled nontank vessels that do not carry oil of any kind.
2. ~~Owners or Operator(s) or owner(s)~~ of nontank vessels that have a carrying capacity of 6,500 barrels of oil fuel or less, or a carrying capacity of 7,500 barrels of oil fuel or less for nontank vessels owned and operated by California or a federal agency, shall demonstrate their current financial ability to pay the following appropriate amount of financial responsibility:

- ~~\$2,000,000 for those that have~~ For vessels with a carrying capacity ~~from~~ of less than 1 barrel but to not more than 10 barrels: \$2 million (\$2,000,000);
- ~~\$5,000,000 for those that have~~ For vessels with a carrying capacity greater than 10 barrels but to not more than 50 barrels: \$5 million (\$5,000,000);
- ~~\$10,000,000 for those that have~~ For vessels with a carrying capacity greater than 50 barrels but to not more than 500 barrels: \$10 million (\$10,000,000);
- ~~\$18,900,000 for those that have~~ For vessels with a carrying capacity greater than 500 barrels but to not more than 1,000 barrels: \$18.9 million (\$18,900,000).
- ~~Those nontank~~ For vessels ~~that have~~ with a carrying capacity greater than 1000 barrels of fuel but to not more than 6,500 barrels of fuel, or 7,500 barrels for nontank vessels owned and operated by California or a federal agency, demonstration shall determine the amount of financial responsibility ability to pay shall be based on the following calculation as follows: \$ subtract 1,000 barrels from the total carrying capacity of oil fuel of the nontank vessel; M multiply this amount by \$5,670 (which represents 30% of the cargo multiplied by the maximum per barrel clean-up and damage cost of spilled oil fuel of \$18,900); then add \$18.9 million (\$18,900,000).

3. ~~Operators or owners of nontank vessels must check all method(s) to be used to demonstrate evidence of financial responsibility in item 4 below. For each method used attach copies of the required evidence as indicated below.~~

4. ~~Method(s) for demonstrating financial responsibility (Indicate the method or methods selected). See next page for options.~~

SECTION D. EVIDENCE OF FINANCIAL RESPONSIBILITY

Financial responsibility must be demonstrated using one or more of the following methods. For each method used, attach copies of the required evidence. For complete information regarding demonstration of financial responsibility, refer to Title 14, California Code of Regulations, subsections 795(a) through (i).

Proof of entry Protection and Indemnity Club.

Submit the following evidence:

Copy of the **Certificate of Entry**, all addenda pertaining to the amount and applicability of oil pollution cover and amount of deductibles. ~~A P&I Club Confirmation letter does not meet this requirement.~~

NOTE:

~~Annually, certificate holders are required to submit written certification of renewal of P & I Club membership within 45 days after expiration of current coverage. Certificate holders must submit complete documentation acceptable to the Administrator showing renewal of P & I Club membership as the method for demonstrating evidence of financial responsibility. Acceptable written documentation includes, but is not limited to, a copy of the renewal~~

~~Certificate of Entry or addendum, which contains the minimum information required by Title 14, California Code of Regulations, Section 795(f), and any additional terms or limitations which may affect coverage, including the renewal and new expiration dates.~~

1. INSURANCE~~Insurance.~~

Submit any of the following evidence:

- (A) Insurance policy or other documentation, and a certificate of insurance specifying the nature, type, amount of insurance, language that the policy covers damages as specified in Government Code section 8670.56.5, and any conditions and limitations in the coverage for marine pollution liability; or
- (B) A certificate of insurance that is acceptable to the Administrator and an endorsement executed by the underwriter or insurer which contains the language set forth in the California standard endorsement. Refer to the California Endorsement for ~~Tanker, Barges, and Nontank Vessels, FG OSPR Form 1929 (2/08)~~ Oil Spill Liabilities, form DFW 1962 (6/21/2017); or
- (C) Similar or comparable assurance acceptable to the Administrator.

~~[Refer to Title 14, California Code of Regulations, Section 795(a)-(g) for complete information regarding this method for demonstrating financial responsibility.]~~

Certificate holders using insurance must submit proof of insurance annually within 30 days of expiration.

2. PROTECTION AND INDEMNITY CLUB

Submit the following evidence:

Copy of the Certificate of Entry, all addenda pertaining to the amount and applicability of oil pollution coverage and deductible amounts. A P&I Club Confirmation letter does not meet this requirement.

NOTE: Annually, certificate holders are required to submit written certification of renewal of their P & I Club membership within 45 days after expiration of current coverage. Certificate holders must submit complete documentation acceptable to the Administrator showing renewal of P & I Club membership as the method for demonstrating evidence of financial responsibility. Acceptable written documentation includes, but is not limited to, a copy of the renewal Certificate of Entry or addendum, which contains the minimum information required by Title 14, California Code of Regulations, Section 795(f), and any additional terms or limitations which may affect coverage, including the renewal and new expiration dates.

Other (e.g. self-insurance, surety bond, etc.):

3. OTHER

A. SELF-INSURANCE - For complete requirements see Title 14, CCR, subsection 795(b).

B. SURETY BOND - For complete requirements see Title 14, CCR, subsection 795(c).

C. LETTER OF CREDIT - For complete requirements see Title 14, CCR, subsection 795(d).

D. GUARANTY - For complete requirements see Title 14, CCR, subsection 795(e).

E. OTHER EVIDENCE OF FINANCIAL RESPONSIBILITY – Applicants may provide other evidence of financial responsibility that is not specifically mentioned in this section and which is acceptable to the Administrator.

SECTION ~~D~~E. DECLARATION

(Must be completed by all applicants)

I, _____ (print name) am the applicant, or I am

a principal of the applicant, an authorized agent*, or an official of the applicant, and have the authority to sign this application on behalf of the applicant. I DECLARE under penalty of perjury that I have examined this application, including all accompanying schedules and statements, and to the best of my knowledge, information, and belief, find it to be true, correct, and complete.

Furthermore, it is agreed that the applicant named in Section A of this application is the responsible party in the event of an oil spill. I execute this declaration in my capacity as applicant, principal of the applicant, official of the applicant, or as the authorized agent as evidenced by the delegation of such authority provided below.

DATE

Signature

Title or Official Capacity

NOTE: If the Declaration is signed by an authorized agent of the applicant, the applicant or a principal of the applicant must sign the following Section ~~E~~F. Delegation of Authority

SECTION ~~E~~F. DELEGATION OF AUTHORITY BY THE APPLICANT

(Must be completed by the applicant or principal of the applicant if the ~~above~~ Declaration in Section E has been executed by an agent acting on behalf of the applicant)

I, _____ (name of the applicant)

hereby declare that _____ (name of authorized agent whose signature appears in Section ~~D~~E) is authorized to submit an application for a California Certificate of Financial Responsibility on behalf of the applicant.

DATE

Signature

Title or Official Capacity

INSTRUCTIONS

Owner or operator of a nontank vessel is defined in Government Code section 8670.3.

1. ~~Owner or operator means, in the case of a nontank vessel, any person who owns, has ownership interest in, operates, charters by demise, or leases the nontank vessel. This application is comprised of six sections:~~

Section A – General Information

Section B – Vessel Data

Section C – Financial Responsibility Amounts

Section D – Evidence of Financial Responsibility

Section E – Declaration

Section F – Delegation of Authority by the Applicant

Sections A, B, C, D and E must all be completed by the applicant or delegated authority. Section F must be executed by the applicant or a principal of the applicant when an application is signed by an agent of the applicant.

2. Pursuant to Government Code section 8670.37.58, a nontank vessel fee shall be submitted along with the application for a certificate of financial responsibility required pursuant to Government Code section 8670.41. The nonrefundable fee amounts are as follows:

(A) ~~Owners or Operator(s) or owner(s)~~ of nontank vessels with a carrying capacity of over 6,500 barrels of oil, or over 7,500 barrels for nontank vessels owned and operated by California or a federal agency, shall submit a nonrefundable ~~fee of USD \$3,250~~ \$3,750 fee per vessel, or;

(B) ~~Owners or Operator(s) or owner(s)~~ of nontank vessels that have a carrying capacity greater than 500 barrels of oil ~~and but~~ less than or equal to 6,500 barrels of oil, or a carrying capacity greater than 500 barrels of oil ~~and but~~ less than or equal to 7,500 barrels of oil for nontank vessels owned and operated by California or a federal agency, shall submit a nonrefundable ~~fee of USD \$1,950~~ \$2,250 fee per vessel, or;

(C) ~~Owners or Operator(s) or owner(s)~~ of nontank vessels that have a carrying capacity of 500 barrels of oil or less shall submit a nonrefundable ~~fee of USD \$650~~ \$750 fee per vessel.

3. Submit this completed application with a copy of the wire transfer receipt (see item 96. Below for wiring instructions) or a check for the per vessel fee and the remittance information by ~~selecting~~ one of the following methods:

~~U.S. Mail or~~ Courier Service:

Department of Fish and Wildlife
Office of Spill Prevention and Response (~~OSPR~~)
1700 K Street, Suite 250 1010 Riverside Parkway
West Sacramento, CA 95811 95605

Fax: (916) ~~323-4727~~ 371-8941

Email: cacofr-nontank@wildlife.ca.gov

U.S. Mail:

Department of Fish and Wildlife
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, CA 94244-2090

WARNING: For security purposes all ~~ZIP~~ zip files transmitted to CDFW/OSPR via email will be ~~returned~~ undeliverable ~~rejected~~.

~~4. The application is comprised of five sections:~~

~~Section A - General Information~~

~~Section B - Nontank Vessel Data;~~

~~Section C - Evidence of Financial Responsibility;~~

~~Section D - Declaration;~~

~~Section E - Delegation of Authority~~

~~Sections A, B, C and D must all be completed by the applicant or delegated authority. Section E, Delegation of Authority, must be executed by the applicant or a principal of the applicant when an application is signed by an agent of the applicant.~~

~~54. Application Process:~~

~~a. Operators or owners of nontank vessels:~~

- ~~(1) Applications will be reviewed within 2130 calendar days of receipt for owners or operators or owners of nontank vessels.~~
- ~~(2) Certificates will be issued within that period provided that adequate information was furnished in the application and acceptable evidence of financial responsibility has been received.~~
- ~~(3) If a question does not apply, answer "not applicable."~~
- ~~(4) Applications which are incomplete will not be processed until receipt of additional information needed to complete processing.~~
- ~~(5) If additional space is required, supplemental sheets may be attached.~~

~~65. Certificate Renewal Process:~~

~~Certificate renewal applications are sent to the applicant approximately sixty (60) forty-five (45) days prior to the expiration of the existing certificate. In order to renew a certificate, renewal applications must be submitted prior to the expiration date.~~

~~7. Please contact the Financial Responsibility Unit at (916) 324-3413 if you have any questions.~~

~~86. Please follow the wiring instructions provided below. Wiring Instructions:~~

NOTE: DO NOT DEDUCT ANY PROCESSING FEES FROM THE PER VESSEL FEE.
You are responsible for all bank fees upfront. Discuss with your banking representative.
Failure to ensure submission of full fee amount may delay issuance of certificate.

California Department of Fish and Wildlife
Bank of America Wire Transfer Instructions
Department of Fish & Wildlife

Wire to: Bank of America Sacramento Main #1489

For Credit to the State of California

Account #: 14161-00452

ABA #: 0260-0959-3 (Domestic wires only)

Swift Code: BOFAUS3N (International wires only)

Beneficiary: State of Calif., Dept. of Fish & Wildlife CDFW

~~Account #14161-00452~~

Reference: ~~Beneficiary Information - OSPR Account 0320~~

Include ~~v~~ Vessel name (required)

7. Please contact OSPR's Financial Responsibility Unit at (916) 375-5964 if you have any questions.