

**Department of Fish and Wildlife
Office of Spill Prevention and Response**

GUIDANCE DOCUMENT

For use in the preparation of

Contingency Plans

Identification of Ecological Resources at Risk and Environmentally Sensitive Sites

Title 14, CCR Section 817.04(I)

BACKGROUND

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

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

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

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

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

DISCLAIMER

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

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

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

Purpose

The goal of contingency planning is to provide information and resources necessary for a quick and efficient response to oil spills. This section is intended to support compliance with the requirements for identification and consideration of ecological resources at risk. A comprehensive contingency plan will identify and map ecologically sensitive areas, which could be adversely affected by an oil spill. In addition, plan preparers must consider the impact of an oil spill on ecologically sensitive areas. The exact location of federally listed endangered species may not be considered public information and this document will provide guidance on how to address these types of resources. This document is not intended to represent a comprehensive list of the information necessary for identification or consideration of all ecological resources at risk. Suggested contacts where further information may be obtained are provided in each section.

Summary

A required component of the contingency plan is to identify, describe and map locations of ecologically sensitive areas that contain wildlife and aquatic resources which could be impacted by a spill. These ecologically sensitive areas and species are considered to be resources at risk. These resources are listed in the California Code of Regulations at Subsection 817.04(i)(3).]

Resources at Risk

- (A) Habitat types, shoreline types, and associated wildlife resources in those locations. Examples are marine, estuarine, riverine, grassland, valley-foothill riparian, oak woodland and montane riparian habitats. Each habitat description provides information on structure, composition, habitat stages, biological setting, physical setting and distribution. The California Wildlife and Habitat Relationship Database contain a list of 60 habitat types found within the state. Shoreline types provide information on factors that influence sensitivity to oiling, including: geomorphology, relative exposure to waves and tidal energy, biological productivity and sensitivity, shoreline slope, ease of cleanup. Examples include rocky intertidal shorelines, fine sandy beaches, and salt marshes in the marine environment and riverine or lacustrine habitats that have shorelines that contain vegetated riparian, sandy, rocky or bedrock types. The habitats are generally grouped according to vegetative dominance or unique characteristics to which wildlife are thought to respond.
- (B) The presence of state or federally-listed rare, threatened or endangered species and/or species of special concern. Among wildlife species, those with limited distributions and those that are restricted to particular habitat types face formidable challenges if the habitats or resources upon which they depend are lost or degraded. The CA Department of Fish and Wildlife (CDFW) have a Special Animals List, which it maintains and updates within the California Natural

Diversity Database (CNDDDB). This list is also referred to as the list of species at risk or special status species, and it includes vertebrates and invertebrates. Special status species are diverse, and they inhabit varied ecosystems across the state.

- (C) The presence of aquatic resources including fish, amphibians, invertebrates, and plants including important spawning, migratory, nursery and foraging areas. Coastal estuaries provide important nursery habitats for anadromous and oceanic fish. Streams and rivers provide crucial pathways to spawn for anadromous fish such as salmon and steelhead as well as supporting many resident fish, amphibians and plants. Streams, lakes and ponds have a wide variety of fish and wildlife dependent upon them, including from the Sierra's mountain yellow frog to the desert's pupfish,
- (D) The presence of terrestrial animal and plant resources. Information regarding typical and dominate animal and plant species as well as species of concern should be provided. As an example, the Bitterbrush habitat common in western Kern County to Inyo County contains bitterbrush as well as gray horsebrush, Douglas rabbitbrush, Mormon tea, curleaf mountain mahogany, and desert peach. Some of the more characteristic wildlife species found in Bitterbrush habitat include the western fence lizard, gray flycatcher, Brewer's blackbird, green-tailed towhee, jackrabbits, least chipmunk, Belding's ground squirrel, kangaroo rats, and badger.
- (E) The presence of migratory and resident state bird and mammal migration routes, and breeding, nursery, stopover, haul-out, and population concentration areas by season. Many of California's bird species travel substantial distances over the course of their seasonal migrations. Long-distance migrating birds, including numerous species of waterfowl, swallows, terns, hawks, shorebirds and songbirds, stopover, forage or nest seasonally in California. Herds of mule deer and pronghorn cross distances of more than 100 miles traveling between their summer and winter ranges in northeastern California.

Environmentally Sensitive Sites

Environmentally sensitive sites are places that provide unique or critical ecological habitat. These areas include the shoreline, near-shore areas of a river, stream, lake or other water body, as well as terrestrial habitat. They are crucial to the health and well-being of fish, wildlife, and native plants. Many fish and wildlife species, including many species of greatest conservation need, are highly dependent on these habitats for feeding, resting, mating and juvenile life stages. Oil spills and other releases into the water as well as adjacent lands may have significant negative impacts on these species.

Identifying Sensitive Resources at Risk

Resources are considered sensitive to oil spills if they are: 1) of environmental, historic/cultural, or economic importance; 2) at risk of coming in contact with spilled oil; and 3) likely to be affected once oiled.

The Contingency Plan (CP) must describe the response strategies to protect pre-identified sites and resources at risk. The following sections contain definitions and further details for some of the above listed resources and provide contact suggestions for additional information.

Preparing an acceptable CP requires the availability of up-to-date biological information on the species being considered within the plan area. First, the applicant should gather and review existing information about species distribution, occurrence, and ecology. This document can assist in this process by directing the applicant to available information. Second, the CP should determine whether the available information is adequate to proceed with the planning process. If not, an independent environmental consulting firm can be used to recommend the type, scope, and design of biological studies that can reasonably be developed to support the CP.

Determining the availability of existing information is especially important for developing effective CPs. Many smaller facility CPs typically will not require additional studies beyond gathering web based information to determine the distribution of the species within the plan area.

An approach to consider for the development of CP is a habitat-based approach, in which the presence of a particular species can be assumed based on the presence of its particular habitat type; if that habitat type and associated species are then addressed in the CP and included in the evaluation of resources at risk, additional distribution studies may not be necessary.

Several on-line web-based, interactive map tools are available for citizens, landowners, and interested parties to find basic information about the known location of Habitats and Species in California. Several on-line sites are listed below:

- CDFW California Natural Diversity Database (CNDDDB): A California Department of Fish and Wildlife program that inventories the status and locations of listed or sensitive plants and animals in California.
<http://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp>
- NOAA Environmental Response Management Application (ERMA): a web-based Geographic Information System (GIS) tool that assists both emergency responders and environmental resource managers in dealing with incidents that may adversely impact the environment.
<https://erma.noaa.gov/southwest/>
- CDFW BIOS: a system designed to enable the management, visualization, and analysis of biogeographic data collected by the California Department of Fish and Wildlife and its partner organizations. <http://www.dfg.ca.gov/biogeodata/bios/>

- USFWS's IPac- The IPaC system is designed for public access to information about the natural resources for which the U.S. Fish and Wildlife Service has trust or regulatory responsibility. Examples include threatened and endangered species, migratory birds, national refuge lands, and National Inventory Wetlands. <http://ecos.fws.gov/ipac/>
- USFWS Environmental Conservation Online System. Information on federally listed species and habitat by county or species. <http://ecos.fws.gov/ecos/home.action>
- USFWS National Wetlands Mapper: View wetlands information using a map interface, print a snapshot or download map of wetlands data. <http://www.fws.gov/wetlands/data/Mapper.html>
- NOAA NMFS' Habitat Protection – Essential fish habitat includes all types of aquatic habitat—wetlands, seagrasses, rivers—where fish spawn, breed, feed, or grow to maturity. Essential Fish Habitat Mapper is an on-line GIS mapping tool <http://www.habitat.noaa.gov/protection/efh/efhmapper/index.html>
- NOAA ESI Maps – Provides sensitive species information and shoreline types for oil spill response in bay and coastal areas. <http://response.restoration.noaa.gov/maps-and-spatial-data/environmental-sensitivity-index-esi-maps.html>
- CDFW California Wildlife Habitat Relationship (CWHR) Database Predictive model for California's regularly occurring birds, mammals, reptiles and amphibians. 4 Aquatic habitats – Riverine, Estuarine, Lacustrine, Marine Query by location (e.g. county), T&E Status <http://www.dfg.ca.gov/biogeodata/cwhr/>
- Other National, State and Local websites may be potential sources of natural resource information to identify and develop the facility's CP. These include National Soil Conservation Service, special district, county and city websites.

The species and habitats that are housed in ERMA and BIOS mapping systems are informed by CDFW's CNDDDB program. The CNDDDB program inventories the status and locations of rare plants and animals in California. The maps display known locations of priority habitats and species that have been provided to the department by agency biologists and other sources of scientific species data. The database is updated as new information is gathered and verified in the field. These maps should not be considered an exhaustive survey of all fish and wildlife presence.

The data displayed on CNDDDB on the Web is for informational purposes only. Before making final decisions about a project or plan using this map, CDFW strongly recommends a field visit by a fish and wildlife biologist or habitat expert to make determinations about species presence, absence, or exact location. The location of

species can change over time, not every parcel has been surveyed and biologists add new field observations on a regular basis.

CNDDDB information displayed on USGS Topographic Maps shows the presence of a particular species and can be assumed to have that species distributed within that habitat based on the presence of its habitat type.

Please note: The specific location of some fish and wildlife occurrences is not available on CNDDDB on the Web. These locations deemed “sensitive” by CDFW are not displayed on the map beyond a certain resolution (e.g. Quad, Township or Section) due to an increased risk of human interference. Eligible landowners, University researchers, government agencies, tribes and some others may qualify to receive this data. Please visit CDFW’s Biogeographic Data Branch web page for more information about how to access sensitive data.