

OIL SPILL PREVENTION AND RESPONSE
TECHNICAL ADVISORY COMMITTEE (TAC)
http://www.dfg.ca.gov/ospr/tech_advis_comm.asp

Public comments will be accepted for each Agenda item. Five minutes are allowed per commenter per item.

Meeting of
Wednesday, October 3, 2018
9:30 a.m. to 3:10 p.m.

Department of Fish and Wildlife
Yolo Wildlife Area
45211 County Road 32B
Davis, CA 95618

AGENDA

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|---|-------------------------------------|
| 1. INTRODUCTIONS AND WELCOME | 09:30 am – 10:20 am (40 Min) |
| <i>Captain Thomas Cullen, OSPR Administrator</i> | |
| BREAK | 10:20 am – 10:30 am (10 Min) |
| 2. APPROVAL OF MINUTES..... | 10:30 am – 10:35 am (5 Min) |
| <i>Mr. Stephen Ricks, TAC Chairman</i> | |
| 3. OSPR 101 OVERVIEW AND CURRENT UPDATES..... | 10:35 am – 11:45 pm (70 Min) |
| <i>Dr. Steve Hampton, OSPR Assistant Deputy Administrator</i> | |
| LUNCH | 11:45 pm – 01:00 pm (75 Min) |
| 4. AGENCY BRIEFINGS..... | 01:00 pm – 02:00 pm (60 Min) |
| <i>Jonathan Bishop, California Coastal Commission</i> 1:00pm – 1:10pm | |
| <i>Linda Scourtis, BCDP</i> 1:10pm – 1:20pm | |
| <i>Jordan Stout, NOAA</i> 1:20pm – 1:30pm | |
| <i>Chris Beckwith, California State Lands Commission</i> 1:30pm – 1:40pm | |
| <i>Debra French, CAL Fire</i> 1:40pm – 1:50pm | |
| <i>Timothy Holmes, U.S. Coast Guard</i> 1:50pm – 2:00pm | |
| 5. 2017-2018 TAC BIENNIAL REPORT TO GOVERNOR AND LEGISLATURE | 02:00 pm – 03:00 pm (60 Min) |
| <i>Mr. Stephen Ricks, TAC Chairman</i> | |
| A. Review 2015-2016 Biennial Report | |
| B. Develop Issues and Accomplishments for 2017-2018 | |
| C. Develop Priority Issues for the TAC in 2019-2020 | |
| D. Form a Subcommittee to prepare a draft report for the TAC's review | |
| 6. NEXT MEETING..... | 03:00 pm – 03:10pm (10 Min) |

ADJOURN

NOTE: Please contact Elizabeth Vos at (916) 445-9326 if you have any person(s) participating in this meeting who require services for disability related modifications or accommodations.



Department of Fish and Wildlife
Office of Spill Prevention and Response (OSPR)
Report to the Technical Advisory Committee
October 3, 2018






Executive Branch

Verbal update provided by Administrator Cullen.

Enforcement Branch

Spill Response: From February 2018 through September 2018, Wildlife Officers responded to approximately 900 oil spills throughout inland and coastal California. These discharges varied from oil production facilities and truck accidents, to abandoned vessels and sunken barges. The most significant or notable events included:

February / March

- 18-0691: Tanker Truck Accident. A Wildlife Officer responded to a diesel discharge of 200 of diesel fuel to Clear Creek, Yolo County. The officer assisted with the cleanup and ensured that the fuel was removed from the creek.
- 18-0696: Tanker Truck Accident. The Northern Field Response Team (FRT) responded to a truck accident along HWY 20 in Placer County. The accident led to two fatalities and caused a significant fire and Haz Mat incident. The FRT assisted with the response and worked closely with allied agencies to investigate the cause of the accident and to mitigate damages to the environment.
- 18-1120: Sunken Vessel. The Southern FRT responded to a vessel that ran aground on rocks in San Diego Bay, San Diego County. The FRT ensured that both the vessel and pollution were removed from the bay.
- 18-1563: Pipeline Spill. The Southern FRT responded to a crude oil spill in Ventura County. The pipeline released 6 barrels of oil and 18 barrels of produced water into an unnamed creek. OSPR personnel assisted with the response and confirmed the pollutant was removed.
- 18-1670: Oil Production Facility Discharge. The Central FRT responded to a release of twenty barrels of crude oil from a storage tank near Hammond Canyon in Ventura County. The release impacted a small flowing stream near the production facility. The FRT assisted with the cleanup and conducted an investigation on the cause of the incident.

April / May

- 18-2037: Oil Facility Surface Expression. Wildlife Officers responded to an oil production facility crude oil spill near McKittrick, Kern County. The spill was a result of a surface expression and impacted an adjacent streambed. The Officers ensured that the oil was removed from the streambed and conducted a thorough causal analysis.
- 18-2356: Tanker Truck Accident / Crude Oil Spill. The Central FRT responded to a crude oil spill from an overturned tanker truck near Bakersfield, Kern County. The FRT assisted with the cleanup and confirmed that all the pollutants were removed from the environment.
- 18-2528: Vessel Fire and Oil Spill. Wildlife Officers responded to a commercial vessel fire and subsequent oil spill in Humboldt Bay, Humboldt County. The officers assisted with securing the vessel and ensured that the appropriate actions were taken to remove the pollution threat.
- 18-2649: Oily Waste Discharge. Wildlife Officers responded to an oily waste discharge from a commercial fishing vessel into Ventura Harbor, Ventura County. The officers assisted with the response and investigation.
- 18-2854: Tanker Truck Accident. The Northern FRT responded to a tanker truck crash near Maxwell, Colusa County. The overturned tanker contained over 5,000 gallons of DEF and threatened an adjacent streambed. FRT members assisted with the cleanup and ensured that the petroleum products spilled from the truck and trailer were removed from the environment.
- 18-3134: Pipeline Discharge. The Southern FRT responded to crude oil spill from a pipeline in the City of Santa Fe Springs, Los Angeles County. The spill entered a nearby storm drain where efforts were taken to remove the oil. The FRT assisted with the clean-up efforts and conducted a causation investigation.





June / July

- 18-3573: Sunken Vessel. The Southern FRT responded to a sunken commercial fishing vessel that was leaking red-dye diesel in Ventura Harbor, Ventura County. FRT members helped the USCG secure the vessel and assisted with the clean-up operations. Over several days of clean-up operations, the vessel was secured and the diesel fuel was removed from the water.
- 18-3609: Tanker Truck Accident. A tanker truck accident resulted in a 700 gallon of Jet-A fuel spill that threatened a pristine section of the American River, El Dorado County. Northern FRT members responded to the spill site, assisted with the cleanup, and took measures to stop the fuel from entering the river.
- 18-4365: Ferry Accident / Diesel Fuel Spill. Wildlife Officers responded to a sinking transport ferry in the Sacramento Delta near Woodward Island, San Joaquin County. Officers monitored the removal of a cement truck that fell off the sinking ferry and assisted with removing the pollution threat from the truck. A salvage company was hired to complete the removal of the truck and ferry.



- 18-4604: Oily Waste / Hydraulic Fluid Discharge. The Southern FRT responded to a report of a sinking dry-dock that was discharging waste oil at the NASSCO facility in San Diego Bay, San Diego County. The FRT assisted USCG and U.S. Naval personnel with the response and investigation.

August / September

- 18-4940: Feather River Railcar Accident / Diesel Spill. The Northern FRT responded to a diesel spill into the Feather River, Plumas County. The spill originated from a train derailment that led to a discharge of diesel onto the adjacent soil and into the river. FRT members monitored the cleanup and completed an accident investigation. 
- 18-5124: Tanker Truck Accident. Wildlife Officers responded to a liquid asphalt spill into a dry creek near Lancaster, Los Angeles County. Officers investigated the origin of the spill and assisted local emergency responders with the removal of the pollutant from the streambed.
- 18-5276: Sunken Vessel. The Central FRT responded to a diesel spill from a sunken vessel near Solimar Beach, Ventura County. FRT members helped remove the remaining diesel from the vessel. 
- 18-5446: Sunken Vessel. The Northern FRT responded to a diesel spill from a sunken vessel near Bridges State Park, Santa Cruz County. FRT members helped secure the vessel and assisted with removing approximately 1,200 gallons of the remaining diesel fuel. Salvage operations continued for several days, with the vessel ultimately being removed from the beach.
- 18-6221: Tanker Truck Accident. The Northern FRT responded to a tanker truck accident that led to the discharge of over 3,000 gallons of diesel and 1,000 gallons of gasoline near Kiddie, Plumas County. The spilled fuel threatened to enter the upper reaches of the Feather River. FRT members took measures to limit the impact of the spilled fuel from entering the river and assisted with monitoring the clean-up operations.

Personnel: OSPR's Law Enforcement Branch has five statewide vacancies. These vacancies will be filled in the late-Fall or Winter of 2018. In August 2018, the Enforcement Branch filled the vacant South / Central Patrol Captain position with Joseph Mello. Captain Joseph Mello is a 29-year officer with the California Department of Fish & Wildlife and is a welcome addition to our management team.

Environmental Response Branch (ERB)

- **Readiness:**
 - Personnel Update
 - SFRT
 - Mr. Corey Kong filled the Los Alamitos Senior Environmental Scientist Supervisor vacancy and started duties on 07/01/2018
 - Interviews were conducted September 2018 to fill the vacant Los Alamitos Senior Environmental Scientist Specialist

- CFRT
 - Interviews were conducted September 2018 to fill a vacant Environmental Scientist position in Bakersfield
 - The Senior Environmental Scientist Specialist in Monterey became vacant in August 2018, paperwork has been submitted to fill the position
- NFRT
 - Ms. Mia Roberts filled the vacant Fairfield Environmental Scientist and started duties on 07/01/2018
- **Preparedness**
 - Geographic Response Plans (GRPs)
 - OSPR Statewide External GRP Steering Committee met May 16th
 - OSPR Statewide Internal GRP Workgroup met May 29th, August 8th and September 25th
 - Draft Kern River GRP submitted for review
 - Draft GRPs for Ballona Creek and Cajon Pass is being submitted to OSPR management for final review
 - Documentation and data being compiled for NF American River, Russian River and Upper Sacramento River GRPs
 - Preliminary field data collection for Santa River GRPField coordination Cajon Pass GRP tour.
 - Coastal Access
 - Several NFRT and CFRT Scientific Staff completed field data gathering during August 20-24th on the North Coast to finalize a statewide coastal access layer to be included in Southwest ERMA
 - Area Contingency Plans
 - Minor refinements to the ACP Environmental Database. Entry of data updates continue.
 - ACP 6 (USCG Sector San Diego) was updated and submitted to Sector San Diego on July 1st, 2018
 - ACP 4 & 5 update scheduled in 2019 for Sector Los Angeles/Long Beach
 - Ms. Cassidee Shinn started as Statewide ACP/RCP Coordinator effective 7/9/18
 - Statewide Area Committee/RRT IX Meetings were held 7/10-7/12. Presentations included presentations on sensitive site testing by field scientific staff in all 6 ACP Areas
 - Sensitive Site Strategies Evaluation Program (SSSEP)
 - 2018 Testing
 - 2018 Testing North Coast (ACP 1) SSSEP
 - 10/4 Site 1-305 Humboldt Bay Inlet /Inner Samoa Peninsula.
 - 10/23 Site 1-180 Klamath River Mouth and Estuary
 - 2018 Testing San Francisco Bay & Delta (ACP 2):
 - NESTING SEASON (March 2018 – August 2018):
 - 7/11 MSRC Site 2-501.2 Castro Creek Marshes (East San Pablo Bay)
 - TESTING SEASON (September 2018 – February 2019):

- 10/23/18 MSRC Site 2-553.3 Gallinas Creek Marshes (West San Pablo Bay)
 - 11/7/18 MSRC Site 2-554.4 Novato Creek marshes (West San Pablo Bay)
 - Site 2-373.1 Mountain View Slough (South Bay)
 - Site 2-552.3 China Camp Marshes (West San Pablo Bay)
 - Site 2-671.2 Honker Bay West-Wheeler Island (Suisun Bay)
 - Site 2-735.1 False River (West Delta)
 - Site 2-783.1 Kimball Island-Cabin Slough (West Delta)
- 2017 Testing San Diego (ACP 6) SSSEP since last TAC Meeting:
 - 5-420.2 Catalina Island Harbor on 10/27/17
 - 5-260.2&.3 Alamitos Bay/Los Cerritos Wetlands on 11/09/17
 - No SSSEP in ACP 6 during this time; attended Geographical Tour of sensitive sites at USMC Camp Pendleton on 11/13/2017 instead
- SSSEP proposed 1st Quarter 2018:
 - 5-210.1&.2 Cabrillo Wetlands on 02/06/18
 - 5-270.1&.2 San Gabriel River on 02/22/18
 - 6-415.1 Navy Magnetic Silencing Facility on 2/20/2018
- UAV Pilot Program
 - OSPR currently has one UAV assigned per FRT areas
 - Additional pilots are being trained
- **Drills and Exercises (Jul – Sep)**
 - South Bay Sandblasting and Tank Cleaning TTX
 - Gallagher Marine Multi-plan TTX
 - Petro Diamond TTX
 - Signal Hill Petroleum TTX
 - Plains All-American Pipeline Long Beach TTX
 - Vopak Corporation TTX
 - Tesoro/Andeavor LA Refinery TTX
 - Dion and Sons TTX
 - Foss Maritime TTX
 - Valero Marine Terminal SED
 - Shell Oil Products Mormon Island Terminal TTX
 - Brea Canon Oil Co. TTX
 - E&B Natural Resources TTX
 - Tesoro/Andeavor SoCal Marine Terminals and Pipeline TTX
 - Patriot Environmental TTX
- **Training**
 - Continued monthly SCATALOGUE exercises by field staff to maintain readiness
 - Staff attended USCG DRAT Training, relevant health & safety training and administrative training
 - Staff attended Continuing Challenge, a workshop that provides response training for all emergency responders to hazardous materials incidents affecting public health and the environment

- **Outreach**
 - Staff participated at the Monterey Bay National Marine Sanctuary Discovery Fair in August at William R. Hearst State Beach
 - Staff attended Prevention First, an onshore/offshore pollution prevention symposium and technology exhibition
 - Preparation for October 2018 Environmental Response to Oil Spills for responders

Response Technology Unit

Departments:

- **Best Achievable Technology (BAT)**
- **Applied Response Technology (ART)**
- **Oiled Wildlife**
- **Marine Wildlife Veterinary Care & Research Center (MWVCRC)**
- **Fishery Closure**
- **Geographic Information Systems (GIS)**

Administration:

- **Staffing:**
 - **New Hires:**
 - Drew Caputo (RA II) – GIS Team
 - Sean Kam (Maintenance Mechanic) – MWVCRC Team
 - **Vacancies:**
 - Management Services Technician at MWVCRC (replacing Erica Donnelly-Greenan)

Applied Response Technology and Best Achievable Technology

- Dispersant Use Plan for California – Revised and updated text, tables, & figures complete. Conducting public and agency outreach through Area Committee and other meetings. Will respond to comments generated during public review, and prepare final document for approval and use by end of 2018.
- Non-chemical Dispersant Field Demonstration – OSPR is assisting with the planning for a field demonstration of a new non-chemical dispersant technology on seep oil off the coast of Santa Barbara in October. The manufacturer requested OSPR assistance in coordinating interaction with other agencies (e.g., USCG and NOAA), an OSRO (MSRC), and consideration of monitoring, regulatory, permitting requirements. The technology employs an autonomous vessel equipped with high power water jets that mechanically disperse floating oil into the water column. The demonstration will also include a new boom product (Harbo boom), and several remote sensing platforms (aerial and submersible UAVs) for imaging and sampling. Results will be presented at the upcoming OSPR/Chevron Technology Workshop (see below).
- Technology Workshop – OSPR and Chevron jointly host an annual technology workshop. The next workshop is scheduled for the last week of February 2019. Presenters are being contacted at this time for confirmation and may include:
 - USCG, NOAA, BSEE, OSPR, Environment Canada, API, Spill Control Assoc.
 - Elastec, Spilltration, RPI Inc., Ultratech, Harbo Boom, Extreme Spill Technology, SeaHow, RiverView, Fleet Cleaner, Chevron, and others
 - Primary Topics: Agency and Industry Updates, Mechanical Containment & Recovery Technology, Remote Sensing, In-situ Burn Enhancement, Dispersants

- Information on the workshop will be posted on OSPR Website
- COSSEP Study – Acquiring products (Corexit and ANS crude oil) for dispersed oil toxicity study.
- Response Technology Evaluation (RTE) Program – Development is in progress on new RTE program for OSPR to evaluate and compare new technologies.
- Prevention First Symposium – Emerging Technology Session Chair (G. McGowan), New Spill Response Technologies Presentation (A. Nelson), Non-Floating Oil Workshop Update (A. Nelson)
- Drills and Exercises – In-person and remote participation in multiple drills throughout California addressing ART and BAT practices.

Oiled Wildlife

- Wildlife Branch Director Training - Signed off 4 additional OSPR WBDs following successful training and role play (3 more in progress for 2018)
- Mystery Oiled Wildlife Response - Improved response process for mystery oiled wildlife (i.e., no known RP) to reduce oil fingerprinting turnaround time with chemistry lab, clarify OWCN rollout and staffing, and other improvements to reduce costs when responding to events that do not initially have a known oil source (e.g., wildlife oiled by seep oil).
- Aerial Survey Mapping - Refined aerial survey mapping to improve results, increase consistency of nomenclature, and shorten turnaround time.
- Wildlife Resources Web Tool – In early development of web tool to advance wildlife response by providing quick accessible information for the protection and recovery of California’s inland species.
- Drills and Exercises – In-person and remote participation in multiple drills throughout California including standing up the Wildlife Branch at 3 NPREP and at several other large drills.

Marine Wildlife Veterinary Care & Research Center

- CDFW Employee Excellence Award – MWVCRC was awarded the 2018 “Partnership Award.” The award recognizes a team who initiates, collaborates with, and maintains cooperative and successful relationships with external partners. MWVCRC exemplifies excellence in collaboration through effective partnerships with numerous state and federal agencies, academic institutions, NGOs, and other stakeholders. Congratulations to the Team!
- Facility Maintenance – Recently hired Maintenance Mechanic has provided immediate value addressing deferred maintenance work throughout the facility. High priorities have been addressed in the laboratory units as well as the mobile labs and ancillary infrastructure.
- Temporary Support for Partner Organizations – MWVCRC continues to work closely with UCSC, TMMC, IBR, and USGS working cooperatively to support wildlife care and research during periods where no oiled wildlife are present.
- Research – Staff continue with studies of the health and pathology of sea otters and seabirds to assure best achievable care during spill response. Recent publications include an article in the Journal of Fish and Wildlife Management by Laird Henkel and Dr. Mike Ziccardi (OWCN) titled “Life and Death: How Should We Respond to Oiled Wildlife?” A copy of the article is attached.
- Drills and Exercises – In-person and remote participation in multiple drills throughout California addressing oiled wildlife roles and responsibilities.

Fishery Closure

- OEHHA + OSPR – OSPR is coordinating closely with OEHHA to optimize the communications and operations associated with fishery closure and reopening.
 - FRT Training – Jointly prepared a guidance flowchart for FRT members addressing fishery closure notification triggers.
 - 2014 Joint Protocol – Currently revising/updating protocol.
- RCP Update – Supporting USCG with updates to the Fishery Closure elements of the RCP.
- Drills and Exercises – In-person and remote participation in multiple drills throughout California addressing fishery closure coordination practices.

Geographic Information Systems

- COSSEP Study – Conducted initial calibration flights with new UAV to begin testing of camera/sensor arrays for study of UAV use for SCAT.
- OtterSpotter – iPad application developed for sea otter surveys is in beta field-testing
- SCATologue v.1.58 – Delivered to FRT for operational use
- GRP Development – Supporting spatial analysis and mapping for multiple concurrent GRPs. Developed iPad application for data collection.
- Training – Training multiple UAV pilots
- ERMA Updates – Continual data additions to ERMA for Common Operating Picture during response.
- Drills and Exercises – In-person and remote participation in multiple drills throughout California addressing Common Operating Picture, Situation Unit support, SCAT, spatial analysis, and mapping.

Resource Restoration Program

The Refugio Beach Oil Spill Natural Resource Trustees (including OSPR) met with representatives of Plains Pipelines, LLC in July in an ongoing effort to reach a settlement for natural resource damages caused by the spill along the Gaviota Coast and Southern California shorelines. While some progress was made during this meeting, no agreement was reached. The parties have entered into a mediation agreement along with other state and federal regulators and will be meeting again in mid-November to discuss settling natural resource damages as well as other aspects of the case.

Financial and Administrative Services Branch

The 2018/19 fiscal year is underway and contracting and purchasing has resumed as usual. Significant activity for FASB in the past six months has been related to staffing: OSPR welcomed 12 new staff members, said good-bye to seven OSPR'ians, and celebrated the advancement/new opportunities of eight others; and the Northern Field Response Team (FRT) settled into its new home; and OSPR welcomed back Assistant Deputy Administrator Julie Yamamoto from a three-month rotation as the Department's Chief Deputy Director.

Jack Prescott, the very first Oil Spill Prevention Specialist (OSPS), retired after 30 years of service. Other staffing changes for the Prevention Branch team include the addition in the Central FRT in Bakersfield of Management Services Technician Sherryl Shivers and OSPSs David Mosley and Martin Garcia, the Sacramento Marine Safety Unit's transfer in of OSPS Mike Zamora, and the Southern FRT's transfer of Dennis Chastain to Ontario. The Response Technology & Support Program's Marine Wildlife Veterinary Care and Research Center in Santa Cruz added Maintenance Mechanic Sean Kam

and Management Services Technician Erica Donnelly-Greenan, and its GIS Unit in Sacramento added Research Analyst II (GIS) Andrew Caputo. The Preparedness Branch in Sacramento promoted Cassidee Shinn and Rachel Fabian to Senior Environmental Scientist (Specialist) positions and added OSPS Michael Caliguire and Environmental Scientist Jenna Driscoll. The Environmental Response Branch has two vacancies with the departures of Management Services Technician Lucas Lopes-Gill (Sacramento) and Senior Environmental Scientist (Specialist) Dan Schrimsher (Monterey), and, in Los Alamitos, the Branch promoted Corey Kong to Senior Environmental Scientist (Supervisory) and transferred Environmental Scientist Mia Roberts from the Central FRT to the Northern FRT in Fairfield. The Enforcement Branch had an exchange – of sorts – with other department enforcement districts when it transferred in Warden Brandon Alisio from the Central District and Warden Santos Cabral transferred out to the Marine District, and promoted Joe Mello to Patrol Captain for the Southern/Central FRT. The Laboratory Program in Rancho Cordova added Environmental Scientist Alison Furler, and FASB hired Staff Services Analyst Bea Barron and Associate Governmental Program Analyst Julia-Malia Olea to fill positions vacated by Jackie Stogsdill and Pete Marcellana, respectively. Other departures include Information Officer Aubrey Henry and Staff Counsel III Wendy Johnson who went on to pursue even greater heights in their careers.

The new Northern California Field Office is located in Fairfield just four miles from its previous location. The office houses staffs of the Enforcement, Environmental Response and Prevention Branches, and serves as the primary field office for the team, which includes staff located in our Eureka, Redding and Sacramento offices. The new field office, which conjoins a field office for the Department's Central Coast Region, is equipped with modern office space, warehouse space for secured equipment storage, an evidence locker that meets POST law enforcement requirements, a conference room, secured parking for OSPR's response vehicles, and a dry lab and instrumentation room.



Members of the Northern Field Response Team in front of their new field office in Fairfield.

The office conjoins a field office for the Department's Central Coast Region. Co-location of multiple programs is reflective of the Department's commitment to reduce its carbon footprint and operate

more efficiently through the consolidation of facilities and operations where possible. Having another department program housed next door to our fully equipped field office offers the additional benefits of access to a second, larger conference room and the ability to readily engage with colleagues. OSPR will benefit from the Department's modernized facilities management focus when it relocates its headquarters office in the spring of next year.

Following a three-month stint at Department headquarters, Julie Yamamoto returned to OSPR HQ. Julie's experience as OSPR's executive representative for a myriad of department- and Administration-level projects and programs was tapped by Director Bonham for a rotational acting assignment as the Department's Chief Deputy Director. In her absence, several of her managers served in acting roles to cover her OSPR scientific responsibilities while Assistant Deputy Administrator Steve Hampton covered many others. The Department appreciates Julie's additional service to its mission, and OSPR is glad to have her back.

Legal Branch

- **Refugio Incident:**

Criminal Enforcement: On September 7, 2018, the jury returned their verdict and the defendant, Plains All-American Pipeline, was found guilty of multiple counts under the California Government and Fish and Game codes.

Civil Enforcement: Natural Resource Damage Assessment (NRDA) – The NRDA Trustees include representatives from the California Department of Fish and Wildlife, California State Parks, California State Lands Commission, UC Regents, National Oceanographic and Atmospheric Administration (NOAA), and the US Department of the Interior. Legal staff are working closely with trustee attorneys, state and federal technical staff, and outside experts to evaluate Plains' (the Responsible Party's) position with regard to the pathway of the oil and possible restoration projects, to gather additional evidence, and to refine the Trustees' claim for natural resource damages. The Trustees are preparing for additional settlement negotiations with Plains in the coming months. The measure of natural resource damages is based on the cost to restore the injured resources and compensate the public for the loss of use and enjoyment of natural resources, public beaches and other public resources. The Trustees have reached out to the public, local governments and NGOs for restoration project ideas for resources injured by the spill. They are also coordinating with Marine Protected Area representatives, academics and other local experts.

Injunctive Relief/Civil Penalties: Legal staff are also coordinating with counsel for other federal and state enforcement agencies, including U.S. Environmental Protection Agency, the U.S. Coast Guard, the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, the Central Coast Regional Water Quality Control Board and the Office of the State Fire Marshall, as well as the U.S. Department of Justice and California Department of Justice to develop a global settlement offer. The global offer will include civil penalties, injunctive relief, natural resource damages and cost recovery.

- **Grove Incident:**

OSPR is retaining and will be coordinating with the Attorney General's office in representing the State in regards to this spill.

- **HVI Cat Canyon Inc., fka Greka:**

The civil trial against Greka will commence on October 22 in Federal District Court in Los Angeles in response to a series of spills and incidents occurring at facilities in the Santa Maria area.

Preparedness Branch

Drills and Exercises

Statewide Summary

- Statewide summary for 2018 oil spill contingency plan regulated drills and exercises;
 - 61 tabletop exercises (34 marine, 24 inland), and
 - 44 equipment deployment drills throughout the state.
- This includes 3 large spill management team tabletop exercises that required drill design participation and extensive drill planning and coordination.

Southern California

- For 2018, attended and evaluated 21 marine tabletop exercises, 7 inland tabletop exercises, and 21 equipment deployment drills.
- Chevron El Segundo Refinery along with Chevron Shipping completed their NPREP exercise May 2-3, 2018 in El Segundo.
- For the remainder of 2018 (Oct – Dec) in SoCal, 27 marine tabletop exercises, 2 inland tabletop exercises, and 2 equipment deployment drills scheduled.
- In SoCal preparing for 2019, we are participating on the design team for a large spill management team NPREP exercise with the USCG and ConocoPhillips/Polar Tankers scheduled for May 6-7 in Huntington Beach.

Northern California

- For 2018, attended and evaluated 8 marine tabletop exercises, 2 inland tabletop exercises, and 17 equipment deployment drills through September 2018.
- Completed two large NPREP tabletop exercises: Shell Martinez Refinery on July 18-19 and Chevron Richmond Refinery on August 15-16.
- For remainder of 2018, 13 marine tabletop exercises, 5 inland tabletop exercises, and 1 equipment deployment drill scheduled.
- We are participating on the design team for the Richmond Inner Harbor exercise in December 2018, which will include six marine facilities located along the Santa Fe Channel in the Port of Richmond.

Central California

- For 2018, attended and evaluated 5 marine tabletop exercises, 15 inland tabletop exercises, and 6 equipment deployment drills through September 2018.
- For the remainder of 2018, we are scheduled to attend and evaluate 6 marine tabletop exercises and 5 inland tabletop exercises.

Unannounced Drill Program

- **Plan Holder Notification Unannounced Drills for 2018**
 - 3 Total: 3 passed
- **Spill Management Team Unannounced Drills for 2018**
 - (Marine and Inland) 10 Total: 10 passed

Oil Spill Contingency Plans: 2018

- Vessels Plans: 1282 total
 - New plans approved: 131
 - Total approved plans for 2018: 311
- Vessels Revisions: 1,389
- Vessel Resubmittal approvals: 180
- Facilities: (All) 927 total
 - Inland Plans: 58 total to date

Inland Geographic Response Plans (GRPs)

Field staff/GRP leads have completed all data collection for GRPs and have produced response strategy and access/observation detail sheets along with resources at risk tables. GIS staff have produced maps for all 6 GRPs and as we go through rounds of review and commenting, continue to provide edits/updates to maps.

GRP Coordinator continues to work on GRP products; has produced 5 out of 6 first drafts of GRPs. Those 5 GRPs have gone through a review and commenting period with local GRP subcommittees. The Ballona Creek and Cajon Pass GRPs have gone through a first round of internal review with the GRP Workgroup. GRP Coordinator is currently editing those documents and will send the final draft to upper management for their review and ultimately approval. The remaining GRPs will go through the same process.

- **OSPR GRP Workgroup:**

The OSPR GRP Workgroup has continued to meet on a monthly basis throughout 2018. The group has worked to finalize language and products for the GRPs. The workgroup reviewed and provided comments on the Ballona Creek and Cajon Pass GRPs and will be reviewing the remaining 4 GRPs over the next few months.
- **Statewide GRP Steering Committee:**

The GRP Steering Committee has had two meetings thus far in 2018, with a third scheduled for November. The Committee has continued to refine GRP products including the Response Strategy and Access/Observation detail sheets, Response Methods Matrix, Shoreline Countermeasure Matrix and the Resources-At-Risk Matrix.
- **GRP Subcommittee's:**

The GRP Leads have held numerous meetings with their individual GRP Subcommittee's and have provided a first draft of the respective GRPs to 5 out of 6 of the Subcommittees (Upper Sacramento River GRP first draft still in process). We have received input from the local experts on additional details for response and access sites, site access assistance (e.g. locked

gates), pertinent contacts for the Contact Sheet, location of water intakes, and areas of economic, recreational, or environmental concern.

OSPR Response Qualifications and Certifications Unit (RQCU)

- In 2018, the RQCU held one 40-hour Hazardous Waste Emergency Response (HAZWOPER) certification course, three 24-Hour HAZWOPER certification courses, two 16-Hour HAZWOPER certification upgrade courses, two 8-Hour HAZWOPER Supervisor courses, and eight 8-hour HAZWOPER Refresher courses. The unit will continue to provide 24-Hour and 40-Hour HAZWOPER certification courses, as well as 8-Hour HAZWOPER refresher courses for the remainder of the year.
- On January 4, 2018, the RQCU coordinated with instructors from the US Forest Service to provide an Aircraft Ditching and Water Survival training for OSPR employees who participate in overflights as part of their routine or response duties.
- OSPR staff participated in two of the Department of the Interior's Inland Spill Response trainings, both as attendees and instructors. The classes were held on February 27- March 3 and September 11-15, 2018.
- OSPR staff also helped to coordinate and participated in the Environmental Protection Agency's Inland Spill Response course on August 22-25, 2018.
- In conjunction with the Oiled Wildlife Care Network, three trainings on Wildlife Recovery and Hazing were provided to OSPR's Field Response Teams and Wildlife Branch trainees.
- An internal training for OSPR's Wildlife Branch trainees was held on September 19-20, 2018.
- The annual Environmental Response to Oil Spills course will be held in Bishop on October 23-25, 2018. Representatives from the US Coast Guard, the National Parks Service, the US Fish & Wildlife Service, local government, industry, and NGOs expected to attend.
- Six OSPR staff participated in Crude By Rail and Advanced Tank Car Safety courses sponsored by Union Pacific and BNSF Railway, held at the Security and Emergency Response Training Center in Pueblo, CO.
- The unit coordinated two ICS Risk Communication Facilitation courses, a Swift water Rescue course, a Drone Pilot training, and the Environmental Response to Oil Spills courses.

Other Initiatives:

OSPR Internal Drills and Exercises Program: OSPR is establishing its internal drills and exercises working group.

Spill Management Team (SMT) Scoping Meetings: Preparedness will host two Scoping meetings in October focused on collecting comments from industry and stakeholders on the draft SMT regulatory language. Preparedness will also meet separately with California Independent Petroleum Association (CIPA) representatives and has met previously with the WSPA petroleum steering committee.

Marine Area Contingency Plans (ACPs) and Regional Contingency Plan (RCP): Preparedness staff is now responsible for the coordination of the six marine ACP and revision of the RCP. The San Diego ACP revision is completed. The LA/LB revision is due in 2019 and the SF ACP revision is due in 2020. The RCP is currently under revision.

Prevention Branch

Jan 01, 2018 – August 31, 2018

Vessel Arrivals: 6229

Vessel Boardings: 428

Category 1 – 3 Risk Boardings: 41

Category 4 Risk Boardings/Monitorings: 6

Oil Transfer Notifications: 4706

Oil Transfer Monitorings: 87

Percent of Transfers Monitored: 01.8%

Facility/SCRD C-Plan Verification/Visit: 53/36

Loss of Propulsion Incidents: 43

Marine Oil Spill Incidents: 467

Volume Spilled: 3122.25 gal

Inland Oil Spill Incidents: 352

Volume Spilled: 43730 gal

Inland Facility Exemption Requests: 164

N/A: 41

Granted: 111

Denied: 3

Withdrawn: 2

Superseded: 2

Duplicate: 2

Pending: 3

Inland Facility Contingency Plans: 58

Approved: 45

Returned for Revision: 1

Withdrawn: 11

Under Review: 1

Denied: 0

Technical Advisory Committee

Governor appointees:

Stephen Ricks	Oil Spill Response Representative
John Berge	Dry Cargo Industry Representative
Matt Rezvani	Petroleum Industry Representative
Joe Cobb	Oil Production Industry Representative
Lynn Korwatch	Marine Transportation Representative
James Farner	Railroad Industry Representative
Janell Myhre	State Government Representative
<i>vacant</i>	Local Government Representative

Senate Rules Committee appointees:

<i>vacant</i>	Environment/Ecosystems Representative
Sejal Choksi-Chugh	Environment/Ecosystems Representative
<i>vacant</i>	Public Representative

Speaker of the Assembly appointees:

<i>vacant</i>	Environment/Ecosystems Representative
Tracy Van Houten	Environment/Ecosystems Representative
Pedro Santillan	Public Representative



Technical Advisory Committee Meeting
Yolo Bypass Wildlife Area
October 3, 2018

Overview Office of Spill Prevention and Response

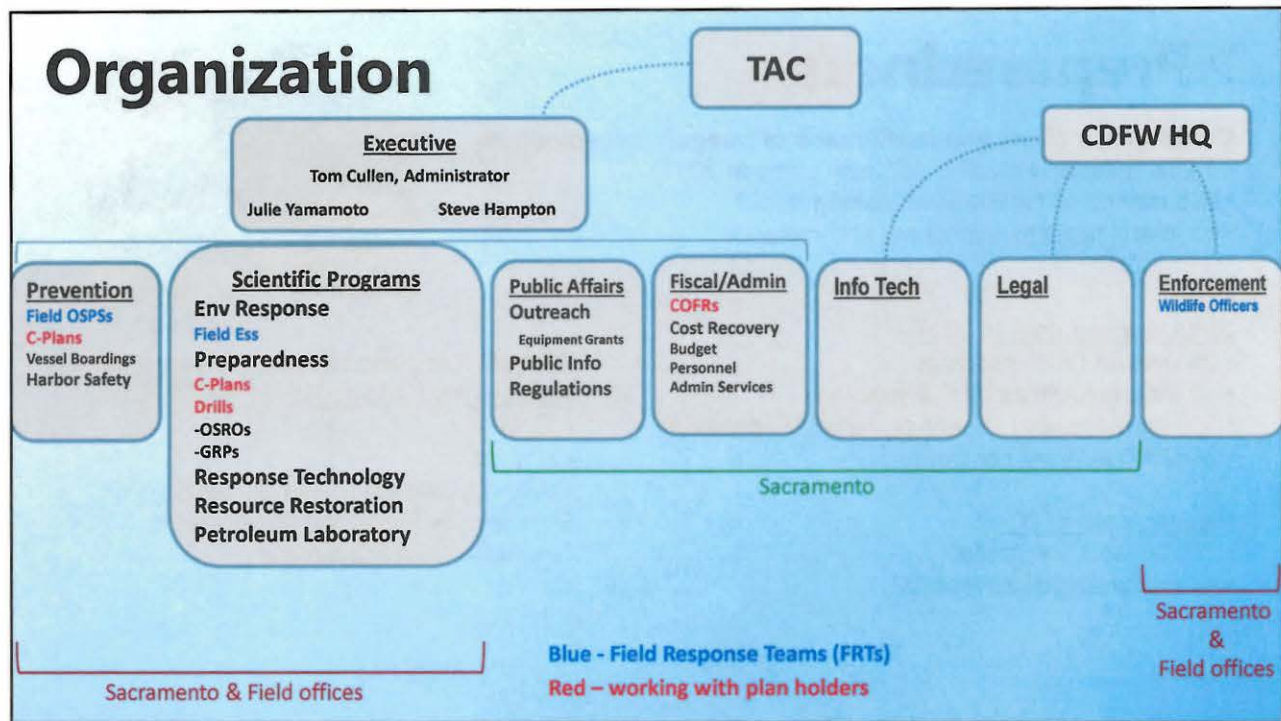
OSPR's mission is to provide best achievable protection of California's natural resources by preventing, preparing for, and responding to spills of oil and enhancing affected resources.

- **Prevention**
- **Preparedness**
- **Response**
- **Restoration**



- **16 office locations**
- **240 personnel**
 - 100 scientists/oil spill prevention specialists
 - 100 administrative support or other specialists
 - 40 wildlife officers
- **Technical Advisory Committee**





➤ Prevention

MARINE

- Harbor Safety Committees
- Monitoring offshore ship routing
- Tug escort regulations
- Vessel risks evaluations
- Vessel boardings/examinations
- Vessel Traffic Services evaluations
- Vessel Pilotage evaluations
- Emergency tug assist evaluations
- Navigation safety evaluations
 - Dynamic under-keel clearance study
- Marine facility contingency plans
 - Verifications
 - Exemption inspections
- Facility infrastructure improvements to reduce risk
- Monitoring of fuel transfers over water (bunkering)

INLAND

- Infrastructure inspection and exemption program
 - 130 exemptions granted because facilities have significantly reduced the risk of a spill to water
 - 45 Contingency Plans reviewed and approved
 - Assist, when needed, our partner regulatory agencies:
 - ◊ State Fire Marshal / US PHMSA (pipelines)
 - ◊ Public Utilities Commission / Federal Railway Administration (rail)
 - ◊ Dept of Conservation (oil production)

➤ Preparedness

Contingency plans and certificates of financial responsibility

- 1,252 vessels (including 165 new plans in 2017)
- 938 marine oil facilities and fueling docks
- 53 inland facilities, pipelines, and railroads

Drills

Unannounced drills in 2017:

- 25 vessels (80% passing)
- 10 marine facilities (100% passing)
- 16 inland facilities, pipelines, rail (88% passing)
- 26 OSROs (93% passing)

Planned drills in 2017:

- 115 tabletop exercises
- 44 equipment deployments



Oil Spill Response Organizations (OSRO) Rated (tested and approved by OSPR):

- 12 marine
- 20 inland
- With coverage in all six marine Area Contingency Plans and all six inland Response Planning Areas.

➤ Response

OSPR's **Field Response Teams** include wildlife officers, oil spill prevention specialists, and environmental scientists.

Together, they respond, physically, to an average of 248 spills each year—over four per week.

They address another 960 spills per year via telephone consultations.

Spill stats on page 10 of Program Report.



Response Technology and Support

Best Achievable Technology

- Prevention/Mitigation
- Mechanical Response
- Remote Sensing
- Applied Response Technologies

Applied Response Technology

- Licenses and oversees use of chemical response agents such as dispersants.
- Hosts workshops with industry on spill response.

Oiled Wildlife Response

- Maintains and helps implement the Wildlife Response Plan.
- Coordinates wildlife hazing and recovery training.

Geographic Information Systems

Fishery Closures



Marine Wildlife Veterinary Care & Research Center (Santa Cruz)

Other Response Programs

Response Equipment Grants

To date, recipients have included:

- 19 fire departments
- 25 harbor districts, ports, marinas
- 6 counties agencies or regional park districts
- 4 Native tribal governments



California Oil Spill Study & Evaluation Program (COSSEP)

Laboratories (non-Response)

Water Pollution Control Laboratory
Aquatic Bioassessment Laboratory
Marine Pollution Studies

Marine Invasive Species (non-Response)

➤ Restoration



DAMAGE ASSESSMENT

- Large damage cases in OSPR's history: 22
- Small damage cases: over 160
- Total damages recovered for restoration: over \$210 million

RESTORATION

- Total number of projects implemented or planned: over 300

ENVIRONMENTAL ENHANCEMENT FUND

Provides grants for restoration projects using fines and penalties.

- Over \$2 million for 14 projects since 2014.

Regulations

STATUS OF NEW INLAND REGULATIONS

These emergency regulations will soon become permanent regulations:

- Contingency plans
- Financial responsibility
- Drills & exercises
- Oil spill response organizations (OSROs) inland response ratings

COMING REGULATIONS

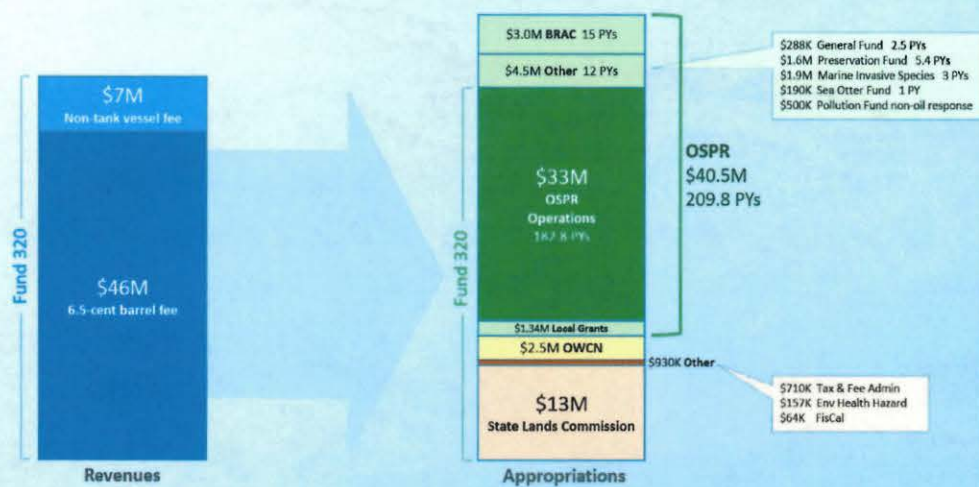
- Spill management teams
- Harmonization of marine and inland plan holder requirements
- Revised COFR levels based on new cost study
- Wildlife rehabilitation and restoration
- Shoreline protection tables (updated)
- Civil administrative penalties
- Tug escorts

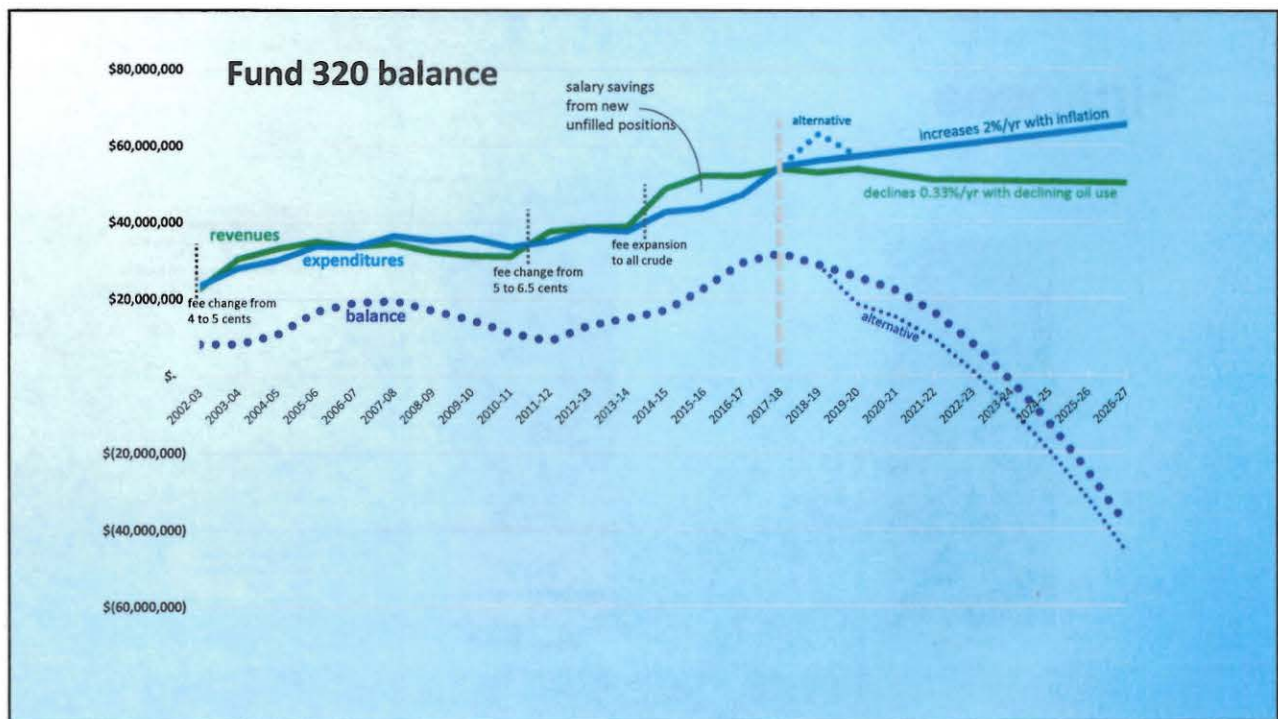
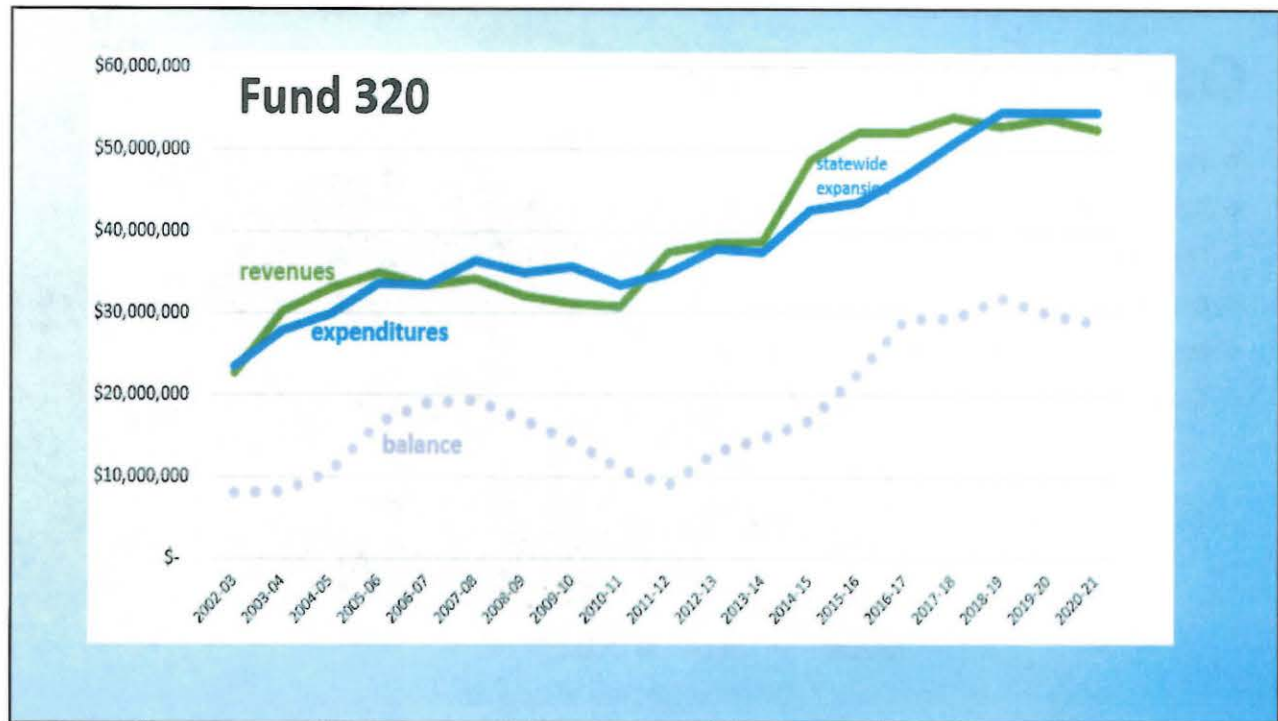
OSPR news updates

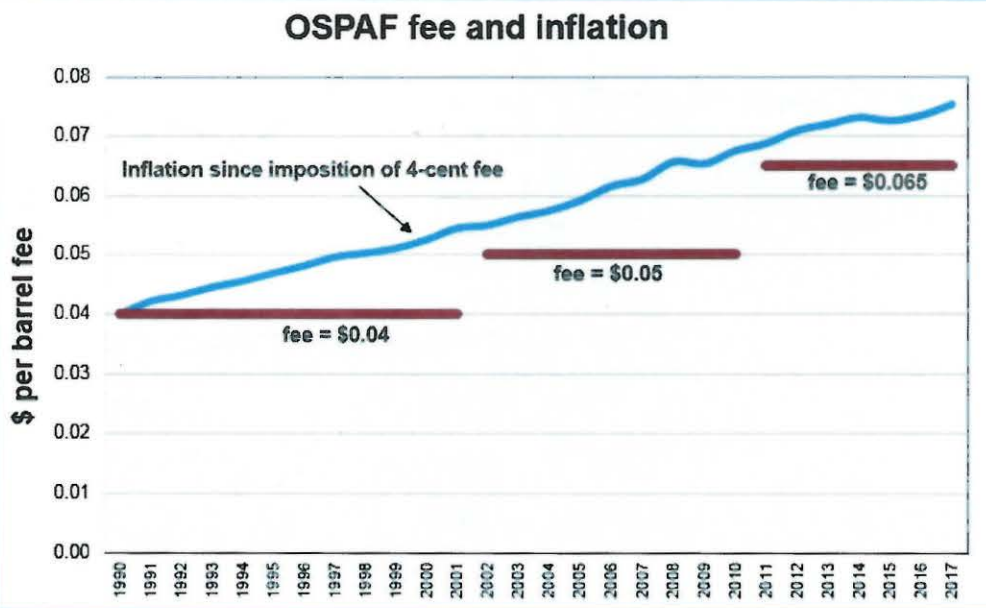
- ❖ Refugio verdict
- ❖ Abandoned and Derelict Vessels (ADV)
- ❖ Statewide expansion
- ❖ Crude by Rail
- ❖ Move from K Street to West Sacramento
- ❖ Other



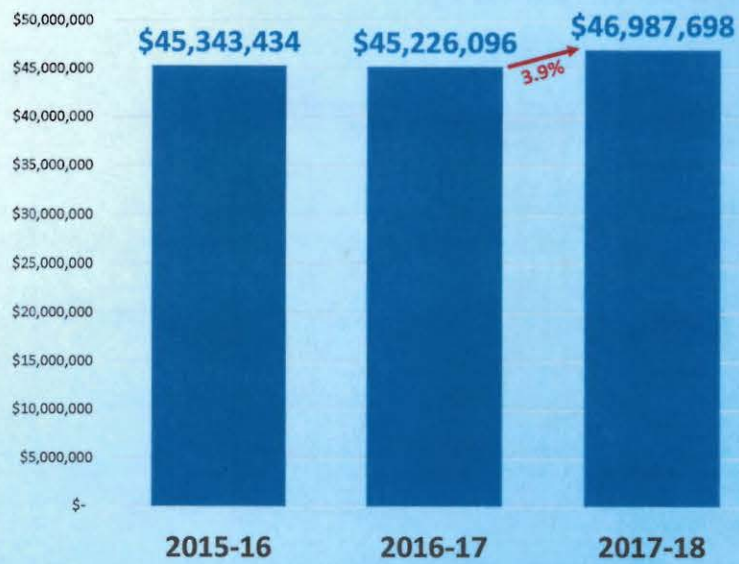
Finances

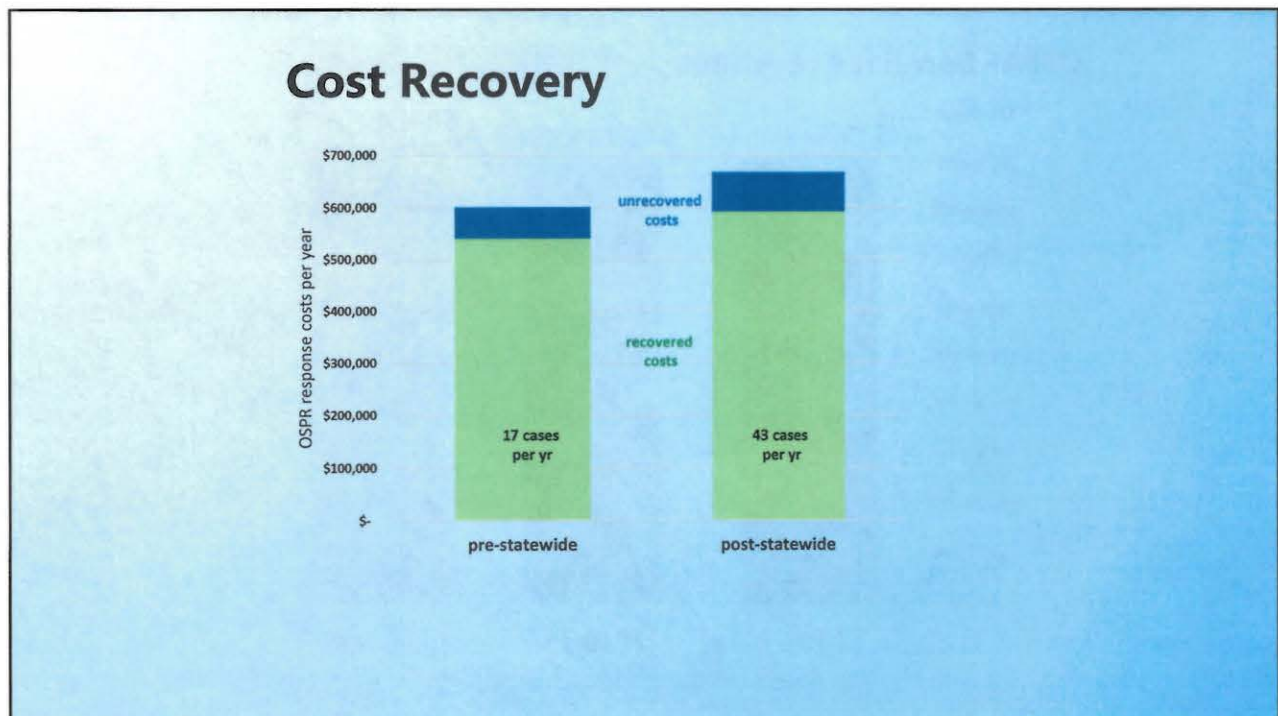
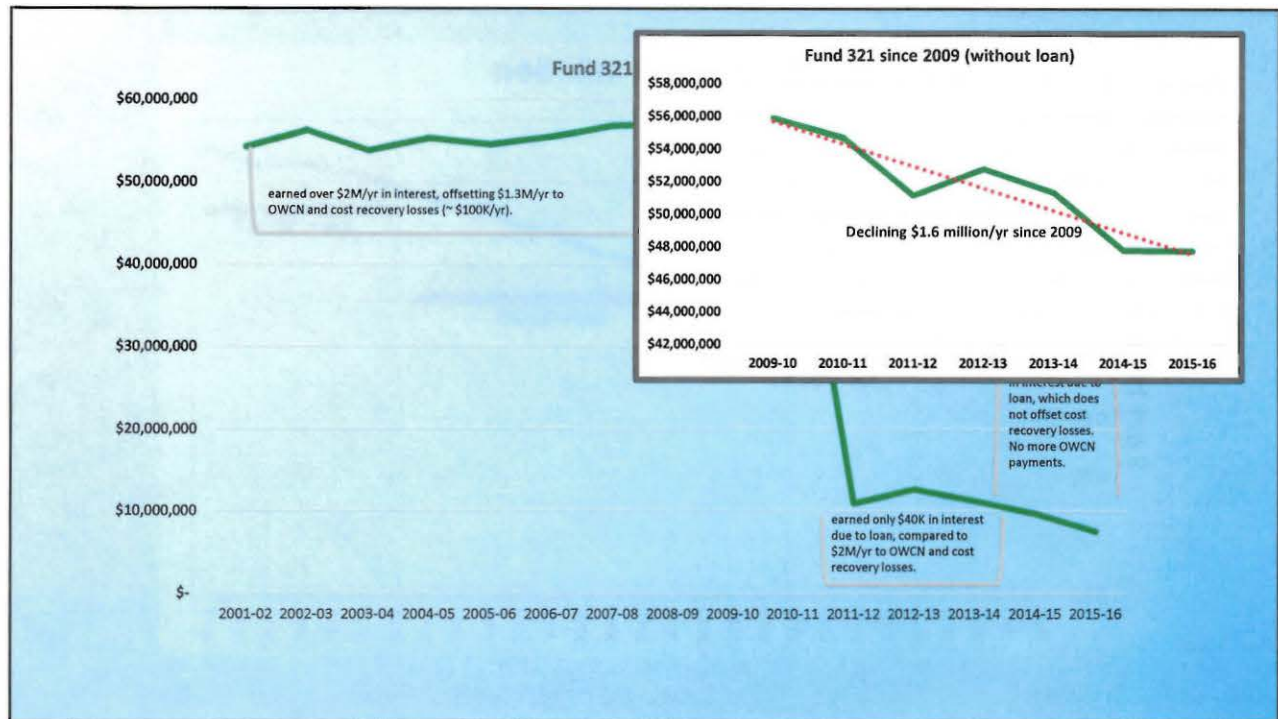


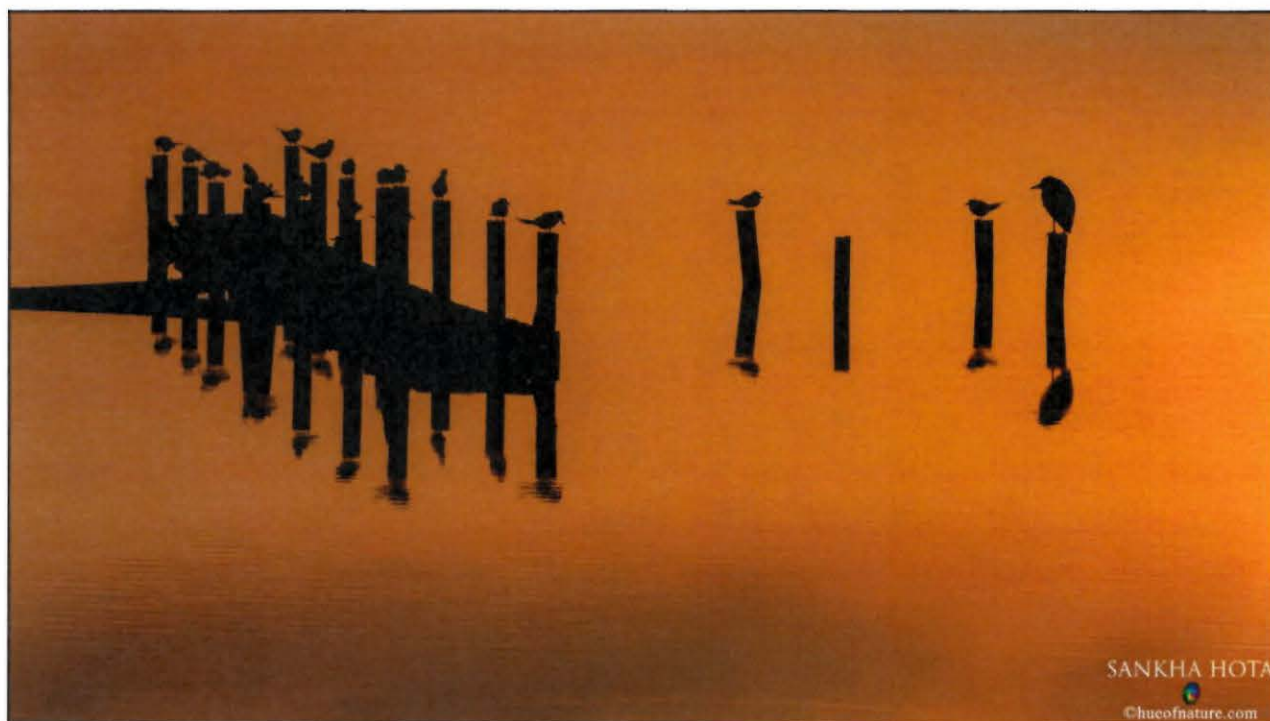




OSPAP barrel fee revenues







SANKHA HOTA
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CALIFORNIA COASTAL COMMISSION

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Date: October 3, 2018
To: Oil Spill Technical Advisory Committee ("TAC") Members and Interested Parties
From: Jonathan Bishop - California Coastal Commission ("CCC") Oil Spill Program Coordinator
RE: Update on the CCC Oil Spill Program's Activities
February 7, 2018 to October 3, 2018

A summary of the CCC Oil Spill Program's work activities, since the last TAC meeting on February 7, 2018, is provided below.

➤ **Meetings**

Commission staff attended the following meetings from February 7, 2018 to October 3, 2018:

- Seven Harbor Safety Committee ("HSC") meetings: four Humboldt HSC meetings (3/15, 5/17, 7/19 and 9/20); one LA/LB HSC meeting (6/6); and two San Diego HSC meetings (3/28 and 5/30).

Updates to all Harbor Safety Plans are continuous and ongoing. Humboldt, Port Hueneme and San Diego HSC's continue to work on SB 414 emergency tug/tow capability reports. Like the already complete SF/BD and LA/LB reports, these reports will be incorporated into the HSP's. SB 414 reports and annual updates to HSP's will be sent to the OSPR Administrator.

- Eight Area Committee ("AC") meetings: four North Coast AC meetings (3/15, 5/17, 7/19, and 9/20); two SF/BD AC meetings (3/20 and 5/15); and two Central Coast AC meetings (4/26 and 7/26). The Statewide area Committee meeting was held on July 11th, at the Shell Clubhouse in Martinez.

For this reporting period, CCC OS Program staff has been working on updates to the LA/LB Area Plan and is currently signed up for working subgroups engaged in stakeholder engagement and outreach as well as the offshore workgroup looking at issues surrounding offshore pipelines and platforms. The Central Coast Area Committee also updated the Area Plan to include updated resource information and improved/updated response strategies for Elkhorn Slough.

- One Regional Response Team 9 ("RRT 9") meeting, Martinez (1/9 – 1/10): CCC oil spill program staff attended and presented at the RRT 9 State Agency Roundtable. Updates to the California Dispersant Plan and the CCC CZMA review process of the CA Dispersant Plan were highlighted.

- **Prevention First Symposium, Long Beach (9/25 – 9/26).** CCC OS Program staff attended the Prevention First Symposium held in Long Beach. Presentation topics included: Abandoned and Derelict Vessels; Emerging Technologies; Offshore Facilities Decommissioning and Well Abandonment; Dynamic Under-Keel Clearance Project for Port of Long Beach; and Advances in Process Safety management and Pipeline Safety, to name but a few.
- **Local Government On-Scene Coordinator (LGOSC) Training, San Rafael (8/21).** CCC OS Program staff attended the OSPR/OES sponsored LGOSC training in San Rafael at the Emergency Operations Facility. CCC staff was able to learn about the roles and responsibilities of the LGOSC, the selection process, and how a LGOSC works in a UC tabletop exercise. For the CCC OS Program, it was important to understand how the LGOSC integrates into the ICS structure and how a LGOSC interacts with Agency Reps and the Liaison Unit in a spill response.
- **USCG/ Chevron El Segundo Drill (5/2 – 5/3).** CCC OS Program staff participated in the two day USCG/Chevron spill drill at the El Segundo refinery. Staff participated with the Liaison Unit and had an opportunity to practice using the new stakeholder matrix in the ACP.
- **Beacon West Oil Spill Response Plan (OSRP)/Federal Consistency Review.** CCC OS Program staff is working with BSEE and OSPR on Beacon West's OSRP. Beacon West is the company that Chevron has designated as their operator for purposes of decommissioning Platforms Gail and Grace. On 9/15, a Government Initiated Unannounced Exercise (GUIE) was conducted on Platform Gail with mixed results. Lessons learned and observations from the exercise will be incorporated into the next draft plan update.
- **New Legislation/Regulation**
 - **AB 1197 (Limon) Spill Management Teams** – This bill regulates SMT's. CCC OS program staff participated in the scoping meeting for the new regulations in Playa del Rey (2/27, and is reviewing the draft regulations that were recently released.
 - **AB 2864 (Limon) NRDA Participation** – This bill would ask the OSPR Administrator to invite the CCC and BCDC to participate in the NRDA process for coastal and Bay oil spills. During this reporting period, the CCC OS, Energy, Legislative and Legal staff worked with OSPR and others on clarifications/fine tuning the language of the bill. Awaiting Governor's approval.
- **Coastal Development Permits and Projects**
 - **Refugio Oil Spill/Coastal Development Permitting Update (CDP # 9-17-0297)** – The public hearing and action on the emergency oil spill cleanup work at Refugio conducted under Emergency Permit No. G-9-15-006 was held and approved on March 9th in Port Hueneme. CCC staff continues to coordinate with trustee agencies and other interested parties on the NRDA process and possible future mitigation projects.

- **City of Long Beach Southeast Areas Development and Implementation Plan (SEADIP).** On July 26, the CCC certified the Land use Plan and Implementation Policies of SEADIP and the City's Oil Code, both components of the City of Long Beach's LCP. The amendment adds Oil Production Uses as an allowable use on two sites in the SEADIP area (the Pumpkin Patch site and the Los Cerritos Wetland Authority site) and revises the Oil Code to reflect the addition of these two areas as "Oil Operating Areas". The CCC approval included new policies to ensure that new oil and gas-related development is designed, constructed, and operated in a manner that consolidates existing oil and gas facilities, is protective of coastal resources, including marine resources, wetlands, ESHA, and cultural resources and avoids or minimizes risks associated with oil spill and other hazards. It should be noted that this is a project driven LCP amendment, and a CDP application by the Beach Oil Minerals Partners (BOMP) for a well consolidation, pipe transport, and storage project (including extensive Los Cerritos wetland restoration) has already been submitted to the CCC for review.
- **Pacific Quest Vessel Salvage.** On August 12th, the 56-foot commercial fishing vessel, *Pacific Quest*, ran aground near Natural Bridges State Beach, in Santa Cruz County, with a maximum potential capacity of 1,200 gallons of diesel fuel aboard. The vessel immediately began breaking apart on the rocks, causing an estimated 200 gallons of diesel fuel to be released into the ocean. The following morning, emergency responders were able to remove roughly 720 gallons of fuel that remained in the vessel. After the fuel was removed, attention turned to the salvage of the vessel by removing the engines, generator, and larger hull pieces from the beach. During the salvage, high tides and heavy surf continued to damage and break up the vessel. Debris from the wreck was extensive and expanded along the shoreline, intertidal zone, and into the nearshore kelp beds. Emergency offshore cleanup was performed by boats and swimmers in order to retrieve floating debris from the kelp beds, while crews walked the sandy beach and rocky reef picking up smaller pieces of debris using hand tools. A heavy equipment storage and staging area was established on the bluff above the wreck site for all pollution removal, salvage, and debris cleanup operations.

The CCC issued an emergency coastal development permit (ECDP) which authorized emergency development consisting of removal of diesel fuel and other pollutants from the wrecked vessel; removal of the remaining large/heavy pieces of the vessel (engines, generator, remaining hull, etc.) from the sandy beach; and small debris removal (fiberglass, wood, Styrofoam, plastic pieces, small electronics, etc.) from the sandy beach, intertidal zone, and offshore kelp beds. The emergency development was necessary to abate the threat of a significant oil spill and to minimize the release of hazardous debris from entering the ocean and Monterey Bay National Marine Sanctuary.

Debris cleanup has been ongoing and continues. Plans with UCSC and the LML are being coordinated to restore the upper bluff staging area to pre-development conditions. A follow-up regular permit will be required to mitigate for unavoidable impacts to coastal resources as a result of the wreck and salvage of the vessel.



October 3, 2018

Activity Report to OSPR TAC
February 8, 2018 – October 3, 2018

Harbor Safety Committee

BCDC participated in the February - September HSC meetings, although no meeting was held in August. The next meeting is scheduled October 11 in Richmond.

BCDC's primary effort over the spring was managing the Harbor Safety Plan's annual update, which was adopted for submission to the OSPR Administrator during the June 14 HSC meeting.

BCDC spill staff attended USCG Deep Draft Industry Day April 25.

Staff listened to the Pac States/BC annual meeting webinar on abandoned and derelict vessels June 19.

Following the July 12 HSC meeting, spill staff joined the Navigation work group for a NOAA briefing and discussion on CATZOC (Categories of Zone of Confidence). The ZOC value is dependent on the positional and depth accuracy and sea floor coverage of a survey. These values are used in electronic navigation charts (ENCs) and on the electronic chart displays (ECDIS) used by mariners operating ships in determining safe operating parameters.

The members expressed their concerns surrounding Bay navigation channels being designated with an A2 rating, which would not provide much increased benefit for planning by shipping lines, and requested an A1 rating be awarded at Pinole Shoal as a test case. The NOAA representative agreed to present the agency with the group's request, based on the use of multibeam surveys by USACE in achieving full bottom coverage when scanning Bay channel depths.

Spill staff attended a maritime stakeholder meeting sponsored by Rep. John Garamendi September 17, where accomplishments over the previous two years were presented and suggestions for future actions were received.

Spill Contingency Planning

Spill staff participated in the March 20, May 15 and September 18 Area Committee meetings, and joined other Sensitive Sites work group members in determining potential restoration sites to be added to the ACP.

BCDC spill staff attended the Joint LEPC, Coast Guard Area Committee-HazMat working group meeting in Martinez May 9.

Staff participated in the July Statewide Area Committee meeting at the Shell Clubhouse in Martinez.

Participated in OSPR sensitive site survey of Bel Marin Keys restoration site in Marin County September 5.

Response

Primary spill staff received annual 8-hour HAZWOPER refresher training February 28.

Backup spill staff received SCAT training with Pacific Strike Team March 27-29.

Primary staff logged in to a webinar re oil spill effects on marine mammals March 29.

Backup spill staff:

- Attended a marinas spill workshop in Vallejo May 8.

Took ICS-300 in June with the Pacific Strike team.

- Received 24-hour HAZWOPER training June 26-28.

- Participated in the July 19 Shell NPREP.

- Attended Prevention First September 25-26.

Primary spill staff participated in:







- Chevron Richmond worst-case exercise August 15-16.

- LGOSC workshop in San Rafael August 21.

- Chevron Avon worst-case exercise in San Ramon September 27.

- SF Fleet Week Emergency Exercise October 1.

BCDC Enforcement staff continues to participate in the USCG Abandoned Vessels working group as well as the Richardson's Bay Regional Authority and City of Sausalito efforts to improve navigational and open waterways.

Zone of Confidence (ECDIS Symbol)	Position Accuracy	Depth Accuracy
A1 	5 Meters	0.5 Meters + 1% of Depth
A2 	20 Meters	1.0 Meters + 2% of Depth
B 	50 Meters	1.0 Meters + 2% of Depth
C 	500 Meters	2.0 Meters + 5% of Depth
D 	More than 500 Meters	More Than 2.0 Meters + 5% of Depth
U 	Not Assessed	Not Assessed

Data shown on the nautical charts and ENCs may have errors depending upon how the data was measured and when it was measured. The older the data, the less accurate it will be because of old technology used for measuring the data.

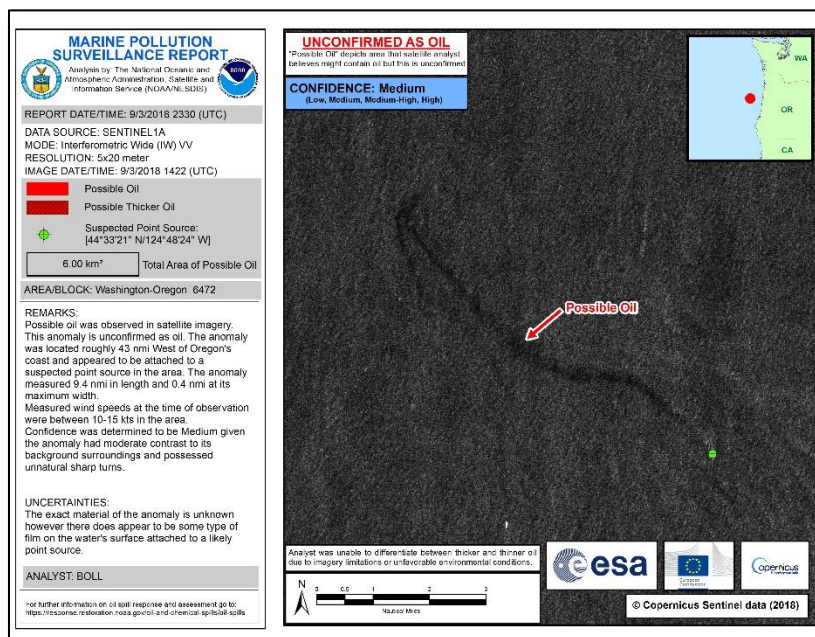
The level of accuracy has been divided into six categories known as "zone of confidence" or CATZOC. Each "zone of confidence" (CATZOC) has been assigned a maximum error value for the depths and its position shown on the charts.



NOAA items of interest

- **Some lessons from the 2017 Hurricane season** – NOAA's Emergency Response Division was heavily deployed during the 2017 Hurricane Season, staffing command posts in TX, FL, Puerto Rico and the USVI in support of USCG's ESF-10 (oil & hazmat) operations. Many disaster-related response lessons were learned including the value of abandoned/derelict vessel regulations, management of electronic field data (QA/QC, cross-platform connectivity/integration, visualizations), and coastal habitat protection guidance for the removal of 1,566 sunk, capsized, grounded, or displaced vessels. The evolving learning curve across multiple hurricanes in the same season underscored the value of disaster planning.
- **NOAA Spill Science Following Deepwater Horizon (DWH)**
 - Remote sensing – Multi-level field tests at the Ohmsett test tank (NJ) and a chronic leak site off the Louisiana coast have improved the use of remote sensing tools to detect, characterize and estimate volumes of surface oils in open water environments. Simultaneous field data collection by satellite, aircraft-mounted sensors, Un-manned Aerial Systems (UASs), and in-situ oil thickness measurements have helped validate sensor packages and improved classification algorithms to distinguish oil sheens from thicker and emulsified oils. Updated classification (TCNNA – Texture Classifying Neural Network Analysis) algorithms have already been incorporated into NOAA satellite spill reporting process (see below for more on NESDIS).
 - Endangered Species Research special issue on DWH – Volume 33 of Endangered Species Research (2017) includes 22 scientific articles summarizing 5 years of interdisciplinary studies of DWH impacts on marine mammals & sea turtles. Over 200 authors including NOAA and partner researchers. Available for OpenAccess download at: <https://www.int-res.com/abstracts/esr/v33/>
 - Dolphin inhalation study – One of the key routes of DWH oil exposure to dolphins was through inhalation of VOCs, aerosols and droplets. Dolphins are particularly susceptible to inhalation effects due to their large lungs, deep breaths, and extended breath-hold times so NOAA Fisheries is working with the National Aquarium (Baltimore) to better assess aerosol and droplet inhalation pathways in dolphins.
- **NOAA satellite spill reports now publicly** – In March 2018, NOAA NESDIS' (National Environmental Satellite Data & Information Service's) Marine Pollution Surveillance Reports (MPSRs) became publicly-available at: <https://www.ospo.noaa.gov/Products/ocean/marinepollution/>. These reports, formerly "for government use only", indicate areas of "possible oil" identified by NESDIS analysts using a variety of constantly streaming environmental satellite data. When an MPSR is generated, a figure, feature description and confidence score (high, medium, low) are provided by the analyst, who then distributes a regionally-specific e-mail alert (Pacific, Gulf of Mexico, Atlantic, and Great Lakes) and reports the anomaly to the National Response

Center. An example is provided below of the latest MPSR in the Pacific region, an area of unconfirmed oil 43 nautical miles off the Oregon coast on 03-SEP-2018.



NESDIS MPSR from 03-SEP-2018 off the OR coast. Potential source vessel is indicated by the green dot with "possible oil" indicated by red text/arrow. Image credit: NOAA.

- **Voluntary SCAT data standard published** – In May 2018, NOAA published a voluntary standard for digital data describing oiled shorelines using SCAT (Shoreline Cleanup Assessment Technique). With the ever-increasing use of digital data during incident responses, this voluntary standard provides a common point of reference for the development of electronic field data collection tools, databases and information products for SCAT activities. This standard grew out of a digital data workshop in 2017, in which OSPR participated. Among other elements, this voluntary standard includes:
 - Recommended Quality Assurance/Quality Control (QAQC) workflow
 - Rules for spatial representation
 - Data interchange file formats & data structures
 - Minimum documentation requirements
- **Interagency Agreement (USCG & NOAA) for use of ERMA as COP** – In September 2018, an interagency agreement (IAA) was signed by USCG & NOAA at the headquarters-level providing a framework for USCG's use of ERMA as the Common Operating Picture for spills, exercises, and planning. In development since DWH, this IAA:
 - Clarifies ERMA as part of NOAA's Scientific Support role coordinated through SSCs
 - Addresses the importance of data sharing
 - Provides a mechanism for future USCG-funded ERMA projects

- Supports nationally-consistent approaches/visualizations for USCG activities, including tracking Abandoned & Derelict Vessels (ADV), Geographic Response Strategies (GRSs), training and exercises
- **LRAUV field demo off Moss Landing** – Researchers at the Monterey Bay Aquarium Research Institute (MBARI), Woods Hole Oceanographic Institution (WHOI), and University of Alaska’s Arctic Domain Awareness Center (ADAC) developed a small Long-Range Autonomous Underwater Vehicle system (Tethys AUV), which was demonstrated in an open-water field test on 27-SEP-2018 in Monterey Bay. It is described as “a helicopter-portable system that functions as a rapid response solution to incidents occurring in the maritime environment, and aims to increase the situational awareness of first responders.” The goal of this five-year project is to provide an autonomous underwater capability to survey oil spills at long range, at high latitudes, and under ice. The field test involved sensing and mapping sea dye, simulating an oil spill in open water.
- **CRRC Science/Academic Leveraging Workshop** – In early January 2019, UNH’s Coastal Response Research Center (CRRC) will host a [workshop on “Leveraging Science and Academic Engagement During Incidents”](#) on January 8-9 in Tiburon, CA. Yvonne Addassi is a member of the Organizing Committee. Workshop goals include:
 - Develop best practices for advancing NOAA ORR (Office of Response & Restoration) interactions with the academic community during response, enabled by relationships built during the preparedness phase
 - Build relationships and foster understanding of the roles and responsibilities of the oil spill response/assessment scientific community and the academic community, including an understanding of each other’s strengths and limitations
 - Develop mechanisms that facilitate access for academic research during oil spills
 - Develop implementation recommendations and metrics for evaluating success
- **Upcoming SeaGrant spill workshop in CA** – The National Sea Grant College Program (aka “SeaGrant”), a Federal-University partnership program, is planning a series of five workshops around the country focusing on the “Health, social, and economic disruption related to oil spills” (<http://masgc.org/oilscience/NAS-project-flyer.pdf>). These workshops, held in coordination with the National Academy of Sciences’ Gulf Research Program (GRP) and the Gulf of Mexico Research Initiative (GOMRI), will aim to listen to those directly affected by spills, identify regional priorities for improving preparedness, promote networking, identify resources, and address gaps related to spill-relevant public health topics. Each workshop will result in a summary report, laying the foundation for potential follow-up activities to improve public health response and regulatory frameworks.

OSPR Technical Advisory Committee Meeting

October 3, 2018 Davis, CA



U.S. Coast Guard D11

Mr. Tim Holmes
timothy.p.holmes@uscg.mil
510-437-2949



Leadership:

ADM Karl Schulz – COMDT

VADM Linda Fagan – PACAREA

RADM Peter Gautier – D11

CAPT Anthony Ceraolo – Sector SF/FOSC

CAPT Monica Rochester – Sector LA/FOSC

CAPT Joseph Buzzella – Sector SD/FOSC

Meetings, Plans & Coordination:

🌀 **RRT9 - November RRT Meeting:** Nov 06-08, 2018. This meeting date will serve as an RCP workshop (11/7-8), preceded by an ExecSec meeting on 11/6. Location TBD (Fairfield/Davis/Sacto?). Notification will go out soon.

January RRT Meeting: Jan 09-10, 2018 in Long Beach. Agenda and logistics information will be posted at www.rrt9.org. Choose the “RRT9 Calendar, Meetings, & Exercises” page.

RRT Web Site: www.rrt9.org POC: Susan Krala, susan.e.krala@uscg.mil, (510) 437-2794.

🌀 **ESA7:** CG & EPA received concurrence on the Biological Assessment on the CA Dispersant Use Plan from USFWS (03/17) and NMFS (05/18).

🌀 **Draft “RRT9 Dispersant Use Plan for CA”:** Draft is being briefed to CG FOSCs, Area Committees, NMSs, TAC, and EPA9 & CGD11. Final comments will be reviewed & considered for incorporation to the draft DUP. Target date for finalizing the document is Dec 2018. POC: Ellen Faurot-Daniels (OSPR) & Tim Holmes (D11).

🌀 **CA Area Committees:** SFBF – 9/18 Sausalito, CA; LA North & South – 10/9 Santa Barbara, CA; SD County – 10/11 Carlsbad, CA; CC – 10/25 Moss Landing, CA; NC – 11/15 Eureka, CA.

ACPs: See national 5 yr review schedule (attached). San Diego ACP has been reviewed by the national ACP review panel receiving a top review score of 3/3 for 2018 cycle!

🌀 **MEXUSPAC:** D11 & SEMAR Region 2 signed the 2018 MEXUSPAC Annex in Ensenada, MX on March 23, 2018. 2019 MEXUSPAC Mtg & TTX: Scheduled for February 20-21, 2018 at SEMAR R2 in Ensenada, MX.

OWCN continues efforts to move SEMAR & Baja Norte forward with their development of an oiled wildlife response plan.

Many thanks to Kyra Parker-Mills & Dr. Mike Ziccardi for their incredible support on this endeavor! CAPT Hernandez, SEMAR R2, reports the workgroup is energized and moving forward. SEMAR HQ has given this project priority – hopefully agency wide!

🌀 **HQ/NRT:**

- **CG & NOAA Interagency Agreement (IAA):** standardizes use of **ERMA** as the Common Operating Picture for USCG-led training, exercises, and responses to discharges of oil and releases of hazardous substances, pollutants, and

OSPR Technical Advisory Committee Meeting

October 3, 2018 Davis, CA



U.S. Coast Guard D11

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contaminants. It also establishes a formal framework for policy decisions and use of ERMA to support USCG activities (i.e. data visualization on Abandoned & Derelict Vessels (ADV)s, conducting training and exercises, and referencing Geographic Response Strategies (GRS), etc).

- **PREP Guidelines 2016.1:** The Federal Register Notice of Availability is being finalized with anticipated release date OOA 30 September 2018.
- **NRT Abandoned Vessel Guidance Workgroup Meeting** – held 9/26.
- **Clean Gulf** – November 13-15, 2018

Response Activities (IMD):

- **12 JUL 18 (2040 PDT):** SEC SD received notification from San Diego Harbor Police of flooding at the General Dynamics NASSCO facility in the vicinity of 32nd Street Naval Base, San Diego. One of the doors of a submerged dry dock that contained the Naval Vessel, USNS MIGUEL KEITH -under construction- broke off and flooded the dry dock with 31' of seawater, submerging vehicles, paint and rolling fuel storage tanks. USN and NRCES completed the cleanup.



Readiness:

- **GIUEs:** FY18 = 81% compliance Coast Guard-wide. **100% compliance in D11!**
All GIUEs were conducted in coordination w/ CA OSPR/EPA or BSEE.

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Training:

- DRAT completed multiple Boom Training evolutions using CA OSPR Boom Trailers for County Park Rangers, Fire Departments, Marine patrols and the Yurok Tribe.
- Aug 2018: DRAT and NOAA provided spill response management training for over 40 CG and OSPR Responders at Sectors SD & LA/LB.
- Late Nov 2018: DRAT to provide annual CGC ASPEN Spilled Oil Recovery System (SORS) training south of Bay Bridge.

###

2015-2016 Oil Spill Technical Advisory Committee Biennial Report Regarding California Oil Spill Response and Preparedness

Summary Abstract

Statute requires the Oil Spill Technical Advisory Committee (TAC) to report to the Governor and the Legislature of California about its activities on a biennial basis. The attached report reviews 2015-2016, presenting the important issues the TAC has been actively following. It highlights those issues the TAC feels are critical to California's oil spill preparedness, prevention, and response programs; and provides recommendations and details actions taken to address these issues. The California oil spill program encompasses programs administered by the Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR), the California State Lands Commission (CSLC), the California Coastal Commission (CCC), and the San Francisco Bay Conservation and Development Commission (BCDC). In this period OSPR continued to address the challenges of expanding from a primarily marine program to the statewide oil spill program, as mandated by Senate Bill 861 in June of 2014. This statewide oil spill program expands upon the existing oil spill preparedness, prevention, and response requirements and activities by requiring contingency plans and oil spill response capabilities for inland pipelines, inland oil producers, and railroads that transport crude oil by rail.

In its report, the TAC identifies the following issues of particular interest and concern:

- Status of Oil Spill Funds
- Implementation of statewide oil spill program, including the transport of petroleum products by rail and pipeline
- Monitoring of oil spill-related legislation and regulation development and implementation
- Status of the Oiled Wildlife Care Network
- Expanded Role and Membership of the TAC
- Ongoing need to secure a dedicated funding source to address non-petroleum spills in state waters

The TAC also provides several recommendations to the Governor and Legislature:

- Continue to monitor crude oil by rail and enact additional legislation if necessary to address any outstanding issues
- Make appointments to fill the eight (8) vacant TAC membership positions
- Identify funding for responding to non-petroleum based spills in state waters
- Seek repayment of any outstanding loans to the Oil Spill Response Trust Fund

The Administrator for OSPR will receive the report, which will be distributed to all OSPAF-funded agencies to review, discuss, and address.

**2015-2016
BIENNIAL REPORT**

**BY THE
OIL SPILL TECHNICAL ADVISORY
COMMITTEE TO THE
GOVERNOR AND THE LEGISLATURE**

**PURSUANT TO THE
LEMPERT-KEENE-SEASTRAND OIL SPILL PREVENTION
AND RESPONSE ACT
GOVERNMENT CODE SECTION 8670.1, *ET SEQ.***

August 9, 2017



Executive Summary

As required by statute, the Oil Spill Technical Advisory Committee (TAC) presents this report to the Governor and the Legislature of California as an opportunity to review our activities of the past two years and discuss priority issues and recommendations for the State's oil spill program for 2017-2018. The report follows the format of recent reports, which we hope informs the Governor and the Legislature of the important issues with which the TAC has been engaged, as well as adequately highlights those issues that we feel are critical to our State oil spill preparedness, prevention, and response.

The California oil spill program encompasses programs administered by the Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR), the California State Lands Commission (CSLC), the California Coastal Commission (CCC), and the San Francisco Bay Conservation and Development Commission (BCDC). Throughout the period covered by this report, the TAC has received periodic updates on these agencies' day-to-day activities and continuing challenges and successes in carrying out the mandates of their respective programs. As in previous years, the TAC continues to be impressed with the professionalism of the dedicated staffs of these agencies in meeting their primary mandate of providing the best achievable protection of the State's valuable natural resources from oil spills.

In the 2015-2016 Issues and Accomplishments section of this report, we highlight a number of issues the TAC has been monitoring and addressing over the past two years, including:

- Status of Oil Spill Funds
- Implementation of statewide oil spill program, including the transport of petroleum products by rail and pipeline
- Monitoring of oil spill-related legislation and regulation development and implementation
- Status of the Oiled Wildlife Care Network
- Expanded Role and Membership of the TAC
- Ongoing need to secure a dedicated funding source to address non-petroleum spills in state waters

Shifting Trends in Petroleum Product Transportation

During the past four years the methods and means of transporting crude oil within the state has gone through significant changes. With the development of unconventional means of producing petroleum products in the United States, the TAC anticipates that there may be a shift in the volume and means of transport of petroleum products in California from the more historically regulated use of tankers and marine terminals to rail and pipeline. This shift may result in a varying risk of oil spills in the inland areas of the state, historically not included in the robust marine oil spills program.

California's recently-adopted statewide oil spill program requires contingency plans and oil spill response capabilities for inland pipelines, inland oil producers, and railroads that transport petroleum products by rail. The implementation of these programs is currently established through emergency rulemaking, with formal rulemaking still underway. The enabling legislation provided additional funding through these alternative gateways for oil import to provide sufficient resources to administer this additional workload. The program implementation is discussed in more detail in this report. The TAC will continue to monitor and recommend action to guide the implementation of the statewide program in 2017-2018.

The TAC will also continue to monitor the evolving issues concerning petroleum product transportation by rail, particularly as this mode of delivery impacts the implementation of the statewide oil spill program. Recent new federal requirements for petroleum product transportation by rail compliment the state's program, and together they address multiple risks associated with oil-by-rail.

Oiled Wildlife Care Network Funding

Concern for funding of the Oiled Wildlife Care Network (OWCN) was resolved through provisions in SB 861, which provides funding for the OWCN through the Oil Spill Prevention and Administration Fund (Fund 320), as opposed to interest earned on the Oil Spill Response Trust Fund (Fund 321), which was not generating sufficient operating capital. A discussion of the financial health of the OWCN and its expansion into inland regions of the state is included in the body of this report. The TAC will continue to include the OWCN as a priority issue for 2017-2018.

Technical Advisory Committee (TAC) Membership

As discussed in this report, SB 861 has expanded the role and membership of the TAC. Membership has been expanded from ten (10) members to fourteen (14). The Governor, the Speaker of the Assembly, and the Senate Committee on Rules appoint TAC members. In addition to the four (4) open positions created by SB 861, four (4) other positions remain open. With eight (8) total open positions, less than half of the TAC membership positions are currently filled. The TAC strongly urges that appointments be made to fill these open positions so the TAC can function as intended.

Non-petroleum Spills

In the TAC's discussion of the Fish and Wildlife Pollution Account (Fund 207), it is noted that although SB 861 creates a statewide oil spill program, there continues to be a lack of a dedicated funding source to address non-petroleum spills of hazardous materials (hazmat) in state waters. Such spills can occur in all waters of the state, from vessels, marine facilities, pipelines, rail transport, or truck transport. The Legislature has attempted to address some hazmat spills through passage of SB 84 (statutes of 2015), which would assess a fee on hazmat moved by rail. That bill is being challenged by the railroads in federal court, and its legal status is in doubt. The challenge of funding

preparedness and response to non-petroleum spills has been an ongoing concern to TAC and the agencies for many years and needs resolution.

Senate Bill 414 (Jackson)

Of the bills monitored by the TAC and signed into law in the 2015/2016 session, SB 414 (statutes of 2015) was most closely followed. In addition to having several provisions that directly impacted OSPR and spill prevention and response, the law specifically directed the TAC to assess vessels of opportunity (VOO) for use in oil spill response. Another provision, the mandated assessment of emergency towing resources by the Harbor Safety Committees of San Francisco and Los Angeles/Long Beach has been underway since early 2016 and is expected to be completed in early 2017. In addition, the TAC convened a VOO Task Force in July of 2016, and the Task Force completed their preliminary assessment and report to the TAC in October of 2016. The TAC approved and submitted the report and recommendations to the Administrator on December 13, 2016. The Administrator submitted the final report and recommendations to the Legislature on January 5, 2017.

A discussion of issues the TAC feels will continue to be of interest and worthy of attention are included in the section of this report entitled Priority Issues for the TAC 2017-2018; these issues include:

- Monitoring of Oil Spill Funds
- Implementation of statewide oil spill program, including the expansion of the Oiled Wildlife Care Network
- Regulation development and implementation
- Best Achievable Technology Report
- Monitoring of oil spill-related legislation
- Petroleum product transportation by rail and pipeline
- TAC membership, roles, and responsibilities
- Funding challenge for non-petroleum spills
- Audit recommendations and strategic plan development and implementation

The issues above form the basis for the following recommendations that the TAC is making to the Governor and Legislature.

Recommendations

- Continue to monitor petroleum product transportation by rail and enact additional legislation if necessary to address any outstanding issues
- Make appointments to fill the eight (8) vacant TAC membership positions

- Address the lack of a dedicated funding source for responding to non-petroleum based spills in state waters
- Seek repayment of any outstanding loans to the Oil Spill Response Trust Fund

The TAC looks forward to continuing our excellent working relationship with the OSPR Administrator and the dedicated men and women at OSPR, the State Lands Commission, the Coastal Commission, and the San Francisco Bay Conservation and Development Commission. We would like to express our appreciation for their dedicated hard work to protect California's spectacular natural resources and expand knowledge to other states to prevent and respond to significant hazardous spills.

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Background

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) was signed into law on September 22, 1990 (S.B. 2040, Stats. 1990, Ch. 1248). The overall purpose of the Act was to prevent and cleanup marine oil spills and to restore the environment. Specific findings by the Legislature concerning the California coast and the threat of pollution from marine oil spills motivated the adoption of the Act. SB 861 broadened the scope of the Act from marine waters to all state waters. The Administrator of the Office of Spill Prevention and Response (OSPR) and the California State Lands Commission (CSLC) are vested with the primary responsibility for implementing the Act.

The staff of OSPR is comprised of personnel within the Department of Fish and Wildlife. They coordinate and directly respond to oil spills to state waters and work with an array of public and private entities to prepare for and prevent spills. Some notable federal partners include the United States Coast Guard; U.S. Environmental Protection Agency; National Oceanic and Atmospheric Administration; and the Bureau of Safety, Environment, and Enforcement (BSEE), as well as state and local agencies and communities through engaged Area Committees that are chaired by the USCG and OSPR. In addition, there are five Harbor Safety Committees that develop harbor safety plans for the ports of San Diego, Los Angeles/Long Beach, Port Hueneme, the San Francisco Bay Area, and Humboldt Bay. Similar local outreach is underway for inland areas, although those are still under evaluation and development. Other services to aid in safer navigation of California State Waters are the U.S. Coast Guard Vessel Traffic Services in San Francisco and Los Angeles/Long Beach, and NOAA's Physical Oceanographic Real-Time Systems (PORTS).

Oil Spill Technical Advisory Committee

One component of the Act was the creation of the Oil Spill Technical Advisory Committee (TAC). The TAC provides public input and independent judgment of the actions of the Administrator of OSPR. With the passage of SB 861, the Legislature expanded the membership of the TAC to include fourteen (14) members; eight (8) of whom are appointed by the Governor, three (3) by the Speaker of the Assembly, and three (3) by the Senate Rules Committee. The membership must have background in

marine transportation, local government, oil spill response and prevention programs, the petroleum industry, state government, environmental protection and ecosystems, the dry cargo vessel industry, the railroad industry, the oil production industry, and the general public. Pursuant to its by-laws, TAC members serve until they are either replaced by the appointing authority, a member resigns, or a member is asked for their resignation after a vote of at least two-thirds of the appointed TAC members. *(See Appendix B for current TAC member information.)*

The TAC makes recommendations to the OSPR Administrator, the CSLC, the California Coastal Commission (CCC), and the San Francisco Bay Conservation and Development Commission (BCDC) on any provision of the Act including the promulgation of all rules, regulations, guidelines, and policies.

At its own discretion, the TAC may study, comment on, or evaluate any aspect of oil spill prevention and response in the State. To the greatest extent possible, these studies are to be coordinated with studies being done by the Federal government, the Administrator, the CSLC, the State Water Resources Control Board (SWRCB), and other appropriate State and international entities.

Since 2003, the TAC has been required to report biennially to the Governor and the Legislature on its evaluation of marine oil spill prevention and response within the State. The TAC may also prepare and send any additional reports it determines to be appropriate to the Governor and the Legislature.

The TAC meets at least on a quarterly basis throughout the year. All TAC meetings are open to the public pursuant to the Bagley-Keene Open Meeting Act, and portions of each meeting are devoted to public input on any issue affecting California's statewide oil spill programs.

Issues and Accomplishments for Calendar Years 2015-2016

Monitoring of Oil Spill Funds – Funds 207, 320, 321, and 322

At each meeting of the TAC, OSPR provides a report on the status of each of the oil spill funds. The following is a discussion of the status of the funds and the TAC's observations.

Fund 207 – Fish and Wildlife Pollution Account

After signing of SB 861 in 2014, spills of petroleum products in non-marine surface waters of the state obtained a dedicated funding stream; however, non-petroleum spills throughout state waters continued to have no source of dedicated funding. Historically, funding for Fund 207 has been derived from fines and penalties recovered from the parties responsible for the aforementioned spills. The availability of funds for response has proven to be inadequate, as indicated by the TAC in past reports, and the lack of ability to forecast based solely on fines and penalties has severely hampered the ability of the agencies to adequately prepare for non-petroleum spills

Fund 320 – Oil Spill Prevention and Administration Fund

The Oil Spill Prevention and Administration Fund (OSPAF) is used to finance OSPR's operating budget and the State oil spill programs. As part of the Budget Act of 2014 and through the enactment of SB 861, the \$0.065 per barrel (42 U.S. gallons) fee on those owning crude oil or petroleum products received at a refinery, as specified by any mode of delivery that passed over, across, under, or through waters of the state, whether from within or outside the state, was established. This changed the fee structure from one that was only charged to crude oil and petroleum products imported into the state via marine transport or via pipelines off the coast of California. The TAC believes that this action resulted in the OSPAFA budget being restored to an appropriate level after several years of funding that proved insufficient to cover program costs. These statutory changes also shifted the funding of the Oiled Wildlife Care Network from interest earned through Fund 321 (see below) to a fixed appropriation from Fund 320, eliminating chronic shortfalls to that program's funding. The TAC is committed to continuous monitoring of the OSPAFA fund to ensure the fee level is appropriately set to fund the mandates of the Lempert-Keene-Seastrand Act.

Fund 321 – Oil Spill Response Trust Fund

The Oil Spill Response Trust Fund (OSRTF) is available to the OSPR Administrator to pay for the cost of responding to oil spills if the responsible party is unable or unwilling to fund cleanup and funding from the federal government's Oil Spill Liability Trust Fund will not be available in a timely manner. The OSRTF was initially funded by a twenty-five

cent (\$0.25) per barrel (42 U.S. gallons) fee. The fee was discontinued once the fund balance reached a prescribed level. The fee may be reinstated if the Administrator determines that the amount in the fund is less than or equal to 95% of the designated amount of \$54,875,000 and that minimum funding is required. The fee has not been reinstated since the fund's inception.

During 2005/2006, the TAC became aware of discrepancies in the fund balance resulting in the resources dropping close to the level required to trigger a reinstatement of the fee. The accounting and allocation errors have since been corrected without the need for such fee reinstatement.

Legislation in 2011 authorized a \$40,000,000 loan from the OSRTF to the General Fund, which, as of 2016, carried a repayment date of June 30, 2017. (See Stats. 2011, c. 11, SB 80; and Stats. 2014, c. 35, SB 861) The loan has reduced the amount of interest income the OSRTF earns. When the loan is repaid it is to be repaid with interest. Any and all other loans must be monitored and repaid to restore the fund to its appropriate level.

The TAC receives regular briefings from OSPR on fund activity and balance. Over the last two years, the TAC has seen no irregularities that could not be adequately explained; however, the loans from the fund have, in the opinion of the TAC, seriously jeopardized the integrity of the Trust Fund. That situation has not been rectified and is discussed later in this report under the OWCN update.

Fund 322 - Environmental Enhancement Fund

All penalties collected under the act are deposited into Fund 322. The TAC has received a number of briefings on the status of the Environmental Enhancement Fund (EFF). This fund is used to pay for enhancement and restoration projects. In the past, funding was capped at \$358,000/year, even though additional funds were available, which was viewed as an unnecessary limiting factor in supporting deserving projects. Temporarily (for a two-year period), in fiscal year 2014/2015, the expenditure was increased to \$759,000, and in fiscal year 2015/2016 it was set at \$658,000. The TAC feels that if additional funds are available they should be expended for EFF projects. Enactment of SB 861 provided the authority required for increasing annual expenditures.

Implementation of Statewide Oil Spill Program

Since 2009, the OSPR Administrator (or his/her designee) has been designated as the Incident Commander for inland oil spill cleanup; made responsible parties for inland spills liable for damages similar to those for marine oil spills; and allowed for civil and administrative enforcement of inland oil spills (AB 2911, statutes of 2008). Enforcement penalties for both inland and marine oil spills were also strengthened. Those changes did not include any provisions for creating a dedicated funding source for the inland pollution program or require inland spill planning.

In 2014, the legislature enacted SB 861 as part of the budget process. SB 861 made various changes to the State Budget, and included in the bill were provisions expanding the Administrator's responsibilities relating to oil spills to include all surface waters of the state (except groundwater). Some of the key provisions of the law include:

- Development of regulations to expand oil spill preparedness, prevention, and response program from marine waters to all surface waters of the state.
- Requiring operators of refineries, pipelines, and oil terminals to register with the State Board of Equalization and to assess a per barrel fee on all oil imported or extracted from the state.
- Requiring the Administrator to amend the California Oil Spill Contingency Plan to provide for the best achievable protection of all state waters, not solely coastal and marine waters, and to submit the plan to the Governor and the Legislature on or before January 1, 2017.
- Changes to the funding stream for the Oiled Wildlife Care Network (OWCN) from interest earned on the Oil Spill Response Trust Fund (Fund 321) to a flat appropriation of \$2,500,000 per year from the Oil Spill Prevention and Administration Fund (Fund 320), as well as an expansion of duties of the OWCN to include inland activities for preparedness and response, as well as proactive capture and care of impacted wildlife.

The implementation of the statewide oil spill program has now been underway since 2014. After conducting a number of scoping sessions and workshops intended to solicit input and field concerns from new interested stakeholders, emergency oil spill contingency plan regulations were developed covering inland pipelines, inland production facilities, and railroads transporting petroleum products. Emergency regulations covering inland pipelines and inland production facilities were adopted in the Fall of 2015 and readopted in the Fall of 2016 for an additional 12 months. Final regulations for inland facilities and pipelines are expected to be completed in 2017.

OSPR Regulations Development and Implementation

Expansion of Program to Include All State Waters

Some of the emergency regulations adopted to expand the oil spill program to all waters of the state are still in effect, as of the drafting of this report, and the rulemaking process for adoption of formal regulations has not yet concluded for all aspects on the expansion.

As of the drafting of this report, these proposed regulations include contingency planning, drills and exercise, Certificates of Financial Responsibility (COFR), and Oil Spill Response Organization (OSRO) requirements for newly regulated inland oil facilities. The development and adoption of Geographic Response Plans similar to those in place for marine waters is also underway for inland locations.

Shoreline Protection Tables

The Shoreline Protection Tables have been moving through an amendment process to reflect changes adopted in the Area Contingency Plans. These amendments are still underway and the regulatory process is expected to conclude in late 2017.

Certificate of Financial Responsibility (COFR) Regulations

Amendments included clarification of existing requirements to aid in-house processing. The amendments were approved and went into effect on April 1, 2015.

Spill Management Team Rating

OSPR has made an effort through informal processes to develop draft regulations to assess and rate Spill Management Teams (SMT), who coordinate and, on behalf of the Responsible Party, staff many positions of the Incident Command System in the event of a spill. This effort was intended to mimic the rating system for Oil Spill Response Organizations adopted in the mid-1990s; however OSPR currently lacks statutory authority over SMTs and is in the process of evaluating how best to move forward.

Tug Escort Regulatory Amendments

The Harbor Safety Committees of Los Angeles/Long Beach and San Francisco have been working on proposed amendments to the existing Tug Escort regulations for each harbor to address articulated tug and barge vessels that are not adequately covered under the existing regulations. Recommendations have been forwarded to the Administrator for consideration and potential formal rulemaking in the near future.

Tracking Other Oil Spill-Related Legislation

The TAC monitors all oil spill related legislation. Of the several bills that were introduced in the 2015/2016 legislative session, the following were signed into law:

AB 815 (Ridley-Thomas)

This bill addressed the potential for duplicate collection of the Oil Spill Prevention and Administration per barrel fee for petroleum received at a marine terminal or refinery from outside or inside the state. The bill declared that the intent of the Legislature is for the Board of Equalization to collect the fee only upon first delivery to a marine terminal or refinery.

AB 864 (Williams)

This bill established a requirement, beginning January 1, 2018, for any new or replacement pipelines situated in the state near environmentally and ecologically sensitive areas in the coastal zone to use best available technologies to reduce the amount of oil released in an

oil spill to protect state waters and wildlife. The bill also required an operator of an existing pipeline in these sensitive areas to submit a plan by July 1, 2018 to retrofit the pipeline by January 1, 2020 as provided.

AB 1842 (Levine)

This bill provided for civil penalties under the Fish & Game code section 5650 or \$10 per gallon of discharged pollutant into state waters, with a subsequent reduction for every gallon of material recovered and disposed of properly by the responsible party. The Lempert, Keene, Seastrand Oil Spill Prevention and Response Act also has similar penalty provisions, and AB 1842 prohibits assessment of such penalty under both codes for the same infraction.

SB 84 (Budget Committee)

This budget trailer bill included several provisions related to hazardous materials transported by rail. Provisions included coordination of agencies involved with hazardous materials spills from rail transport and the creation of the Regional Railroad Accident Preparedness and Immediate Response Force in the office, consisting of specified representatives, and would designate this force as being responsible for providing regional and onsite response capabilities in the event of a release of hazardous materials from a railcar or a railroad accident involving a railcar designated to transport hazardous material commodities. The bill also included a provision for the state to assess a fee on the owner of hazardous materials transported by rail to fund these efforts.

SB 414 (Jackson)

This bill contained several provisions related to California's Oil Spill Prevention and Response Act.

- The bill directed the OSPR Administrator to provide to the Legislature by January 1, 2017 a report assessing the best achievable technology of equipment for oil spill prevention, preparedness, and response and to update regulations governing the adequacy of oil spill contingency plans before July 1, 2018.
- The bill requires the Administrator to direct the Harbor Safety Committees for various regions to assess, among other things, the presence and capability of tugs within their respective regions of responsibility to provide emergency towing of tank and non-tank vessels to arrest their drift or guide emergency transit.
- The bill requires the Administrator, in conducting the study and updates, to consult current peer-reviewed published scientific literature. The bill would require the administrator, by May 1, 2016, to request that the federal California Dispersant Plan be updated, as provided, and to provide support and assistance in that regard.
- The bill requires the administrator, if dispersants are used in response to an oil spill, to submit to the Legislature a written notification of, and a written justification for, the use of dispersants and a report on the effectiveness of the dispersants used, as provided.

- The bill requires the TAC to convene a task force to evaluate the feasibility of using vessels of opportunity for oil spill response. The bill required the task force to provide a report and recommendations to the TAC on whether vessels of opportunity should be included in oil spill response planning. The bill also required the TAC to evaluate the task force findings and provide recommendations to the Administrator and the Legislature.
- The bill removed the provision to reduce penalties assessed against a polluter for the amount of oil recovered and disposed of properly by the responsible party.

Of the bills monitored by the TAC and signed into law in the 2015/2016 session, SB 414 was most closely followed. In addition to having several provisions that directly impacted OSPR and spill prevention and response, the law specifically directed the TAC to assess vessels of opportunity (VOO) for use in oil spill response.

OSPR has kept the TAC apprised of progress on the various mandates of the bill. The Best Achievable Technology reports are being done in-house at OSPR and are expected to be completed by the target date. The assessment of emergency towing resources by the Harbor Safety Committees of San Francisco and Los Angeles/Long Beach has been underway since early 2016 and is expected to be completed in early 2017.

The TAC convened a VOO Task Force in July of 2016, and the Task Force completed their preliminary assessment and report to the TAC in October of 2016. Based on the Task Force's assessment the TAC developed recommendations and submitted them to OSPR on December 13, 2016. The Administrator submitted the final report and recommendations to the Legislature on January 5, 2017. The report and recommendations can be found on the OSPR website at the following link: <https://www.wildlife.ca.gov/OSPR/Public-Meetings/Technical-Advisory-Committee/Vessel-of-Opportunity>

Oiled Wildlife Care Network (OWCN)

The operations of the Oiled Wildlife Care Network had been funded through interest earned on the Oil Spill Response Trust Fund (Fund 321) since its inception, with a mandated mission to provide best achievable care of wildlife oiled in marine waters of the state.

As a result of the \$40,000,000 loan from the Oil Spill Response Trust Fund (OSRTF) to the General Fund in 2011 and the continued low interest rates available to the Surplus Money Investment Fund (SMIF), interest earned on the OSRTF had been insufficient to support the statutory operational requirements of the OWCN. With the passage of SB 861 (statutes of 2014) Statewide Spill Program, the role of OWCN was also expanded to prepare for and respond to inland spills. In order to ensure these activities could be operationalized, SB 861 shifted the OWCN's funding stream to the more secure Oil Spill Prevention and Administration Fund (OSPAF), thereby also preserving the OSRTF from going into a negative balance.

Expanded Role and Membership of TAC

In 2014, the Legislature increased the number of members of the Technical Advisory Committee from 10 to 14. The law requires the Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems and would require the Governor to appoint two additional members, with one having knowledge of the railroad industry and another having knowledge of the oil production industry.

The TAC encourages the Governor, the Speaker, and the Senate Committee on Rules to expeditiously appoint these additional TAC members so that the Administrator can benefit from their input and so the TAC can ensure there is a quorum at each meeting. As of the date of this report, these newly created TAC positions have not been filled. Therefore in total, there are eight (8) current vacancies on the TAC that await new appointments. These should be filled as soon as possible so that OSPR can be provided with the greatest input and, consequently, the Legislature can have the broadest view on OSPR's efforts.

Ongoing Need to Secure a Dedicated Funding Source to Address Non-Petroleum Spills in State Waters

Non-petroleum spills occur in the state of California with an expectation by the public for effective and immediate response and cleanup. Unfortunately, as discussed above, there has never been a stable funding stream for these activities. The TAC remains extremely concerned about the instability of funding and inability to prepare for non-petroleum spills to the standard expected by the public for petroleum spills. While various bills have been attempted to rectify this situation, a solution has yet to be found. OSPR does administer Fund 207, derived from fines and penalties recovered from the aforementioned spills; however, the fines and penalties are collected in arrears and often insufficient to support an appropriate response.

Priority Issues for the TAC in 2017-2018

For the 2017 and 2018 horizon, the TAC intends to focus on the following issues as potential areas of interest. These priorities can change based on current events and newly developing issues of concern. Many of these are issues that have been addressed by the TAC in the past and require continued vigilance. The order of listing of these issues does not reflect a particular ranking in terms of prioritization or importance.

Monitoring of Oil Spill Funds

The TAC will continue to monitor the status of the oil spill funds as discussed in the 2015-2016 Issues and Accomplishments section of this report. The TAC will request that OSPR provide fund status reports at each TAC meeting. It is envisioned that the fund conditions will improve with the implementation and additional funding associated with the statewide oil spills program.

Implementation of Statewide Oil Spill Program

The TAC will be closely monitoring the implementation of the statewide oil spill program during the 2016-2017 reporting period. OSPR will begin drafting of the final oil spill contingency regulations for inland pipelines, inland oil production facilities, and railroads carrying petroleum products.

In addition, OSPR will be creating the infrastructure to administer the expanded statewide program and is in the process of developing Geographic Response Plans similar to those in place for the marine environment. OSPR will be providing frequent updates to the TAC on its progress in implementing the program.

Oiled Wildlife Care Network Funding and Expansion

The passage of SB 861 in 2014 has restored the funding of the Oiled Wildlife Care Network (OWCN) for existing operations and the expanding statewide program. The TAC will be monitoring the expansion of the OWCN program.

Regulation Development and Implementation

In addition to the expansion of the statewide oil spill program and maintaining the best achievable protection, OSPR will be updating some of its regulations. The TAC will monitor the development of the OSPR rulemaking process. Some of the updates to the regulations are listed below:

Shoreline Protection Tables 2016-2017

As mentioned in an earlier section of this report, the Shoreline Protection Tables have been moving through an amendment process to reflect changes adopted in the Area Contingency Plans. The regulatory process is underway and expected to conclude in late 2017.

Contingency Plan Regulation Amendments Regarding Spill Management Teams

OSPR began an informal workshop process in 2014 for developing amendments to the contingency planning regulations to require more specificity and performance standards for Spill Management Teams (SMTs). The proposed amendments included:

- Requiring a list of the spill management team personnel, describing the ability to mobilize SMT personnel within set timeframes.
- Describing minimum training requirements. The SMT must demonstrate their capability to establish and equip an incident command post appropriate to the needs of an incident response.
- Conducting of announced and unannounced drills to ensure the SMT personnel are adequately prepared to act for their plan holder customers in the event of an oil spill.

With the introduction of AB 1197 (Limon) in 2017 (see below), which would provide statutory authority over SMTs, this regulatory effort is on hold as of the drafting of this report. OSPR will revisit regulatory proposals for SMTs in the future, with the outcome of AB 1197 (see below) influencing that effort.

Best Achievable Protection Reports

As mentioned above, SB 414 (statutes of 2015) directed the OSPR Administrator to provide to the Legislature by January 1, 2017 a report assessing the best achievable technology of equipment for oil spill prevention, preparedness, and response and to update regulations governing the adequacy of oil spill contingency plans before July 1, 2018.

The Best Achievable Technology report focuses on the following:

- Prevention
- Remote Sensing
- Mechanical Response
- Applied Response Technologies

As of the drafting of this report, their first three reports have been approved and posted on the OSPR website for public consumption. They can be found at the following link: <https://www.wildlife.ca.gov/OSPR/Science>

The final section of the report, covering Applied Response Technologies is still under final review, and will be adopted and posted in 2017.

Monitoring of Oil Spill Related Legislation

The TAC will be monitoring development of oil spill related legislation during the 2017-2018 legislative sessions. As of the drafting of this report, two pieces of legislation have been introduced that could impact OSPR's mission.

AB 1197 (Limon)

This bill would grant OSPR the authority to directly regulate Spill Management Teams (SMT) in a similar fashion to the authority granted OSPR over Oil Spill Response Organizations (OSRO) in the 90's. The bill would direct OSPR to establish criteria for a rating system to certify SMTs for responding to and managing a spill. It would also establish drills and exercises for achieving and maintaining certification.

SB 709 (Weiner)

This bill would direct OSPR to define petroleum products that tend to sink to the bottom in a spill due to characteristics of their components specific gravity (non-floating oils), and require C-plan holders who carry such products to contract with Oil Spill Response Organizations (OSRO) that have demonstrated a capability to adequately respond to such spills.

Petroleum Product Transportation by Rail and Pipeline

The TAC is monitoring the changing patterns and volumes of petroleum products delivered to California by rail and pipeline, as well as the potential consequences of spills related to rail cars carrying petroleum products through California's environmentally sensitive areas and populated communities.

TAC Roles and Responsibilities

In 2014, the legislature increased the number of members of the Technical Advisory Committee from 10 to 14. The law requires the Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems, and requires the Governor to appoint two (2) additional members, with one having knowledge of the railroad industry and another having knowledge of the oil production industry. As of this report's drafting, there are only six (6) appointed members, with eight (8) vacancies.

The TAC encourages the Governor, the Speaker, and the Senate Committee on Rules to expeditiously appoint these additional TAC members so that the TAC and the Administrator can benefit from their input.

Funding Challenge for Non-petroleum Spills

The TAC will continue to encourage creative processes to identify a stable funding stream for non-petroleum spills statewide and will also continue to monitor the status of Fund 207.

Audit and Other High-priority Issues

A Department of Finance audit of OSPR was conducted during the period of this report, with the findings provided to OSPR at the end of the report's timeframe (December 2016). The TAC will review the findings of this audit and will monitor implementation of recommendations, as well as necessary mitigation of any significant findings. The TAC has received notice from OSPR that a strategic planning process has begun that will, at least in part, focus on audit recommendations. The TAC will follow this process closely and provide guidance as appropriate.

Non-Floating Petroleum Products

The TAC will be monitoring the potential for increased volumes of non-floating petroleum products transported in California. These products pose challenges for response and recovery, and the TAC will be assessing changes in risk and mitigation and providing guidance to OSPR as appropriate.

Absence of FOSC at Inland Spills

A possible scenario may arise when responding to an inland spill where a Federal On Scene Coordinator (FOSC) is not present. In such cases there is a question as to the applicability of provisions of the Oil Pollution Act of 1990, the availability of federal funding and engagement of federal agencies, as well as the applicability of the National Response Plan (NRP) and the Incident Command System (ICS) in responding to the spill. The TAC will monitor the potential for such scenarios to arise and what implications they might pose to effective response.

Conclusions

The TAC is a forum to provide public input and independent oversight of the OSPR Administrator and the oil spill programs of California. The last two years have presented OSPR with significant challenges and opportunities to achieve best achievable preparedness and response through actions of the Legislature. The TAC feels it is important to note that OSPR appears to now have a stable and capable management team that has enabled OSPR to deal with the many and varied challenges. The TAC is optimistic that, with their current management team, OSPR is well positioned to meet the challenges ahead with the ongoing implementation of the statewide oil spills program.

During 2017-2018, OSPR will face continued challenges implementing amended regulations and developing new regulations, policies, and procedures to address newly enacted legislation. This increase in activity will be in addition to continuing their primary mission of administering the prevention, preparedness, and response programs of the state. The TAC looks forward to working very closely with the Administrator to provide public input and independent judgment regarding the operations of oil spill prevention and response activities in the state. The TAC will also make timely recommendations to the Administrator, the State Lands Commission, the California Coastal Commission, and the San Francisco Bay Conservation and Development Commission on any pertinent provision of the Act including the promulgation of all rules, regulations, guidelines, and policies.

Recommendations

- Continue to monitor petroleum products by rail and enact additional legislation if necessary to address any outstanding issues.
- Make appointments to fill the eight (8) vacant TAC membership positions.
- Address the lack of a dedicated funding source for responding to non-petroleum based spills in state waters.

APPENDIX A

California Government Code [Selected Sections; January 2015]

Article 8. Oil Spill Technical Advisory Committee

§ 8670.54. Oil Spill Technical Advisory Committee established; appointment of members

(a) The Oil Spill Technical Advisory Committee, hereafter in this article, the committee, is hereby established to provide public input and independent judgment of the actions of the administrator. The committee shall consist of 14 members, of whom eight shall be appointed by the Governor, three by the Speaker of the Assembly, and three by the Senate Rules Committee. The appointments shall be made in the following manner:

(1) The Speaker of the Assembly and Senate Committee on Rules shall each appoint a member who shall be a representative of the public.

(2) The Governor shall appoint a member who has a demonstrable knowledge of marine transportation.

(3) The Speaker of the Assembly and the Senate Committee on Rules shall each appoint two members who have demonstrable knowledge of environmental protection and the study of ecosystems.

(4) The Governor shall appoint a member who has served as a local government elected official or who has worked for a local government.

(5) The Governor shall appoint a member who has experience in oil spill response and prevention programs.

(6) The Governor shall appoint a member who has been employed in the petroleum industry.

(7) The Governor shall appoint a member who has worked in state government.

(8) The Governor shall appoint a member who has demonstrable knowledge of the dry cargo vessel industry.

(9) The Governor shall appoint a member who has demonstrable knowledge of the railroad industry.

(10) The Governor shall appoint a member who has demonstrable knowledge of the oil production industry.

(b) The committee shall meet as often as required, but at least twice per year. Members shall be paid one hundred dollars (\$100) per day for each meeting and all necessary travel expenses at state per diem rates.

(c) The administrator and any personnel the administrator determines to be appropriate shall serve as staff to the committee.

(d) A chair and vice chair shall be elected by a majority vote of the committee.

§ 8670.55. Recommendations from committee; studies; attendance at drills or oil spills; biennially reporting

(a) The committee shall provide recommendations to the administrator, the State Lands Commission, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the Division of Oil, Gas, and Geothermal Resources, the Office of the State Fire Marshal, and the Public Utilities Commission, on any provision of this chapter, including the promulgation of all rules, regulations, guidelines, and policies.

(b) The committee may study, comment on, or evaluate, at its own discretion, any aspect of oil spill prevention and response in the state. To the greatest extent possible, these studies shall be coordinated with studies being done by the federal government, the administrator, the State Lands Commission, the State Water Resources Control Board, and other appropriate state and international entities. Duplication with the efforts of other entities shall be minimized.

(c) The committee may attend any drills called pursuant to Section 8670.10 or any oil spills, if practicable.

(d) The committee shall report biennially to the Governor and the Legislature on its evaluation of oil spill response and preparedness programs within the state and may prepare and send any additional reports it determines to be appropriate to the Governor and the Legislature.

§ 8670.56. Funding

The administrator may expend from the Oil Spill Prevention and Administration Fund any amounts necessary for the purposes of carrying out this article.

§ 8670.56.1. Committee members; immunity from liability

(a) The Legislature hereby finds and declares that because the administrator must rely on expertise provided by members of the committee and be guided by their recommendations in making decisions that relate to the public safety, members of the committee should be entitled to the same immunity from liability provided other public employees.

(b) Members of the committee appointed pursuant to this article, while performing duties required by this article or by the administrator, shall be entitled to the same rights and immunities granted public employees by Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1. Those rights and immunities are deemed to have attached, and shall attach, as of the date of appointment of the member to the committee.

END

APPENDIX B

Office of Spill Prevention and Response TECHNICAL ADVISORY COMMITTEE (TAC)

Member	Alternate
<p>Mr. Stephen Ricks (Chair) Tel: (925) 766-4741 Email: s.ricks@comcast.net</p> <p>Reappointed: May 11, 2001 By: Governor Davis As: Oil Spill Response Representative</p>	<p>Mr. Scott Morris Tel: (510) 478-0701 Email: morris@msrc.org</p>
<p>Ms. Deb Self (Vice Chair) San Francisco Baykeeper 1736 Franklin Street, Suite 800 Oakland, CA 94612 www.baykeeper.org Tel: (510) 735-9700 Email: spills@baykeeper.org</p> <p>Appointed: September 7, 2010 By: Darrell Steinberg, Chairman Senate Rules Committee As: Environmental Representative</p>	<p>Ms. Sejal Choksi-Chugh San Francisco Baykeeper 1736 Franklin Street, Suite 800 Oakland, CA 94612 www.baykeeper.org Tel: (415) 856-0444 ext. 107 Email: sejal@baykeeper.org mailto:spills@baykeeper.org</p>
<p>Dr. Jonna Mazet Wildlife Health Center School of Veterinary Medicine University of California – Davis 1089 Veterinary Medicine Drive Davis, CA 95616 Tel: (530) 754-9035 Fax: (530) 752-3318 Email: jkmazet@ucdavis.edu</p> <p>Appointed: May 11, 2001 By: Governor Davis As: State Government Representative</p>	<p>Dr. Michael Ziccardi Wildlife Health Center School of Veterinary Medicine University of California – Davis 1089 Veterinary Medicine Drive Davis, CA 95616 Tel: (530) 752-4167 Fax: (530) 752-3318 Email: mhziccardi@ucdavis.edu</p>

APPENDIX B

- continued -

Office of Spill Prevention and Response TECHNICAL ADVISORY COMMITTEE (TAC)

Member	Alternate
<p>Mr. Matt Rezvani CALSTAD 2386 Fair Oaks Boulevard., Suite 100 Sacramento, CA 95825 Tel: (916) 640-8611 Fax: (562) 685-0500 Email: mrezvani@calstad.com</p> <p>Appointed: May 11, 2001 By: Governor Davis As: Petroleum Representative</p>	
<p>Mr. John Berge Vice President Pacific Merchant Shipping Association 70 Washington Street, Suite 305 Oakland, CA 94607 Tel: (510) 987-5000 Fax: (510) 584-9565 Email: jberge@pmsaship.com</p> <p>Appointed: July 29, 2008 By: Governor Schwarzenegger As: Dry Cargo Industry Representative</p>	<p>Mr. John McLaurin President Pacific Merchant Shipping Association 70 Washington Street, Suite 305 Oakland, CA 94607 Tel: (510) 987-5000 Fax: (510) 584-9565 Email: jmclaurin@pmsaship.com</p>
<p>Mr. R. Mitchel Beauchamp Pacific Southwest Biological Services 1434 East 24th Street National City, CA 01950-6010 Tel: (619) 477-5333 Fax: (619) 477-5380 Email: mitch@PSBS.com</p> <p>Appointed: August 13, 2002 By: Herb J. Wesson, Jr. Speaker of the Assembly As: Public Representative</p>	<p>Mr. Michael McCollum McCollum Associates 10196 Clover Ranch Drive Sacramento, CA 95829 Tel: (916) 688-2040 Fax: (916) 688-7436 Email: mccollum@mccollum.com</p>

APPENDIX B

- continued -

Office of Spill Prevention and Response TECHNICAL ADVISORY COMMITTEE (TAC)

Member	Alternate
<i>Vacancy</i> Appointed: By: Senate Rules Committee As: Public Representative	
<i>Vacancy</i> Appointed: By: Speaker of the Assembly As: Environmental Representative	
<i>Vacancy</i> Appointed: By: Governor As: Marine Transportation Representative	
<i>Vacancy</i> Appointed: By: Governor As: Local Government Representative	
<i>New vacancies added by SB 861 as follows:</i>	
<i>Vacancy</i> Appointed: By: Governor As: Railroad Industry Representative	
<i>Vacancy</i> Appointed: By: Governor As: Oil Production Industry Representative	

APPENDIX B

- continued -

Office of Spill Prevention and Response TECHNICAL ADVISORY COMMITTEE (TAC)

Member	Alternate
<i>Vacancy</i> Appointed: By: Speaker of the Assembly As: Environmental Representative	
<i>Vacancy</i> Appointed: By: Senate Rules Committee As: Environmental Representative	



A Handy Guide
to
The Bagley-Keene Open Meeting Act 2004

California Attorney General's Office

INTRODUCTION

The Bagley-Keene Open Meeting Act (“the Act” or “the Bagley-Keene Act”), set forth in Government Code sections 11120-11132¹, covers all state boards and commissions. Generally, it requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session. Following is a brief summary of the Act’s major provisions. Although we believe that this summary is a helpful road map, it is no substitute for consulting the actual language of the Act and the court cases and administrative opinions that interpret it.

If you wish to obtain additional copies of this pamphlet, they may be ordered or downloaded via the Attorney General’s Home Page, located on the World Wide Web at <http://caag.state.ca.us>. You may also write to the Attorney General’s Office, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550 or call us at (800) 952-5225 (for callers within California), or (916) 322-3360 (for callers outside of California); the TTY/TDD telephone numbers are (800) 952-5548 (for callers within California), or (916) 324-5564 (for callers outside of California).

PURPOSE OF THE ACT

Operating under the requirements of the Act can sometimes be frustrating for both board members and staff. This results from the lack of efficiency built into the Act and the unnatural communication patterns brought about by compliance with its rules.

If efficiency were the top priority, the Legislature would create a department and then permit the department head to make decisions. However, when the Legislature creates a multimember board, it makes a different value judgment. Rather than striving strictly for efficiency, it concludes that there is a higher value to having a group of individuals with a variety of experiences, backgrounds and viewpoints come together to develop a consensus. Consensus is developed through debate, deliberation and give and take. This process can sometimes take a long time and is very different in character than the individual-decision-maker model.

Although some individual decision-makers follow a consensus-building model in the way that they make decisions, they’re not required to do so. When the Legislature creates a multimember body, it is mandating that the government go through this consensus building process.

When the Legislature enacted the Bagley-Keene Act, it imposed still another value judgment on the governmental process. In effect, the Legislature said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. (§ 11120.) By reserving this place for the public, the Legislature has provided the public with the ability to monitor and participate in the decision-making process. If the body were permitted to meet in secret, the public’s role in the decision-making process would be negated. Therefore, absent a specific reason to keep

¹All statutory references are to the Government Code.

the public out of the meeting, the public should be allowed to monitor and participate in the decision-making process.

If one accepts the philosophy behind the creation of a multimember body and the reservation of a seat at the table for the public, many of the particular rules that exist in the Bagley-Keene Act become much easier to accept and understand. Simply put, some efficiency is sacrificed for the benefits of greater public participation in government.

BODIES COVERED BY THE ACT: General Rule

The general rule for determining whether a body is covered by the Act involves a two part test (§ 11121(a)):

First, the Act covers multimember bodies. A multimember body is two or more people. Examples of multimember bodies are: state boards, commissions, committees, panels, and councils. Second, the body must be created by statute or required by law to conduct official meetings. If a body is created by statute, it is covered by the Act regardless of whether it is decision-making or advisory.

■ Advisory Bodies

The Act governs two types of advisory bodies: (1) those advisory bodies created by the Legislature and (2) those advisory bodies having three or more members that are created by formal action of another body. (§11121(c).) If an advisory body created by formal action of another body has only two members, it is not covered by the Bagley-Keene Act. Accordingly, that body can do its business without worrying about the notice and open meeting requirements of the Act. However, if it consists of three people, then it would qualify as an advisory committee subject to the requirements of the Act.

When a body authorizes or directs an individual to create a new body, that body is deemed to have been created by formal action of the parent body even if the individual makes all decisions regarding composition of the committee. The same result would apply where the individual states an intention to create an advisory body but seeks approval or ratification of that decision by the body.

Finally, the body will probably be deemed to have acted by formal action whenever the chair of the body, acting in his or her official capacity, creates an advisory committee. Ultimately, unless the advisory committee is created by staff or an individual board member, independent of the body's authorization or desires, it probably should be viewed as having been created by formal action of the body.

■ **Delegated Body**

The critical issue for this type of body is whether the committee exercises some power that has been delegated to it by another body. If the body has been delegated the power to act, it is a delegated committee. (§ 11121(b).) A classic example is the executive committee that is given authority to act on behalf of the entire body between meetings. Such executive committees are delegated committees and are covered by the requirements of the Act.

There is no specific size requirement for the delegated body. However, to be a body, it still must be comprised of multiple members. Thus, a single individual is not a delegated body.

■ **Commissions Created by the Governor**

The Act specifically covers commissions created by executive order. (§ 11121(a).) That leaves open two potential issues for resolution with respect to this type of body. First, what's an executive order as opposed to other exercises of power by the Governor? Second, when is a body a "commission" within the meaning of this provision? There is neither case law nor an Attorney General opinion addressing either of these issues in this context.

■ **Body Determined by Membership**

The next kind of body is determined by who serves on it. Under this provision, a body becomes a state body when a member of a state body, in his or her official capacity, serves as a representative on another body, either public or private, which is funded in whole or in part by the representative's state body. (§ 11121(d).) It does not come up often, but the Act should be consulted whenever a member of one body sits as a representative on another body.

In summary, the foregoing are the general types of bodies that are defined as state bodies under the Bagley-Keene Act. As will be discussed below, these bodies are subject to the notice and open meeting requirements of the Act.

MEMBERS-TO-BE

The open meeting provisions of the Act basically apply to new members at the time of their election or appointment, even if they have not yet started to serve. (§ 11121.95.) The purpose of this provision is to prevent newly appointed members from meeting secretly among themselves or with holdover members of a body in sufficient numbers so as to constitute a quorum. The Act also requires bodies to provide their new members with a copy of the Act. (§ 11121.9.) We recommend that this Handy Guide be used to satisfy that requirement.

WHAT IS A MEETING?

The issue of what constitutes a meeting is one of the more troublesome and controversial issues under the Act. A meeting occurs when a quorum of a body convenes, either serially or all together, in one place, to address issues under the body's jurisdiction. (§ 11122.5.) Obviously, a meeting would include a gathering where members were debating issues or voting on them. But a meeting also includes situations in which the body is merely receiving information. To the extent that a body receives information under circumstances where the public is deprived of the opportunity to monitor the information provided, and either agree with it or challenge it, the open-meeting process is deficient.

Typically, issues concerning the definition of a meeting arise in the context of informal gatherings such as study sessions or pre-meeting get-togethers. The study session historically arises from the body's desire to study a subject prior to its placement on the body's agenda. However, if a quorum is involved, the study session should be treated as a meeting under the Act. With respect to pre-meeting briefings, this office opined that staff briefings of the city council a half hour before the noticed city council meeting to discuss the items that would appear on the council's meeting agenda were themselves meetings subject to open meeting laws.² To the extent that a briefing is desirable, this office recommends that the executive officer prepare a briefing paper which would then be available to the members of the body, as well as, to the public.

■ Serial Meetings

The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting. (§ 11122.5(b).) Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body's members. For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body. Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred. In addition, a serial meeting occurs when intermediaries for board members have a meeting to discuss issues. For example, when a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives acting as intermediaries.

²42 Ops.Cal.Atty.Gen. 61 (1963); see also 32 Ops.Cal.Atty.Gen. 240 (1958).

In the *Stockton Newspapers* case, the court concluded that a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting.³ In that case, the attorney individually polled the members of the body for their approval on a real estate transaction. The court concluded that even though the meeting was conducted in a serial fashion, it nevertheless was a meeting for the purposes of the Act.

An executive officer may receive spontaneous input from board members on the agenda or on any other topic. But problems arise if there are systematic communications through which a quorum of the body acquires information or engages in debate, discussion, lobbying, or any other aspect of the deliberative process, either among themselves or between board members and the staff.

Although there are no cases directly on point, if an executive officer receives the same question on substantive matters addressed in an upcoming agenda from a quorum of the body, this office recommends that a memorandum addressing these issues be provided to the body and the public so they will receive the same information.

This office has opined that under the Brown Act (the counterpart to the Bagley-Keene Act which is applicable to local government bodies) that a majority of the board members of a local public agency may not e-mail each other to discuss current topics related to the body's jurisdiction even if the e-mails are also sent to the secretary and chairperson of the agency, posted on the agency's Internet website, and made available in printed form at the next public meeting of the board.⁴

The prohibition applies only to communications employed by a quorum to develop a collective concurrence concerning action to be taken by the body. Conversations that advance or clarify a member's understanding of an issue, or facilitate an agreement or compromise among members, or advance the ultimate resolution of an issue, are all examples of communications that contribute to the development of a concurrence as to action to be taken by the body. Accordingly, with respect to items that have been placed on an agenda or that are likely to be placed upon an agenda, members of state bodies should avoid serial communications of a substantive nature that involve a quorum of the body.

In conclusion, serial meeting issues will arise most commonly in connection with rotating staff briefings, telephone calls or e-mail communications among a quorum of board members. In these situations, part of the deliberative process by which information is received and processed, mulled over and discussed, is occurring without participation of the public.

Just remember, serial-meeting provisions basically mean that what the body can not do as a group it can not do through serial communications by a quorum of its members.

³*Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 105. See also, 65 Ops.Cal.Atty.Gen. 63, 66 (1982); 63 Ops.Cal.Atty.Gen. 820, 828-829 (1980).

⁴ Cal.Atty.Gen., Indexed Letter, No. IL 00-906 (February 20, 2001).

■ Contacts by the Public

One of the more difficult areas has to do with the rights of the public to contact individual members. For example, a communication from a member of the public to discuss an issue does not violate the Act. (§ 11122.5(c)(1).) The difficulty arises when the individual contacts a quorum of the body.

So long as the body does not solicit or orchestrate such contacts, they would not constitute a violation of the Bagley-Keene Act. Whether its good policy for a body to allow these individual contacts to occur is a different issue.

■ Social Gatherings

The Act exempts purely social situations from its coverage. (§ 11122.5(c)(5).) However, this construction is based on the premise that matters under the body's jurisdiction will not be discussed or considered at the social occasion. It may be useful to remind board members to avoid "shop talk" at the social event. Typically, this is difficult because service on the body is their common bond.

■ Conferences and Retreats

Conferences are exempt from the Act's coverage so long as they are open to the public and involve subject matter of general interest to persons or bodies in a given field. (§ 11122.5(c)(2).) While in attendance at a conference, members of a body should avoid private discussions with other members of their body about subjects that may be on an upcoming agenda. However, if the retreat or conference is designed to focus on the laws or issues of a particular body it would not be exempt under the Act.

■ Teleconference Meetings

The Act provides for audio or audio and visual teleconference meetings for the benefit of the public and the body. (§ 11123.) When a teleconference meeting is held, each site from which a member of the body participates must be accessible to the public. [Hence, a member cannot participate from his or her car, using a car phone or from his or her home, unless the home is open to the public for the duration of the meeting.] All proceedings must be audible and votes must be taken by rollcall. All other provisions of the Act also apply to teleconference meetings. For these reasons, we recommend that a properly equipped and accessible public building be utilized for teleconference meetings. This section does not prevent the body from providing additional locations from which the public may observe the proceedings or address the state body by electronic means.

NOTICE AND AGENDA REQUIREMENTS

The notice and agenda provisions require bodies to send the notice of its meetings to persons who have requested it. (§ 11125(a).) In addition, at least ten days prior to the meeting, bodies must

prepare an agenda of all items to be discussed or acted upon at the meeting. (§ 11125(b).) In practice, this usually translates to boards and commissions sending out the notice and agenda to all persons on their mailing lists. The notice needs to state the time and the place of the meeting and give the name, phone number and address of a contact person who can answer questions about the meeting and the agenda. (§ 11125(a).) The agenda needs to contain a brief description of each item to be transacted or discussed at the meeting, which as a general rule need not exceed 20 words in length. (§ 11125(b).)

The agenda items should be drafted to provide interested lay persons with enough information to allow them to decide whether to attend the meeting or to participate in that particular agenda item. Bodies should not label topics as “discussion” or “action” items unless they intend to be bound by such descriptions. Bodies should not schedule items for consideration at particular times, unless they assure that the items will not be considered prior to the appointed time.

The notice and agenda requirements apply to both open and closed meetings. There is a tendency to think that agendas need not be prepared for closed session items because the public cannot attend. But the public’s ability to monitor closed sessions directly depends upon the agenda requirement which tells the public what is going to be discussed.

REGULAR MEETINGS

The Act, itself, does not directly define the term “regular meeting.” Nevertheless, there are several references in the Act concerning regular meetings. By inference and interpretation, the regular meeting is a meeting of the body conducted under normal or ordinary circumstances. A regular meeting requires a 10-day notice. This simply means that at least 10 days prior to the meeting, notice of the meeting must be given along with an agenda that sufficiently describes the items of business to be transacted or discussed. (§§ 11125(a), 11125(b).) The notice for a meeting must also be posted on the Internet, and the web site address must be included on the written agenda. In addition, upon request by any person with a disability, the notice must be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations. The notice must contain information regarding the manner in which and the deadline by which a request for any disability-related modification or accommodation, including auxiliary aids or services, may be made by a person requiring these aids or services in order to participate in the meeting.

In two special situations, items may be added to the agenda within the 10-day notice period, provided that they are added and notice is given no later than 48 hours prior to the meeting. (§ 11125.) The first such situation is where the body concludes that the topic it wishes to add would qualify for an emergency meeting as defined in the Act. (§ 11125.3(a)(1).) The second situation is where there is a need for immediate action and the need for action came to the attention of the body after the agenda was mailed in accordance with the 10-day notice requirement. (§ 11125.3(a)(2).) This second situation requires a two-thirds vote or a unanimous vote if two-thirds of the members are not present.

Changes made to the agenda under this section must be delivered to the members of the body and to national wires services at least 48 hours before the meeting and must be posted on the Internet as soon as practicable.

SPECIAL MEETINGS

A few years ago, special meetings were added to the Act to provide relief to agencies that, due to the occurrence of unforeseen events, had a need to meet on short notice and were hamstrung by the Act's 10-day notice requirement. (§ 11125.4.) The special meeting requires that notice be provided at least 48 hours before the meeting to the members of the body and all national wire services, along with posting on the Internet.

The purposes for which a body can call a special meeting are quite limited. Examples include pending litigation, legislation, licencing matters and certain personnel actions. At the commencement of the special meeting, the body is required to make a finding that the 10-day notice requirement would impose a substantial hardship on the body or that immediate action is required to protect the public interest and must provide a factual basis for the finding. The finding must be adopted by two-thirds vote and must contain articulable facts that support it. If all of these requirements are not followed, then the body can not convene the special meeting and the meeting must be adjourned.

EMERGENCY MEETINGS

The Act provides for emergency meetings in rare instances when there exists a crippling disaster or a work stoppage that would severely impair public health and safety. (§ 11125.5.) An emergency meeting requires a one-hour notice to the media and must be held in open session. The Act also sets forth a variety of other technical procedural requirements that must be satisfied.

PUBLIC PARTICIPATION

Since one of the purposes of the Act is to protect and serve the interests of the general public to monitor and participate in meetings of state bodies, bodies covered by the Act are prohibited from imposing any conditions on attendance at a meeting. (§ 11124.) For example, while the Act does not prohibit use of a sign-in sheet, notice must be clearly given that signing-in is voluntary and not a pre-requisite to either attending the meeting or speaking at the meeting. On the other hand, security measures that require identification in order to gain admittance to a government building are permitted so long as security personnel do not share the information with the body.

In addition, members of the public are entitled to record and to broadcast (audio and/or video) the meetings, unless to do so would constitute a persistent disruption. (§ 11124.1.)

To ensure public participation, the Legislature expressly afforded an opportunity to the public to speak or otherwise participate at meetings, either before or during the consideration of each agenda item. (§11125.7.) The Legislature also provided that at any meeting the body can elect to consider comments from the public on any matter under the body's jurisdiction. And while the body cannot act on any matter not included on the agenda, it can schedule issues raised by the public for consideration at future meetings. Public comment protected by the Act includes criticism of the programs, policies and officials of the state body.

ACCESS TO RECORDS

Under the Act, the public is entitled to have access to the records of the body. (§ 11125.1.) In general, a record includes any form of writing. When materials are provided to a majority of the body either before or during the meeting, they must also be made available to the public without delay, unless the confidentiality of such materials is otherwise protected. Any records provided to the public, must be available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations, upon request by a person with a disability.

Notwithstanding the foregoing, the Act makes Government Code section 6254, the most comprehensive exemption under the California Public Records Act, applicable to records provided to the body. That is, if the record that is being provided to the board members is a record that is otherwise exempt from disclosure under section 6254 of the Government Code, then the record need not be disclosed to members of the public. (§ 11125.1(a).) However, the public interest balancing test, set forth in Government Code section 6255, is expressly made inapplicable to records provided to members of the body.

If an agency has received a request for records, the Public Records Act allows the agency to charge for their duplication. (§ 11125.1(c).) Please be aware that the Public Records Act limits the amount that can be charged to the direct cost of duplication. This has been interpreted to mean a pro-rata share of the equipment cost and probably a pro-rata share of the employee cost in order to make the copies. It does not include anything other than the mere reproduction of the records. (See, § 6253.9 for special rules concerning computer records.) Accordingly, an agency may not recover for the costs of retrieving or redacting a record.

ACCESSABILITY OF MEETING LOCATIONS

The Act requires that the place and manner of the meeting be nondiscriminatory. (§ 11131.) As such, the body cannot discriminate on the basis of race, religion, national origin, etc. The meeting site must also be accessible to the disabled. Furthermore, the agency may not charge a fee for attendance at a meeting governed by the Act.

CLOSED SESSIONS

Although, as a general rule, all items placed on an agenda must be addressed in open session, the Legislature has allowed closed sessions in very limited circumstances, which will be discussed in detail below. Closed sessions may be held legally only if the body complies with certain procedural requirements. (§ 11126.3)

As part of the required general procedures, the closed session must be listed on the meeting agenda and properly noticed. (§ 11125(b).) Prior to convening into closed session, the body must publically announce those issues that will be considered in closed session. (§ 11126.3.) This can be done by a reference to the item as properly listed on the agenda. In addition, the agenda should cite the statutory authority or provision of the Act which authorizes the particular closed session. (§11125(b).) After the closed session has been completed, the body is required to reconvene in public. (§ 11126.3(f).) However, the body is required to make a report only where the body makes a decision to hire or fire an individual. (§ 11125.2.) Bodies under the Bagley-Keene Act are required to keep minutes of their closed sessions. (§ 11126.1.) Under the Act, these minutes are confidential, and are disclosable only to the board itself or to a reviewing court.

Courts have narrowly construed the Act's closed-session exceptions. For example, voting by secret ballot at an open-meeting is considered to be an improper closed session. Furthermore, closed sessions may be improperly convened if they are attended by persons other than those directly involved in the closed session as part of their official duties.

■ Personnel Exception

The personnel exception generally applies only to employees. (§ 11126(a) and (b).) However, a body's appointment pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution (usually the body's executive director) has been designated an employee for purposes of the personnel exception. On the other hand, under the Act, members of the body are not to be considered employees, and there exists no personnel exception or other closed session vehicle for board members to deal with issues that may arise between them. Board elections, team building exercises, and efforts to address personality problems that may arise between members of the board, cannot be handled in closed session.

Only certain categories of subject matter may be considered at a closed session authorized under the personnel exception. (§ 11126(a)(1).) The purpose of the personnel exception is to protect the privacy of the employee, and to allow the board members to speak candidly. It can be used to consider appointments, employment, evaluation of performance, discipline or dismissal, as well as to hear charges or complaints about an employee's actions. Although the personnel exception is appropriate for discussion of an employee's competence or qualifications for appointment or employment, we do not think that discussion of employee compensation may be conducted in closed

session in light of an appellate court decision interpreting a similar exception in the Brown Act, (the counterpart to the Bagley-Keene Act which is applicable to local government bodies).⁵

The Act requires compliance with specific procedures when the body addresses a complaint leveled against an employee by a third person or initiates a disciplinary action against an employee. Under either circumstance, the Act requires 24-hour written notice to the employee. (§ 11126(a)(2).) Failure to provide such notice voids any action taken in closed session.

Upon receiving notice, the employee has the right to insist that the matter be heard in public session. (§ 11126(a)(2).) However, the opposite is not true. Under the Act, an employee has no right to have the matter heard in closed session. If the body decides to hold an open session, the Bagley-Keene Act does not provide any other option for the employee. Considerations, such as the employee's right to privacy, are not addressed under the Bagley-Keene Act.

If an employee asserts his or her right to have the personnel matter addressed in open session, the body must present the issues and information/evidence concerning the employee's performance or conduct in the open session. However, the body is still entitled to conduct its deliberations in closed session. (§ 11126(a)(4).)

■ **Pending Litigation Exception**

The purpose of the pending litigation exception is to permit the agency to confer with its attorney in circumstances where, if that conversation were to occur in open session, it would prejudice the position of the agency in the litigation. (§ 11126(e)(1).) The term "litigation" refers to an adjudicatory proceeding that is held in either a judicial or an administrative forum. (§11126(e)(2)(c)(iii).) For purposes of the Act, litigation is "pending" in three basic situations. (§11126(e)(2).) First, where the agency is a party to existing litigation. Secondly, where under existing facts and circumstances, the agency has substantial exposure to litigation. And thirdly, where the body is meeting for the purpose of determining whether to initiate litigation. All of these situations constitute pending litigation under the exception.

For purposes of the Bagley-Keene Act, the pending litigation exception constitutes the exclusive expression of the attorney-client privilege. (§ 11126(e)(2).) In general, this means that independent statutes and case law that deal with attorney-client privilege issues do not apply to interpretations of the pending litigation provision of the Bagley-Keene Act. Accordingly, the specific language of the Act must be consulted to determine what is authorized for discussion in closed session.

Because the purpose of the closed session exception is to confer with legal counsel, the attorney must be present during the entire closed session devoted to the pending litigation. The Act's pending litigation exception covers both the receipt of advice from counsel and the making of

⁵*San Diego Union v. City Council* (1983) 146 Cal.App.3d 947.

litigation decisions (e.g., whether to file an action, and if so, what approach should be taken, whether settlement should be considered, and if so, what the settlement terms should be.

What happens in a situation where a body desires legal advice from counsel, but the Act's pending litigation exception does not apply? In such a case, legal counsel can either (1) provide the legal advice orally and discuss it in open session; or (2) deliver a one-way legal advice memorandum to the board members. The memorandum would constitute a record containing an attorney-client privileged communication and would be protected from disclosure under section 6254(k) of the Public Records Act. (11125.1(a).) However, when the board members receive that memorandum, they may discuss it only in open session, unless there is a specific exception that applies which allows them to consider it in closed session.⁶

■ **Deliberations Exception**

The purpose of the deliberations exception is to permit a body to deliberate on decisions in a proceeding under the Administrative Procedures Act, or under similar provisions of law, in closed session. (§ 11126(c)(3).)

■ **Real Property Exception**

Under the Act, the real-property exception provides that the body can, in closed session, advise its negotiator in situations involving real estate transactions and in negotiations regarding price and terms of payment. (§ 11126(c)(7).) However, before meeting in closed session, the body must identify the specific parcel in question and the party with whom it is negotiating. Again, the Act requires that the body properly notice its intent to hold a closed session and to cite the applicable authority enabling it to do so.

■ **Security Exception**

A state body may, upon a two-thirds vote of those present, conduct a closed session to consider matters posing a potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could adversely affect their safety or security. (11126(c)(18).) After such a closed session, the state body must reconvene in open session prior to adjournment and report that a closed session was held along with a description of the general nature of the matters considered, and whether any action was taken in closed session.

Whenever a state body utilizes this closed session exception, it must also provide specific written notice to the Legislative Analyst who must retain this information for at least four years. (11126(c)(18)(D).) This closed session exception will sunset in 2006. (11126(h).)

⁶*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 381.

REMEDIES FOR VIOLATIONS

The Act provides for remedies and penalties in situations where violations have allegedly occurred. Depending on the particular circumstances, the decision of the body may be overturned (§ 11130.3), violations may be stopped or prevented (§ 11130), costs and fees may be awarded (§11130.5), and in certain situations, there may be criminal misdemeanor penalties imposed as well. (§ 11130.7.)

Within 90 days of a decision or action of the body, any interested person may file suit alleging a violation of the Act and seeking to overturn the decision or action. Among other things, such suit may allege an unauthorized closed session or an improperly noticed meeting. Although the body is permitted to cure and correct a violation so as to avoid having its decision overturned, this can be much like trying to put toothpaste back in the tube. If possible, the body should try to return to a point prior to when the violation occurred and then proceed properly. For example, if the violation involves improper notice, we recommend that the body invalidate its decision, provide proper notice, and start the process over. To the extent that information has been received, statements made, or discussions have taken place, we recommend that the body include all of this on the record to ensure that everyone is aware of these events and has had an opportunity to respond.

In certain situations where a body has violated the Act, the decision can not be set aside or overturned; namely, where the action taken concerns the issuance of bonds, the entering into contracts where there has been detrimental reliance, the collection of taxes, and, in situations where there has been substantial compliance with the requirements of the Act. (11130.3(b).)

Another remedy in dealing with a violation of the Act involves filing a lawsuit to stop or prevent future violations of the Act. (§ 11130.) In general, these legal actions are filed as injunctions, writs of mandates, or suits for declaratory relief. The Legislature has also authorized the Attorney General, the District Attorney or any other interested person to use these remedies to seek judicial redress for past violations of the Act.

A prevailing plaintiff may recover the costs of suit and attorney's fees from the body (not individual members). (§ 11130.5.) On the other hand, if the body prevails, it may recover attorney's fees and costs only if the plaintiff's suit was clearly frivolous and totally without merit.

The Act provides for misdemeanor penalties against individual members of the body if the member attends a meeting in violation of the Act with the intent to deprive the public of information to which he or she knows, or has reason to know, the public is entitled to receive. (§ 11130.7.)

THE BAGLEY-KEENE OPEN MEETING ACT

Government Code Sections 11120-11132
(January 2004)

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THE BAGLEY-KEENE OPEN MEETING ACT

Government Code Sections 11120-11132

§ 11120. Policy statement; requirement for open meetings

11120. It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

§ 11121. State body

11121. As used in this article, "state body" means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

§ 11121.1. State body; exceptions

11121.1. As used in this article, “state body” does not include any of the following:

- (a) State agencies provided for in Article VI of the California Constitution.
- (b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).
- (c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).
- (d) State agencies when they are conducting proceedings pursuant to Section 3596.
- (e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.
- (f) State agencies provided for in Section 11770.5 of the Insurance Code.
- (g) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

§ 11121.9. Requirement to provide law to members

11121.9. Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

§ 11121.95. Application to persons who have not assumed office

11121.95. Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

§ 11122. Action taken; defined

11122. As used in this article “action taken” means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

§ 11122.5. Meeting defined; exceptions

11122.5. (a) As used in this article, “meeting” includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person.

(2) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body. This paragraph is not intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, provided that the members of the state body who are not members of the standing committee attend only as observers.

§ 11123. Requirement for open meetings; teleconference meetings

11123. (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, “teleconference” means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

§ 11123.1. Compliance with the ADA

11123.1. All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

§ 11124. No conditions for attending meetings

11124. No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

§ 11124.1. Right to record meetings

11124.1. (a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the taping or recording. Any inspection of an audio or video tape recording shall be provided without charge on an audio or video tape player made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

§ 11125. Required notice

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

§ 11125.1. Agenda; writings provided to body; public records

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the

meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are distributed to members of the state body by board staff or individual members prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

§ 11125.2. Announcement of personnel action

11125.2. Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

§ 11125.3. Exception to agenda requirements

11125.3. (a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

§ 11125.4. Special meetings

11125.4. (a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes where compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider “pending litigation” as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

§ 11125.5. Emergency meetings

11125.5. (a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, “emergency situation” means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

§ 11125.6. Emergency meetings; Fish and Game Commission

11125.6. (a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that

constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

§ 11125.7 Opportunity for public to speak at meeting

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(f) This section is not applicable to hearings conducted by the State Board of Control pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

§ 11125.8. Closed session; Board of Control; crime victims

11125.8. (a) Notwithstanding Section 11131.5, in any hearing that the State Board of Control conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

§ 11125.9. Regional water quality control boards; additional notice requirements

11125.9. Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

§ 11126. Closed sessions

11126. (a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, “employee” does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant’s qualifications for licensure and an inquiry specifically related to the state body’s enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, “lease” includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by

law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to

Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

§ 11126.1. Minutes; availability

11126.1. The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

§ 11126.3. Required notice for closed sessions

11126.3. (a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

§ 11126.5. Removal of disruptive persons

11126.5. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

§ 11126.7. Charging fees prohibited

11126.7. No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

§ 11127. State bodies covered

11127. Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

§ 11128. Time restrictions for holding closed sessions

11128. Each closed session of a state body shall be held only during a regular or special meeting of the body.

§ 11128.5. Adjournment

11128.5. The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

§ 11129. Continuation of meeting; notice requirement

11129. Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 11130. Legal remedies to stop or prohibit violations of act

11130. (a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this

article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in-camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

§ 11130.3. Cause of action to void action

11130.3. (a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

§ 11130.5. Court costs; attorney's fees

11130.5. A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof. A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

§ 11130.7. Violation; misdemeanor

11130.7. Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

§ 11131. Prohibited meeting facilities; discrimination

11131. No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section,

“state agency” means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

§ 11131.5. Required notice; exemption for name of victim

11131.5. No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

§ 11132. Closed sessions; express authorization required

11132. Except as expressly authorized by this article, no closed session may be held by any state body.

Life and Death: How Should We Respond to Oiled Wildlife?

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Abstract

There is ongoing public debate about the best course of action to take when wildlife are affected by oil spills. Critics of wildlife rehabilitation suggest that the cleaning and release of oiled animals is a waste of resources focused on individual animals (not populations); thus, the most responsible course of action is to immediately euthanize affected animals. These critics claim that survival of rehabilitated animals is poor, and that the funds spent on rehabilitation would benefit wildlife more if spent on other conservation efforts. In this opinion piece, with a focus on birds, we review reasons for engaging in a coordinated response to oiled wildlife that includes cleaning and rehabilitation. The reasons for responding to oiled wildlife in any capacity include ethical, human safety, and legal aspects. Our rationale for proposing that responders attempt to rehabilitate wildlife, rather than planning on immediate euthanasia, includes financial, scientific, and additional ethical reasons. Financially, costs for wildlife rehabilitation are typically a very small portion of overall oil-spill response costs, and are typically independent of postspill enforcement and funds used to restore injured natural resources. Scientifically, we review recent studies that have shown that animals cleaned and rehabilitated after oil spills can often survive as well as nonoiled control animals. Ethically, some people would consider individual animals to have intrinsic value and that we, as consumers of petroleum products, have an obligation to reduce suffering and mitigate injuries associated with such accidents. For these reasons, we suggest that, although humane euthanasia should always be considered as an option for animals unlikely to return to normal function after rehabilitation, response to oil spills should include a coordinated effort to attempt wildlife rehabilitation.

Keywords: oil Spills; seabirds; wildlife rehabilitation

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Introduction

The negative effects of oil spills on wildlife are widely recognized. In particular, aquatic birds and heavily furred mammals (e.g., sea otters *Enhydra lutris*) are highly susceptible to physiological effects of oiling, and it is generally assumed that most of these animals, if oiled

significantly, would die in the absence of human intervention (Helm et al. 2015).

The question of whether or not oiled wildlife should be rescued and rehabilitated has been raised regularly for many years, both in academic settings (Randall et al. 1980; Kerley and Erasmus 1986; Estes 1998) and in the popular media (Gauss 2010; Baker and Isabella 2016;

Nikiforuk 2016), particularly after significant or high profile oil spills such as the *Deepwater Horizon/Macondo* incident of 2010. The issue is most often presented as questioning whether effort and financial resources should be expended on individual animal rehabilitation if there is uncertainty related to how likely animals are to survive both during rehabilitation as well as after release, whether caring for commonly occurring species is “worth” the resources expended, and whether those released animals positively impact the greater population. Twenty years ago, considerable excitement was generated in the media by a published review (Sharp 1996) of survival data of oiled birds in North America. This study, based on band recoveries, found that survival of oiled and rehabilitated seabirds was very low, and the study continues to be cited as evidence that rehabilitation is not effective. However, as we discuss below, more recent studies indicate that postrelease survival of oiled wildlife is considerably better than values reported by Sharp (1996).

Despite the occasional resurgence in the media of the viewpoint that rehabilitation of oiled wildlife is a waste of time and resources, there is a clear line of reasoning to support the positive outcomes of collection and medical treatment of oiled wildlife. Here, we present this argument with a focus on oil spills in the United States; however, similar reasoning should be applicable to any location with similar laws and similar ethics. Similarly, although our discussion here is focused on seabirds (the taxa most commonly affected by oil spills), there is growing evidence, albeit primarily anecdotal at this stage, that this argument applies to many other taxa as well. However published studies on the success of rehabilitation of oiled wildlife are currently limited to birds (discussed below) and turtles (Saba and Spotila 2003).

Why Respond?

The most basic question regarding treatment of oiled wildlife is, why do we respond at all (rather than just leaving oiled wildlife to fend for themselves)? The reasons that we respond may seem self-evident, but it is worth reviewing them briefly here.

Ethical issues

While a great deal of petroleum enters the ocean from natural seeps throughout the world, most acute oil spills are caused by human-induced accidents—namely, extraction, transportation, or consumption-based activities (NRC 2003). We believe it is the ethical responsibility of humans to minimize suffering to wildlife when that suffering is caused by humans and human-related activities. Acts to minimize suffering can include prevention of anthropogenic impacts; however, if an impact does occur, intervention and appropriate veterinary care for the animal (including humane euthanasia when warranted) are necessary. In the case of anthropogenic oil spills, we propose that humans have an ethical responsibility to minimize the suffering of

affected animals, including both caring for live affected animals, if possible, and removing oiled animals from the environment to decrease the potential of other animals becoming contaminated through scavenging or predation.

Safety issues

During disasters, the public often demands that damage be repaired as completely as possible. An extremely visible aspect of this effort during oil spills is often wildlife rehabilitation. For example, during the *Cosco Busan* oil spill in 2007 in San Francisco, California, when images of oiled birds began appearing in the media, there was a massive response from the public to volunteer in rescue and rehabilitation efforts (Ziccardi et al. 2011). If members of the public believe that response to oiled animals is not adequate, they may endeavor to respond themselves without proper training. Although this desire is well meaning, self-deployment during such disasters can be dangerous to the animals as well as the people responding, and can lead to serious injuries and damaging exposure to toxic chemicals if done incorrectly. As an example, during the *Refugio* oil spill in Santa Barbara, California, in 2015, members of the public immediately self-deployed to attempt to rescue affected animals, leading to numerous cases of human oil contamination and injury (CDFW-OSPR 2016). In contrast, when authorized agencies (such as state or federal wildlife trustees and/or their approved contractors) respond in a rapid, safe, professional, and collaborative way, the general public may not feel compelled to undertake this effort on their own.

Legal issues

Significant oil spills typically garner substantial media attention, and this attention is often focused on the plight of oiled wildlife. It is difficult to separate out public opinion specific to oiled wildlife from opinions related to other effects of oil spills, but it is likely that images of oiled wildlife and resulting public outrage played a significant role in the creation of major environmental laws in the United States (Morse 2012). The 1969 Santa Barbara Channel (Platform A) oil spill is often cited as a major influence on the American environmental movement, and the U.S. National Environmental Policy Act (NEPA 1970, as amended), U.S. Federal Water Pollution Control Act Amendments of 1972 (FWPCA 1972, also known as Clean Water Act), U.S. Endangered Species Act (ESA 1973, as amended), and U.S. Marine Mammal Protection Act (MMPA 1972, as amended) were all passed soon after the spill, between 1970 and 1973. Similarly, after the *Exxon Valdez* oil spill in 1989 (and major media coverage of oiled wildlife), the U.S. Congress moved swiftly to pass the U.S. Oil Pollution Act of 1990 (OPA 1990, as amended). This act established a mandate that oil spill contingency plans must “...provide for coordinated immediate and effective protection, rescue, and rehabilitation and minimization



of risk of injury to, fish and wildlife resources and habitat...”, thus effectively mandating response to oiled wildlife in the United States.

Also in response to the *Exxon Valdez* spill, as well as the *American Trader* spill in 1990, the California legislature passed the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act in 1990 (OSPRA 1990), establishing a detailed framework for oil spill response, including a mandate for the establishment of wildlife rehabilitation stations for the purpose of oiled wildlife rehabilitation. The development of these capabilities in California has since resulted in the creation of the Oiled Wildlife Care Network, which has worked to improve recovery, documentation, and veterinary protocols for the care of oiled wildlife (Newman et al. 2003). In addition to mandates related to rehabilitation of wildlife, legal documentation of oil spill effects require that impacts to wildlife be quantified, so that responsible parties can be held accountable for the appropriate costs of natural resource restoration. Collection of both live and dead oiled wildlife is an important aspect of this quantification process (Jessup 1998).

Why Not Euthanize?

Once it has been established that humans should act in response to oiled wildlife, the next question is why treatment should be attempted rather than euthanasia of all affected animals. Three arguments have generally been presented for the immediate euthanasia of oiled wildlife either before capture (e.g., gunshot) or immediately after collection (e.g., chemical or other physical means): 1) treatment of live animals is a waste of financial resources that could be better used for other wildlife conservation purposes; 2) even if treated, most animals will die either in care or quickly after release; and 3) if animals are treated, survive, and are released, they will not re-enter the breeding population, thereby displacing ecological resources from other reproductively viable animals. Before addressing these concerns, it must be understood that during any oil spill response, a portion of live animals collected will be euthanized, with the proportion dependent on animal condition, speed of recovery, availability of resources, and dynamics of the spill. Basic veterinary care dictates that humane euthanasia be carried out if an animal is unlikely to return to normal function after rehabilitation (Kirkwood and Sainsbury 1996; AVMA 2013). In addition, depending on the nature of the spill, triage may be necessary based on available resources and animals less likely to survive, or more likely to continue suffering, may be euthanized. However, the arguments related to immediate euthanasia versus attempts at rehabilitation are addressed below.

Financial consideration

The cost of cleaning and rehabilitating oiled wildlife, although not insignificant, has often been incorrectly overestimated (see Estes 1998 and response by Jessup

1998). In fact, the cost of wildlife rehabilitation is typically a very small percentage (0.01–5.9%) of the overall oil spill response cost (Massey et al. 2005). Importantly, under the oil spill response framework in the United States, funding for response to oiled wildlife does not come from the same source as funding for postspill restoration (Jessup 1998). Thus, any money saved by curtailing care for oiled wildlife would not be available for other wildlife conservation-related projects to benefit the affected species. In the United States, it is a legal mandate that the cost of the entire spill response, including recovery and treatment of oiled wildlife, is borne by the responsible party (i.e., spiller), or in the absence of an identified or financially solvent responsible party, by federal or state (if present) trust funds for oil spill response. The cost of postspill restoration is similarly borne by the responsible party, but these costs are unrelated to the response costs. The cost of postspill restoration is determined through a collaborative process of natural-resource damage assessment or through litigation, and is based on the estimated cost of restoring each component of natural resource injury to prespill status. For wildlife, this would be the costs associated with management actions required to recover affected wildlife populations to prespill levels. The response costs and restoration costs are independent and not interchangeable; thus, if response costs were reduced by eliminating rehabilitation of oiled wildlife, the only benefit would be to the responsible party in that they would pay less for the response.

It should be noted that the responsible party can benefit from paying the response costs of wildlife rehabilitation in two ways: 1) it is generally good for the spiller's public image to be concerned about natural resources; and 2) there may be a small “credit” in the natural resource damage assessment process for animals that have been cleaned, rehabilitated, and are presumed to rejoin the breeding population. Although the maintenance of brand reputation may be considered by some as “greenwashing” of an anthropogenic incident, the public will demand that oiled wildlife are cared for, and we believe that a spiller paying for the appropriate care of wildlife is beneficial overall. On the issue of a “credit” for released wildlife, during the process of natural-resource damage assessment for the *Cosco Busan* oil spill in San Francisco Bay in 2007, 64 surf scoters *Melanitta perspicillata* were subtracted from the total injury assessment for this species because they represented the number (25%) of released surf scoters that were considered to have “likely survived” (Ford et al. 2009). This estimate was based on the relative survival of rehabilitated scoters, which survived approximately 25% as well as control scoters (De la Cruz et al. 2013—see below).

Survival of rehabilitated wildlife

There are three sequential circumstances that must be met for an oiled animal to return to normal function in



Table 1. Representative studies published after 1996 related to postrelease survival of rehabilitated oiled wildlife.

Year of oil spill	Study	Taxon	Type of study	Duration of study	Results
Various (after 1968)	Whittington 1999	Penguins (family <i>Spheniscidae</i>)	Band recovery	Various (years)	No difference between OR ^a and control birds
1983	Altwegg et al. 2008	Gannets (family <i>Sulidae</i>)	Band recovery	15 y	Survival of OR birds 97–98% that of control birds
1995	Goldsworthy et al. 2000	Penguins (family <i>Spheniscidae</i>)	Band resight	19 mo	Survival of OR birds 77% to 88% that of control birds
1995	Anderson et al. 2000	Coots (family <i>Rallidae</i>)	Telemetry tracking	4 mo	Survival of OR birds approx. 50% that of control birds
1997	Golightly et al. 2002	Gulls (family <i>Laridae</i>)	Telemetry tracking	9 mo	No difference between OR and control birds
2007	De la Cruz et al. 2013	Scoters (family <i>Anatidae</i>)	Telemetry tracking	16 wk	Survival of OR birds 18% that of rehabbed control birds, 29% that of unrehabbed control birds
2010	Sellman et al. 2012	Pelicans (family <i>Pelecanidae</i>)	Band resight	4 wk	No difference between OR and control birds
2011	Sievwright 2014	Penguins (family <i>Spheniscidae</i>)	Microchip tracking	23 mo	No difference between OR and control birds

^a OR = oiled and subsequently rehabilitated.

the wild following rehabilitation: first, the animal must survive long enough to be released back to the wild, then the animal must survive in the wild after release, and finally the animal must return to normal physiological function (e.g., return to breeding for adults, interact naturally with conspecifics). Although the first condition seems obvious, there are many factors that affect the likelihood of an oiled animal surviving to release. These include the species affected, condition on capture, available resources, and triage priorities at rehabilitation centers (Helm et al. 2015). For an animal to be considered for release back to the wild, it will need to meet veterinary health parameters indicating that its health is similar to that of the wild cohort (Mazet et al. 2002); for those that cannot meet these criteria, euthanasia may be implemented as the most humane strategy.

Survival of oiled and rehabilitated wildlife after release is a topic that has generated much interest and debate. Sharp (1996) found that overall survival of oiled western grebes *Aechmophorus occidentalis* was approximately 15% that of a control group of unoiled birds, survival of common murre *Uria aalge* was approximately 8% of control birds, and survival of white-winged scoters *Melanitta fusca* was <1% that of control birds. These values have been used as evidence by opponents of rehabilitating oiled wildlife that rehabilitation is not effective. However, since this summary was compiled in 1996, several studies have been published providing additional information on postrelease survival of oiled and rehabilitated wildlife (Table 1).

There is considerable variability among these more recent postrelease studies. Differences in relative survival of rehabilitated oiled wildlife appear to be strongly dependent on species differences, aspects of the spill (product type, speed of response), or details of rehabilitation methods. Additional research should continue to be conducted to learn more about what factors affect postrelease survival and how postrelease survival

can be improved. However, despite the variability in survival of oiled wildlife, it is clear that survival can far exceed the survival estimates provided by Sharp (1996), and in several cases no difference was detected between survival of rehabilitated birds and control birds. Thus, the a priori argument that rehabilitated oiled animals will not survive in the wild is no longer valid.

Recent studies have also provided more information on breeding success of rehabilitated oiled wildlife that survive long enough to re-enter the breeding population. Two studies (Giese et al. 2000; Barham et al. 2007) found that breeding success of rehabilitated oiled penguins *Spheniscus demersus* and *Eudyptula minor* was lower than that of nonoiled control birds. However, despite the reduction in breeding success, in both studies rehabilitated penguins did re-enter the breeding population and successfully fledged a substantial number of chicks. Additional research on breeding success of oiled and rehabilitated birds would be useful.

Animal value

Many people believe that animals have an intrinsic value, or are valuable not for any monetary reason but just for existing in nature (Heeger and Brom 2001). In addition to other ethical considerations discussed above, it could be argued that an individual animal's life is worth saving for the animal's sake. Cultural values regarding wildlife should also be considered, in particular attitudes of indigenous peoples regarding the value of wild animals' lives. These values will vary with location and species affected, but should be considered at the time of an oil spill response.

Individuals of rare and threatened species may be considered to be of greater importance than other animals for conservation reasons, and each individual of these species may be important at a population level. For this reason, for very rare species it may be justifiable to make every effort to save individual lives, even if the likelihood of survival is relatively low. Conversely, care of

abundant species during oil spills can provide excellent training and research opportunities for threatened species should they be affected in subsequent events.

Summary

Survival of wildlife collected during oil spills is variable, and can be affected by various factors including the nature of the spill (e.g., season, source, product), the logistics of the response (e.g., geographic location, readiness level), and the species affected. However, once rehabilitated animals are deemed healthy enough for release, survival can in some cases equal that of control nonoiled animals. Based on the potential for successful recovery, the ethical and legal reasons to care for oiled wildlife, and the intrinsic value of animals, we suggest that response to oil spills should continue to include collection and rehabilitation of oiled wildlife. To achieve high release rates and best possible postrelease recovery rates, robust planning for oil spill response is critical, including pre-emptively acquiring necessary equipment and supplies; identifying and training appropriate personnel; either constructing, modifying, or identifying available facilities to support operations; and incorporating the latest and best available science in protocols for veterinary care and rehabilitation. Only with this focus on readiness can rapid capture and best achievable care of oil-affected wildlife be realized.

Supplemental Material

Please note: The *Journal of Fish and Wildlife Management* is not responsible for the content or functionality of any supplemental material. Queries should be directed to the corresponding author for the article.

Reference S1. [CDFW–OSPR] California Department of Fish and Wildlife–Office of Spill Prevention and Response. 2016. Refugio Oil Spill response evaluation report: summary and recommendations from the Office of Spill Prevention and Response.

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Reference S2. Ford RG, Casey JL, Williams WA. 2009. Final report: acute seabird and waterfowl mortality resulting from the M/V *Cosco Busan* oil spill, November 7, 2007. Appendix B in *Cosco Busan* Oil Spill Trustees, eds. *Cosco Busan* oil spill final damage assessment and restoration plan/environmental assessment. Prepared by California Department of Fish and Game, California State Lands Commission, National Oceanic and Atmospheric Administration, United States Fish and Wildlife Service, National Park Service, Bureau of Land Management.

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OSPR REGULATIONS & LEGISLATIVE UPDATE

(as of September 28, 2018)

To be added to the mailing list for the distribution of regulations workshop information, proposed regulations and hearing notices, click onto [Get on OSPR's Mailing List](#) and enter your information.

REGULATIONS

○ Inland Regulations

- Contingency Plans and Definitions & Abbreviations (§790 and §817.04)
- Certificates of Financial Responsibility (COFR) (§791 – 798)
- Drills and Exercises (§820.02)
- Oil Spill Response Organization Ratings (§819 – 819.07)

OSPR has commenced the regular rulemaking process to make the provisions of SB 861 permanent. An additional 15-day public comment period is necessary.

For more information and to view the rulemaking documents, visit <http://www.wildlife.ca.gov/OSPR/Legal/Proposed-Regulations>.

○ Spill Management Team Certification Regulations

- AB 1197 approved by Governor October 8, 2017.
- Major provisions:
 - The Administrator of OSPR will: establish criteria for certifying an SMT based on the SMT's capacity to respond to spills and manage spills effectively; review applications for SMT certification; certify SMTs, as specified; and adopt regulations to implement provisions as appropriate.
 - An SMT may apply to the Administrator for a certification of its response capabilities.
 - An oil spill contingency plan submitted by a vessel owner or operator will be required to identify at least one SMT that is certified pursuant to regulations that will be promulgated. The SMT may be contracted or provided by the owner or operator.

- Timeline:

Additional informal scoping meetings to solicit input from interested stakeholders scheduled as follows:

- Date: Tuesday, October 9, 2018
 - Time: 9:00 a.m. to 12:00 p.m. (*discussion focused on external, for contract SMTs*)
 - Time: 1:00 p.m. to 4:00 p.m. (*discussion focused on internal, in-house, industry SMTs*)
 - Location: Department of Parks and Recreation
4940 Lang Avenue, Training Bldg. J
McClellan, CA 95652
- Date: Monday, October 15, 2018
 - Time: 9:00 a.m. to 12:00 p.m. (*discussion focused on external, for contract SMTs*)
 - Time: 1:00 p.m. to 4:00 p.m. (*discussion focused on internal, in-house, industry SMTs*)
 - Location: Dockweiler Youth Center
12505 Vista del Mar
Playa del Rey, CA 90293

OSPR REGULATIONS & LEGISLATIVE UPDATE

(as of September 28, 2018)

If you are not able to attend, OSPR has established a specific SMT inbox where you may provide written comments at OSPRSMT@wildlife.ca.gov or to OSPR's address (1700 K Street, Ste. 250, Sacramento, CA 95811). If you have any questions regarding the statute, the lead for program implementation is Yvonne Addassi, Chief of Preparedness, at (916) 324-7626 or Yvonne.Addassi@wildlife.ca.gov, or Dr. Rachel Fabian at (916) 324-6450 or Rachel.Fabian@wildlife.ca.gov. For questions regarding the regulatory process, please contact Daniel Warren at Daniel.Warren@wildlife.ca.gov.

LEGISLATION

- **AB 2864** – Coastal Resources (Limón)
 - Signed by the Governor, October 8, 2017.
 - This bill requires the Administrator OSPR to:
 - Consult with the California Coastal Commission or S.F. BCDC on potential restoration and mitigation measures for inclusion in the damage assessment and restoration plan.

Contact:
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