

2013-2014 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 2013-2014, presenting the important issues the TAC has been actively following, and highlights those issues the TAC feels are critical to California's oil spill preparedness, prevention and response programs.

The TAC reports that for the past two years, in conjunction with the California States Lands Commission (CSLC), the California Coastal Commission (CCC), and the San Francisco Bay Conservation and Development Commission (BCDC), the Department of Fish and Wildlife's, Office of Spill Prevention and Response (OSPR) continued its successful day-to-day operations while addressing the challenges of carrying out the mandates of a new statewide oil spill program established by Senate Bill 861 in June of 2014. With the passage of SB 861, OSPR is tasked with the implementation of a statewide oil spill program that requires 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 also identifies the following issues of particular concern:

- Implementation and strengthening of the Statewide Oil Spill Program – addressing the increased risk of oil spills to the state in the inland areas as a result of the increased transport of crude oil by rail and pipeline.
- Addressing the expanded role and membership of the TAC in timely fashion.
- Securing a dedicated funding source to address non-petroleum spills in state waters.
- Monitoring the funding status of the Oiled Wildlife Care Network (OWCN) and its efforts to plan for inland wildlife response needs to meet the mandates set forth by the passage of Senate Bill 861.

The TAC also provides several recommendations to the Legislature:

- Address the lack of a dedicated funding source for responding to non-petroleum based spills in state waters.
- Make appointments to fill the seven (7) vacant TAC membership positions.
- Continue to monitor crude oil by rail and enact additional legislation if necessary to address any outstanding issues (i.e., if the pending lawsuit is successful the State Legislature should consider enacting resolutions urging the federal government to enact additional legislation).

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

**2013-2014
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.*

DECEMBER 2015



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 our priority issues for 2015-2016. The report follows the format of recent reports, which we hope informs the Governor and the Legislature of the important issues the TAC has been actively following, and adequately highlights those issues that we feel are critical to our State oil spill preparedness, prevention and response programs.

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 in carrying out the mandates of their respective programs. 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 2013-2014 Issues and Accomplishments section of this report the TAC highlights a number of issues the TAC has been monitoring and addressing over the past two years, including:

- Status of Oil Spill Funds
- Statewide Oil Spill Program
- Status of the Oiled Wildlife Care Network
- OSPR Regulations Development and Implementation
- Transportation of Crude Oil by Rail
- Expanded Role and Membership of the TAC

A discussion of issues the TAC feels will continue to be of interest are included in the section of this report entitled Priority Issues for the TAC 2015-2016; these issues include:

- Monitoring of Oil Spill Funds
- Implementation of Statewide Oil Spill Program
- Regulation Development
- Monitoring of Oil Spill Related Legislation
- Crude Oil Transportation by Rail
- TAC Roles and Responsibilities

During the past two 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 crude oil in the United States an increasing amount of crude oil is entering California by rail. This oil is displacing crude oil historically delivered to

California by tankers to marine terminals. This shift has resulted in an increased risk of oil spills in the inland areas of the state historically not included in the robust marine oil spills program administered by OSPR.

In 2014, the Legislature and Governor addressed the increased risk of inland oil spills by enacting SB 861 as part of the state budget process. This bill created a statewide oil spill program that requires contingency plans and oil spill response capabilities for inland pipelines, inland oil producers, and railroads that transport crude oil by rail.

With the passage of SB 861, OSPR was tasked with the implementation of a statewide oil spill program. This will occur over the next year and into the future. This additional workload is above and beyond the efforts required to administer the day-to-day operations of the existing marine oil spill program. The program implementation is discussed in more detail in this report. The TAC has identified the implementation of the statewide program as one of its priority issues for 2015-2016.

The TAC will continue to monitor the evolving issue of crude oil transportation by rail particularly as this issue impacts the implementation of the statewide oil spill program. As discussed in this report, the TAC will continue to monitor the dialogue around the railroads' claim that federal law preempts the state's authority to regulate the railroads.

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 in state waters. The need for such funding was highlighted by a recent spill near Alameda of an unidentified substance by an unknown responsible party that resulted in many birds being impacted and requiring cleaning. There were no dedicated funds available to fund a response or to provide care for the impacted wildlife.

Funding for the Oiled Wildlife Care Network (OWCN) has been an ongoing concern of the TAC. The issue has been addressed with the passage of SB 861, which provides funding for the OWCN through the Oil Spill Prevention and Administration Fund (Fund 320) as opposed to the Oil Spill Response Trust Fund (Fund 321). A detailed discussion of this issue and the TAC's concerns are discussed in the body of this report. The TAC will continue to include the OWCN as a priority issue for 2015-2016.

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, three (3) other positions remain open. With these seven (7) total open positions, only 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.

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

Recommendations

- Address the lack of a dedicated funding source for responding to non-petroleum based spills in state waters.
- Make appointments to fill the seven (7) vacant TAC membership positions.
- Continue to monitor crude oil by rail and enact additional legislation if necessary to address any outstanding issues (i.e., if the pending lawsuit is successful the State Legislature should consider enacting resolutions urging the federal government to enact additional legislation).

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. The TAC would like to express our appreciation for their dedicated hard work to protect California's spectacular natural resources and expand knowledge to other states during disastrous circumstances.

Table of Contents

	<u>PAGE</u>
I. BACKGROUND	1
II. ISSUES AND ACCOMPLISHMENTS FOR CALENDAR YEARS 2013-2014	2
III. PRIORITY ISSUES FOR THE TAC IN 2015-2016	8
IV. CONCLUSION	11
APPENDICES	12
A. GOVERNMENT CODE	
B. TAC MEMBER INFORMATION	

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 is to prevent and cleanup marine oil spills and to restore damage to 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. 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 marine oil spills and work with an array of public and private entities to prepare for and prevent spills. Some notable partners include the United States Coast Guard, National Oceanic and Atmospheric Administration, and the Bureau of Safety, Environment, and Enforcement (BSEE). 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. 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 the 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, and 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.*) Future activities of the TAC are discussed at the end of this Report.

The TAC makes recommendations to the 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 2013/2014

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

During the 2013/2014 report period, the Pollution Program to respond to spills of petroleum products in non-marine waters of the state, or 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 for the aforementioned spills. Funds available to administer the program continued to decline. In fact in September 2012, the Fish and Wildlife Pollution Account had a negative balance of \$26,838, which made it necessary to cut back drastically on the administration of the program.

With the passage of SB 861 in 2014 creating the Statewide Oil Spill Program, funding became available for expanding OSPR's oil spill program to inland waters. This additional funding, which goes to Fund 320, has addressed many of the funding issues associated with oil spills, however response to non-petroleum based spills in state waters still lacks a dedicated funding stream.

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. Until the passage of SB 861, funding was provided by a \$0.065 fee per barrel (42 U.S. gallons) on crude oil and petroleum products received at a marine terminal, together with a fee collected biennially on non-tank vessels when they apply for their Certificate of Financial Responsibility (COFR). That fee is set on a sliding scale based on the size of the vessel.

The per-barrel fee was increased from \$0.04 to \$0.05 per barrel in 2003, at which time the non-tank vessel COFR fee was established. The per-barrel fee was increased by thirty percent to \$0.065 in 2012 as a result of AB 1112 (Huffman, statutes of 2011) entering into force. That increase included a sunset date of January 1, 2015. Concurrent to that increase, the non-tank vessel fee was also administratively increased by thirty percent in 2012 from \$2,500 to \$3,250 for the top tiered vessels permissible under existing statutory authority granted to the Administrator. Unlike the per-barrel fee, that increase has no sunset provision nor is it applied to tank vessels. It also differs in that it is assessed against the carrier of the petroleum product (the non-tank vessel), while the per-barrel fee is assessed against the owner of oil as cargo. The fee increases were in part required to fund the legislative mandate in AB 1112 to develop and implement a bunkering and lightering monitoring and inspection program. Despite these increases, OSPAFA continued to have a deficit in 2013-2014, as was projected.

OSPAFA projections provided to the TAC were indicating a potential deficit in fiscal years 2014/2015 and forward, based on an increase in expenditures estimated by OSPR and other affiliated agencies, combined with slightly reduced or flat revenue projections. The TAC was becoming increasingly concerned about the adequate funding of the program and reported this in its 2011-2012 report to the Legislature.

As part of the Budget Act of 2014 and through the enactment of SB 861, the bill deleted the sunset provision on the per barrel fee, which would have reduced the fee from \$0.065 to \$0.05. Additionally, the bill imposed the \$0.065 fee on those owning crude oil or petroleum products at the time said crude oil or petroleum products are 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. The TAC believes that this action will result in the OSPAFA budget being restored to a level of appropriate 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 won't 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 shall 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. 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 within 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 created a \$40,000,000 loan from the OSRTF to the General Fund, now with 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 will be repaid with interest.

The TAC receives regular briefings from OSPR on fund activity and balance. Over the last two years, the TAC has seen no accounting irregularities with the fund balance; however, the loan to the General Fund in 2011 has, 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 limited to \$358,000/year even though additional funds were available. 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 increased to \$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.

Statewide Spills Program

During the 2008 Legislative Session, AB 2911 made certain marine oil spill provisions applicable to inland oil spills, such as designating the OSPR Administrator (or his/her designee) as Incident Commander for inland oil spill cleanup; made responsible parties liable for damages similar to those for marine oil spills; and allowed for administrative enforcement of inland oil spills. The bill also strengthened enforcement penalties for both inland and marine oil spills. However, the new law did not include any provisions for creating a dedicated funding source for the Inland Pollution Program.

In 2014, the legislature enacted SB 861 as part of the budget process. SB 861 comprised 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:

- Directing the Governor to require 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;
- Requiring development and implementation of regulations to provide for the best achievable protection of all waters and natural resources of the state;
- Authorizing emergency regulations adopted by the Administrator to be in effect for 12 months or until the Administrator re-adopts those regulations;
- Expanding administrative civil penalties and no longer distinguishing between a marine or inland oil spill, subjecting all persons to the same oil spill provisions.
- Expanding the scope of the OWCN to include proactive capture and care for animals affected by inland spills, as well as switching funding streams to support this effort from the OSRTF to the OSPAF (see below);
- Requiring every person who operates an oil refinery, marine terminal, or a pipeline to register with the State Board of Equalization;
- Deleting the OSRTF fee exception for independent crude oil producers, and additionally, impose the OSPAF fee on pipeline operators transporting petroleum products into the state by means of a pipeline operating across, under, or through any waters of the state; and
- Extending the repayment of any loan or other transfer of money from the OSRTF to the General Fund pursuant to the Budget Act date to June 30, 2017, with provisions to be repealed on January 1, 2018.

Implementation of Statewide Oil Spill Program

With the passage of SB 861, OSPR began the implementation of the Statewide Oil Spill Program. OSPR conducted a number of scoping sessions and workshops intended to solicit input and field concerns from interested stakeholders. Emergency oil spill contingency plan regulations were to be developed covering inland pipelines, inland production facilities, and railroads transporting crude oil. Draft emergency regulations covering inland pipelines and inland production facilities were distributed in late 2014 for comment and review.

In October of 2014 the Union Pacific Railroad Company, the Burlington Northern Santa Fe Corporation (BNSF) Railway Company and the American Association of Railroads (AAR) filed a lawsuit against OSPR to enjoin enforcement of the recently enacted statute, claiming federal law preempts the state's assertion of authority to regulate the railroads. As a result of the lawsuit, draft emergency oil spill contingency plan regulations were delayed. It is anticipated that the emergency regulations for all inland facilities will be

published in 2015. The emergency regulations expire 12 months from promulgation. Prior to expiration OSPR will seek to issue final regulations.

The TAC will closely follow the implementation of the statewide program during 2015.

Oiled Wildlife Care Network (OWCN)

Oiled Wildlife Care Network operations have been funded since its inception through interest earned on the Oil Spill Response Trust Fund since its inception, with a mandated mission to provide best achievable care of wildlife oiled in marine waters of the state. During the 2008 legislative session, as a consequence of the *Cosco Busan* oil spill, AB 2911 (Wolk, Chapter 565, Statutes of 2008) expanded the OWCN's mandate to ensure proactive capture of oiled or threatened wildlife, with an increase in base funding to help support that mission. Since that time, hazing (or deterrence) and field stabilization have also been added to those operational elements OWCN provides to OSPR on behalf 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 has been insufficient to support the operational requirements of the OWCN. The TAC had significant concern about the level and stability of funding for OWCN and felt the issue was an urgent matter that deserved the Governor and Legislature's attention in 2013. Unfortunately, legislative attempts to fund OWCN in 2013 failed.

In the 2014 legislative session, as part of the SB 861 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 (2014) also 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.

Since the passage of SB 861 (2014), the OWCN has been an active participant in OSPR's outreach and planning efforts for inland areas in order to best determine regions and species at greatest risk and to direct initial readiness efforts. Over the next year, the OWCN will institute strong outreach efforts to identify new Member Organizations of strongest strategic value to partner with to expand facility capacities and increase species-specific knowledge for collection and care.

Tracking Other Oil Spill-Related Legislation

In addition to the budget trailer bill (SB 861), the TAC monitored other oil spill related legislation. Of the several bills that were monitored, only one bill was signed into law under its original intent language.

AB 380 (Dickinson)

This bill, which was signed into law by the Governor in 2014, requires a rail carrier to report specified information regarding the transportation of oil and hazardous materials to the Office of Emergency Services (OES) on a quarterly basis and prospectively report weekly movements of Bakken oil of 1,000,000 gallons or greater. The OES will then be required to disseminate information necessary for developing emergency response plans from the reports it receives to each Certified Unified Program Agency (CUPA), as applicable. This law will also require each rail carrier to provide the OES with a summary of the rail carrier's hazardous materials emergency response plan and would require the OES to provide a copy of each summary report to each CUPA that may be impacted by a rail carrier spill of hazardous material or oil cargo. It also requires each rail carrier to maintain a response management center. These reports and plans would be deemed proprietary, if so deemed by federal law, and dissemination of this information, as described, would be limited.

OSPR Regulations Development and Implementation

Shoreline Protection Tables

Amendments were made to the Shoreline Protection Tables to incorporate changes adopted in the Area Contingency Plans and to streamline and simplify the tables. The amendments were approved and went into effect on December 19, 2013.

Drills and Exercises

Amendments included limiting scheduled drills to accommodate OSPR staff so they can attend and participate in more drills, and re-working the drill objectives so they are more performance-based. Simplified drill objectives have been developed for Small Marine Fueling Facilities, Mobile Transfer Units and Vessels Carrying Oil As Secondary Cargo. The amendments were approved and went into effect on April 1, 2014.

Oil Spill Response Organization Rating Regulations (OSRO)

Amendments included defining "operating area" by using existing U.S. Coast Guard descriptions as applicable (Shallow Water, Sheltered Water, Offshore), a voluntary Group V Oils Capability Endorsement (Group V refers to heavy oils having specific gravities greater than 1.0), and requiring participation in the Sensitive Site Strategy Evaluation Program as a condition of receiving a Rating for Shoreline Protection through the OSRO Rating Program. The amendments were approved and went into effect on January 1, 2015.

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.

Emergency Regulations to implement the New Statewide Oil Spill Prevention and Response Program (SB 861, Chapter 35, Committee on Budget and Fiscal Review, Statutes of 2014)

In 2015 OSPR will adopt emergency regulations that expand the existing marine oil spill program to address the increased risk of inland oil spills. The emergency regulations will include contingency planning, certificates of financial responsibility, and drills and exercises for the new inland entities placed under OSPR's jurisdiction by SB 861.

Transportation of Crude Oil by Rail

The TAC has been monitoring the increasing level of crude oil deliveries into California by rail. The increasing number of rail cars carrying crude oil and increase in oil car accidents and derailments continues to be a concern.

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. Additionally, there are seven (7) 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.

Priority Issues for the TAC 2015/2016

For the 2015 and 2016 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 2012/2013 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 Spills Program

The TAC will be closely monitoring the implementation of the Statewide Oil Spills Program during the 2015/2016 reporting period. OSPR will begin drafting of the final oil spill contingency regulations for inland pipelines, inland oil production facilities, and railroads carrying crude oil.

In addition OSPR will be creating the infrastructure to administer the expanded Statewide Program. OSPR will be providing frequent updates to the TAC on its progress in implementing the program.

Regulation Development and Implementation

In addition to the expansion of the Statewide Oil Spill Program, as well as 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 2015

Updates to the shoreline protection strategies identified by the Area Committees will be added to the Shoreline Protection Tables. It is anticipated that this rulemaking will begin in Spring 2015.

Contingency Plan Regulation Amendments Regarding Spill Management Teams

OSPR will begin the formal rulemaking process in the spring of 2015 for amendments to the contingency planning regulations to require more specificity and performance standards for Spill Management Teams (SMTs). The amendments will include:

- 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.

Announced and unannounced drills may be conducted to ensure the SMT personnel are adequately prepared to act for their plan holder customers in the event of an oil spill.

Best Achievable Protection Reports, focusing on the following aspects

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

All of the reports have gone through Executive review and are in various stages of completion. Due to the time commitments of the new Statewide Oil Spill Program, it is anticipated that the reports will be finalized in 2015.

Monitoring of Oil Spill Related Legislation

The TAC will be monitoring development of oil spill related legislation during the 2015-2016 legislative sessions. At the time of this report there have been several bills introduced dealing with oil spill related issues:

- SB 718 (Leno) – Hazardous Materials Response and Restoration Subaccount
- AB 102 (Rodriguez) – Railroad and surface transportation safety and emergency planning and response: hazardous materials
- AB 815 (Ridley-Thomas) – Oil spill prevention and response fees: collection

Crude Oil Transportation by Rail

The TAC is monitoring the increasing volumes of crude oil delivered to California by rail and the potential consequences of spills related to the increasing number of rail cars carrying crude oil through California's environmentally sensitive areas and populated communities.

OWCN 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.

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.

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.

Conclusion

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. The TAC feels it is important to note that with the appointment of Thomas M. Cullen, Jr. as Administrator in 2012 during the past two years OSPR has had 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 stable management team OSPR is well positioned to meet the challenges ahead with the implementation of the Statewide Oil Spills Program.

During 2015-2016, OSPR will face continued challenges implementing amended regulations and developing new regulations, policies, and procedures to address the 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.

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) Marine Spill Response Corporation 702 National Court, Suite 1 Richmond, CA 94804 Tel: (510) 478-0702 Fax: (510) 478-0725 Email: ricks@msrc.org</p> <p>Reappointed: May 11, 2001 By: Governor Davis As: Oil Spill Response Representative</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: mhzciccardi@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. Tom Ford Director of Marine Programs Santa Monica Bay Restoration Foundation 1 LMU Drive Pereira Annex MS:8160 Los Angeles, CA 90045 Tel: (310) 216-9824 Email: tford@santamonicabay.org</p> <p>Appointed: August 28, 2008 By: Don Perata, Chairman Senate Rules Committee As: Public Representative</p>	<p>Mr. Mark Abramson Senior Watershed Advisor Santa Monica Bay Restoration Foundation 1 LMU Drive Pereira Annex MS:8160 Los Angeles, CA 90045 Tel: (310)-961-4871 Email: mabramson@santamonicabay.org</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>

APPENDIX B

- continued -

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

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

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	